



Crown
Commercial
Service

Call-Off Terms and Conditions

Grants and Programme Services Framework Agreement

Framework Agreement Number: RM949

**CCF117A23 - Provision of Neighbourhood Planning Grant
Administration Programme**

FRAMEWORK SCHEDULE 4

**GRANTS & PROGRAMMES SERVICES CALL-OFF ORDER FORM AND GRANTS & PROGRAMMES
SERVICES CALL-OFF TERMS**

PART 1 – GRANTS & PROGRAMMES SERVICES CALL-OFF ORDER FORM

SECTION A

This Call-Off Order Form is issued in accordance with the provisions of the Framework Agreement RM949 Grants and Programmes Services (Lot One) for the “Provision of Neighbourhood Planning Support Programme - CCFI17A23” dated Friday 27th October 2017.

The Supplier agrees to supply the Services specified at “Call-off Schedule 2: Services” which are subject to the terms and conditions of this Call-off Contract.

For the avoidance of doubt this Call-off Contract consists of the terms and conditions set out in this Call-off Order Form and the Call-off Terms and Conditions.

Order Number	CCFI17A23
From	REDACTED Department for Communities and Local Government ("CUSTOMER")
To	REDACTED The Federation of Groundwork Trusts (trading as Groundwork UK) ("SUPPLIER")

SECTION B

1. CALL-OFF CONTRACT PERIOD

1.1.	Commencement Date: Wednesday 10 th January 2018
1.2.	Expiry Date: Thursday 31 st March 2022 End date of Extension Period: Thursday 31 st March 2023 NB: This proposed extension period can only be enacted upon the agreement and approval of the contracting Authority, subject to the agreement of funding. Minimum written notice to Supplier in respect of extension: Two months

2. SERVICES

2.	Services required: In Annex 1 to Call-off Schedule 2 (Services)
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3. IMPLEMENTATION PLAN

3.1.	Implementation Plan: As set out in Annex 1 to Call-off Schedule 2: Services
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4. CONTRACT PERFORMANCE

4.1.	Standards: As set out in Annex 1 to Call-off Schedule 2: Services
4.2	Service Levels/Service Credits: Please refer to Annex 1 to Call-off Schedule 2 : the Services Service Credit Cap (Call-off Schedule 1 (Definitions)): Not applied Customer periodic reviews of Service Levels (Clause 13.7.1 of the Call-off Terms): Please refer to Annex 1 of Call-Off Schedule 2: the Services.
4.3	Critical Service Level Failure: Not applied
4.4	Performance Monitoring: In Part B of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)
4.5	Period for providing Rectification Plan:

	In Clause 38.2.1(a) of the Call-off terms.
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5. PERSONNEL

5.1	<p>Key Personnel:</p> <p>Name: REDACTED Direct dial: REDACTED Mobile: REDACTED Email: REDACTED</p> <p>Name: REDACTED Direct dial: REDACTED Mobile: REDACTED Email: REDACTED</p>
5.2	<p>Relevant Convictions (Clause 27.2 of the Call-off Terms):</p> <p>1) Fraud</p> <p>The appointed Supplier is required to declare to the Authority if any of their Key Personnel for this contractual requirement (whether employed by them directly or appointed as sub-contractors) have any relevant convictions.</p>

6. PAYMENT

6.1	<p>Call-off Contract Charges (including any applicable discount(s), but excluding VAT):</p> <p>Listed at Annex 1 of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing)</p>
6.2	<p>Payment terms/profile (including method of payment e.g. Government Procurement Card (GPC) or BACS):</p> <p>Listed at Annex 2 of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing)</p>
6.3	<p>Reimbursable Expenses:</p> <p>Not permitted</p>
6.4	<p>Customer billing address (paragraph 7.6 of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing)):</p> <p>CP2P Team, DCLG, REDACTED</p>
6.5	<p>Call-off Contract Charges fixed for (paragraph 8.2 of Schedule 3 (Call-off Contract Charges, Payment and Invoicing)):</p> <p>The duration of the contract exclusive of any extension options, i.e. commencing Monday 10th January 2018 and expiring on Thursday 31st March 2022.</p>

6.6	Supplier periodic assessment of Call-off Contract Charges (paragraph 9.2 of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing)) will be carried out on: Annually, at the Customer's discretion.
6.7	Supplier request for increase in the Call-off Contract Charges (paragraph 10 of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing)): Not permitted during the initial period of the contract.
6.8	Contractual Value: The overall value of this contract shall be £313,087.45 (excluding VAT). This amount is exclusive of all expressed extension options within this contract.

7. LIABILITY AND INSURANCE

7.1	Estimated Year 1 Call-off Contract Charges: In relation to any Defaults occurring from the Call-off Commencement Date to the end of the first Call-off Contract Year, the higher of ten million pounds (£10,000,000) or a sum equal to one hundred and fifty per cent (150%) of the Estimated Year 1 Call-off Contract Charges.
7.2	Supplier's limitation of Liability In Clause 36.2.1 of the Call-off Terms.
7.3	Insurance (Clause 37.3 of the Call-off Terms): Employers Liability Insurance of at least five (5) million pounds Professional Liability Insurance of at least two (2) million pounds Neither Party excludes or limits its liability for: <ul style="list-style-type: none"> • death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable); • bribery or Fraud by it or its employees; • statutory obligations stated within the Consumer Rights Act 2015; • any liability in respect of a breach of duty or obligation under the Financial Services & Markets Act 2000 (as amended from time to time); or • any liability to the extent it cannot be excluded or limited by Law. The Supplier does not exclude or limit its liability in respect of the indemnity in Clauses 28 (Staff Transfer) and clause 33 (IPR) and in each case whether before or after the making of a demand pursuant to the indemnity therein.

8. TERMINATION AND EXIT

8.1	Termination on material Default (Clause 41.2.1(c) of the Call-off Terms): As specified in Clause 41.2.1(c) of the Call-off Terms.
8.2	Termination without cause notice period As specified in Clause 41.7.1 of the Call-off Terms.
8.3	Undisputed Sums Limit: As specified in Clause 42.1.1 of the Call-off Terms.
8.4	Exit Management: Call-off Schedule 9 (Exit Management) shall be amended in accordance with section 17 of Annex 1 to Call-off Schedule 2: Services

9. SUPPLIER INFORMATION

9.1	Supplier's inspection of Sites, Customer Property and Customer Assets: Not required.
9.2	Commercially Sensitive Information: Schedule 2 – The Services Schedule 3 – Call-off Contract Charges, Payment and Invoicing Schedule 15 – Call-off Tender

10. OTHER CALL-OFF REQUIREMENTS

10.1	Recitals (in preamble to the Call-off Terms): Not required.
10.2	Call-off Guarantee (Clause 4 of the Call-off Terms): Not required.
10.3	Security: In line with Call-off Schedule 7 (Security), the Supplier shall comply with all relevant Government security policies (https://www.gov.uk/government/collections/government-security) and any Authority-specific security policies as may be notified to the Supplier from time to time.
10.4	ICT Policy:

	As set out in Annex 1 to Call-off Schedule 2: Services
10.5	Testing: Not applied
10.6	Business Continuity & Disaster Recovery: The Supplier is required to have robust and effective risk management procedures, including financial distress and business continuity planning in accordance with Call-off Schedule 8 (Business Continuity and Disaster Recovery) of the Terms and Conditions. Disaster Period: For the purpose of the definition of “Disaster” in Call-off Schedule 1 (Definitions) the “Disaster Period” shall be agreed on a case-by-case basis upon agreement of all parties based on the specific bespoke nature of the “Disater”.
10.7	Failure of Supplier Equipment (Clause 32.8 of the Call-off Terms: For the purpose of Clause 32.8, the value for ‘X’ shall be two (2) and the value for ‘Y’ shall be twelve (12)
10.8	Protection of Customer Data (Clause 34.2.3 of the Call-off Terms): As set out in Annex 1 to Call-off Schedule 2: Services
10.9	Notices (Clause 55.6 of the Call-off Terms): Customer’s postal and email addresses: REDACTED Department for Communities and Local Government, REDACTED REDACTED Supplier’s postal and email addresses; REDACTED The Federation of Groundwork Trusts (trading as Groundwork UK) REDACTED REDACTED

10.10	Transparency Reports In Call-off Schedule 13 (Transparency Reports)
10.11	Alternative and/or additional provisions (including any Alternative and/or Additional Clauses under Call-off Schedule 14): Not applicable

FORMATION OF CALL-OFF CONTRACT

BY SIGNING AND RETURNING THIS CALL-OFF ORDER FORM (which may be done by electronic means) the Supplier agrees to enter a Call-off Contract with the Customer to provide the Services in accordance with the terms Call-off Order Form and the Call-off Terms.

The Parties hereby acknowledge and agree that they have read the Call-off Order Form and the Call-off Terms and by signing below agree to be bound by this Call-off Contract.

In accordance with paragraph 6 of Framework Schedule 5 (Call-off Procedure), the Parties hereby acknowledge and agree that this Call-off Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of the Call-off Order Form from the Supplier within two (2) Working Days from such receipt.

For and on behalf of the Supplier:

Name and Title	REDACTED
Signature	REDACTED
Date	Thursday 11 th January 2018

For and on behalf of the Customer:

Name and Title	REDACTED
Signature	REDACTED
Date	Thursday 11 th January 2018

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PART 2 – GRANTS & PROGRAMMES SERVICES CALL-OFF TERMS

TERMS AND CONDITIONS

RECITALS

- A. The Customer issued its Statement of Requirements for the provision of the Services on the date specified at paragraph 10.1 of the Call-off Order Form.
- B. In response to the Statement of Requirements the Supplier submitted a Call-off Tender to the Customer on the date specified at paragraph 10.1 of the Call-off Order form through which it provided to the Customer its solution for providing the Services.
- C. On the basis of the Call-off Tender, the Customer selected the Supplier to provide the Services to the Customer in accordance with the terms of this Call-off Contract.

A. PRELIMINARIES

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Call-off Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Call-off Schedule 1 (Definitions) or the relevant Call-off Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in Call-off Schedule 1 (Definitions) or relevant Call-off Schedule, it shall have the meaning given to it in the Framework Agreement. If no meaning is given to it in the Framework Agreement, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Call-off Contract, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and vice versa;
 - 1.3.2 reference to a gender includes the other gender and the neuter;
 - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
 - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts

- and to “**undertakings**” as references to obligations under this Call-off Contract;
- 1.3.8 references to “**Clauses**” and “**Call-off Schedules**” are, unless otherwise provided, references to the clauses and schedules of this Call-off Contract and references in any Call-off Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Call-off Schedule in which these references appear; and
 - 1.3.9 the headings in this Call-off Contract are for ease of reference only and shall not affect the interpretation or construction of this Call-off Contract.
- 1.4 Subject to Clauses 1.5 and 1.6 (Definitions and Interpretation), in the event of and only to the extent of any conflict between the Call-off Order Form, the Call-off Terms and the provisions of the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:
- 1.4.1 the Framework Agreement, except Framework Schedule 21 (Tender);
 - 1.4.2 the Call-off Order Form;
 - 1.4.3 the Call-off Terms, except Call-off Schedule 15 (Call-off Tender);
 - 1.4.4 Call-off Schedule 15 (Call-off Tender); and
 - 1.4.5 Framework Schedule 21 (Tender).
- 1.5 Any permitted changes by the Customer to the Template Call-off Terms and the Template Call-off Order Form under Clause 5 (Call-off Procedure) of the Framework Agreement and Framework Schedule 5 (Call-off Procedure) prior to them becoming the Call-off Terms and the Call-off Order Form which comprise this Call-off Contract shall prevail over the Framework Agreement.
- 1.6 Where Call-off Schedule 15 (Call-off Tender) or Framework Schedule 21 (Tender) contain provisions which are more favourable to the Customer in relation to (the rest of) this Call-off Contract, such provisions of the Call-off Tender or the Tender shall prevail. The Customer shall in its absolute and sole discretion determine whether any provision in the Call-off Tender or Tender is more favourable to it in this context.

2. DUE DILIGENCE

- 2.1 The Supplier acknowledges that:
- 2.1.1 the Customer has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Call-off Contract;
 - 2.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;
 - 2.1.3 it has raised all relevant due diligence questions with the Customer before the Call-off Commencement Date;
 - 2.1.4 it has undertaken all necessary due diligence and has entered into this Call-off Contract in reliance on its own due diligence alone; and
 - 2.1.5 it shall not be excused from the performance of any of its obligations under this Call-off Contract on the grounds of, nor shall the Supplier be

entitled to recover any additional costs or charges, arising as a result of any:

- (a) misinterpretation of the requirements of the Customer in the Call-off Order Form or elsewhere in this Call-off Contract;
- (b) failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information; and/or
- (c) failure by the Supplier to undertake its own due diligence.

3. REPRESENTATIONS AND WARRANTIES

3.1 Each Party represents and warrants that:

- 3.1.1 it has full capacity and authority to enter into and to perform this Call-off Contract;
- 3.1.2 this Call-off Contract is executed by its duly authorised representative;
- 3.1.3 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the Supplier, any of its Affiliates) that might affect its ability to perform its obligations under this Call-off Contract; and
- 3.1.4 its obligations under this Call-off Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each Party) bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or Law).

3.2 The Supplier represents and warrants that:

- 3.2.1 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
- 3.2.2 it has all necessary consents (including, where its procedures so require, the consent of its Parent Company) and regulatory approvals to enter into this Call-off Contract;
- 3.2.3 its execution, delivery and performance of its obligations under this Call-off Contract does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a Default under any agreement by which it is bound;
- 3.2.4 as at the Call-off Commencement Date, all written statements and representations in any written submissions made by the Supplier as part of the procurement process, its Tender, Call-off Tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Call-off Contract;
- 3.2.5 if the Call-off Contract Charges payable under this Call-off Contract exceed or are likely to exceed five (5) million pounds, as at the Call-off Commencement Date it has notified the Customer in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in connection with any Occasions of Tax Non-Compliance;

- 3.2.6 it has and shall continue to have all necessary rights in and to the Third Party IPR, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to the Customer which are necessary for the performance of the Supplier's obligations under this Call-off Contract including the receipt of the Services by the Customer;
 - 3.2.7 it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or Trojans, spyware or other malware) into systems, data, software or the Customer's Confidential Information (held in electronic form) owned by or under the control of, or used by, the Customer;
 - 3.2.8 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Call-off Contract;
 - 3.2.9 it is not affected by an Insolvency Event and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue; and
 - 3.2.10 for the Call-off Contract Period and for a period of twelve (12) months after the termination or expiry of this Call-off Contract, the Supplier shall not employ or offer employment to any staff of the Customer which have been associated with the provision of the Services without Approval or the prior written consent of the Customer which shall not be unreasonably withheld.
- 3.3 Each of the representations and warranties set out in Clauses 3.1 and 3.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in this Call-off Contract.
- 3.4 If at any time a Party becomes aware that a representation or warranty given by it under Clauses 3.1 and 3.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.
- 3.5 For the avoidance of doubt, the fact that any provision within this Call-off Contract is expressed as a warranty shall not preclude any right of termination the Customer may have in respect of breach of that provision by the Supplier which constitutes a material Default.

4. CALL-OFF GUARANTEE

- 4.1 Where the Customer has stipulated in the Call-off Order Form that this Call-off Contract shall be conditional upon receipt of a Call-off Guarantee, then, on or prior to the Call-off Commencement Date or on any other date specified by the Customer, the Supplier shall deliver to the Customer:
- 4.1.1 an executed Call-off Guarantee from a Call-off Guarantor; and
 - 4.1.2 a certified copy extract of the board minutes and/or resolution of the Call-off Guarantor approving the execution of the Call-off Guarantee.

- 4.2 The Customer may in its sole discretion at any time agree to waive compliance with the requirement in Clause 4.1 by giving the Supplier notice in writing.

B. DURATION OF CALL-OFF CONTRACT

5. CALL-OFF CONTRACT PERIOD

- 5.1 This Call-off Contract shall take effect on the Call-off Commencement Date and the term of this Call-off Contract shall be the Call-off Contract Period.
- 5.2 Where the Customer has specified a Call-off Extension Period in the Call-off Order Form, the Customer may extend this Call-off Contract for the Call-off Extension Period by providing written notice to the Supplier before the end of the Initial Call-off Period. The minimum period for the written notice shall be as specified in the Call-off Order Form.

C. CALL-OFF CONTRACT PERFORMANCE

6. IMPLEMENTATION PLAN

6.1 Formation of Implementation Plan

- 6.1.1 Where an Implementation Plan has not been agreed and included in Call-off Schedule 4 (Implementation Plan) on the Call-off Commencement Date, but the Customer has specified in the Call-off Order Form that the Supplier shall provide a draft Implementation Plan prior to the commencement of the provision of the Services, the Supplier's draft must contain information at the level of detail necessary to manage the implementation stage effectively and as the Customer may require. The draft Implementation Plan shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 6.1.2 The Supplier shall submit the draft Implementation Plan to the Customer for Approval (such decision of the Customer to Approve or not shall not be unreasonably delayed or withheld) within such period as specified by the Customer in the Call-off Order Form.
- 6.1.3 The Supplier shall perform each of the Deliverables identified in the Implementation Plan by the applicable date assigned to that Deliverable in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.
- 6.1.4 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and any other requirements of the Customer as set out in this Call-off Contract and report to the Customer on such performance.

6.2 Control of Implementation Plan

- 6.2.1 Subject to Clause 6.2.2, the Supplier shall keep the Implementation Plan under review in accordance with the Customer's instructions and ensure that it is maintained and updated on a regular basis as may be necessary to reflect the then current state of the provision of the Services. The Customer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.

- 6.2.2 Changes to the Milestones (if any), Milestone Payments (if any) and Delay Payments (if any) shall only be made in accordance with the Variation Procedure and provided that the Supplier shall not attempt to postpone any of the Milestones using the Variation Procedure or otherwise (except in the event of a Customer Cause which affects the Supplier's ability to achieve a Milestone by the relevant Milestone Date).
- 6.2.3 Where so specified by the Customer in the Implementation Plan or elsewhere in this Call-off Contract, time in relation to compliance with a date, Milestone Date or period shall be of the essence and failure of the Supplier to comply with such date, Milestone Date or period shall be a material Default unless the Parties expressly agree otherwise.

6.3 Rectification of Delay in Implementation

- 6.3.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Call-off Contract:
- (a) it shall:
 - (i) notify the Customer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
 - (ii) include in its notification an explanation of the actual or anticipated impact of the Delay;
 - (iii) comply with the Customer's instructions in order to address the impact of the Delay or anticipated Delay; and
 - (iv) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and
 - (b) if the Delay or anticipated Delay relates to a Milestone in respect which a Delay Payment has been specified in the Implementation Plan, Clause 6.4 (Delay Payments) shall apply.

6.4 Delay Payments

- 6.4.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Customer such Delay Payments (calculated as set out by the Customer in the Implementation Plan) and the following provisions shall apply:
- (a) the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier's failure to Achieve the corresponding Milestone;
 - (b) Delay Payments shall be the Customer's exclusive financial remedy for the Supplier's failure to Achieve a corresponding Milestone by its Milestone Date except where:
 - (i) the Customer is otherwise entitled to or does terminate this Call-off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); or
 - (ii) the delay exceeds the number of days (the "**Delay Period Limit**") specified in Call-off Schedule 4 (Implementation

Plan) for the purposes of this sub-Clause, commencing on the relevant Milestone Date;

- (c) the Delay Payments will accrue on a daily basis from the relevant Milestone Date and shall continue to accrue until the date when the Milestone is Achieved (unless otherwise specified by the Customer in the Implementation Plan);
- (d) no payment or concession to the Supplier by the Customer or other act or omission of the Customer shall in any way affect the rights of the Customer to recover the Delay Payments or be deemed to be a waiver of the right of the Customer to recover any such damages unless such waiver complies with Clause 48 (Waiver and Cumulative Remedies) and refers specifically to a waiver of the Customer's rights to claim Delay Payments; and
- (e) the Supplier waives absolutely any entitlement to challenge the enforceability in whole or in part of this Clause 6.4.1 and Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 36 (Liability).

7. SERVICES

7.1 Provision of the Services

- 7.1.1 The Supplier acknowledges and agrees that the Customer relies on the skill and judgment of the Supplier in the provision of the Services and the performance of its obligations under this Call-off Contract.
- 7.1.2 The Supplier shall ensure that the Services:
 - (a) comply in all respects with the description of the Services in Call-off Schedule 2 (Services) or elsewhere in this Call-off Contract; and
 - (b) are supplied in accordance with the provisions of this Call-off Contract (including the Call-off Tender) and the Tender.
- 7.1.3 The Supplier shall perform its obligations under this Call-off Contract in accordance with:
 - (a) all applicable Law;
 - (b) Good Industry Practice;
 - (c) the Standards;
 - (d) the Security Policy;
 - (e) the ICT Policy (if so required by the Customer); and
 - (f) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 7.1.3(a) to 7.1.3(e).
- 7.1.4 The Supplier shall:
 - (a) at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Call-off Contract;
 - (b) subject to Clause 22.1 (Variation Procedure), obtain, and maintain throughout the duration of this Call-off Contract, all the

consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;

- (c) ensure that any Services recommended or otherwise specified by the Supplier for use by the Customer in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or the Services to meet the requirements of the Customer;
- (d) ensure that the Supplier Assets will be free of all encumbrances (except as agreed in writing with the Customer);
- (e) ensure that the Services are fully compatible with any Customer Property or Customer Assets described in Call-off Schedule 4 (Implementation Plan) (or elsewhere in this Call-off Contract) or otherwise used by the Supplier in connection with this Call-off Contract;
- (f) minimise any disruption to the Sites and/or the Customer's operations when providing the Services;
- (g) ensure that any Documentation and training provided by the Supplier to the Customer are comprehensive, accurate and prepared in accordance with Good Industry Practice;
- (h) co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any Other Supplier and, on the Call-off Expiry Date for any reason, to enable the timely transition of the supply of the Services (or any of them) to the Customer and/or to any Replacement Supplier;
- (i) assign to the Customer, 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 Customer, all warranties and indemnities provided by third parties or any Sub-Contractor in respect of any Deliverables and/or the Services. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with any reasonable directions that the Customer may notify from time to time to the Supplier;
- (j) provide the Customer with such assistance as the Customer may reasonably require during the Call-off Contract Period in respect of the supply of the Services;
- (k) deliver the Services in a proportionate and efficient manner;
- (l) ensure that neither it, nor any of its Affiliates, embarrasses the Customer or otherwise brings the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Supplier's obligations under this Call-off Contract; and
- (m) gather, collate and provide such information and co-operation as the Customer may reasonably request for the purposes of ascertaining the Supplier's compliance with its obligations under this Call-off Contract.

- 7.1.5 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-Contractors and Supplier Personnel also do, or refrain from doing, such act or thing.

8. SERVICES

8.1 General application

- 8.1.1 This Clause 8 shall apply if any Services have been included in Annex 1 of Call-off Schedule 2 (Services).

8.2 Time of Delivery of the Services

- 8.2.1 The Supplier shall provide the Services on the date(s) specified in the Call-off Order Form (or elsewhere in this Call-off Contract) and the Milestone Dates (if any).

8.3 Location and Manner of Delivery of the Services

- 8.3.1 Except where otherwise provided in this Call-off Contract, the Supplier shall provide the Services to the Customer through the Supplier Personnel at the Sites.
- 8.3.2 The Customer may inspect and examine the manner in which the Supplier provides the Services at the Sites and, if the Sites are not the Customer Premises, the Customer may carry out such inspection and examination during normal business hours and on reasonable notice.

8.4 Undelivered Services

- 8.4.1 In the event that any of the Services are not Delivered in accordance with Clauses 7.1 (Provision of the Services), 8.2 (Time of Delivery of the Services) and 8.3 (Location and Manner of Delivery of the Services) ("**Undelivered Services**"), the Customer, without prejudice to any other rights and remedies of the Customer howsoever arising, shall be entitled to withhold payment of the applicable Call-off Contract Charges for the Services that were not so Delivered until such time as the Undelivered Services are Delivered.
- 8.4.2 The Customer may, at its discretion and without prejudice to any other rights and remedies of the Customer howsoever arising, deem the failure to comply with Clauses 7.1, (Provision of the Services), 8.2 (Time of Delivery of the Services) and 8.3 (Location and Manner of Delivery of the Services) and meet the relevant Milestone Date (if any) to be a material Default.

8.5 Obligation to Remedy of Default in the Supply of the Services

- 8.5.1 Subject to Clauses 33.9.2 and 33.9.3 (IPR Indemnity) and without prejudice to any other rights and remedies of the Customer howsoever arising (including under Clauses 8.4.2 (Undelivered Services) and 38 (Customer Remedies for Default)), the Supplier shall, where practicable:
- (a) remedy any breach of its obligations in Clauses **Error! Reference source not found.** and 8 within three (3) Working Days of becoming aware of the relevant Default or being notified of the Default by the Customer or within such other time period as may be agreed with the Customer (taking into account the nature of the breach that has occurred); and

- (b) meet all the costs of, and incidental to, the performance of such remedial work.

8.6 Continuing Obligation to Provide the Services

8.6.1 The Supplier shall continue to perform all of its obligations under this Call-off Contract and shall not suspend the provision of the Services, notwithstanding:

- (a) any withholding or deduction by the Customer of any sum due to the Supplier pursuant to the exercise of a right of the Customer to such withholding or deduction under this Call-off Contract;
- (b) the existence of an unresolved Dispute; and/or
- (c) any failure by the Customer to pay any Call-off Contract Charges,

unless the Supplier is entitled to terminate this Call-off Contract under Clause 42.1 (Termination on Customer Cause for Failure to Pay) for failure by the Customer to pay undisputed Call-off Contract Charges.

9. NOT USED

10. NOT USED

11. STANDARDS AND QUALITY

11.1 The Supplier shall at all times during the Call-off Contract Period comply with the Standards and maintain, where applicable, accreditation with the relevant Standards' authorisation body.

11.2 Throughout the Call-off Contract Period, the Parties shall notify each other of any new or emergent standards which could affect the Supplier's provision, or the receipt by the Customer, of the Services. The adoption of any such new or emergent standard, or changes to existing Standards (including any specified in the Call-off Order Form), shall be agreed in accordance with the Variation Procedure.

11.3 Where a new or emergent standard is to be developed or introduced by the Customer, the Supplier shall be responsible for ensuring that the potential impact on the Supplier's provision, or the Customer's receipt of the Services is explained to the Customer (within a reasonable timeframe), prior to the implementation of the new or emergent Standard.

11.4 Where Standards referenced conflict with each other or with best professional or industry practice adopted after the Call-off Commencement Date, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard or Standards shall require Approval (and the written consent of the Customer where the relevant Standard or Standards is/are included in Framework Schedule 2 (Services and Key Performance Indicators) and shall be implemented within an agreed timescale.

11.5 Where a standard, policy or document is referred to by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Customer and the Parties shall agree the impact of such change.

12. TESTING

- 12.1 This Clause 0 shall apply if so specified by the Customer in the Call-off Order Form.
- 12.2 The Parties shall comply with any provisions set out in Call-off Schedule 5 (Testing).

13. SERVICE LEVELS AND SERVICE CREDITS

- 13.1 This Clause 14 shall apply where the Customer has specified Service Levels and Service Credits in the Call-off Order Form. Where the Customer has specified Service Levels but not Service Credits, only sub-clauses 13.2, 13.3 and 13.7 shall apply.
- 13.2 When this Clause 13.2 applies, the Parties shall also comply with the provisions of Part A (Service Levels and Service Credits) of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).
- 13.3 The Supplier shall at all times during the Call-off Contract Period provide the Services to meet or exceed the Service Level Performance Measure for each Service Level Performance Criterion.
- 13.4 The Supplier acknowledges that any Service Level Failure may have a material adverse impact on the business and operations of the Customer and that it shall entitle the Customer to the rights set out in Part A of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) including the right to any Service Credits.
- 13.5 The Supplier acknowledges and agrees that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 13.6 A Service Credit shall be the Customer's exclusive financial remedy for a Service Level Failure except where:
- 13.6.1 the Supplier has over the previous (twelve) 12 Month period accrued Service Credits in excess of the Service Credit Cap;
- 13.6.2 the Service Level Failure:
- (a) exceeds the relevant Service Level Threshold;
 - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier or any Supplier Personnel; and
 - (c) results in:
 - (i) the corruption or loss of any Customer Data (in which case the remedies under Clause 34.2.8 (Protection of Customer Data) shall also be available); and/or
 - (ii) the Customer being required to make a compensation payment to one or more third parties; and/or
- 13.6.3 the Customer is otherwise entitled to or does terminate this Call-off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause).
- 13.7 Not more than once in each Call-off Contract Year, the Customer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Level Performance

Criteria and the Supplier shall not be entitled to object to, or increase the Call-off Contract Charges as a result of such changes, provided that:

- 13.7.1 the total number of Service Level Performance Criteria for which the weighting is to be changed does not exceed the number set out, for the purposes of this clause, in the Call-off Order Form;
- 13.7.2 the principal purpose of the change is to reflect changes in the Customer's business requirements and/or priorities or to reflect changing industry standards; and
- 13.7.3 there is no change to the Service Credit Cap.

14. CRITICAL SERVICE LEVEL FAILURE

14.1 This Clause 14 shall apply if the Customer has specified both Service Credits and Critical Service Level Failure in the Call-off Order Form.

14.2 On the occurrence of a Critical Service Level Failure:

- 14.2.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 14.2.2 the Customer shall (subject to the Service Credit Cap set out in Clause 36.2.1(a) (Financial Limits)) be entitled to withhold and retain as compensation for the Critical Service Level Failure a sum equal to any Call-off Contract Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this Clause 14.2 shall be without prejudice to the right of the Customer to terminate this Call-off Contract and/or to claim damages from the Supplier for material Default as a result of such Critical Service Level Failure.

14.3 The Supplier:

- 14.3.1 agrees that the application of Clause 14.2 is commercially justifiable where a Critical Service Level Failure occurs; and
- 14.3.2 acknowledges that it has taken legal advice on the application of Clause 14.2 and has had the opportunity to price for that risk when calculating the Call-off Contract Charges.

15. BUSINESS CONTINUITY AND DISASTER RECOVERY

15.1 This Clause 15 shall apply if the Customer has so specified in the Call-off Order Form.

15.2 The Parties shall comply with the provisions of Call-off Schedule 8 (Business Continuity and Disaster Recovery).

16. DISRUPTION

16.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under this Call-off Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer.

16.2 The Supplier shall immediately inform the Customer of any actual or potential industrial action, whether such action be by the Supplier Personnel or others, which affects or might affect the Supplier's ability at any time to perform its obligations under this Call-off Contract.

- 16.3 In the event of industrial action by the Supplier Personnel, the Supplier shall seek Approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under this Call-off Contract.
- 16.4 If the Supplier's proposals referred to in Clause 16.3 are considered insufficient or unacceptable by the Customer acting reasonably then the Customer may terminate this Call-off Contract for material Default.
- 16.5 If the Supplier is temporarily unable to fulfil the requirements of this Call-off Contract owing to disruption of normal business solely due to a Customer Cause, then subject to Clause 17 (Supplier Notification of Customer Cause), an appropriate allowance by way of an extension of time will be Approved by the Customer. In addition, the Customer will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

17. SUPPLIER NOTIFICATION OF CUSTOMER CAUSE

- 17.1 Without prejudice to any other obligations of the Supplier in this Call-off Contract to notify the Customer in respect of a specific Customer Cause (including the notice requirements under Clause 42.1.1 (Termination on Customer Cause for Failure to Pay)), the Supplier shall:
- 17.1.1 notify the Customer as soon as reasonably practicable ((and in any event within two (2) Working Days of the Supplier becoming aware)) that a Customer Cause has occurred or is reasonably likely to occur, giving details of:
- (a) the Customer Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Call-off Contract; and
 - (b) any steps which the Customer can take to eliminate or mitigate the consequences and impact of such Customer Cause; and
 - (c) use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Customer Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.

18. CONTINUOUS IMPROVEMENT

- 18.1 The Supplier shall have an ongoing obligation throughout the Call-off Contract Period to identify new or potential improvements to the provision of the Services in accordance with this Clause 18 with a view to reducing the Customer's costs (including the Call-off Contract Charges) and/or improving the quality and efficiency of the Services and their supply to the Customer. As part of this obligation the Supplier shall identify and report to the Customer once every twelve (12) months:
- 18.1.1 the emergence of new and evolving relevant technologies which could improve the Sites and/or the provision of the Services, and those technological advances potentially available to the Supplier and the Customer which the Parties may wish to adopt;
- 18.1.2 new or potential improvements to the provision of the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support Services in relation to the Services;

- 18.1.3 changes in business processes and ways of working that would enable the Services to be provided at lower costs and/or at greater benefits to the Customer; and/or
- 18.1.4 changes to the Sites business processes and ways of working that would enable reductions in the total energy consumed annually in the provision of the Services.
- 18.2 The Supplier shall ensure that the information that it provides to the Customer shall be sufficient for the Customer to decide whether any improvement should be implemented. The Supplier shall provide any further information that the Customer requests.
- 18.3 If the Customer wishes to incorporate any improvement identified by the Supplier, the Customer shall request a Variation in accordance with the Variation Procedure and the Supplier shall implement such Variation at no additional cost to the Customer.

D. CALL-OFF CONTRACT GOVERNANCE

19. PERFORMANCE MONITORING

- 19.1 The Supplier shall comply with the monitoring requirements set out in Part B (Performance Monitoring) of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).

20. REPRESENTATIVES

- 20.1 Each Party shall have a representative for the duration of this Call-off Contract who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Call-off Contract.
- 20.2 The initial Supplier Representative shall be the person named as such in the Call-off Order Form. Any change to the Supplier Representative shall be agreed in accordance with Clause 27 (Supplier Personnel).
- 20.3 If the initial Customer Representative is not specified in the Call-off Order Form, the Customer shall notify the Supplier of the identity of the initial Customer Representative within five (5) Working Days of the Call-off Commencement Date. The Customer may, by written notice to the Supplier, revoke or amend the authority of the Customer Representative or appoint a new Customer Representative.

21. RECORDS, AUDIT ACCESS AND OPEN BOOK DATA

- 21.1 The Supplier shall keep and maintain for seven (7) years after the Call-off Expiry Date (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Call-off Contract including the Services provided under it, any Sub-Contracts and the amounts paid by the Customer.
- 21.2 The Supplier shall:
 - 21.2.1 keep the records and accounts referred to in Clause 21.1 in accordance with Good Industry Practice and Law; and
 - 21.2.2 afford any Auditor access to the records and accounts referred to in Clause 21.1 at the Supplier's premises and/or provide records and accounts (including copies of the Supplier's published accounts) or copies of the same, as may be required by any of the Auditors from time

to time during the Call-off Contract Period and the period specified in Clause 21.1, in order that the Auditor(s) may carry out an inspection to assess compliance by the Supplier and/or its Sub-Contractors of any of the Supplier's obligations under this Call-off Contract including in order to:

- (a) verify the accuracy of the Call-off Contract Charges and any other amounts payable by the Customer under this Call-off Contract (and proposed or actual variations to them in accordance with this Call-off Contract);
- (b) verify the costs of the Supplier (including the costs of all Sub-Contractors and any third party suppliers) in connection with the provision of the Services;
- (c) verify the Open Book Data;
- (d) verify the Supplier's and each Sub-Contractor's compliance with the applicable Law;
- (e) identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Customer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
- (f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Framework Guarantor and/or the Call-off Guarantor and/or any Sub-Contractors or their ability to perform the Services;
- (g) obtain such information as is necessary to fulfil the Customer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (h) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Call-off Contract;
- (i) carry out the Customer's internal and statutory audits and to prepare, examine and/or certify the Customer's annual and interim reports and accounts;
- (j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;
- (k) review any Performance Monitoring Reports provided under Part B of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) and/or other records relating to the Supplier's performance of the provision of the Services and to verify that these reflect the Supplier's own internal reports and records;
- (l) verify the accuracy and completeness of any information delivered or required by this Call-off Contract;
- (m) review the Supplier's quality management systems (including any quality manuals and procedures);

- (n) review the Supplier's compliance with the Standards;
 - (o) inspect the Customer Assets, including the Customer's IPRs, equipment and facilities, for the purposes of ensuring that the Customer Assets are secure and that any register of assets is up to date; and/or
 - (p) review the integrity, confidentiality and security of the Customer Data.
- 21.3 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the control of the Customer.
- 21.4 Subject to the Supplier's rights in respect of Confidential Information, the Supplier shall on demand provide the Auditor(s) with all reasonable co-operation and assistance in:
- 21.4.1 all reasonable information requested by the Customer within the scope of the audit;
 - 21.4.2 reasonable access to sites controlled by the Supplier and to any Supplier Equipment used in the provision of the Services; and
 - 21.4.3 access to the Supplier Personnel.
- 21.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 21, unless the audit reveals a Default by the Supplier in which case the Supplier shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.

22. CHANGE

22.1 Variation Procedure

- 22.1.1 Subject to the provisions of this Clause 22 and of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing), either Party may request a variation to this Call-off Contract provided that such variation does not amount to a material change of this Call-off Contract within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a "**Variation**".
- 22.1.2 A Party may request a Variation by completing, signing and sending the Variation Form to the other Party giving sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred.
- 22.1.3 Where the Customer has so specified on receipt of a Variation Form from the Supplier, the Supplier shall carry out an impact assessment of the Variation on the Services (the "**Impact Assessment**"). The Impact Assessment shall be completed in good faith and shall include:
 - (a) details of the impact of the proposed Variation on the Services and the Supplier's ability to meet its other obligations under this Call-off Contract;
 - (b) details of the cost of implementing the proposed Variation;

- (c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Call-off Contract Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
- (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and
- (e) such other information as the Customer may reasonably request in (or in response to) the Variation request.

22.1.4 The Parties may agree to adjust the time limits specified in the Variation Form to allow for the preparation of the Impact Assessment.

22.1.5 Subject to 22.1.4, the receiving Party shall respond to the request within the time limits specified in the Variation Form. Such time limits shall be reasonable and ultimately at the discretion of the Customer having regard to the nature of the Services and the proposed Variation.

22.1.6 In the event that:

- (a) the Supplier is unable to agree to or provide the Variation; and/or
- (b) the Parties are unable to agree a change to the Call-off Contract Charges that may be included in a request of a Variation or response to it as a consequence thereof,

the Customer may:

- (i) agree to continue to perform its obligations under this Call-off Contract without the Variation; or
- (ii) terminate this Call-off Contract with immediate effect, except where the Supplier has already fulfilled part or all of the provision of the Services in accordance with this Call-off Contract or where the Supplier can show evidence of substantial work being carried out to provide the Services under this Call-off Contract, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure.

22.1.7 If the Parties agree the Variation, the Supplier shall implement such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in this Call-off Contract.

22.2 Legislative Change

22.2.1 The Supplier shall neither be relieved of its obligations under this Call-off Contract nor be entitled to an increase in the Call-off Contract Charges as the result of a:

- (a) General Change in Law;
- (b) Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Call-off Commencement Date.

22.2.2 If a Specific Change in Law occurs or will occur during the Call-off Contract Period (other than as referred to in Clause 22.2.1(b)), the Supplier shall:

- (a) notify the Customer as soon as reasonably practicable of the likely effects of that change including:
 - (i) whether any Variation is required to the provision of the Services, the Call-off Contract Charges or this Call-off Contract; and
 - (ii) whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Service Level Performance Measures; and
- (b) provide to the Customer with evidence:
 - (i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors;
 - (ii) as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (iii) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 18 (Continuous Improvement), has been taken into account in amending the Call-off Contract Charges.

22.2.3 Any change in the Call-off Contract Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 22.2.1(b)) shall be implemented in accordance with the Variation Procedure.

E. PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS

23. CALL-OFF CONTRACT CHARGES AND PAYMENT

23.1 Call-off Contract Charges

- 23.1.1 In consideration of the Supplier carrying out its obligations under this Call-off Contract, including the provision of the Services, the Customer shall pay the undisputed Call-off Contract Charges in accordance with the pricing and payment profile and the invoicing procedure in Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing).
- 23.1.2 Except as otherwise provided, each Party shall bear its own costs and expenses incurred in respect of compliance with its obligations under Clauses 0 (Testing), 21 (Records, Audit Access and Open Book Data), 34.5 (Freedom of Information) and 34.6 (Protection of Personal Data).
- 23.1.3 If the Customer fails to pay any undisputed Call-off Contract Charges properly invoiced under this Call-off Contract, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 23.1.4 If at any time during this Call-off Contract Period the Supplier reduces its Framework Prices for any Services which are provided under the Framework Agreement (whether or not such Services are offered in a catalogue, if any, which is provided under the Framework Agreement)

in accordance with the terms of the Framework Agreement, the Supplier shall immediately reduce the Call-off Contract Charges for such Services under this Call-off Contract by the same amount.

23.2 VAT

- 23.2.1 The Call-off Contract Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Customer following delivery of a Valid Invoice.
- 23.2.2 The Supplier shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Customer at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Call-off Contract. Any amounts due under Clause 23.2 (VAT) shall be paid in cleared funds by the Supplier to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.

23.3 Retention and Set Off

- 23.3.1 The Customer may retain or set off any amount owed to it by the Supplier against any amount due to the Supplier under this Call-off Contract or under any other agreement between the Supplier and the Customer.
- 23.3.2 If the Customer wishes to exercise its right pursuant to Clause 23.3.1 it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out the Customer's reasons for retaining or setting off the relevant Call-off Contract Charges.
- 23.3.3 The Supplier shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has obtained a sealed court order requiring an amount equal to such deduction to be paid by the Customer to the Supplier.

23.4 Foreign Currency

- 23.4.1 Any requirement of Law to account for the Services in any currency other than Sterling, (or to prepare for such accounting) instead of and/or in addition to Sterling, shall be implemented by the Supplier free of charge to the Customer.
- 23.4.2 The Customer shall provide all reasonable assistance to facilitate compliance with Clause 23.4.1 by the Supplier.

23.5 Income Tax and National Insurance Contributions

- 23.5.1 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Call-off Contract, the Supplier shall:
 - (a) at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and

- (b) indemnify the Customer against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Services by the Supplier or any Supplier Personnel.

23.5.2 In the event that any one of the Supplier Personnel is a Worker as defined in Call-off Schedule 1 (Definitions) who receives consideration relating to the Services, then, in addition to its obligations under Clause 23.5.1, the Supplier shall ensure that its contract with the Worker contains the following requirements:

- (a) that the Customer may, at any time during the Call-off Contract Period, request that the Worker provides information which demonstrates how the Worker complies with the requirements of Clause 23.5.1, or why those requirements do not apply to it. In such case, the Customer may specify the information which the Worker must provide and the period within which that information must be provided;
- (b) that the Worker's contract may be terminated at the Customer's request if:
 - (i) the Worker fails to provide the information requested by the Customer within the time specified by the Customer under Clause 23.5.2(a); and/or
 - (ii) the Worker provides information which the Customer considers is inadequate to demonstrate how the Worker complies with Clause 23.5.1 or confirms that the Worker is not complying with those requirements; and
- (c) that the Customer may supply any information it receives from the Worker to HMRC for the purpose of the collection and management of revenue for which they are responsible.

24. PROMOTING TAX COMPLIANCE

24.1 This Clause 24 shall apply if the Call-off Contract Charges payable under this Call-off Contract exceed or are likely to exceed five (5) million pounds during the Call-off Contract Period.

24.2 If, at any point during the Call-off Contract Period, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

24.2.1 notify the Customer in writing of such fact within five (5) Working Days of its occurrence; and

24.2.2 promptly provide to the Customer:

- (a) details of the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
- (b) such other information in relation to the Occasion of Tax Non-Compliance as the Customer may reasonably require.

24.3 In the event that the Supplier fails to comply with this Clause 24 and/or does not provide details of proposed mitigating factors which in the reasonable opinion of

the Customer are acceptable, then the Customer reserves the right to terminate this Call-off Contract for material Default.

25. BENCHMARKING

- 25.1 Notwithstanding the Supplier's obligations under Clause 18 (Continuous Improvement), the Customer shall be entitled to regularly benchmark the Call-off Contract Charges and level of performance by the Supplier of the supply of the Services, against other suppliers providing Services substantially the same as the Services during the Call-off Contract Period.
- 25.2 The Customer, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking evaluation referred to in Clause 25.1 above.
- 25.3 The Customer shall be entitled to disclose the results of any benchmarking of the Call-off Contract Charges and provision of the Services to the Authority and any Contracting Authority (subject to the Contracting Authority entering into reasonable confidentiality undertakings).
- 25.4 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the Customer in order to undertake the benchmarking and such information requirements shall be at the discretion of the Customer.
- 25.5 Where, as a consequence of any benchmarking carried out by the Customer, the Customer decides improvements to the Services should be implemented such improvements shall be implemented by way of the Variation Procedure at no additional cost to the Customer.
- 25.6 The benefit of any work carried out by the Supplier at any time during the Call-off Contract Period to update, improve or provide the Services, facilitate their delivery to any other Contracting Authority and/or any alterations or variations to the Charges or the provision of the Services, which are identified in the Continuous Improvement Plan produced by the Supplier and/or as a consequence of any benchmarking carried out by the Authority pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking), shall be implemented by the Supplier in accordance with the Variation Procedure and at no additional cost to the Customer.

F. SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS

26. KEY PERSONNEL

- 26.1 This Clause 26 shall apply where the Customer has specified Key Personnel in the Call-off Order Form.
- 26.2 The Call-off Order Form lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Call-off Commencement Date.
- 26.3 The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Call-off Contract Period.
- 26.4 The Customer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.
- 26.5 The Supplier shall not remove or replace any Key Personnel (including when carrying out its obligations under Call-off Schedule 9 (Exit Management) unless:

- 26.5.1 requested to do so by the Customer;
- 26.5.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
- 26.5.3 the person's employment or contractual arrangement with the Supplier or a Sub-Contractor is terminated for material breach of contract by the employee; or
- 26.5.4 the Supplier obtains the Customer's prior written consent (such consent not to be unreasonably withheld or delayed).

26.6 The Supplier shall:

- 26.6.1 notify the Customer promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
- 26.6.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
- 26.6.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least three (3) Months' notice;
- 26.6.4 ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Services; and
- 26.6.5 ensure that any replacement for a Key Role:
 - (a) has a level of qualifications and experience appropriate to the relevant Key Role; and
 - (b) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.
- 26.6.6 shall and shall procure that any Sub-Contractor shall not remove or replace any Key Personnel during the Call-off Contract Period without Approval.

26.7 The Customer may require the Supplier to remove any Key Personnel that the Customer considers in any respect unsatisfactory. The Customer shall not be liable for the cost of replacing any Key Personnel.

27. SUPPLIER PERSONNEL

27.1 Supplier Personnel

- 27.1.1 The Supplier shall:
 - (a) provide a list of the names of all Supplier Personnel requiring admission to Customer Premises, specifying the capacity in which they require admission and giving such other particulars as the Customer may reasonably require;
 - (b) ensure that all Supplier Personnel:

- (i) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
 - (ii) are vetted in accordance with Good Industry Practice and, where applicable, the Security Policy and the Standards;
 - (iii) obey all lawful instructions and reasonable directions of the Customer (including, if so required by the Customer, the ICT Policy) and provide the Services to the reasonable satisfaction of the Customer; and
 - (iv) comply with all reasonable requirements of the Customer concerning conduct at the Customer Premises, including the security requirements set out in Call-off Schedule 7 (Security);
- (c) subject to Call-off Schedule 10 (Staff Transfer), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of the Customer;
 - (d) be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Call-off Contract shall be a Default by the Supplier;
 - (e) use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
 - (f) replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;
 - (g) bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
 - (h) procure that the Supplier Personnel shall vacate the Customer Premises immediately upon the Call-off Expiry Date.

27.1.2 If the Customer reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Call-off Contract, it may:

- (a) refuse admission to the relevant person(s) to the Customer Premises; and/or
- (b) direct the Supplier to end the involvement in the provision of the Services of the relevant person(s).

27.1.3 The decision of the Customer as to whether any person is to be refused access to the Customer Premises shall be final and conclusive.

27.2 Relevant Convictions

27.2.1 This sub-clause 27.2 shall apply if the Customer has specified Relevant Convictions in the Call-off Order Form (paragraph 5.2).

27.2.2 The Supplier shall ensure that no person who discloses that he has a Relevant Conviction, or who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the

Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Services without Approval.

27.2.3 Notwithstanding Clause 27.2.2, for each member of Supplier Personnel who, in providing the Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Customer owes a special duty of care, the Supplier shall (and shall procure that the relevant Sub-Contractor shall):

- (a) carry out a check with the records held by the Department for Education (DfE);
- (b) conduct thorough questioning regarding any Relevant Convictions; and
- (c) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Services any person who has a Relevant Conviction or an inappropriate record.

28. STAFF TRANSFER

28.1 The Parties agree that :

28.1.1 where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Call-off Schedule 10 (Staff Transfer) shall apply as follows:

- (a) where the Relevant Transfer involves the transfer of Transferring Customer Employees, Part A of Call-off Schedule 10 (Staff Transfer) shall apply;
- (b) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Call-off Schedule 10 (Staff Transfer) shall apply;
- (c) where the Relevant Transfer involves the transfer of Transferring Customer Employees and Transferring Former Supplier Employees, Parts A and B of Call-off Schedule 10 (Staff Transfer) shall apply; and
- (d) Part C of Call-off Schedule 10 (Staff Transfer) shall not apply;

28.1.2 where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Call-off Schedule 10 (Staff Transfer) shall apply and Parts A and B of Call-off Schedule 10 (Staff Transfer) shall not apply; and

28.1.3 Part D of Call-off Schedule 10 (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services;

28.2 The Supplier shall both during and after the Call-off Contract Period indemnify the Customer against all Employee Liabilities that may arise as a result of any claims brought against the Customer by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel.

29. SUPPLY CHAIN RIGHTS AND PROTECTION

29.1 Appointment of Sub-Contractors

- 29.1.1 The Supplier shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Supplier is able to:
- (a) manage any Sub-Contractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Call-off Contract in the Delivery of the Services; and
 - (c) assign, novate or otherwise transfer to the Customer or any Replacement Supplier any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Call-off Contract.
- 29.1.2 Prior to sub-contacting any of its obligations under this Call-off Contract, the Supplier shall notify the Customer and provide the Customer with:
- (a) the proposed Sub-Contractor's name, registered office and company registration number;
 - (b) the scope of any Services to be provided by the proposed Sub-Contractor; and
 - (c) where the proposed Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Customer that the proposed Sub-Contract has been agreed on "arm's-length" terms.
- 29.1.3 If requested by the Customer within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 29.1.2, the Supplier shall also provide:
- (a) a copy of the proposed Sub-Contract; and
 - (b) any further information reasonably requested by the Customer.
- 29.1.4 The Customer may, within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 29.1.2 (or, if later, receipt of any further information requested pursuant to Clause 29.1.3), object to the appointment of the relevant Sub-Contractor if they consider that:
- (a) the appointment of a proposed Sub-Contractor may prejudice the provision of the Services or may be contrary to the interests respectively of the Customer under this Call-off Contract;
 - (b) the proposed Sub-Contractor is unreliable and/or has not provided reliable and or reasonable services to its other customers; and/or
 - (c) the proposed Sub-Contractor employs unfit persons,
- in which case, the Supplier shall not proceed with the proposed appointment.
- 29.1.5 If:
- (a) the Customer has not notified the Supplier that it objects to the proposed Sub-Contractor's appointment by the later of ten (10) Working Days of receipt of:
 - (i) the Supplier's notice issued pursuant to Clause 29.1.2; and

- (ii) any further information requested by the Customer pursuant to Clause 29.1.3; and
- (b) the proposed Sub-Contract is not a Key Sub-Contract which shall require the written consent of the Authority and the Customer in accordance with Clause 29.2 (Appointment of Key Sub-Contractors).

the Supplier may proceed with the proposed appointment.

29.2 Appointment of Key Sub-Contractors

- 29.2.1 The Authority and the Customer have consented to the engagement of the Key Sub-Contractors listed in Framework Schedule 7 (Key Sub-Contractors).
- 29.2.2 Where the Supplier wishes to enter into a new Key Sub-Contract or replace a Key Sub-Contractor, it must obtain the prior written consent of the Authority and the Customer (the decision to consent or otherwise not to be unreasonably withheld or delayed). The Authority and/or the Customer may reasonably withhold its consent to the appointment of a Key Sub-Contractor if any of them considers that:
 - (a) the appointment of a proposed Key Sub-Contractor may prejudice the provision of the Services or may be contrary to its interests;
 - (b) the proposed Key Sub-Contractor is unreliable and/or has not provided reliable reasonable services to its other customers; and/or
 - (c) the proposed Key Sub-Contractor employs unfit persons.
- 29.2.3 Except where the Authority and the Customer have given their prior written consent under Clause 29.2.1, the Supplier shall ensure that each Key Sub-Contract shall include:
 - (a) provisions which will enable the Supplier to discharge its obligations under this Call-off Contract;
 - (b) a right under CRTPA for the Customer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Customer;
 - (c) a provision enabling the Customer to enforce the Key Sub-Contract as if it were the Supplier;
 - (d) a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Customer or any Replacement Supplier;
 - (e) obligations no less onerous on the Key Sub-Contractor than those imposed on the Supplier under this Call-off Contract in respect of:
 - (i) data protection requirements set out in Clauses 34.1 (Security Requirements), 34.2 (Protection of Customer Data) and 34.6 (Protection of Personal Data);
 - (ii) FOIA requirements set out in Clause 34.5 (Freedom of Information);

- (iii) the obligation not to embarrass the Customer or otherwise bring the Customer into disrepute set out in Clause 7.1.4(l) (Provision of Services);
- (iv) the keeping of records in respect of the Services being provided under the Key Sub-Contract, including the maintenance of Open Book Data;
- (v) the conduct of audits set out in Clause 21 (Records, Audit Access & Open Book Data);
- (f) provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Customer under Clauses 41 (Customer Termination Rights), 43 (Termination by Either Party) and 45 (Consequences of Expiry or Termination) of this Call-off Contract;
- (g) a provision restricting the ability of the Key Sub-Contractor to Sub-Contract all or any part of the provision of the Services provided to the Supplier under the Sub-Contract without first seeking the written consent of the Customer;
- (h) a provision, where a provision in Call-off Schedule 10 (Staff Transfer) imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, requiring the Key Sub-Contractor to provide such indemnity, undertaking or warranty to the Customer, Former Supplier or the Replacement Supplier as the case may be.

29.3 Supply Chain Protection

29.3.1 The Supplier shall ensure that all Sub-Contracts contain a provision:

- (a) requiring the Supplier to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a Valid Invoice;
- (b) requiring that any invoices submitted by a Sub-Contractor shall be considered and verified by the Supplier in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
- (c) requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards suitable provisions to impose, as between the parties to that Sub-Contract, requirements to the same effect as those required by sub-clauses (a) and (b) directly above; and
- (d) conferring a right to the Customer to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period.

29.3.2 The Supplier shall:

- (a) pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days from the receipt of a Valid Invoice;
- (b) include within the Performance Monitoring Reports required under Part B of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) a summary of its

compliance with this Clause 29.3.2 (a), such data to be certified each quarter by a director of the Supplier as being accurate and not misleading.

- 29.3.3 Any invoices submitted by a Sub-Contractor to the Supplier shall be considered and verified by the Supplier in a timely fashion. Undue delay in doing so shall not be sufficient justification for the Supplier failing to regard an invoice as valid and undisputed.
- 29.3.4 Notwithstanding any provision of Clauses 34.3 (Confidentiality) and 35 (Publicity and Branding) if the Supplier notifies the Customer that the Supplier has failed to pay an undisputed Sub-Contractor's invoice within thirty (30) days of receipt, or the Customer otherwise discovers the same, the Customer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

29.4 Termination of Sub-Contracts

- 29.4.1 The Customer may require the Supplier to terminate:
 - (a) a Sub-Contract where:
 - (i) the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Customer's right of termination pursuant to any of the termination events in Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); and/or
 - (ii) the relevant Sub-Contractor or its Affiliates embarrassed the Customer or otherwise brought the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Services or otherwise; and/or
 - (b) a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:
 - (i) the Customer has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Customer has not served its notice of objection within six (6) months of the later of the date the Change of Control took place or the date on which the Customer was given notice of the Change of Control.

29.5 Competitive Terms

- 29.5.1 If the Customer is able to obtain from any Sub-Contractor or any other third party more favourable commercial terms with respect to the supply of any services used by the Supplier or the Supplier Personnel in the supply of the Services, then the Customer may:
 - (a) require the Supplier to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Customer in respect of the relevant item; or

- (b) subject to Clause 29.4 (Termination of Sub-Contracts), enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.
- 29.5.2 If the Customer exercises the option pursuant to Clause 29.5.1, then the Call-off Contract Charges shall be reduced by an amount that is agreed in accordance with the Variation Procedure.
- 29.5.3 The Customer's right to enter into a direct agreement for the supply of the relevant items is subject to:
 - (a) the Customer making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Services; and
 - (b) any reduction in the Call-off Contract Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.
 - (c) any variance to the Service Levels of the Call-off Contract required by the alternative relevant item and as agreed in accordance with the Clause 22.1 (Variation Procedure).

29.6 Retention of Legal Obligations

- 29.6.1 Notwithstanding the Supplier's right to Sub-Contract pursuant to Clause 29 (Supply Chain Rights and Protection), the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.

G. PROPERTY MATTERS

30. CUSTOMER PREMISES

30.1 Licence to occupy Customer Premises

- 30.1.1 Any Customer Premises shall be made available to the Supplier on a non-exclusive licence basis free of charge and shall be used by the Supplier solely for the purpose of performing its obligations under this Call-off Contract. The Supplier shall have the use of such Customer Premises as licensee and shall vacate the same immediately upon completion, termination, expiry or abandonment of this Call-off Contract and in accordance with Call-off Schedule 9 (Exit Management).
- 30.1.2 The Supplier shall limit access to the Customer Premises to such Supplier Personnel as is necessary to enable it to perform its obligations under this Call-off Contract and the Supplier shall co-operate (and ensure that the Supplier Personnel co-operate) with such other persons working concurrently on such Customer Premises as the Customer may reasonably request.
- 30.1.3 Save in relation to such actions identified by the Supplier in accordance with Clause 2 (Due Diligence) and set out in the Call-off Order Form (or elsewhere in this Call-off Contract), should the Supplier require modifications to the Customer Premises, such modifications shall be subject to Approval and shall be carried out by the Customer at the Supplier's expense. The Customer shall undertake any modification

work which it approves pursuant to this Clause 30.1.3 without undue delay. Ownership of such modifications shall rest with the Customer.

30.1.4 The Supplier shall observe and comply with such rules and regulations as may be in force at any time for the use of such Customer Premises and conduct of personnel at the Customer Premises as determined by the Customer, and the Supplier shall pay for the full cost of making good any damage caused by the Supplier Personnel other than fair wear and tear. For the avoidance of doubt, damage includes without limitation damage to the fabric of the buildings, plant, fixed equipment or fittings therein.

30.1.5 The Parties agree that there is no intention on the part of the Customer to create a tenancy of any nature whatsoever in favour of the Supplier or the Supplier Personnel and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Call-off Contract, the Customer retains the right at any time to use any Customer Premises in any manner it sees fit.

30.2 Security of Customer Premises

30.2.1 The Customer shall be responsible for maintaining the security of the Customer Premises in accordance with the Security Policy. The Supplier shall comply with the Security Policy and any other reasonable security requirements of the Customer while on the Customer Premises.

30.2.2 The Customer shall afford the Supplier upon Approval (the decision to Approve or not will not be unreasonably withheld or delayed) an opportunity to inspect its physical security arrangements.

31. CUSTOMER PROPERTY

31.1 Where the Customer issues Customer Property free of charge to the Supplier such Customer Property shall be and remain the property of the Customer and the Supplier irrevocably licences the Customer and its agents to enter upon any premises of the Supplier during normal business hours on reasonable notice to recover any such Customer Property.

31.2 The Supplier shall not in any circumstances have a lien or any other interest on the Customer Property and at all times the Supplier shall possess the Customer Property as fiduciary agent and bailee of the Customer.

31.3 The Supplier shall take all reasonable steps to ensure that the title of the Customer to the Customer Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Customer's request, store the Customer Property separately and securely and ensure that it is clearly identifiable as belonging to the Customer.

31.4 The Customer Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies the Customer otherwise within five (5) Working Days of receipt.

31.5 The Supplier shall maintain the Customer Property in good order and condition (excluding fair wear and tear) and shall use the Customer Property solely in connection with this Call-off Contract and for no other purpose without Approval.

31.6 The Supplier shall ensure the security of all the Customer Property whilst in its possession, either on the Sites or elsewhere during the supply of the Services, in accordance with the Customer's Security Policy and the Customer's reasonable security requirements from time to time.

31.7 The Supplier shall be liable for all loss of, or damage to the Customer Property, (excluding fair wear and tear), unless such loss or damage was solely caused by a Customer Cause. The Supplier shall inform the Customer immediately of becoming aware of any defects appearing in or losses or damage occurring to the Customer Property.

32. SUPPLIER EQUIPMENT

32.1 Unless otherwise stated in the Call-off Order Form (or elsewhere in this Call-off Contract), the Supplier shall provide all the Supplier Equipment necessary for the provision of the Services.

32.2 The Supplier shall not deliver any Supplier Equipment nor begin any work on the Customer Premises without obtaining Approval.

32.3 The Supplier shall be solely responsible for the cost of carriage of the Supplier Equipment to the Sites and/or any Customer Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on the Call-off Expiry Date the Supplier shall be responsible for the removal of all relevant Supplier Equipment from the Sites and/or any Customer Premises, including the cost of packing, carriage and making good the Sites and/or the Customer Premises following removal.

32.4 All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Customer shall be liable for loss of or damage to any of the Supplier's property located on Customer Premises which is due to the negligent act or omission of the Customer.

32.5 Subject to any express provision of the BCDR Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Services in accordance with this Call-off Contract, including the Service Level Performance Measures.

32.6 The Supplier shall maintain all Supplier Equipment within the Sites and/or the Customer Premises in a safe, serviceable and clean condition.

32.7 The Supplier shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:

32.7.1 remove from the Customer Premises any Supplier Equipment or any component part of Supplier Equipment which in the reasonable opinion of the Customer is either hazardous, noxious or not in accordance with this Call-off Contract; and

32.7.2 replace such Supplier Equipment or component part of Supplier Equipment with a suitable substitute item of Supplier Equipment.

32.8 For the purposes of this Clause 32.8, 'X' shall be the number of Service Failures, and 'Y' shall be the period in months, as respectively specified for 'X' and 'Y' in the Call-off Order Form. If this Clause 32.8 has been specified to apply in the Call-off Order Form, and there are no values specified for 'X' and/or 'Y', in default, 'X' shall be two (2) and 'Y' shall be twelve (12). Where a failure of Supplier Equipment or any component part of Supplier Equipment causes X or more Service Failures in any Y Month period, the Supplier shall notify the Customer in writing and shall, at the Customer's request (acting reasonably), replace such Supplier Equipment or component part thereof at its own cost with a new item of Supplier Equipment or component part thereof (of the same specification or having the same capability as the Supplier Equipment being replaced).

H. INTELLECTUAL PROPERTY AND INFORMATION

33. INTELLECTUAL PROPERTY RIGHTS

33.1 Allocation of title to IPR

- 33.1.1 Save as expressly granted elsewhere under this Call-off Contract:
- (a) the Customer shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, including:
 - (i) the Supplier Background IPR;
 - (ii) the Third Party IPR; and
 - (iii) the Project Specific IPR.
 - (b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Customer or its licensors, including the:
 - (i) Customer Background IPR; and
 - (ii) Customer Data.
- 33.1.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 33.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).
- 33.1.3 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.

33.2 Licence granted by the Supplier: Project Specific IPR

- 33.2.1 The Supplier hereby grants to the Customer, or shall procure the direct grant to the Customer of, a perpetual, royalty-free, irrevocable, non-exclusive licence to use the Project Specific IPR including but not limited to the right to copy, adapt, publish and distribute such Project Specific IPR.

33.3 Licence granted by the Supplier: Supplier Background IPR

- 33.3.1 The Supplier hereby grants to the Customer a perpetual, royalty-free and non-exclusive licence to use the Supplier Background IPR for any purpose relating to the Services (or substantially equivalent Services) or for any purpose relating to the exercise of the Customer's (or, if the Customer is a Central Government Body, any other Central Government Body's) business or function.
- 33.3.2 At any time during the Call-off Contract Period or following the Call-off Expiry Date, the Supplier may terminate a licence granted in respect of the Supplier Background IPR under Clause 33.3.1 by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if there is a Customer Cause which constitutes a material breach of the terms of 33.3.1 which, if the breach is capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Customer written notice specifying the breach and requiring its remedy.

- 33.3.3 In the event the licence of the Supplier Background IPR is terminated pursuant to Clause 33.3.2, the Customer shall:
- (a) immediately cease all use of the Supplier Background IPR;
 - (b) at the discretion of the Supplier, return or destroy documents and other tangible materials that contain any of the Supplier Background IPR, provided that if the Supplier has not made an election within six (6) months of the termination of the licence, the Customer may destroy the documents and other tangible materials that contain any of the Supplier Background IPR; and
 - (c) ensure, so far as reasonably practicable, that any Supplier Background IPR that is held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Customer) from any computer, word processor, voicemail system or any other device containing such Supplier Background IPR.

33.4 Customer's right to sub-licence

- 33.4.1 The Customer shall be freely entitled to sub-licence the rights granted to it pursuant to Clause 33.2.1 (Licence granted by the Supplier: Project Specific IPR).
- 33.4.2 The Customer may sub-licence:
- (a) the rights granted under Clause 33.3.1 (Licence granted by the Supplier: Supplier Background IPR) to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:
 - (i) the sub-licence is on terms no broader than those granted to the Customer; and
 - (ii) the sub-licence only authorises the third party to use the rights licensed in Clause 33.3.1 (Licence granted by the Supplier: Supplier Background IPR) for purposes relating to the Services (or substantially equivalent Services) or for any purpose relating to the exercise of the Customer's (or, if the Customer is a Central Government Body, any other Central Government Body's) business or function; and
 - (b) the rights granted under Clause 33.3.1 (Licence granted by the Supplier: Supplier Background IPR) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Project Specific IPR provided that the sub-licence is on terms no broader than those granted to the Customer.

33.5 Customer's right to assign/novate licences

- 33.5.1 The Customer shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under the licence granted to it pursuant to Clause 33.2 (Licence granted by the Supplier: Project Specific IPR).
- 33.5.2 The Customer may assign, novate or otherwise transfer its rights and obligations under the licence granted pursuant to Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) to:
- (a) a Central Government Body; or

- (b) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer.

33.5.3 Where the Customer is a Central Government Body, any change in the legal status of the Customer which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 33.2 (Licence granted by the Supplier: Project Specific IPR) and/or Clause 33.3 (Licences granted by the Supplier: Supplier Background IPR). If the Customer ceases to be a Central Government Body, the successor body to the Customer shall still be entitled to the benefit of the licences granted in Clause 33.2 (Licence granted by the Supplier: Project Specific IPR) and Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR).

33.5.4 If a licence granted in Clause 33.2 (Licence granted by the Supplier: Project Specific IPR) and/or Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) is novated under Clauses 33.5.1 and/or 33.5.2 or there is a change of the Customer's status pursuant to Clause 33.5.3 (both such bodies being referred to as the "Transferee"), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Customer.

33.6 Third Party IPR

33.6.1 The Supplier shall procure that the owners or the authorised licensors of any Third Party IPR grant a direct licence to the Customer on terms at least equivalent to those set out in Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) and Clause 33.5.2 (Customer's right to assign/novate licences). If the Supplier cannot obtain for the Customer a licence materially in accordance with the licence terms set out in Clause 33.3 (Licences granted by the Supplier: Supplier Background IPR) and Clause 33.5.2 (Customer's right to assign/novate licences) in respect of any such Third Party IPR, the Supplier shall:

- (a) notify the Customer in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative providers which the Supplier could seek to use; and
- (b) only use such Third Party IPR if the Customer Approves the terms of the licence from the relevant third party.

33.7 Licence granted by the Customer

33.7.1 The Customer hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call-off Contract Period to use the Customer Background IPR and the Customer Data solely to the extent necessary for providing the Services in accordance with this Call-off Contract, including (but not limited to) the right to grant sub-licences to Sub-Contractors provided that:

- (a) any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 34.3 (Confidentiality); and
- (b) the Supplier shall not without Approval use the licensed materials for any other purpose or for the benefit of any person other than the Customer.

33.8 Termination of licenses

- 33.8.1 Subject to Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR), all licences granted pursuant to Clause 33 (Intellectual Property Rights) (other than those granted pursuant to Clause 33.6 (Third Party IPR) and 33.7 (Licence granted by the Customer)) shall survive the Call-off Expiry Date.
- 33.8.2 The Supplier shall, if requested by the Customer in accordance with Call-off Schedule 9 (Exit Management), grant (or procure the grant) to the Replacement Supplier of a licence to use any Supplier Background IPR and/or Third Party IPR on terms equivalent to those set out in Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
- 33.8.3 The licence granted pursuant to Clause 33.7 (Licence granted by the Customer) and any sub-licence granted by the Supplier in accordance with Clause 33.7.1 (Licence granted by the Customer) shall terminate automatically on the Call-off Expiry Date and the Supplier shall:
- (a) immediately cease all use of the Customer Background IPR and the Customer Data (as the case may be);
 - (b) at the discretion of the Customer, return or destroy documents and other tangible materials that contain any of the Customer Background IPR and the Customer Data, provided that if the Customer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Customer Background IPR and the Customer Data (as the case may be); and
 - (c) ensure, so far as reasonably practicable, that any Customer Background IPR and Customer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Customer Background IPR and/or Customer Data.

33.9 IPR Indemnity

- 33.9.1 The Supplier shall, during and after the Call-off Contract Period, on written demand, indemnify the Customer against all Losses incurred by, awarded against, or agreed to be paid by the Customer (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.
- 33.9.2 If an IPR Claim is made, or the Supplier anticipates that an IPR Claim might be made, the Supplier may, at its own expense and sole option, either:
- (a) procure for the Customer the right to continue using the relevant item which is subject to the IPR Claim; or
 - (b) replace or modify the relevant item with non-infringing substitutes provided that:

- (i) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
 - (ii) the replaced or modified item does not have an adverse effect on any other Services;
 - (iii) there is no additional cost to the Customer; and
 - (iv) the terms and conditions of this Call-off Contract shall apply to the replaced or modified Services.
- 33.9.3 If the Supplier elects to procure a licence in accordance with Clause 33.9.2(a) or to modify or replace an item pursuant to Clause 33.9.2(b), but this has not avoided or resolved the IPR Claim, then:
- (i) the Customer may terminate this Call-off Contract by written notice with immediate effect; and
 - (ii) without prejudice to the indemnity set out in Clause 33.9.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute Services including the additional costs of procuring, implementing and maintaining the substitute items.

34. SECURITY AND PROTECTION OF INFORMATION

34.1 Security Requirements

- 34.1.1 The Supplier shall comply with the Security Policy and the requirements of Call-off Schedule 7 (Security) including the Security Management Plan (if any) and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 34.1.2 The Customer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 34.1.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Services it may propose a Variation to the Customer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Call-off Contract Charges shall then be subject to the Variation Procedure.
- 34.1.4 Until and/or unless a change to the Call-off Contract Charges is agreed by the Customer pursuant to the Variation Procedure the Supplier shall continue to provide the Services in accordance with its existing obligations.

34.2 Protection of Customer Data

- 34.2.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- 34.2.2 The Supplier shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Supplier of its obligations under this Call-off Contract or as otherwise Approved by the Customer.

- 34.2.3 To the extent that the Customer Data is held and/or Processed by the Supplier, the Supplier shall supply that Customer Data to the Customer as requested by the Customer and in the format (if any) specified by the Customer in the Call-off Order Form and, in any event, as specified by the Customer from time to time in writing.
- 34.2.4 The Supplier shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.
- 34.2.5 The Supplier shall perform secure back-ups of all Customer Data and shall ensure that up-to-date back-ups are stored off-site at an Approved location in accordance with any BCDR Plan or otherwise. The Supplier shall ensure that such back-ups are available to the Customer (or to such other person as the Customer may direct) at all times upon request and are delivered to the Customer at no less than six (6) Monthly intervals (or such other intervals as may be agreed in writing between the Parties).
- 34.2.6 The Supplier shall ensure that any system on which the Supplier holds any Customer Data, including back-up data, is a secure system that complies with the Security Policy and the Security Management Plan (if any).
- 34.2.7 If at any time the Supplier suspects or has reason to believe that the Customer Data is corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Customer immediately and inform the Customer of the remedial action the Supplier proposes to take.
- 34.2.8 If the Customer Data is corrupted, lost or sufficiently degraded as a result of a Default so as to be unusable, the Supplier may:
- (a) require the Supplier (at the Supplier's expense) to restore or procure the restoration of Customer Data to the extent and in accordance with the requirements specified in Call-off Schedule 8 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer, and the Supplier shall do so as soon as practicable but not later than five (5) Working Days from the date of receipt of the Customer's notice; and/or
 - (b) itself restore or procure the restoration of Customer Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Call-off Schedule 8 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer.

34.3 Confidentiality

- 34.3.1 For the purposes of Clause 34.3, the term “**Disclosing Party**” shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and “**Recipient**” shall mean the Party which receives or obtains directly or indirectly Confidential Information.
- 34.3.2 Except to the extent set out in Clause 34.3 or where disclosure is expressly permitted elsewhere in this Call-off Contract, the Recipient shall:
- (a) treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate

depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials); and

- (b) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Call-off Contract or without obtaining the owner's prior written consent;
- (c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Call-off Contract; and
- (d) immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

34.3.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 34.5 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;
- (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Customer arising out of or in connection with this Call-off Contract;
 - (ii) the examination and certification of the Customer's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer is making use of any Services provided under this Call-off Contract; or
 - (iii) the conduct of a Central Government Body review in respect of this Call-off Contract; or
- (c) the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.

34.3.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.

34.3.5 Subject to Clause 34.3.2, the Supplier may only disclose the Confidential Information of the Customer on a confidential basis to:

- (a) Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Call-off Contract; and

- (b) its professional advisers for the purposes of obtaining advice in relation to this Call-off Contract.

34.3.6 Where the Supplier discloses Confidential Information of the Customer pursuant to Clause 34.3.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Call-off Contract by the persons to whom disclosure has been made.

34.3.7 The Customer may disclose the Confidential Information of the Supplier:

- (a) to any Central Government Body on the basis that the information may only be further disclosed to Central Government Bodies;
- (b) to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 34.3.7(a) (including any benchmarking organisation) for any purpose relating to or connected with this Call-off Contract;
- (e) on a confidential basis for the purpose of the exercise of its rights under this Call-off Contract; or
- (f) to a proposed transferee, assignee or novatee of, or successor in title to the Customer,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under Clause 34.3.

34.3.8 Nothing in Clause 34.3 shall prevent a Recipient from using any techniques, ideas or Know-How gained during the performance of this Call-off Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

34.3.9 In the event that the Supplier fails to comply with Clauses 34.3.2 to 34.3.5, the Customer reserves the right to terminate this Call-off Contract for material Default.

34.4 Transparency

34.4.1 The Parties acknowledge and agree that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Call-off Contract and any Transparency Reports under it is not Confidential Information and shall be made available in accordance with the procurement policy note 13/15 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/458554/Procurement_Policy_Note_13_15.pdf and the

Transparency Principles referred to therein. The Customer shall determine whether any of the content of this Call-off Contract is exempt from disclosure in accordance with the provisions of the FOIA. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

34.4.2 Notwithstanding any other provision of this Call-off Contract, the Supplier hereby gives his consent for the Customer to publish this Call-off Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Call-off Contract agreed from time to time.

34.4.3 The Supplier shall assist and cooperate with the Customer to enable the Customer to publish this Call-off Contract.

34.5 Freedom of Information

34.5.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the EIRs. The Supplier shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its Information disclosure obligations under the FOIA and EIRs;
- (b) transfer to the Customer all Requests for Information relating to this Call-off Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
- (c) provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
- (d) not respond directly to a Request for Information unless authorised in writing to do so by the Customer.

34.5.2 The Supplier acknowledges that the Customer may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Customer shall take reasonable steps to notify the Supplier of a Request for Information (in accordance with the Secretary of State's Section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Call-off Contract) the Customer shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

34.6 Protection of Personal Data

34.6.1 Where any Personal Data are Processed in connection with the exercise of the Parties' rights and obligations under this Call-off Contract, the Parties acknowledge that the Customer is the Data Controller and that the Supplier is the Data Processor.

34.6.2 The Supplier shall:

- (a) Process the Personal Data only in accordance with instructions from the Customer to perform its obligations under this Call-off Contract;
- (b) ensure that at all times it has in place appropriate technical and organisational measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction, or damage to the Personal Data, including the measures as are set out in Clauses 34.1 (Security Requirements) and 34.2 (Protection of Customer Data);
- (c) not disclose or transfer the Personal Data to any third party or Supplier Personnel unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the Customer (save where such disclosure or transfer is specifically authorised under this Call-off Contract)
- (d) take reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:
 - (i) are aware of and comply with the Supplier's duties under Clause 34.6.2 and Clauses 34.1 (Security Requirements), 34.2 (Protection of Customer Data) and 34.3 (Confidentiality);
 - (ii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Call-off Contract; and
 - (iii) have undergone adequate training in the use, care, protection and handling of personal data (as defined in the DPA);
- (e) notify the Customer within five (5) Working Days if it receives:
 - (i) from a Data Subject (or third party on their behalf) a Data Subject Access Request (or purported Data Subject Access Request) a request to rectify, block or erase any Personal Data or any other request, complaint or communication relating to the Customer's obligations under the DPA;
 - (ii) any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data; or
 - (iii) a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
- (f) provide the Customer with full cooperation and assistance (within the timescales reasonably required by the Customer) in relation to any complaint, communication or request made (as referred to at Clause 34.6.2(e)), including by promptly providing:

- (i) the Customer with full details and copies of the complaint, communication or request;
 - (ii) where applicable, such assistance as is reasonably requested by the Customer to enable the Customer to comply with the Data Subject Access Request within the relevant timescales set out in the DPA; and
 - (iii) the Customer, on request by the Customer, with any Personal Data it holds in relation to a Data Subject; and
- (g) if requested by the Customer, provide a written description of the measures that has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to Clause 34.6.2 and provide to the Customer copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals.

34.6.3 The Supplier shall not Process or otherwise transfer any Personal Data in or to any country outside the European Economic Area or any country which is not determined to be adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC (together “**Restricted Countries**”). If, after the Call-off Commencement Date, the Supplier or any Sub-Contractor wishes to Process and/or transfer any Personal Data in or to any outside the European Economic Area, the following provisions shall apply:

- (a) the Supplier shall propose a Variation to the Customer which, if it is agreed by the Customer, shall be dealt with in accordance with the Variation Procedure and Clauses 34.6.3(b) to 34.6.3(c);
- (b) the Supplier shall set out in its proposal to the Customer for a Variation details of the following:
 - (i) the Personal Data which will be transferred to and/or Processed in or to any Restricted Countries;
 - (ii) the Restricted Countries to which the Personal Data will be transferred and/or Processed; and
 - (iii) any Sub-Contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries;
 - (iv) how the Supplier will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Customer’s compliance with the DPA;
- (c) in providing and evaluating the Variation, the Parties shall ensure that they have regard to and comply with then-current Customer, Central Government Bodies and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing in and/or transfers of Personal Data to any Restricted Countries; and

- (d) the Supplier shall comply with such other instructions and shall carry out such other actions as the Customer may notify in writing, including:
 - (i) incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the DPA) into this Call-off Contract or a separate data processing agreement between the Parties; and
 - (ii) procuring that any Sub-Contractor or other third party who will be Processing and/or receiving or accessing the Personal Data in any Restricted Countries either enters into:
 - (A) a direct data processing agreement with the Customer on such terms as may be required by the Customer; or
 - (B) a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Customer and the Sub-Contractor relating to the relevant Personal Data transfer, and
 - (iii) in each case which the Supplier acknowledges may include the incorporation of model contract provisions (which are approved by the European Commission as offering adequate safeguards under the DPA) and technical and organisation measures which the Customer deems necessary for the purpose of protecting Personal Data.

34.6.4 The Supplier shall use its reasonable endeavours to assist the Customer to comply with any obligations under the DPA and shall not perform its obligations under this Call-off Contract in such a way as to cause the Customer to breach any of the Customer's obligations under the DPA to the extent the Supplier is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

35. PUBLICITY AND BRANDING

35.1 The Supplier shall not:

- 35.1.1 make any press announcements or publicise this Call-off Contract in any way; or
- 35.1.2 use the Customer's name or brand in any promotion or marketing or announcement of orders,
- 35.1.3 without Approval (the decision of the Customer to Approve or not shall not be unreasonably withheld or delayed).

35.2 Each Party acknowledges to the other that nothing in this Call-off Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Services and Supplier Equipment) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

I. LIABILITY AND INSURANCE

36. LIABILITY

36.1 Unlimited Liability

36.1.1 Neither Party excludes or limits its liability for:

- (a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
- (b) bribery or Fraud by it or its employees;
- (c) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) any liability to the extent it cannot be excluded or limited by Law.

36.1.2 The Supplier does not exclude or limit its liability in respect of the indemnity in Clauses 33.9 (IPR Indemnity) and in each case whether before or after the making of a demand pursuant to the indemnity therein.

36.2 Financial Limits

36.2.1 Subject to Clause 36.1 (Unlimited Liability), the Supplier's total aggregate liability:

- (a) in respect of all:
 - (i) Service Credits; and
 - (ii) Compensation for Critical Service Level Failure;incurred in any rolling period of 12 Months shall be subject in aggregate to the Service Credit Cap;
- (b) in respect of all other Losses incurred by the Customer under or in connection with this Call-off Contract as a result of Defaults by the Supplier shall in no event exceed:
 - (i) in relation to any Defaults occurring from the Call-off Commencement Date to the end of the first Call-off Contract Year, the higher of ten million pounds (£10,000,000) or a sum equal to one hundred and fifty per cent (150%) of the Estimated Year 1 Call-off Contract Charges;
 - (ii) in relation to any Defaults occurring in each subsequent Call-off Contract Year that commences during the remainder of the Call-off Contract Period, the higher of ten million pounds (£10,000,000) in each such Call-off Contract Year or a sum equal to one hundred and fifty per cent (150%) of the Call-off Contract Charges payable to the Supplier under this Call-off Contract in the previous Call-off Contract Year; and
 - (iii) in relation to any Defaults occurring in each Call-off Contract Year that commences after the end of the Call-off Contract Period, the higher of ten million pounds (£10,000,000) in each such Call-off Contract Year or a sum equal to one hundred and fifty per cent (150%) of the Call-off Contract Charges payable to the Supplier under this

Call-off Contract in the last Call-off Contract Year commencing during the Call-off Contract Period;

unless the Customer has specified different financial limits in the Call-off Order Form.

36.2.2 Subject to Clauses 36.1 (Unlimited Liability) and 36.2 (Financial Limits) and without prejudice to its obligation to pay the undisputed Call-off Contract Charges as and when they fall due for payment, the Customer's total aggregate liability in respect of all Losses as a result of Customer Causes shall be limited to:

- (a) in relation to any Customer Causes occurring from the Call-off Commencement Date to the end of the first Call-off Contract Year, a sum equal to the Estimated Year 1 Call-off Contract Charges;
- (b) in relation to any Customer Causes occurring in each subsequent Call-off Contract Year that commences during the remainder of the Call-off Contract Period, a sum equal to the Call-off Contract Charges payable to the Supplier under this Call-off Contract in the previous Call-off Contract Year; and
- (c) in relation to any Customer Causes occurring in each Call-off Contract Year that commences after the end of the Call-off Contract Period, a sum equal to the Call-off Contract Charges payable to the Supplier under this Call-off Contract in the last Call-off Contract Year commencing during the Call-off Contract Period.

36.3 Non-recoverable Losses

36.3.1 Subject to Clause 36.1 (Unlimited Liability) neither Party shall be liable to the other Party for any:

- (a) indirect, special or consequential Loss;
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

36.4 Recoverable Losses

36.4.1 Subject to Clause 36.2 (Financial Limits), and notwithstanding Clause 36.3 (Non-recoverable Losses), the Supplier acknowledges that the Customer may, amongst other things, recover from the Supplier the following Losses incurred by the Customer to the extent that they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Customer, including costs relating to time spent by or on behalf of the Customer in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional cost of procuring Replacement Services for the remainder of the Call-off Contract Period and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Services and/or replacement Deliverables above those which would have been payable under this Call-off Contract;

- (d) any compensation or interest paid to a third party by the Customer; and
- (e) any fine, penalty or costs incurred by the Customer pursuant to Law.

36.5 Miscellaneous

- 36.5.1 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Call-off Contract.
- 36.5.2 Any Deductions shall not be taken into consideration when calculating the Supplier's liability under Clause 36.2 (Financial Limits).
- 36.5.3 Subject to any rights of the Customer under this Call-off Contract (including in respect of an IPR Claim), any claims by a third party where an indemnity is sought by that third party from a Party to this Call-off Contract shall be dealt with in accordance with the provisions of Framework Schedule 20 (Conduct of Claims).

37. **INSURANCE**

- 37.1 The Supplier shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Where required by the Customer, such policy or policies shall include professional indemnity cover in respect of any financial loss to the Customer arising from any advice given or omitted to be given by the Supplier under the Contract or otherwise in connection with the provision of the Contract Services. Such insurance shall be maintained for so long as the Supplier may have any liability to the Customer.
- 37.2 It shall be the responsibility of the Supplier to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability arising in respect of the risks referred to in Clause 38.1.
- 37.3 Without limitation to the generality of Clause 38.1 the Supplier shall ensure that it maintains the policy or policies of insurance as stipulated in the Call-off Order Form.
- 37.4 If, for whatever reason, the Supplier fails to give effect to and maintain the insurances required by Clause 38.1 and Clause 38.2 the Customer may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- 37.5 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.

J. **REMEDIES AND RELIEF**

38. **CUSTOMER REMEDIES FOR DEFAULT**

38.1 Remedies

- 38.1.1 Without prejudice to any other right or remedy of the Customer howsoever arising (including under Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)) and subject to the exclusive financial remedy provisions in Clauses 13.6 (Service Levels

and Service Credits) and 6.4.1(b) (Delay Payments), if the Supplier commits any Default of this Call-off Contract then the Customer may (whether or not any part of the Services have been Delivered) do any of the following:

- (a) at the Customer's option, give the Supplier the opportunity (at the Supplier's expense) to remedy the Default together with any damage resulting from such Default (where such Default is capable of remedy) or to supply Replacement Services and carry out any other necessary work to ensure that the terms of this Call-off Contract are fulfilled, in accordance with the Customer's instructions;
- (b) carry out, at the Supplier's expense, any work necessary to make the provision of the Services comply with this Call-off Contract;
- (c) if the Default is a material Default that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults - whether of the same or different obligations and regardless of whether such Defaults are remedied - which taken together constitute a material Default):
 - (i) instruct the Supplier to comply with the Rectification Plan Process;
 - (ii) suspend this Call-off Contract (whereupon the relevant provisions of Clause 44 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) the Services;
 - (iii) without terminating or suspending the whole of this Call-off Contract, terminate or suspend this Call-off Contract in respect of part of the provision of the Services only (whereupon the relevant provisions of Clause 44 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) such part of the Good and/or Services;

38.1.2 Where the Customer exercises any of its step-in rights under Clauses 38.1.1(c)(ii) or 38.1.1(c)(iii), the Customer shall have the right to charge the Supplier for and the Supplier shall on demand pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Services by the Customer or a third party and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining Replacement Services.

38.2 Rectification Plan Process

38.2.1 Where the Customer has instructed the Supplier to comply with the Rectification Plan Process pursuant to Clause 38.1.1(c)(i):

- (a) the Supplier shall submit a draft Rectification Plan to the Customer for it to review as soon as possible and in any event within 10 (ten) Working Days (or such other period as may be agreed between the Parties) from the date of Customer's

instructions. The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Default giving rise to the Customer's request for a draft Rectification Plan.

- (b) the draft Rectification Plan shall set out:
 - (i) full details of the Default that has occurred, including a cause analysis;
 - (ii) the actual or anticipated effect of the Default; and
 - (iii) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable).

38.2.2 The Supplier shall promptly provide to the Customer any further documentation that the Customer requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with paragraph 5 of Call-off Schedule 11 (Dispute Resolution Procedure).

38.2.3 The Customer may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:

- (a) is insufficiently detailed to be capable of proper evaluation;
- (b) will take too long to complete;
- (c) will not prevent reoccurrence of the Default; and/or
- (d) will rectify the Default but in a manner which is unacceptable to the Customer.

38.2.4 The Customer shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Customer rejects the draft Rectification Plan, the Customer shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Customer for review within five (5) Working Days (or such other period as agreed between the Parties) of the Customer's notice rejecting the first draft.

38.2.5 If the Customer consents to the Rectification Plan, the Supplier shall immediately start work on the actions set out in the Rectification Plan.

39. SUPPLIER RELIEF DUE TO CUSTOMER CAUSE

39.1 If the Supplier has failed to:

- 39.1.1 Achieve a Milestone by its Milestone Date;
- 39.1.2 provide the Services in accordance with the Service Levels;
- 39.1.3 comply with its obligations under this Call-off Contract, (each a "Supplier Non-Performance"),

and can demonstrate that the Supplier Non-Performance would not have occurred but for a Customer Cause, then (subject to the Supplier fulfilling its obligations in Clause 17 (Supplier Notification of Customer Cause)):

- (a) the Supplier shall not be treated as being in breach of this Call-off Contract to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Customer Cause;
- (b) the Customer shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance to terminate this Call-off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause);
- (c) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:
 - (i) the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Customer Cause;
 - (ii) if the Customer, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Customer Cause;
 - (iii) if failure to Achieve a Milestone attracts a Delay Payment, the Supplier shall have no liability to pay any such Delay Payment associated with the Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Customer Cause; and/or
- (d) where the Supplier Non-Performance constitutes a Service Level Failure:
 - (i) the Supplier shall not be liable to accrue Service Credits;
 - (ii) the Customer shall not be entitled to any Compensation for Critical Service Level Failure pursuant to Clause 14 (Critical Service Level Failure); and
 - (iii) the Supplier shall be entitled to invoice for the Call-off Contract Charges for the provision of the relevant Services affected by the Customer Cause,

in each case, to the extent that the Supplier can demonstrate that the Service Level Failure was caused by the Customer Cause.

39.2 In order to claim any of the rights and/or relief referred to in Clause 39.1, the Supplier shall:

39.2.1 comply with its obligations under Clause 17 (Notification of Customer Cause); and

39.2.2 within ten (10) Working Days of becoming aware that a Customer Cause has caused, or is likely to cause, a Supplier Non-Performance, give the Customer notice (a "**Relief Notice**") setting out details of:

- (a) the Supplier Non-Performance;
- (b) the Customer Cause and its effect on the Supplier's ability to meet its obligations under this Call-off Contract; and

(c) the relief claimed by the Supplier.

39.3 Following the receipt of a Relief Notice, the Customer shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Customer Cause and whether it agrees with the Supplier's assessment set out in the Relief Notice as to the effect of the relevant Customer Cause and its entitlement to relief, consulting with the Supplier where necessary.

39.4 Without prejudice to Clauses 8.6 (Continuing obligation to provide the Services), if a Dispute arises as to:

39.4.1 whether a Supplier Non-Performance would not have occurred but for a Customer Cause; and/or

39.4.2 the nature and/or extent of the relief claimed by the Supplier,

either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.

39.5 Any Variation that is required to the Implementation Plan or to the Call-off Contract Charges pursuant to Clause 39 shall be implemented in accordance with the Variation Procedure.

40. FORCE MAJEURE

40.1 Subject to the remainder of Clause 40 (and, in relation to the Supplier, subject to its compliance with any obligations in Clause 15 (Business Continuity and Disaster Recovery)), a Party may claim relief under Clause 40 from liability for failure to meet its obligations under this Call-off Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Call-off Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.

40.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

40.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under Clause 40 to the extent that consequences of the relevant Force Majeure Event:

40.3.1 are capable of being mitigated by any of the provision of any Services, including any BCDR Services, but the Supplier has failed to do so; and/or

40.3.2 should have been foreseen and prevented or avoided by a prudent provider of Services similar to the Services, operating to the standards required by this Call-off Contract.

40.4 Subject to Clause 40.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.

40.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent

and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

40.6 Where, as a result of a Force Majeure Event:

40.6.1 an Affected Party fails to perform its obligations in accordance with this Call-off Contract, then during the continuance of the Force Majeure Event:

- (a) the other Party shall not be entitled to exercise any rights to terminate this Call-off Contract in whole or in part as a result of such failure unless the provision of the Services is materially impacted by a Force Majeure Event which endures for a continuous period of more than ninety (90) days; and
- (b) the Supplier shall not be liable for any Default and the Customer shall not be liable for any Customer Cause arising as a result of such failure;

40.6.2 the Supplier fails to perform its obligations in accordance with this Call-off Contract:

- (a) the Customer shall not be entitled:
 - (i) during the continuance of the Force Majeure Event to exercise its step-in rights under Clause 38.1.1(b) and 38.1.1(c) (Customer Remedies for Default) as a result of such failure;
 - (ii) to receive Delay Payments pursuant to Clause 6.4 (Delay Payments) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and
 - (iii) to receive Service Credits or withhold and retain any of the Call-off Contract Charges as Compensation for Critical Service Level Failure pursuant to Clause 14 (Critical Service Level Failure) to the extent that a Service Level Failure or Critical Service Level Failure has been caused by the Force Majeure Event; and
- (b) the Supplier shall be entitled to receive payment of the Call-off Contract Charges (or a proportional payment of them) only to the extent that the Services (or part of the Services) continue to be provided in accordance with the terms of this Call-off Contract during the occurrence of the Force Majeure Event.

40.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Call-off Contract.

40.8 Relief from liability for the Affected Party under Clause 40 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Call-off Contract and shall not be dependent on the serving of notice under Clause 40.7.

K. TERMINATION AND EXIT MANAGEMENT

41. CUSTOMER TERMINATION RIGHTS

41.1 Termination in Relation to Call-off Guarantee

41.1.1 Where this Call-off Contract is conditional upon the Supplier procuring a Call-off Guarantee pursuant to Clause 4 (Call-off Guarantee), the Customer may terminate this Call-off Contract by issuing a Termination Notice to the Supplier where:

- (a) the Call-off Guarantor withdraws the Call-off Guarantee for any reason whatsoever;
- (b) the Call-off Guarantor is in breach or anticipatory breach of the Call-off Guarantee;
- (c) an Insolvency Event occurs in respect of the Call-off Guarantor; or
- (d) the Call-off Guarantee becomes invalid or unenforceable for any reason whatsoever,

and in each case the Call-off Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Customer; or

- (e) the Supplier fails to provide the documentation required by Clause 4.1 by the date so specified by the Customer.

41.2 Termination on Material Default

41.2.1 The Customer may terminate this Call-off Contract for material Default by issuing a Termination Notice to the Supplier where:

- (a) the Supplier commits a Critical Service Level Failure;
- (b) the representation and warranty given by the Supplier pursuant to Clause 3.2.5 (Representations and Warranties) is materially untrue or misleading, and the Supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of the Customer are acceptable;
- (c) as a result of any Defaults, the Customer incurs Losses in any Contract Year which exceed 80% (unless stated differently in the Call-off Order Form) of the value of the Supplier's aggregate annual liability limit for that Contract Year as set out in Clauses 36.2.1(a) and 36.2.1(b) (Liability);
- (d) the Customer expressly reserves the right to terminate this Call-off Contract for material Default, including pursuant to any of the following Clauses: 6.2.3 (Implementation Plan), 8.4.2 (Services), 14.1 (Critical Service Level Failure), 16.4 (Disruption), 21.5 (Records, Audit Access and Open Book Data), 24 (Promoting Tax Compliance), 34.3.9 (Confidentiality), 50.6.2 (Prevention of Fraud and Bribery), Paragraph 1.2.4 of the Annex to Part A and Paragraph 1.2.4 of the Annex to Part B of Call-off Schedule 10 (Staff Transfer);
- (e) the Supplier commits any material Default of this Call-off Contract which is not, in the reasonable opinion of the Customer, capable of remedy; and/or
- (f) the Supplier commits a Default, including a material Default, which in the opinion of the Customer is remediable but has not remedied such Default to the satisfaction of the Customer in accordance with the Rectification Plan Process.

41.2.2 For the purpose of Clause 41.2.1, a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default.

41.3 Termination in Relation to Financial Standing

41.3.1 The Customer may terminate this Call-off Contract by issuing a Termination Notice to the Supplier where in the reasonable opinion of the Customer there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:

- (a) adversely impacts on the Supplier's ability to supply the Services under this Call-off Contract; or
- (b) could reasonably be expected to have an adverse impact on the Suppliers ability to supply the Services under this Call-off Contract.

41.4 Termination on Insolvency

41.4.1 The Customer may terminate this Call-off Contract by issuing a Termination Notice to the Supplier where an Insolvency Event affecting the Supplier occurs.

41.5 Termination on Change of Control

41.5.1 The Supplier shall notify the Customer immediately in writing and as soon as the Supplier is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law.

41.5.2 The Supplier shall ensure that any notification made pursuant to Clause 41.5.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

41.5.3 The Customer may terminate this Call-off Contract by issuing a Termination Notice under Clause 41.5 to the Supplier within six (6) Months of:

- (a) being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or
- (b) where no notification has been made, the date that the Customer becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

41.6 Termination for breach of Regulations

41.6.1 The Customer may terminate this Call-off Contract by issuing a Termination Notice to the Supplier on the occurrence of any of the statutory provisos contained in Regulation 73 (1) (a) to (c).

41.7 Termination Without Cause

41.7.1 The Customer shall have the right to terminate this Call-off Contract at any time by issuing a Termination Notice to the Supplier giving at least thirty (30) Working Days written notice (unless stated differently in the Call-off Order Form).

41.8 Termination in Relation to Framework Agreement

41.8.1 The Customer may terminate this Call-off Contract by issuing a Termination Notice to the Supplier if the Framework Agreement is terminated for any reason whatsoever.

41.9 Termination In Relation to Benchmarking

41.9.1 The Customer may terminate this Call-off Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in paragraphs 1 and 2 of Framework Schedule 12 (Continuous Improvement and Benchmarking).

41.10 Termination in Relation to Variation

41.10.1 The Customer may terminate this Call-off Contract by issuing a Termination Notice to the Supplier for failure of the Parties to agree or the Supplier to implement a Variation in accordance with the Variation Procedure.

42. SUPPLIER TERMINATION RIGHTS

42.1 Termination on Customer Cause for Failure to Pay

42.1.1 The Supplier may, by issuing a Termination Notice to the Customer, terminate this Call-off Contract if the Customer fails to pay an undisputed sum due to the Supplier under this Call-off Contract which in aggregate exceeds an amount equal to one month's average Call-off Contract Charges (unless a different amount has been specified in the Call-off Order Form), for the purposes of this Clause 42.1.1 (the "**Undisputed Sums Limit**"), and the said undisputed sum due remains outstanding for forty (40) Working Days (the "**Undisputed Sums Time Period**") after the receipt by the Customer of a written notice of non-payment from the Supplier specifying:

- (a) the Customer's failure to pay; and
- (b) the correct overdue and undisputed sum; and
- (c) the reasons why the undisputed sum is due; and
- (d) the requirement on the Customer to remedy the failure to pay; and

this Call-off Contract shall then terminate on the date specified in the Termination Notice (which shall not be less than twenty (20) Working Days from the date of the issue of the Termination Notice), save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under this Call-off Contract including Clause 23.3 (Retention and Set off).

42.1.2 The Supplier shall not suspend the supply of the Services for failure of the Customer to pay undisputed sums of money (whether in whole or in part).

43. TERMINATION BY EITHER PARTY

43.1 Termination for continuing Force Majeure Event

- 43.1.1 Either Party may, by issuing a Termination Notice to the other Party, terminate this Call-off Contract in accordance with Clause 40.6.1(a) (Force Majeure).

44. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION

- 44.1 Where the Customer has the right to terminate this Call-off Contract, the Customer shall be entitled to terminate or suspend all or part of this Call-off Contract provided always that, if the Customer elects to terminate or suspend this Call-off Contract in part, the parts of this Call-off Contract not terminated or suspended can, in the Customer's reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Call-off Contract.
- 44.2 Any suspension of this Call-off Contract under Clause 44.1 shall be for such period as the Customer may specify and without prejudice to any right of termination which has already accrued, or subsequently accrues, to the Customer.
- 44.3 The Parties shall seek to agree the effect of any Variation necessitated by a partial termination, suspension or partial suspension in accordance with the Variation Procedure, including the effect that the partial termination, suspension or partial suspension may have on the provision of any other Services and the Call-off Contract Charges, provided that the Supplier shall not be entitled to:
- 44.3.1 an increase in the Call-off Contract Charges in respect of the provision of the Services that have not been terminated if the partial termination arises due to the exercise of any of the Customer's termination rights under Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); and
- 44.3.2 reject the Variation.

45. CONSEQUENCES OF EXPIRY OR TERMINATION

- 45.1 Consequences of termination under Clauses 41.1 (Termination in Relation to Guarantee), 41.2 (Termination on Material Default), 41.3 (Termination in Relation to Financial Standing), 41.8 (Termination in Relation to Framework Agreement), 41.9 (Termination in Relation to Benchmarking) and 41.10 (Termination in Relation to Variation)
- 45.1.1 Where the Customer:
- (a) terminates (in whole or in part) this Call-off Contract under any of the Clauses referred to in Clause 45.1; and
- (b) then makes other arrangements for the supply of the Services, the Customer may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Call-off Contract Period provided that Customer shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by the Customer to the Supplier until the Customer has established the final cost of making those other arrangements.
- 45.2 Consequences of termination under Clauses 41.7 (Termination without Cause) and 42.1 (Termination on Customer Cause for Failure to Pay)
- 45.2.1 Where:

- (a) the Customer terminates (in whole or in part) this Call-off Contract under Clause 41.7 (Termination without Cause); or
- (b) the Supplier terminates this Call-off Contract pursuant to Clause 42.1 (Termination on Customer Cause for Failure to Pay),

the Customer shall indemnify the Supplier against any reasonable and proven Losses which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call-off Contract, provided that the Supplier takes all reasonable steps to mitigate such Losses. The Supplier shall submit a fully itemised and costed list of such Losses, with supporting evidence including such further evidence as the Customer may require, reasonably and actually incurred by the Supplier as a result of termination under Clause 41.7 (Termination without Cause).

45.2.2 The Customer shall not be liable under Clause 45.2.1 to pay any sum which:

- (a) was claimable under insurance held by the Supplier, and the Supplier has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
- (b) when added to any sums paid or due to the Supplier under this Call-off Contract, exceeds the total sum that would have been payable to the Supplier if this Call-off Contract had not been terminated.

45.3 Consequences of termination under Clause 43.1 (Termination for Continuing Force Majeure Event)

45.3.1 The costs of termination incurred by the Parties shall lie where they fall if either Party terminates or partially terminates this Call-off Contract for a continuing Force Majeure Event pursuant to Clause 43.1 (Termination for Continuing Force Majeure Event).

45.4 Consequences of Termination for Any Reason

45.4.1 Save as otherwise expressly provided in this Call-off Contract:

- (a) termination or expiry of this Call-off Contract shall be without prejudice to any rights, remedies or obligations accrued under this Call-off Contract prior to termination or expiration and nothing in this Call-off Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and
- (b) termination of this Call-off Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Supplier under Clauses 21 (Records, Audit Access & Open Book Data), 33 (Intellectual Property Rights), 34.3 (Confidentiality), 34.5 (Freedom of Information) 34.6 (Protection of Personal Data), 36 (Liability), 45 (Consequences of Expiry or Termination), 51 (Severance), 53 (Entire Agreement), 54 (Third Party Rights) 56 (Dispute Resolution) and 57 (Governing Law and Jurisdiction), and the provisions of Call-off Schedule 1 (Definitions), Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing), Call-off Schedule 9 (Exit Management), Call-off Schedule 10 (Staff Transfer), Call-off Schedule 11

(Dispute Resolution Procedure) and, without limitation to the foregoing, any other provision of this Call-off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the Call-off Expiry Date.

45.5 Exit management

45.5.1 The Parties shall comply with the exit management provisions set out in Call-off Schedule 9 (Exit Management).

L. MISCELLANEOUS AND GOVERNING LAW

46. COMPLIANCE

46.1 Health and Safety

46.1.1 The Supplier shall perform its obligations under this Call-off Contract (including those in relation to the Services) in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Customer's health and safety policy (as provided to the Supplier from time to time) whilst at the Customer Premises.

46.1.2 Each Party shall promptly notify the other of as soon as possible of any health and safety incidents or material health and safety hazards at the Customer Premises of which it becomes aware and which relate to or arise in connection with the performance of this Call-off Contract

46.1.3 While on the Customer Premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of Supplier Personnel and other persons working there and any instructions from the Customer on any necessary associated safety measures.

46.2 Equality and Diversity

46.2.1 The Supplier shall:

- (a) perform its obligations under this Call-off Contract (including those in relation to provision of the Services) in accordance with:
 - (i) all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
 - (ii) any other requirements and instructions which the Customer reasonably imposes in connection with any equality obligations imposed on the Customer at any time under applicable equality Law;
- (b) take all necessary steps, and inform the Customer of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

46.3 Official Secrets Act and Finance Act

46.3.1 The Supplier shall comply with the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and

(b) section 182 of the Finance Act 1989.

46.4 Environmental Requirements

- 46.4.1 The Supplier shall, when working on the Sites, perform its obligations under this Call-off Contract in accordance with the Environmental Policy of the Customer.
- 46.4.2 The Customer shall provide a copy of its written Environmental Policy (if any) to the Supplier upon the Supplier's written request.

47. ASSIGNMENT AND NOVATION

- 47.1 The Supplier shall not assign, novate, Sub-Contract or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Call-off Contract or any part of it without Approval.
- 47.2 The Customer may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Call-off Contract or any part thereof to:
 - 47.2.1 any other Contracting Authority; or
 - 47.2.2 any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Customer; or
 - 47.2.3 any private sector body which substantially performs the functions of the Customer,

and the Supplier shall, at the Customer's request, enter into a novation agreement in such form as the Customer shall reasonably specify in order to enable the Customer to exercise its rights pursuant to this Clause 47.2.

- 47.3 A change in the legal status of the Customer shall not, subject to Clause 47.4 affect the validity of this Call-off Contract and this Call-off Contract shall be binding on any successor body to the Customer.
- 47.4 If the Customer assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Call-off Contract to a private sector body in accordance with Clause 47.2.3 (the "**Transferee**" in the rest of this Clause 47.4) the right of termination of the Customer in Clause 41.4 (Termination on Insolvency) shall be available to the Supplier in the event of insolvency of the Transferee (as if the references to Supplier in Clause 41.4 (Termination on Insolvency) and to Supplier or Framework Guarantor or Call-off Guarantor in the definition of Insolvency Event were references to the Transferee).

48. WAIVER AND CUMULATIVE REMEDIES

- 48.1 The rights and remedies under this Call-off Contract may be waived only by notice in accordance with Clause 55 (Notices) and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Call-off Contract or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that right or remedy.
- 48.2 Unless otherwise provided in this Call-off Contract, rights and remedies under this Call-off Contract are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

49. RELATIONSHIP OF THE PARTIES

49.1 Except as expressly provided otherwise in this Call-off Contract, nothing in this Call-off Contract, nor any actions taken by the Parties pursuant to this Call-off Contract, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

50. PREVENTION OF FRAUD AND BRIBERY

50.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Call-off Commencement Date:

50.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

50.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

50.2 The Supplier shall not during the Call-off Contract Period:

50.2.1 commit a Prohibited Act; and/or

50.2.2 do or suffer anything to be done which would cause the Customer or any of the Customer's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

50.3 The Supplier shall during the Call-off Contract Period:

50.3.1 establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

50.3.2 keep appropriate records of its compliance with its obligations under Clause 50.3.1 and make such records available to the Customer on request;

50.3.3 if so required by the Customer, within twenty (20) Working Days of the Call-off Commencement Date, and annually thereafter, certify to the Customer in writing that the Supplier and all persons associated with it or its Sub-Contractors or other persons who are supplying the Services in connection with this Call-off Contract are compliant with the Relevant Requirements. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request; and

50.3.4 have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Customer on request) to prevent it and any Supplier Personnel or any person acting on the Supplier's behalf from committing a Prohibited Act.

50.4 The Supplier shall immediately notify the Customer in writing if it becomes aware of any breach of Clause 50.1, or has reason to believe that it has or any of the Supplier Personnel have:

50.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

- 50.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - 50.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Call-off Contract or otherwise suspects that any person or Party directly or indirectly connected with this Call-off Contract has committed or attempted to commit a Prohibited Act.
- 50.5 If the Supplier makes a notification to the Customer pursuant to Clause 50.4, the Supplier shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit any books, records and/or any other relevant documentation in accordance with Clause 21 (Records, Audit Access and Open Book Data).
- 50.6 If the Supplier breaches Clause 50.3, the Customer may by notice:
- 50.6.1 require the Supplier to remove from performance of this Call-off Contract any Supplier Personnel whose acts or omissions have caused the Supplier's breach; or
 - 50.6.2 immediately terminate this Call-off Contract for material Default.
- 50.7 Any notice served by the Customer under Clause 50.4 shall specify the nature of the Prohibited Act, the identity of the Party who the Customer believes has committed the Prohibited Act and the action that the Customer has elected to take (including, where relevant, the date on which this Call-off Contract shall terminate).

51. SEVERANCE

- 51.1 If any provision of this Call-off Contract (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Call-off Contract are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Call-off Contract shall not be affected.
- 51.2 In the event that any deemed deletion under Clause 51.1 is so fundamental as to prevent the accomplishment of the purpose of this Call-off Contract or materially alters the balance of risks and rewards in this Call-off Contract, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Call-off Contract so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Call-off Contract and, to the extent that is reasonably practicable, achieves the Parties' original commercial intention.
- 51.3 If the Parties are unable to resolve the Dispute arising under Clause 51 within twenty (20) Working Days of the date of the notice given pursuant to Clause 51.2, this Call-off Contract shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Call-off Contract is terminated pursuant to Clause 51.

52. FURTHER ASSURANCES

- 52.1 Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of this Call-off Contract.

53. ENTIRE AGREEMENT

- 53.1 This Call-off Contract and the documents referred to in it constitute the entire agreement between the Parties in respect of the matter and supersede and extinguish all prior negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.
- 53.2 Neither Party has been given, nor entered into this Call-off Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Call-off Contract.
- 53.3 Nothing in Clause 53 shall exclude any liability in respect of misrepresentations made fraudulently.

54. THIRD PARTY RIGHTS

- 54.1 The provisions of paragraphs 2.1 and 2.6 of Part A, paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, paragraphs 2.1 and 2.3 of Part C and paragraphs and 1.4, 2.3 and 2.8 of Part D of Call-off Schedule 10 (Staff Transfer) and the provisions of paragraph 9.9 of Call-off Schedule 9 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.
- 54.2 Subject to Clause 54.1, a person who is not a Party to this Call-off Contract has no right under the CTRPA to enforce any term of this Call-off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 54.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Customer, which may, if given, be given on and subject to such terms as the Customer may determine.
- 54.4 Any amendments or modifications to this Call-off Contract may be made, and any rights created under Clause 54.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

55. NOTICES

- 55.1 Except as otherwise expressly provided within this Call-off Contract, any notices sent under this Call-off Contract must be in writing. For the purpose of Clause 55, an e-mail is accepted as being "in writing".
- 55.2 Subject to Clause 55.3, the following table sets out the method by which notices may be served under this Call-off Contract and the respective deemed time and proof of service:

Manner of delivery	Deemed time of delivery	Proof of Service
Email (Subject to Clauses 55.3 and 55.4)	9.00am on the first Working Day after sending	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day.	Properly addressed and delivered as evidenced by

	Otherwise, delivery will occur at 9.00am on the next Working Day	signature of a delivery receipt
Royal Mail Signed For™ 1 st Class or other prepaid, next Working Day service providing proof of delivery	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm)	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt

55.3 The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or Royal Mail Signed For™ 1st Class or other prepaid in the manner set out in the table in Clause 55.2:

55.3.1 any Termination Notice (Clause 41 (Customer Termination Rights)),

55.3.2 any notice in respect of:

- (a) partial termination, suspension or partial suspension (Clause 44 (Partial Termination, Suspension and Partial Suspension)),
- (b) waiver (Clause 48 (Waiver and Cumulative Remedies))
- (c) Default or Customer Cause; and

55.3.3 any Dispute Notice.

55.4 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 55.3 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in Clause 55.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

55.5 Clause 55 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under the Dispute Resolution Procedure).

55.6 For the purposes of Clause 55, the address and email address of each Party shall be as specified in the Call-off Order Form.

56. DISPUTE RESOLUTION

56.1 The Parties shall resolve Disputes arising out of or in connection with this Call-off Contract in accordance with the Dispute Resolution Procedure.

56.2 The Supplier shall continue to provide the Services in accordance with the terms of this Call-off Contract until a Dispute has been resolved.

57. GOVERNING LAW AND JURISDICTION

- 57.1 This Call-off Contract and any issues, Disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.
- 57.2 Subject to Clause 56 (Dispute Resolution) and Call-off Schedule 12 (Dispute Resolution Procedure) (including the Customer's right to refer the Dispute to arbitration), the Parties agree that the courts of England and Wales (unless stated differently in the Call-off Order Form) shall have exclusive jurisdiction to settle any Dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Call-off Contract or its subject matter or formation.

CALL-OFF SCHEDULE 1: DEFINITIONS

1. In accordance with Clause 1 (Definitions and Interpretation) of this Call-off Contract including its recitals the following expressions shall have the following meanings:

"Achieve"	means in respect of a Test, to successfully pass such Test without any Test Issues in accordance with the Test Strategy Plan and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly;
"Acquired Rights Directive"	means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
"Additional Clauses"	means the additional Clauses in Call-off Schedule 14 (Alternative and/or Additional Clauses) and any other additional Clauses set out in the Call-off Order Form or elsewhere in this Call-off Contract;
"Affected Party"	means the party seeking to claim relief in respect of a Force Majeure;
"Affiliates"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Alternative Clauses"	means the alternative Clauses in Call-off Schedule 14 (Alternative and/or Additional Clauses) and any other alternative Clauses set out in the Call-off Order Form or elsewhere in this Call-off Contract;
"Approval"	means the prior written consent of the Customer and "Approve" and "Approved" shall be construed accordingly;
"Approved Sub-Licensee"	means any of the following: a) a Central Government Body; b) any third party providing Services to a Central Government Body; and/or c) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer;
"Auditor"	means: a) the Customer's internal and external auditors; b) the Customer's statutory or regulatory auditors; c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; d) HM Treasury or the Cabinet Office;

	e) any party formally appointed by the Customer to carry out audit or similar review functions; and
	f) successors or assigns of any of the above;
"Authority"	has the meaning given to it in Framework Schedule 1 (Definitions);
"BACS"	means the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
"BCDR Services"	means the Business Continuity Services and Disaster Recovery Services;
"BCDR Plan"	means the plan prepared pursuant to paragraph 2 of Call-off Schedule 8 (Business Continuity and Disaster Recovery), as may be amended from time to time;
"Business Continuity Services"	has the meaning given to it in paragraph 4.2.2 of Call-off Schedule 8 (Business Continuity and Disaster Recovery);
"Call-off Commencement Date"	means the date of commencement of this Call-off Contract set out in the Call-off Order Form;
"Call-off Contract"	means this contract between the Customer and the Supplier (entered into pursuant to the provisions of the Framework Agreement), which consists of the terms set out in the Call-off Order Form and the Call-off Terms;
"Call-off Contract Charges"	means the prices (inclusive of any Milestone Payments and exclusive of any applicable VAT), payable to the Supplier by the Customer under this Call-off Contract, as set out in Annex 1 of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing), for the full and proper performance by the Supplier of its obligations under this Call-off Contract less any Deductions;
"Call-off Contract Period"	means the term of this Call-off Contract from the Call-off Commencement Date until the Call-off Expiry Date;
"Call-off Contract Year"	means a consecutive period of twelve (12) Months commencing on the Call-off Commencement Date or each anniversary thereof;
"Call-off Expiry Date"	means: <ul style="list-style-type: none"> (a) the end date of the Call-off Initial Period or any Call-off Extension Period; or (b) if this Call-off Contract is terminated before the date specified in (a) above, the earlier date of termination of this Call-off Contract;
"Call-off Extension Period"	means such period or periods up to a maximum of the number of years in total as may be specified by the Customer, pursuant to Clause 5.2 and in the Call-off Order Form;

"Call-off Guarantee"	means a deed of guarantee that may be required under this Call-off Contract in favour of the Customer in the form set out in Framework Schedule 13 (Guarantee) granted pursuant to Clause 7 (Call-off Guarantee);
"Call-off Guarantor"	means the person, in the event that a Call-off Guarantee is required under this Call-off Contract, acceptable to the Customer to give a Call-off Guarantee;
"Call-off Initial Period"	means the initial term of this Call-off Contract from the Call-off Commencement Date to the end date of the initial term stated in the Call-off Order Form;
"Call-off Order Form"	means the order form applicable to and set out in Part 1 of this Call-off Contract;
"Call-off Procedure"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Call-off Schedule"	means a schedule to this Call-off Contract;
"Call-off Tender"	means the tender submitted by the Supplier in response to the Customer's Statement of Requirements following a Further Competition Procedure and set out at Call-off Schedule 15 (Call-off Tender);
"Call-off Terms"	means the terms applicable to and set out in Part 2 of this Call-off Contract;
"Central Government Body"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Change in Law"	means any change in Law which impacts on the supply of the Services and performance of the Call-off Contract which comes into force after the Call-off Commencement Date;
"Change of Control"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Charges"	means the charges raised under or in connection with this Call-off Contract from time to time, which shall be calculated in a manner that is consistent with the Charging Structure;
"Charging Structure"	means the structure to be used in the establishment of the charging model which is applicable to the Call-off Contract, which is set out in Framework Schedule 3 (Framework Prices and Charging Structure);
"Commercially Sensitive Information"	means the Confidential Information listed in the Call-off Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Customer that, if disclosed by the Customer, would cause the Supplier significant commercial disadvantage or material financial loss;
"Comparable Supply"	means the supply of Services to another customer of the Supplier that are the same or similar to the Services;

“Compensation for Critical Service Level Failure”	has the meaning given to it in Clause 14.2.2 (Critical Service Level Failure);
"Confidential Information"	means the Customer's Confidential Information and/or the Supplier's Confidential Information, as the context specifies;
"Continuous Improvement Plan"	means a plan for improving the provision of the Services and/or reducing the Charges produced by the Supplier pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking);
"Contracting Authority"	means the Authority, the Customer and any other bodies listed in the OJEU Notice;
"Control"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Conviction"	means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order, or being placed on a list kept pursuant to section 1 of the Protection of Children Act 1999 or being placed on a list kept pursuant to the Safeguarding Vulnerable Groups Act 2006;
"Costs"	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Services:</p> <ul style="list-style-type: none"> a) the cost to the Supplier or the Key Sub-Contractor (as the context requires), calculated per Man Day, of engaging the Supplier Personnel, including: <ul style="list-style-type: none"> i) base salary paid to the Supplier Personnel; ii) employer's national insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits; vi) staff training; vii) work place accommodation; viii) work place IT equipment and tools reasonably necessary to provide the Services (but not including items included within limb (b) below); and ix) reasonable recruitment costs, as agreed with the Customer; b) costs incurred in respect of those Supplier Assets which are detailed on the Registers and which would

be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Customer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;

- c) operational costs which are not included within (a) (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Services;
- d) Reimbursable Expenses to the extent these have been specified as allowable in the Call-off Order Form and are incurred in delivering any Services where the Call-off Contract Charges for those Services are to be calculated on a Fixed Price or Firm Price pricing mechanism (as set out in Framework Schedule 3 (Framework Prices and Charging Structure));

but excluding:

- a) Overhead;
- b) financing or similar costs;
- c) maintenance and support costs to the extent that these relate to maintenance and/or support Services provided beyond the Call-off Contract Period whether in relation to Supplier Assets or otherwise;
- d) taxation;
- e) fines and penalties;
- f) amounts payable under Clause 25 (Benchmarking); and
- g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

"Critical Service Level Failure"	means any instance of critical service level failure specified in the Call-off Order Form;
"Crown"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Crown Body"	has the meaning given to it in Framework Schedule 1 (Definitions);
"CRTPA"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Customer"	means the customer(s) identified in the Call-off Order Form;
"Customer Assets"	means the Customer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Customer and which is or

may be used in connection with the provision of the Services;

"Customer Background IPR"

means:

- a) IPRs owned by the Customer before the Call-off Commencement Date, including IPRs contained in any of the Customer's Know-How, documentation, software, processes and procedures;
- b) IPRs created by the Customer independently of this Call-off Contract; and/or
- c) Crown Copyright which is not available to the Supplier otherwise than under this Call-off Contract;

"Customer Cause"

means any breach of the obligations of the Customer or any other default, act, omission, negligence or statement of the Customer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Call-off Contract and in respect of which the Customer is liable to the Supplier;

"Customer Data"

means:

- a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Customer's Confidential Information, and which:
 - i) are supplied to the Supplier by or on behalf of the Customer; or
 - ii) the Supplier is required to generate, process, store or transmit pursuant to this Call-off Contract; or
- b) any Personal Data for which the Customer is the Data Controller;

"Customer Premises"

means premises owned, controlled or occupied by the Customer which are made available for use by the Supplier or its Sub-Contractors for the provision of the Services (or any of them);

"Customer Property"

means the property, other than real property and IPR, including any equipment issued or made available to the Supplier by the Customer in connection with this Call-off Contract;

"Customer Representative"

means the representative appointed by the Customer from time to time in relation to this Call-off Contract;

"Customer Responsibilities"

means the responsibilities of the Customer set out in Call-off Schedule 4 (Implementation Plan) and any other responsibilities of the Customer in the Call-off Order Form or agreed in writing between the Parties from time to time in connection with this Call-off Contract;

"Customer's Confidential Information"	<p>means:</p> <ul style="list-style-type: none"> a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Customer (including all Customer Background IPR and Project Specific IPR); b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Customer's attention or into the Customer's possession in connection with this Call-off Contract; and c) information derived from any of the above;
"Data Controller"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Data Processor"	has the meaning given to it in Framework Schedule 1 (Definitions);;
"Data Protection Legislation" or "DPA"	has the meaning given to it in Framework Schedule 1 (Definitions);;
"Data Subject"	has the meaning given to it in Framework Schedule 1 (Definitions);;
"Data Subject Access Request"	means a request made by a Data Subject in accordance with rights granted pursuant to the DPA to access his or her Personal Data;
"Deductions"	means all Service Credits, Delay Payments or any other deduction which the Customer is paid or is payable under this Call-off Contract;
"Default"	means any breach of the obligations of the Supplier (including but not limited to including abandonment of this Call-off Contract in breach of its terms) or any other default (including material Default), act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Call-off Contract and in respect of which the Supplier is liable to the Customer;
"Delay"	<p>means:</p> <ul style="list-style-type: none"> a) a delay in the Achievement of a Milestone by its Milestone Date; or b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
"Delay Payments"	means the amounts payable by the Supplier to the Customer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;

"Delay Period Limit"	shall be the number of days specified in Call-off Schedule 4 (Implementation Plan) for the purposes of Clause 6.4.1(b)(ii);
"Deliverable"	means an item or feature in the supply of the Services delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan (if any) or at any other stage during the performance of this Call-off Contract;
"Delivery"	means delivery in accordance with the terms of this Call-off Contract as confirmed by the issue by the Customer of a Satisfaction Certificate in respect of the relevant Milestone thereof (if any) or otherwise in accordance with this Call-off Contract and accepted by the Customer and "Deliver" and "Delivered" shall be construed accordingly;
"Disaster"	means the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Call-off Order Form (for the purposes of this definition the "Disaster Period");
"Disaster Recovery Services"	means the Services embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster, as detailed further in Call-off Schedule 8 (Business Continuity and Disaster Recovery);
"Disclosing Party"	has the meaning given to it in Clause 34.3.1 (Confidentiality);
"Dispute"	means any dispute, difference or question of interpretation arising out of or in connection with this Call-off Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Variation Procedure or any matter where this Call-off Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Dispute Notice"	means a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute;
"Dispute Resolution Procedure"	means the dispute resolution procedure set out in Call-off Schedule 11 (Dispute Resolution Procedure);
"Documentation"	means all documentation as: <ul style="list-style-type: none"> a) is required to be supplied by the Supplier to the Customer under this Call-off Contract; b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Customer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Services;

- c) is required by the Supplier in order to provide the Services; and/or
- d) has been or shall be generated for the purpose of providing the Services;

"DOTAS" has the meaning given to it in Framework Schedule 1 (Definitions);

"Due Diligence Information" means any information supplied to the Supplier by or on behalf of the Customer prior to the Call-off Commencement Date;

"Employee Liabilities" means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Customer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-Contractor if such payment should have been made prior to the Service Transfer Date;
- f) claims whether in tort, contract or statute or otherwise;
- g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

"Employment Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as

	amended or replaced or any other Regulations implementing the Acquired Rights Directive;
"Environmental Policy"	means to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Customer;
"Environmental Information Regulations or EIRs"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Estimated Year 1 Call-off Contract Charges"	means the sum in pounds estimated by the Customer to be payable by it to the Supplier as the total aggregate Call-off Contract Charges from the Call-off Commencement Date until the end of the first Call-off Contract Year stipulated in the Call-off Order Form;
"Exit Plan"	means the exit plan described in paragraph 5 of Call-off Schedule 9 (Exit Management);
"Expedited Dispute Timetable"	means the timetable set out in paragraph 5 of Call-off Schedule 11 (Dispute Resolution Procedure);
"FOIA"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Force Majeure"	<p>means any event, occurrence, circumstance, matter or cause affecting the performance by either the Customer or the Supplier of its obligations arising from:</p> <ol style="list-style-type: none"> a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under this Call-off Contract; b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; c) acts of the Crown, local government or Regulatory Bodies; d) fire, flood or any disaster; and e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ol style="list-style-type: none"> i) any industrial dispute relating to the Supplier, the Supplier Personnel (including any subsets of them) or any other failure in the Supplier or the Sub-Contractor's supply chain; and ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and

	iii) any failure of delay caused by a lack of funds;
"Force Majeure Notice"	means a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Former Supplier"	means a supplier supplying the Services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
"Framework Agreement"	means the framework agreement between the Authority and the Supplier referred to in the Call-off Order Form;
"Framework Commencement Date"	means the date of commencement of the Framework Agreement as stated in the Call-off Schedule 1 (Definitions);
"Framework Period"	means the period from the Framework Commencement Date until the expiry or earlier termination of the Framework Agreement;
"Framework Price(s)"	means the price(s) applicable to the provision of the Services set out in Framework Schedule 3 (Framework Prices and Charging Structure);
"Framework Schedule"	means a schedule to the Framework Agreement;
"Fraud"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Further Competition Procedure"	means the further competition procedure described in paragraph 3 of Framework Schedule 5 (Call-off Procedure);
"General Anti-Abuse Rule"	has the meaning given to it in Framework Schedule 1 (Definitions);
"General Change in Law"	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"Good Industry Practice"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Government"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Government Procurement Card"	means the Government's preferred method of purchasing and payment for low value services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Halifax Abuse Principle"	has the meaning given to it in Framework Schedule 1 (Definitions);
"HMRC"	means Her Majesty's Revenue and Customs;

"Holding Company"	has the meaning given to it in Framework Schedule 1 (Definitions);
"ICT Policy"	means the Customer's policy in respect of information and communications technology, referred to in the Call-off Order Form, which is in force as at the Call-off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	has the meaning given to it in Clause 22.1.3 (Variation Procedure);
"Implementation Plan"	means the plan set out in the Call-off Schedule 4 (Implementation Plan);
"Information"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Insolvency Event"	<p>means, in respect of the Supplier or Framework Guarantor or Call-off Guarantor (as applicable):</p> <ol style="list-style-type: none"> a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or h) where the Supplier or Framework Guarantor or Call-off Guarantor is an individual or partnership, any

	event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or
	i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;
"Intellectual Property Rights" or "IPR"	means <ul style="list-style-type: none"> a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, designs, Know-How, trade secrets and other rights in Confidential Information; b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and c) all other rights having equivalent or similar effect in any country or jurisdiction;
"IPR Claim"	means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Customer in the fulfilment of its obligations under this Call-off Contract;
"Key Performance Indicators" or "KPIs"	means the performance measurements and targets in respect of the Supplier's performance of the Framework Agreement set out in Part B of Framework Schedule 2 (Services and Key Performance Indicators);
"Key Personnel"	means the individuals (if any) identified as such in the Call-off Order Form;
"Key Role(s) "	has the meaning given to it in Clause 26.1 (Key Personnel);
"Key Sub-Contract"	means each Sub-Contract with a Key Sub-Contractor;
"Key Sub-Contractor"	means any Sub-Contractor: <ul style="list-style-type: none"> a) listed in Framework Schedule 7 (Key Sub-Contractors); b) which, in the opinion of the Authority and the Customer, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Call-off Contract

Charges forecast to be payable under this Call-off Contract;

"Know-How"	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know-how already in the other Party's possession before the Call-off Commencement Date;
"Law"	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
"Losses"	means 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 " Loss " shall be interpreted accordingly;
"Man Day"	means 7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Man Hours"	means the hours spent by the Supplier Personnel properly working on the provision of the Services including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Milestone"	means an event or task described in the Implementation Plan which, if applicable, must be completed by the relevant Milestone Date;
"Milestone Date"	means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Milestone Payment"	means a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
"Month"	means a calendar month and " Monthly " shall be interpreted accordingly;
"Occasion of Tax Non-Compliance"	means: a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or

similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;

- ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime in any jurisdiction; and/or
- b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Call-off Commencement Date or to a civil penalty for fraud or evasion;

"Open Book Data "

means complete and accurate financial and non-financial information which is sufficient to enable the Customer to verify the Call-off Contract Charges already paid or payable and Call-off Contract Charges forecast to be paid during the remainder of this Call-off Contract, including details and all assumptions relating to:

- a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Services;
- b) operating expenditure relating to the provision of the Services including an analysis showing:
 - i) the unit costs and quantity of Services and any other consumables and bought-in Services;
 - ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;
 - iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin; and
 - iv) Reimbursable Expenses, if allowed under the Call-off Order Form;
- c) Overheads;
- d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
- e) the Supplier Profit achieved over the Call-off Contract Period and on an annual basis;
- f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;

	g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and
	h) the actual Costs profile for each Service Period.
"Order"	means the order for the provision of the Services placed by the Customer with the Supplier in accordance with the Framework Agreement and under the terms of this Call-off Contract;
"Other Supplier"	means any supplier to the Customer (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;
"Overhead"	means those amounts which are intended to recover a proportion of the Supplier's or the Key Sub-Contractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Personnel and accordingly included within limb (a) of the definition of "Costs";
"Parent Company"	means any company which is the ultimate Holding Company of the Supplier and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged by the same or similar business to the Supplier. The term "Holding or Parent Company" shall have the meaning ascribed by the Companies Act 2006 or any statutory re-enactment or amendment thereto;
"Party"	means the Customer or the Supplier and " Parties " shall mean both of them;
"Performance Monitoring System"	has the meaning given to it in paragraph 1.1.2 in Part B of Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Performance Monitoring Reports"	has the meaning given to it in paragraph 3.1 of Part B of Schedule 6 (Service Level, Service Credit and Performance Monitoring);
"Personal Data"	has the meaning given to it in Framework Schedule 1 (Definitions);
"PQQ Response"	means, where the Framework Agreement has been awarded under the Restricted Procedure, the response submitted by the Supplier to the Pre-Qualification Questionnaire issued by the Authority, and the expressions "Restricted Procedure" and "Pre-Qualification Questionnaire" shall have the meaning given to them in the Regulations;
"Processing"	has the meaning given to it in the Data Protection Legislation but, for the purposes of this Call-off Contract,

it shall include both manual and automatic processing and **"Process"** and **"Processed"** shall be interpreted accordingly;

"Prohibited Act"

means any of the following:

- a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer and/or the Authority or other Contracting Authority or any other public body a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;
- b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- c) committing any offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or
 - ii) under legislation or common law concerning fraudulent acts; or
 - iii) defrauding, attempting to defraud or conspiring to defraud the Customer; or
 - iv) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

"Project Specific IPR"

means:

- a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-off Contract and updates and amendments of these items including (but not limited to) database schema; and/or
- b) IPR in or arising as a result of the performance of the Supplier's obligations under this Call-off Contract and all updates and amendments to the same;

but shall not include the Supplier Background IPR;

"Recipient"

has the meaning given to it in Clause 34.3.1 (Confidentiality);

"Rectification Plan"

means the rectification plan pursuant to the Rectification Plan Process;

"Rectification Plan Process"	means the process set out in Clause 38.2 (Rectification Plan Process);
"Registers"	has the meaning given to in Call-off Schedule 9 (Exit Management);
"Regulations"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Reimbursable Expenses"	has the meaning given to it in Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing);
"Related Supplier"	means any person who provides Services to the Customer which are related to the Services from time to time;
"Relevant Conviction"	means a Conviction that is relevant to the nature of the Services to be provided or as specified in the Call-off Order Form;
"Relevant Requirements"	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Relevant Transfer"	means a transfer of employment to which the Employment Regulations applies;
"Relevant Transfer Date"	means, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
"Relief Notice"	has the meaning given to it in Clause 39.2.2 (Supplier Relief Due to Customer Cause);
"Replacement Services"	means any services which are substantially similar to any of the Services and which the Customer receives in substitution for any of the Services following the Call-off Expiry Date, whether those services are provided by the Customer internally and/or by any third party;
"Replacement Sub-Contractor"	means a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
"Replacement Supplier"	means any third party provider of Replacement Services appointed by or at the direction of the Customer from time to time or where the Customer is providing Replacement Services for its own account, shall also include the Customer;
"Request for Information"	means a request for information or an apparent request relating to this Call-off Contract or the provision of the Services or an apparent request for such information under the FOIA or the EIRs;

"Restricted Countries"	has the meaning given to it in Clause 34.6.3 (Protection of Personal Data);
"Satisfaction Certificate"	means the certificate materially in the form of the document contained in Call-off Schedule 5 (Testing) granted by the Customer when the Supplier has Achieved a Milestone or a Test;
"Security Management Plan"	means the Supplier's security management plan prepared pursuant to paragraph Error! Reference source not found. of Call-off Schedule 7 (Security) a draft of which has been provided by the Supplier to the Customer in accordance with paragraph Error! Reference source not found. of Call-off Schedule 7 (Security) and as updated from time to time;
"Security Policy"	means the Customer's security policy, referred to in the Call-off Order Form, in force as at the Call-off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Security Policy Framework"	the current HMG Security Policy Framework that can be found at https://www.gov.uk/government/publications/security-policy-framework ;
"Service Credit Cap"	has the meaning given to it in the Call-off Order Form;
"Service Credits"	means any service credits specified in Annex 1 to Part A of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) being payable by the Supplier to the Customer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Failure"	means an unplanned failure and interruption to the provision of the Services, reduction in the quality of the provision of the Services or event which could affect the provision of the Services in the future;
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level Performance Criterion;
"Service Level Performance Criteria"	has the meaning given to it in paragraph 12.2 of Part A of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Performance Measure"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Threshold"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Levels"	means any service levels applicable to the provision of the Services under this Call-off Contract specified in Annex 1

	to Part A of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Period"	has the meaning given to in paragraph 13.1 of Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Transfer"	means any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
"Service Transfer Date"	means the date of a Service Transfer;
"Services"	means the services to be provided by the Supplier to the Customer as referred to in Annex A of Call-off Schedule 2 (Services);
"Sites"	means any premises (including the Customer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> a) the Services are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Services.
"Specific Change in Law"	means a Change in Law that relates specifically to the business of the Customer and which would not affect a Comparable Supply;
"Staffing Information"	has the meaning give to it in Call-off Schedule 10 (Staff Transfer);
"Standards"	means any: <ul style="list-style-type: none"> a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; b) standards detailed in the specification in Framework Schedule 2 (Services and Key Performance Indicators); c) standards detailed by the Customer in the Call-off Order Form or agreed between the Parties from time to time; d) relevant Government codes of practice and guidance applicable from time to time.
"Statement of Requirements"	means a statement issued by the Customer detailing its requirements in respect of Services issued in accordance with the Call-off Procedure;

"Sub-Contract"	means any contract or agreement (or proposed contract or agreement), other than this Call-off Contract or the Framework Agreement, pursuant to which a third party: <ul style="list-style-type: none"> a) provides the Services (or any part of them); b) provides facilities or services necessary for the provision of the Services (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Services (or any part of them);
"Sub-Contractor"	means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Supplier"	means the person, firm or company with whom the Customer enters into this Call-off Contract as identified in the Call-off Order Form;
"Supplier Assets"	means all assets and rights used by the Supplier to provide the Services in accordance with this Call-off Contract but excluding the Customer Assets;
"Supplier Background IPR"	means <ul style="list-style-type: none"> a) Intellectual Property Rights owned by the Supplier before the Call-off Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or b) Intellectual Property Rights created by the Supplier independently of this Call-off Contract,
"Supplier Equipment"	means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Customer) in the performance of its obligations under this Call-off Contract;
"Supplier Non-Performance"	has the meaning given to it in Clause 39.1 (Supplier Relief Due to Customer Cause);
"Supplier Personnel"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier's obligations under this Call-off Contract;
"Supplier Profit"	means, in relation to a period or a Milestone (as the context requires), the difference between the total Call-off Charges (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) for the relevant period or in relation to the relevant Milestone;

"Supplier Profit Margin"	means, in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Call-off Contract Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Representative"	means the representative appointed by the Supplier named in the Call-off Order Form;
"Supplier's Confidential Information"	means <ul style="list-style-type: none"> a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Background IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Call-off Contract; c) information derived from any of the above.
"Template Call-off Order Form"	means the template Call-off Order Form in Annex 1 of Framework Schedule 4 (Template Call-off Order Form and Template Call-off Terms);
"Template Call-off Terms"	means the template terms and conditions in Annex 2 of Framework Schedule 4 (Template Call-off Order Form and Template Call-off Terms);
"Tender"	means the tender submitted by the Supplier to the Authority and annexed to or referred to in Framework Schedule 21;
"Termination Notice"	means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Call-off Contract on a specified date and setting out the grounds for termination;
"Test Issue"	means any variance or non-conformity of the Services or Deliverables from their requirements as set out in the Call-off Contract;
"Test Plan"	means a plan: <ul style="list-style-type: none"> a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones, as described further in paragraph 4 of Call of Schedule 5 (Testing);
"Test Strategy"	means a strategy for the conduct of Testing as described further in paragraph 3 of Call-off Schedule 5 (Testing);

"Tests and Testing"	means any tests required to be carried out pursuant to this Call-off Contract as set out in the Test Plan or elsewhere in this Call-off Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	means Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Services;
"Transferring Customer Employees"	those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Supplier Employees"	means those employees of the Supplier and/or the Supplier's Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.
"Transparency Principles"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Transparency Reports"	means the information relating to the Services and performance of this Call-off Contract which the Supplier is required to provide to the Authority in accordance with the reporting requirements in Schedule 13;
"Undelivered Services"	has the meaning given to it in Clause 8.4.1 (Services);
"Undisputed Sums Time Period"	has the meaning given to it Clause 42.1.1 (Termination of Customer Cause for Failure to Pay);
"Valid Invoice"	means an invoice issued by the Supplier to the Customer that complies with the invoicing procedure in paragraph 7 (Invoicing Procedure) of Call-off Schedule 3 (Call-off Contract Charges, Payment and Invoicing);
"Variation"	has the meaning given to it in Clause 22.1 (Variation Procedure);
"Variation Form"	means the form set out in Call-off Schedule 12 (Variation Form);
"Variation Procedure"	means the procedure set out in Clause 22.1 (Variation Procedure);
"VAT"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Worker"	means any one of the Supplier Personnel which the Customer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) https://www.gov.uk/government/publications/procuremen

t-policy-note-0815-tax-arrangements-of-appointees
applies in respect of the Services.

"Working Day"

means any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by Parties in this Call-off Contract.

CALL-OFF SCHEDULE 2: SERVICES

1. INTRODUCTION

1.1 This Call-off Schedule 2 specifies the:

- 1.1.1 Services to be provided under this Call-off Contract as detailed within Annex 1 ("Statement of Requirement")

ANNEX 1: THE SERVICES

STATEMENT OF REQUIREMENT

1. PURPOSE

- 1.1. Under this Contract the Supplier is required to administer grants through a secure online grant administration system that provides secure information transfer, grant payment administration, and recording and reporting functions in conjunction with the Neighbourhood Planning Support Services contract ('the Support Services Contract').
- 1.2. The Support Services Contract is being procured under a separate procurement exercise. Potential Suppliers are strongly advised to consider and take full account of the details of the Support Services Contract prior to responding to this requirement. Further details regarding the Support Services Contract can be found at: <https://www.contractsfinder.service.gov.uk/Notice/a76c2ec5-caf6-4da4-baa0-fb8bc66be8f7>

2. BACKGROUND TO THE CONTRACTING AUTHORITY

- 2.1. The Department for Communities and Local Government's (DCLG) role is to provide the legislative and policy framework to enable local people to create great places to live and work, and to give more power to local people to shape what happens in their area.

3. BACKGROUND TO REQUIREMENT / OVERVIEW OF REQUIREMENT

- 3.1. Neighbourhood planning gives communities in England direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided, and grant planning permission for the new buildings they want to see go ahead. More information about neighbourhood planning is available on the Authority's website: <https://www.gov.uk/guidance/neighbourhood-planning--2>
- 3.2. Since the first communities took up neighbourhood planning in 2011, over 2,200 Groups have started the process, representing a radical shift in the way statutory planning policies are drawn up. As of September 2017, over 400 successful neighbourhood planning referendums have taken place, with over 500,000 votes cast, an average turnout of 33% and an average 'yes' vote of 88%.
- 3.3. The Authority recognises that neighbourhood planning is primarily undertaken by volunteers and depending on local ambitions, neighbourhood planning can be complex. In this context, the Authority has made funding and support available to community Groups and their local planning authorities since 2011. The Authority is only aware of one plan that has progressed to referendum without some financial support from the Authority.
- 3.4. The housing White Paper¹ published in February 2017 committed to make further funding available to neighbourhood planning Groups from 2018.
- 3.5. The budget for the 2018-2022 neighborhood planning support programme ('the Programme'), including the Support Services Contract, is £22.809m. An indicative

¹ (<https://www.gov.uk/government/collections/housing-white-paper>)

breakdown of this budget is included at Table 1. Approximately £8.833m of this is anticipated to be awarded as a grant to Groups, excluding any costs for Grant Administration services. The maximum budget for the initial 4 year term of this Grant Administration Services Contract is £400k including VAT. However, this is a demand led service and in accordance with paragraph 3.7 the Authority makes no guarantee as to level of grant that may be required by or awarded to Groups, or the associated level of administration services required accordingly.

- 3.6. The Supplier shall need to be aware that the Authority operates on the basis of annual budgets, recognising that some Programme funding commitments made in one financial year may actually be incurred in a subsequent financial year (e.g. where a Technical Support package is awarded in one year but is completed in the next). The Supplier will therefore need to support robust tracking and monitoring of Programme spend accordingly.

TABLE 1 – SUPPORT PROGRAMME INDICATIVE BUDGET BREAKDOWN

Support type	Budget 2018/19 (£000k)	Budget 2019/20 (£000k)	Budget 2020/21 (£000k)	Budget 2021/22 (£000k)	Maximum Programme Budget (2018-22) (£000k)
Grant Administration costs (i.e. this Contract)	100	100	100	100	400
Support Contract Fixed costs* (Set-up costs, Contract administration, advice service, online Portal & resources, reporting)	500	500	500	500	2,000
Grant Funding* (paid directly to neighbourhood planning Groups, excludes Grant Administration costs)	1,718.4	1,952.3	2,319.1	2,843.2	8,833
Technical Support* (E.g. Design support,	2,331	2,718	3,009	3,518	11,576

housing sites assessment)					
Programme Totals	4,649.4	5,270.3	5,928.1	6,961.2	22,809

**Costs and / or funding associated with the Support Services Contract*

3.7. In accordance with the terms of the Support Services Contract, where it is considered necessary to satisfy genuine, unexpected and robustly evidenced increases or changes in demand, the Authority reserves the right to re-profile, increase or decrease annual budgets beyond the anticipated figures stated in Table 1 above. However, this option shall only be considered in exceptional circumstances and only where all other proposals for satisfying demand from within existing budgets have already been considered and / or applied. Any decision to re-profile, increase or decrease budgets shall, subject to the above conditions, always be at the sole discretion of the Authority.

3.8. This Specification sets out what is required of the Supplier to deliver the Grant Administration Services on behalf of the Authority and to help the Authority achieve its overall objectives for neighbourhood planning. The Authority's objectives for the 2018-2022 Programme have developed from those for previous programmes. By March 2022, the Programme aims to deliver:

- More neighbourhood plans in force (as of September 2017, over 2,200 Groups had started the process, with over 400 successful referendums);
- Additional support to Groups preparing neighbourhood plans that allocate sites for housing;
- Greater take-up of neighbourhood planning design policies, especially design codes;
- Successful pilots of Neighbourhood Development Orders (NDOs) that support housing delivery and good quality design;
- Pilots to explore the potential of using Community Infrastructure Levy (CIL) to fund the production of plans, where applicable, as a replicable future self-financing mechanism for some neighbourhood planning Groups. These pilots are subject to wider policy decisions.

4. DEFINITIONS

TABLE 2 – GLOSSARY OF TERMS

Accountable Bodies	Incorporated organisations, such as charities and Principal Authorities, which are authorised to hold and administer neighbourhood planning grant funds on behalf of unincorporated Neighbourhood Forums, and who are legally responsible for the proper use and management of those funds.
Call-Off Commencement Date	15 th December 2018, being the anticipated date by which the Grant Administration Services Call-Off Contract is awarded and executed.
Customer Relationship and Data Management System ('CRMS')	A system hosted and managed by the Support Services Contractor for the purposes of recording and facilitating all interactions and activities relevant to the Support Services

	Contract, including applications for grant and technical support.
Group	Any individual or group who are (or are interested in) creating a neighbourhood plan or order, including members of the public, community organisations, town and parish councils and, where applicable, Accountable Bodies.
Implementation Period	The contractual period from the Call-Off Commencement Date to the Service Commencement Date, during which the contractual services are required to be mobilised.
Incumbent Contractor	The current provider of the Neighbourhood Planning Grant Administration services.
Incumbent Support Services Contractor	The current provider of the 2015-2018 Neighbourhood Planning Support Services Contract.
Neighbourhood Forum / Forum	A body that leads the production of a neighbourhood plan or order in an unparished area. A Neighbourhood Forum must meet certain legal requirements and must be formally designated by a local planning authority. Before designation, such a group is a “prospective Neighbourhood Forum”.
Portal	The on-line portal hosted and managed by the Support Services Contractor, which provides advice and guidance on Neighbourhood Planning and the suite of support services available to Groups (including grants), and which facilitates the application process for accessing support.
Principal Authority	As outlined in the Local Government Act 1972
Service Commencement Date	1 st April 2018, being the date on which the new grant application and assessment process is launched and the first grant payments (resulting from the interim grant application period) are issued.
Support Services Contractor	The appointed provider of the new 2018-2022 Neighbourhood Planning Support Services Contract

5. THE REQUIREMENTS

- 5.1. The Supplier shall deliver grant administration and monitoring services for the Programme. This shall involve provision of demand-led grant funding to Groups. Award of grant funding to Groups shall be determined by the Support Services Contractor in accordance with the eligibility criteria set out in Schedule 2. The associated monies shall be transferred by the Authority to the Supplier for onward allocation to those Groups accordingly, subject to the Groups compliance with the appropriate checks. For the avoidance of doubt it shall be out of scope for the Supplier to manage the grant application process or evaluate the outcome / impact of grants.

Scope

- 5.2. The outline, end-to-end process for awarding grant, including the activities and responsibilities of other parties, is:
- The Support Services Contractor shall open the grant application process and set deadlines for assessing and approving applications.

- Groups complete an online grant application form on the Portal provided by the Support Services Contractor.
 - All applications are assessed by the Support Services Contractor against the relevant eligibility criteria and within agreed timescales. If a grant application is not successful for any reason the Support Services Contractor notifies the Group and no action shall be required by the Supplier.
 - The Support Services Contractor notifies the Supplier within 1 (one) Working Day of a successful grant application.
 - The Supplier issues a grant funding offer letter and terms and conditions of grant ('the Grant Funding Agreement') to the Group.
 - The Supplier ensures all relevant information is returned and carries out the appropriate due diligence checks (see also paragraphs 5.12 to 5.20).
 - Where due diligence checks are satisfied, the Supplier issues the Group with the relevant grant payment.
 - The Supplier ensures that all Groups spend grant money appropriately in accordance with the terms of the grant offer (see also paragraphs 5.21 to 5.32).
 - The Supplier recovers any unspent / misspent grant.
 - The Supplier regularly updates the Support Services Contractor on the status of their due diligence checks, issuing of grant letters, and the total volume and value of grants issued, spent and recovered.
- 5.3. As further detailed in paragraphs 5.34 to 5.37, the Supplier shall therefore provide systems and processes that are able to:
- Make, and where needed receive back, grant payments to / from successful Groups through a BACS mechanism (note also the service level requirements set out in section 12).
 - Issue and receive Grant Funding Agreements, monitoring templates and requests for supporting information to / from Groups.
 - Allow all financial transactions to be robustly and transparently recorded and monitored.
 - Monitor and report on grant spending by Groups.
 - Record and store the necessary information on all Groups.
 - Log all forms of relevant communication between the Supplier, Support Services Contractor and Groups.
 - Produce regular financial management reports for the Authority and the Support Services Contractor.
 - Share all relevant information with the Support Services Contractor in an efficient manner.
- 5.4. There is no target for the numbers of grants to be administered, but the Authority broadly estimates that the Supplier shall need to process in the region of 3000 successful grant applications over the 4 years from 2018-2022. Because of the demand-led nature of the Programme, there is a high level of volatility in these forecasts. However, via recent expressions of interest and informal online monitoring, the Authority is aware that there is a strong pipeline of existing and emerging Groups that are highly likely to access the Programme and that demand for support is increasing.
- 5.5. Table 3 below sets out an estimate for the number of Groups receiving grants, assuming one payment per Group per year. Groups may however receive more than one grant per year.

Table 3 - Indicative grants per year

Financial Year	2018/19	2019/20	2020/21	2021/22
Estimated number of Groups applying for neighbourhood planning grants	800	750	725	700

Grant Support

- 5.6. Where necessary the Support Services Contractor shall give support to Groups applying for grants and shall produce guidance where appropriate. This includes contributing to any guidance produced and managed by the Support Services Contractor to explain any information requirements or sections of the application form relating to the Supplier's due diligence checks. The IPR in all such guidance materials produced specifically for the purposes of the Programme shall vest in the Authority. Where necessary the Supplier shall obtain prior, written agreement from the Authority in respect of using, publishing or otherwise distributing such materials.
- 5.7. The amounts of grant to be administered shall depend on the balance of Groups demand for grant and / or Technical Support. In accordance with paragraph 3.7, the Authority reserves the right to amend any of the grant values set out below in order to appropriately reflect this demand and / or to ensure that the level of Programme support and funding available can be maximised. However the grant support that shall initially be available to Groups under the Programme is as follows:
- **Basic grant** - between £1k and £9k awarded to Groups that can demonstrate compliance with the relevant eligibility criteria (see Schedule 2).
 - **Additional grant** – up to a further £8k awarded to Groups that can demonstrate compliance with the relevant eligibility criteria (see Schedule 2).
- 5.8. Examples of legitimate grant spend include:
- Neighbourhood Forums - building the Forum pre-designation, printing, venue hire, website.
 - Small parishes – community-focused activities and housing needs surveys.
 - Large parishes/towns/Forums – specific surveys on housing, traffic or flooding.
 - Later stage Groups – professional advice to focus the work of the Group on policies and drafting of the plan.
- 5.9. Use of grant which is not considered to be eligible expenditure shall be set out in the Grant Funding Agreement, and this shall include any expenditure on promotional material which seeks to influence potential voters.
- 5.10. To help minimise administrative burdens and maximise grant funding, the grants shall be awarded for activities that are to be carried out within a maximum of 12 months from receipt of the grant or by the end of the financial year in which the grant was awarded (i.e. 31st March), whichever is soonest. For example, if a Group is awarded a grant at the end of April they will have 11 months to spend it, whereas if a Group is awarded a grant at the end of January then they will have 2 months in which to spend it.
- 5.11. A Group's net grant expenditure under the 2015-2018 support Programme shall be rolled-over and subtracted from the amount of grant available to them under the 2018-2022 Programme, to ensure that new and existing Groups are on a level playing field.

Grant Award

- 5.12. Award of grants shall not require the Authority's approval, provided that the Support Services Contractor has conducted, and can evidence where necessary, an appropriate application assessment process. There may be situations where applications take longer to administer, for example where an unincorporated Forum requires time to incorporate or identify an appropriate fund holder. Where this happens, or is likely to happen, the Support Services Contractor shall inform the Authority and the Grant Administrator as soon as possible within the agreed timescales and provide sufficiently detailed supporting evidence.
- 5.13. As outlined above, the 'policy eligibility' criteria for decision making on successful applications for grants shall not be determined by the Supplier. However the Supplier shall need to confirm that a Group which has been awarded a grant meets the relevant due diligence requirements for each particular grant, and shall need to work closely with the Support Services Contractor to ensure a joined up service for Groups.
- 5.14. Subject to satisfactory completion of the steps below, the Supplier shall issue grant funding to the following Groups (who will be the 'Accountable Body'):
- Parish and Town Councils
 - incorporated designated Neighbourhood Forums and
 - incorporated prospective Neighbourhood Forums.
- 5.15. Unincorporated Forums (designated or prospective) must either become incorporated, or nominate an incorporated organisation to act as their Accountable Body (e.g. a local charity or their Principal Authority²) to hold and administer grants on their behalf.
- 5.16. Where the Support Services Contractor notifies the Supplier of an approved grant award, the Supplier shall issue a Grant Funding Agreement to the relevant Accountable Body. The Supplier shall issue the Grant Funding Agreement within the agreed number of Working Days from receipt of the award notification, as further set out in section 12. Grant Funding Agreements will need to be compliant with the Authority's standard grant funding terms and conditions, and be agreed with the Authority prior to implementation. An example of an existing Grant Funding Agreement is included at Schedule 1.
- 5.17. The Supplier shall require the Accountable Body to return the relevant documentation, including formal confirmation of bank details and acceptance of the relevant grant terms and conditions, via the Supplier's secure system.
- 5.18. The Supplier shall be responsible for ensuring Accountable Bodies' compliance with all relevant financial checks and controls in order to protect against fraudulent applications and misuse of public money. Administration of grants must be compliant with the Authority's standard grant funding terms and conditions as well as Government accounting and reporting requirements, including Managing Public Money³.
- 5.19. Supplier due diligence checks should (as a minimum requirement) be carried out to ensure that the Accountable Body is a legitimate organisation as described in their application, and that the bank account details provided are for a valid account held by the Accountable Body. These checks should only be carried out for the first prospective grant payment, and for subsequent prospective payments only where different bank account details have been provided.

² See special criteria at paragraph 5.31 which apply when a Principal Authority agrees to act as an Accountable Body for the purposes of administering a grant.

³ <https://www.gov.uk/government/publications/managing-public-money>

- 5.20. Subject to satisfactory completion of the above steps, the Supplier shall ensure that grant funds are paid securely by BACS into the Accountable Body's nominated bank account. All payments must be made within the agreed number of Working Days from receipt of the relevant information from the Accountable Body, as further set out in section 12.

Grant Monitoring and Reporting

- 5.21. The Supplier shall update their management system with the status of payments issued and update the Support Services Contractor on at least a weekly basis. The Support Services Contractor shall then use this information to report to the Authority.
- 5.22. The Supplier shall need to monitor grant expenditure through a robust and transparent 'end of grant report' issued at the end of the grant period. To do this the Supplier shall need to issue an electronic version of an end of grant report to all Groups that are in receipt of grant funding. The Supplier shall need to ensure that all Groups complete the reports within at least 2 months of the end of the grant period. As a minimum the report shall include a summary of progress in respect of their activity and expenditure.
- 5.23. In the event that any grant funding is not spent by the Group at the end of the financial year in which it was allocated, the Supplier shall need to instruct the Group to return the grant funding to the Supplier. This reconciliation exercise should take place annually for Groups, except where the Group is a Town or Parish Council for whom it should take place when the Neighbourhood Plan or Order is completed or at the end of the Programme as necessary. For the avoidance of doubt the Supplier shall be responsible for monitoring all grant expenditure to ensure it is being used for the purposes stated in the approved grant application. However, where this evidence is not available with regards to Town and Parish Councils, the Supplier and DCLG shall need to monitor and establish when the related plans / orders are completed, in order to support the management of the return of any unspent funds.
- 5.24. Where Groups are required to return unspent grant, they will not be able to have further grant applications approved until the returned grant has been received by the Supplier. Where grant is returned by a Group, the Supplier shall need to ensure the value of the funds returned is made available to the Group as part of any future grant award, subject to the maximum grant values set out in paragraph 5.7. For example:
- A Group has been awarded £15k worth of grant out of the possible total of £17k, meaning they are still eligible to apply for a further £2k;
 - The Group only spends £12k, and returns the remaining £3k they were awarded;
 - The Group is now eligible to apply for up to a further £5k of grant in future (£2k + £3k).
- 5.25. The Supplier shall need to carry out robust and transparent checks on at least 5% of the Groups that are in receipt of grant funding on an annual basis, to ensure that the grant funding has been spent on the appropriate goods/services.
- 5.26. The Supplier shall need to instruct all Groups to submit copies of individual invoices for all spend amounts over £1,000.
- 5.27. In the event that a Group has not used the grant funding in accordance with the Grant Funding Agreement, the Supplier shall need to recover the relevant value of the grant funds. This shall include, but is not limited to, the following circumstances:
- i. The Group spends less than the grant funding amount stated in the Grant Funding Agreement, and no further grant funding payments are planned to be made by the Supplier from which the underspend could be deducted;
 - ii. The Group withdraws from the Programme early without spending all the funds drawn down; and
 - iii. Misappropriation of the grant funding by the Group.

- 5.28. In respect of the above, the Supplier shall need to conduct an investigation and if this investigation confirms misuse of grant funding, the Supplier shall write to the Group to request return of the grant funding, which could be up to the full amount of the grant paid. If through the investigation the Supplier becomes aware of any fraudulent activity, the Authority, police and other relevant authorities (Charity Commission, Companies House, etc.) shall be notified as appropriate by the Supplier. If the grant funding is required to be returned to the Supplier and the Group has not returned the grant funding within the specified period as set by the Supplier, the Supplier shall liaise with the Group and implement an appropriate course of action to recover any outstanding balance, which may include legal action.
- 5.29. The Supplier shall be responsible for providing assurance that the grant was spent in a regular and proper manner and in accordance with the terms of the grant agreement, and shall regularly update the Authority and the Support Services Contractor accordingly. For the avoidance of doubt it shall be the responsibility of the Supplier to carry out all appropriate and proportionate activities to try and recover any mis/unspent grant and to report / evidence progress to DCLG accordingly, in accordance with the requirements of Appendix B. Should any such grant remain unrecovered, the Supplier shall be responsible for ensuring that DCLG has been duly notified and is provided with all relevant information, and any further action shall be agreed with DCLG on a case by case basis. Any legal action and costs would need to be agreed with DCLG on a case by case basis, having due regard to proportionality.
- 5.30. The Supplier shall also need to submit to the Support Services Contractor, within at least 3 months of the end of the Programme, a final report outlining total grant spending under the Programme.

Grant management with respect to Principal Authorities

- 5.31. The payments made to Principal Authorities (where they are acting as an Accountable Body for an unincorporated Forum) shall not have terms and conditions attached, in line with Government policy. There is no formal obligation on the Principal Authority to monitor or report on grant expenditure, nor to repay any funding in the event that the activity for which it was given does not take place. Where Principal Authorities act as Accountable Bodies, the Supplier should ensure that suitable and proportionate informal monitoring arrangements are in place regarding their grant expenditure, and as a minimum request completion end of grant reports. Where these Groups do not comply with the informal arrangements, this should be reported and escalated to the Authority accordingly.
- 5.32. Regardless, basic due diligence should still be carried out to ensure the Principal Authority exists and that the bank account details provided are for a valid account held by the Principal Authority. These checks should only be carried out for the first prospective grant payment, and for subsequent prospective payments only if different bank account details have been provided.

Draw Down of Grant Funding

- 5.33. The Supplier shall contribute to and agree a regular grant forecast profile with the Support Services Contractor and the Authority. The agreed forecast shall be used to identify the level of grant funds to be provided to the Supplier by the Authority. This grant funding shall be paid directly to the Supplier on an advanced quarterly basis, upon receipt of a valid grant claim form in accordance with the agreed forecast profile. These funds shall be transferred to the Supplier separately from any payment of the Supplier's management fees.

Overall System and Information Approach

- 5.34. The Supplier shall provide a secure and robust grant administration system, which meets the requirements of this Specification, enables close working with the Support Services Contractor and is capable of delivering the grant support detailed in section 5.
- 5.35. Specifically the Supplier's system shall provide information to the Support Services Contractor in a suitable 'open format' that can be used to update the Customer Relationship and Data Management System ('CRMS') in an accurate, secure and efficient manner. This could be, but does not have to be, via automated system integration and / or data transfer. In accordance with sections 8 and 12, key pieces of information should include, but are not limited to:
- The status of individual grant applications and the outcome of due diligence assessments.
 - Monitoring information on the value of grants offered, allocated and spent by Groups by the end of the grant period.
 - End of grant closure reports outlining what the grant was spent on.
- 5.36. Regardless, the Supplier shall have suitable systems and processes for ensuring that information/data flows appropriately between all parties (the Supplier, sub-contractors, the Support Services Contractor, the Authority and Groups) in a timely, secure and accurate manner. The systems shall also ensure that the provisions of the Data Protection Act, Cyber Essentials Scheme and any other relevant industry standards, rules and procedures are complied with.
- 5.37. The systems should be supported 24 hours a day and 365 days a year, for the duration of the Contract including any extensions, and be backed up on a daily basis with the back-up data stored off site in accordance with Clause 34.2 (Protection of Customer Data) of the Terms and Conditions.

Resource Flexibility

- 5.38. The Supplier shall ensure that there is sufficient resource to respond to the flexible nature of the Programme and the uncertainty over the volume of grants to be administered, ensuring that continuity and quality of service is maintained accordingly at all times. This includes having robust and transparent processes for ensuring that: Additional resource can be made available at short notice to meet any unexpected or significant increases in support demand;

Resources can be managed to deliver cost-efficiencies where there are unexpected or significant reductions in support demand.

Working with other Parties

- 5.39. The Supplier shall work closely with the Incumbent Contractor (during mobilisation and transition) and the Support Services Contractor to deliver the Contract, in particular:

With the Incumbent Contractor to:

- 5.39.1.1. Ensure effective communication and collaboration takes place with regards to the implementation and transition of the services where applicable (see section 6).

With the Support Services Contractor to:

- 5.39.1.2. Ensure effective processes are in place for the two-way sharing of information on grant applications received and the timetable for award decisions by the Support Services Contractor, which will be at least weekly;
- 5.39.1.3. Ensure information on grant offers made and funds awarded or recovered are provided to the Support Services Contractor at least weekly;
- 5.39.1.4. Develop grant application forms and any necessary guidance on the grant application process, which shall enable the interim grant application process to open by 1st February 2018 and the new grant application process to open by 1st April 2018;
- 5.39.1.5. Ensure that learning and any Group feedback is captured and shared effectively, on at least a quarterly basis.

6. KEY MILESTONES

- 6.1. The Supplier shall have a written implementation strategy, which includes timescales and milestones, potential obstacles or risks, resources, core activities, communications and/or key critical paths pertinent to the Supplier’s ability to ensure successful mobilisation in accordance with the key dates set out in Table 4 below. A detailed project plan/timetable shall show when each of the requirements stated in this Specification shall start to be mobilised and will be fully operational. Unless otherwise specified, all requirements stated in this Specification shall be fully operational no later than the Service Commencement Date.
- 6.2. With the exception of the interim implementation period for grant applications described in paragraphs 6.3 to 6.5, all content for the grant application forms and any guidance on completing the forms shall be provided by the Support Services Contractor. However the Supplier shall work with the Support Services Contractor and the Authority to agree final versions of the grant application forms, so that all forms and associated guidance are ready for publication on the Portal by no later than 1st April 2018, in order to support the full implementation and opening of the 2018-2022 grant services.

Table 4 – Implementation and Transition Timetable

Ref	Implementation / Transition Milestone	Target Completion Date
1	Grant Administration Contract awarded and executed (the Call-Off Commencement Date)	10 JAN 18
2	Detailed implementation project plan updated and agreed with the Authority.	26-JAN-18
3	Interim process and systems for assessing, agreeing and providing grant funding finalised with the Authority, Incumbent Contractor and Support Services Contractor. (see paragraphs 6.3 to 6.5)	26-JAN-18
3	Commencement / opening of interim grant application process.	01-FEB-18
4	Support Services Contractor launches new Portal.	19 -MAR-18
6	Legacy contract information, based on the latest projections and data available, provided by Incumbent Contractor to the Authority / the Supplier including: <ul style="list-style-type: none"> • Details of grant recipients 	31-MAR-18

	<ul style="list-style-type: none"> • Payment details • Records of any Groups who have not fulfilled their grant obligations or who have returned unspent funds 	
5	Commencement / opening of new grant application and assessment process and issuing of first grant payments. (the Service Commencement Date)	01-APR-18
7	Invoice submitted for completed implementation and transition services.	01-APR-18
8	<p>All outstanding / final legacy contract information provided by the Incumbent Contractor to the Authority / the Supplier, including:</p> <ul style="list-style-type: none"> • Details of grant recipients • Payment details • Records of any Groups who have not fulfilled their grant obligations or returned unspent funds 	30-JUNE-18

Grant Applications from 1st February 2018 to 31st March 2018

- 6.3. Their shall be an 'interim' grant application process from 1st February 2018 to 31st March 2018, whereby application forms shall be hosted and submitted via the existing MyCommunity.org web-site managed by the Incumbent Support Services Contractor. The Incumbent Support Services Contractor and new Support Services Contractor, the Supplier and the Authority shall work collaboratively and proactively to agree any changes to the content of the grant application form and related guidance considered reasonably necessary for this interim period. However any such changes shall be kept to a minimum and shall need to be agreed by all parties prior to implementation, such agreement not to be unreasonably withheld or delayed.
- 6.4. The Incumbent Support Services Contractor shall not undertake any screening or assessment process regarding the applications received, but shall generate an acknowledgement to the Group of receipt of their application and advising them that their application shall be passed on to the new Support Services Contractor.
- 6.5. On at least a weekly basis the Incumbent Support Services Contractor shall download data from the 18/19 grant application forms to a CSV format (or other format as agreed by the parties) and send them to the new Support Services Contractor. The data transferred to the new Support Services Contractor shall be limited to the information entered on to the application form by the Group and shall not include any screening or fact checking. The new Support Services Contractor shall then be responsible for processing the applications in accordance with the requirements of the Support Services Contract.

7. AUTHORITY'S RESPONSIBILITIES

- 7.1. As set out in sections 5 and 6 above.

8. CONTRACT MANAGEMENT AND REPORTING

- 8.1. The Supplier shall have contract management and performance reporting processes that shall provide transparency and assurance to the Authority that the requirements stated in the Contract are being, and shall continue to be, successfully delivered. As a minimum the Supplier's processes shall demonstrate and / or provide:
- Robust and effective internal governance arrangements, including appropriate fraud and conflict of interest prevention measures, and which are in

accordance with Clause 50 (Prevention of Fraud and Bribery) of the Terms and Conditions;

- Robust and effective and risk management procedures, including financial distress and business continuity planning in accordance with Clause 15 (Business Continuity and Disaster Recovery) of the Terms and Conditions;
- Robust and effective financial management of the Contract, in line with Managing Public Money principles;
- Quality assurance in respect of service delivery, and specifically achievement of the SLAs set out in section 12;
- Arrangements to manage any service delivery failures and ensure these are remedied, including clear escalation processes;
- A complaints procedure for Groups, including clear escalation process;
- Continuous improvement to the Service, including where Group and stakeholder feedback identifies specific improvement opportunities or weaknesses (as set out in section 10).

Reporting

- 8.2. Reporting requirements shall include, but not be limited to:
- Weekly financial management reports with a detailed breakdown of all grants awarded, issued or recovered, as further detailed in section 5.
 - End of grant closure reports outlining what the grant was spent on.
 - Final grant closure and financial reconciliation reports should be provided to the Support Services Contractor and the Authority as soon as possible but in any case within at least 3 months of the end of the Programme.
 - Performance Monitoring Reports, as set out in Call-Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).

Contract Meetings

- 8.3. The frequency of contract management meetings is at anytime during the Contract Term decided at the discretion of the Authority, and the dates in each month on which meetings are held shall be agreed between the Parties during the Implementation Period. However, unless agreed otherwise between the Parties, contract management meetings shall be held on the following basis:
Weekly Implementation Meetings during the Implementation Period, to cover as a minimum:

- 8.3.1.1. Progress against the Implementation and Transition Plan;
- 8.3.1.2. Issues for escalation;

Monthly Performance Review Meetings, to cover as a minimum:

- 8.3.1.3. All relevant reports for the month;
- 8.3.1.4. Performance in relation to SLAs/KPIs;
- 8.3.1.5. Issues for escalation;
- 8.3.1.6. Remediation Plans;

- 8.4. Unless otherwise agreed between both Parties on an exception basis, the Supplier shall ensure all appropriate material is made available to the Authority at least 5 Working Days prior to the relevant contract management meeting.
- 8.5. All Contract Management Meetings must be attended by the Supplier's appropriate Key Personnel.

9. VOLUMES

- 9.1. Indicative volumes of grants anticipated for the Programme are set out in Table 3 above.
- 9.2. The indicative volume of grants awarded between August 2016 and July 2017 is 849, made up 716 basic grants and 133 priority grants.

10. CONTINUOUS IMPROVEMENT

- 10.1. In accordance with Clause 18 (Continuous Improvement) of the Terms and Conditions, the Supplier shall continually improve the way in which the required Services are to be delivered throughout the Contract duration, including through effective communication with Groups and use of Group feedback.
- 10.2. The Supplier should present new ways of working to the Authority on a quarterly basis at the relevant contract management meeting.
- 10.3. Changes to the way in which the Services are to be delivered must be brought to the Authority's attention and agreed in accordance with Clause 22.1 (Variation Procedure) of the Terms and Conditions, prior to any changes being implemented.

11. STAFF AND CUSTOMER SERVICE

- 11.1. The Authority requires the Supplier to provide a sufficient level of resource throughout the duration of the Grant Administration Services Contract in order to consistently deliver a quality service to all Parties.
- 11.2. Supplier's staff assigned to the Grant Administration Services Contract shall have the relevant qualifications and experience to deliver the Contract.
- 11.3. The Supplier shall ensure that staff provide excellent customer service to the Authority throughout the duration of the Contract.

12. SERVICE LEVELS AND PERFORMANCE

- 12.1. Performance management and reporting on performance shall include, as a minimum, the following Key Performance Indicators and Service Level Agreements:

KPI/SLA	Service Area	KPI/SLA description	Target*
1	Due Diligence Checks	Due diligence checks undertaken and grant offer letters sent to Groups within a maximum of ten (10) Working Days from receipt of award notification.	99%
2	Grants processed by BACS	Grants processed by BACS paid within a maximum of ten (10) Working Days from receipt of the relevant information required from Groups.	99%
3	Communications	Communications from the Support Services Contractor, the Authority or its agents are responded to within 1 Working Day of receipt.	100%

4	End of grant reports	End of grant reports issued to Groups** are completed within 2 months of the end of the grant period. Where the Supplier is unable to meet this KPI due to factors outside of their control then they will need to record and provide evidence of this to DCLG accordingly.	100%
5	Group checks	Minimum % of Groups or grant recipients checked in each year to ensure grant funding has been spent on the appropriate goods/services.	5%

* unless otherwise stated all KPIs/SLAs are measured on a monthly basis

** excluding Principal Authorities acting as an Accountable Body for an unincorporated Forum

12.2. Where the Supplier has failed to satisfy the Deliverables set out in the Specification or achieve the KPIs/SLAs specified above then the provisions of Clause 38 (Customer Remedies for Default) of the Terms and Conditions shall apply.

13. SECURITY REQUIREMENTS

13.1. The Supplier shall comply with all relevant Government security policies⁴ and any Authority-specific security policies as may be notified to the Supplier from time to time.

14. INTELLECTUAL PROPERTY RIGHTS (IPR)

14.1. All Project Specific IPR (including branding, guidance materials, Grant Funding Agreements, end of grant reports and data that is created or collected specifically for the purposes of this Contract and / or the Programme) shall vest in the Authority absolutely.

15. PAYMENT

15.1. Payment can only be made following satisfactory delivery of the Services and, where applicable, pre-agreed certified products and deliverables.

15.2. Payment for any costs incurred during the Implementation Period shall be subject to satisfactory achievement of the relevant Key Milestones. It is anticipated that these costs shall be paid after 1st April 2018, but regardless any costs incurred during the Implementation Period must be accounted for within the maximum budget set out in Table 1.

15.3. Subject to the above, payment will be made to the Supplier within thirty days of receipt of a valid invoice, which must include all appropriate references and a detailed elemental breakdown of work completed and the associated costs, as per the provisions of Clause 7 of the Terms and Conditions.

15.4. The Supplier should ensure all invoices are sent to: CP2P Team, DCLG, 4th Floor, High Trees, Hillfield Road, Hemel Hempstead, HP2 4XN

16. ADDITIONAL INFORMATION

Exit Strategy

⁴ <https://www.gov.uk/government/collections/government-security>

- 16.1. Notwithstanding the provisions of Clause 45.5 (Exit Management) of the Terms and Conditions, the Supplier shall have an exit strategy and plan detailing timescales and handover activities to ensure a successful exit and transition back to the Authority or a new supplier sufficiently in advance of the Contract expiry date. This shall cover two scenarios:
- An exit strategy for the initial 4 year term of the Contract; and
 - An exit strategy in the event of an extended, 5 year Contract.
- 16.2. The exit strategies shall be in place from the Call-Off Commencement Date, and shall be updated at least every 6 months from the Service Commencement Date, or as and when necessary to reflect any changes in the Contract. The exit strategies shall detail the timescales and handover activities for each element of the service, including but not limited to:
- Outline of key dates and actions in the run up to expiry and post-expiry for provision of data, handover of systems/ equipment etc., closedown of any services, Group deadlines, staff engagement, stakeholder communications plan etc.
 - Summary of all data held as part of the Contract and identification of the format(s) in which it is/ shall be available and the IPR ownership;
 - A proposed method for testing the integrity and completeness of the data transferred;
 - A list of all assets, identifying which are owned by the Authority, eligible for transfer to the Authority or ineligible for transfer but are essential to the provision of the Services (including the reason for ineligibility);
 - How key interdependencies with 3rd parties, including key sub-contractors, will be managed;
 - Indication of any roles that might be in scope for transfer, including those of key sub-contractors;
 - Key personnel / management structure for the transitional period;
 - Assurances as to how service standards will be maintained and any significant gaps in service avoided;
 - Identification of key dependencies / obligations on the part of the Authority or its agents (e.g. approval timescales).

17. LOCATION

- 17.1. The location of the Services will be carried out at the Supplier's premises with meetings held at the Authority's premises as and when required.

Schedule 1 – Example grant agreement terms and conditions from current Neighbourhood Planning Support Programme

[xxx] Neighbourhood Forum

NP Grant Ref: NPG-

Dear

APPENDIX 11: OFFER OF GRANT – Community Rights Programme – Neighbourhood Planning Basic

APPENDIX 12:

Congratulations! On behalf of the Community Rights Programme, funded by the Department for Communities and Local Government, we are pleased to offer **[xxx] Neighbourhood Forum** a grant of up to a maximum of **£1,600.00** (the “grant”). This grant is specifically for the purpose of the ‘**Project**’, the details of which are outlined in your application form. Please note that if this amount is less than you applied for, the reasons are detailed in Schedule 1. We offer you the grant on the terms of this letter so please read it carefully.

What you need to do now - Accepting our offer

Before we can begin to make payment(s) you will need to accept our Grant Offer, Terms and Conditions (Appendix A) as well as completing our Grant Recipient Due Diligence Process. You are required to complete this process through a secure web portal for Groundwork UK’s Programme Management System ‘Gifts.’

As you already have a Gifts account registered to the email address provided with a previous grant, please login to your existing grantee account to accept this offer. To login to your account visit https://www.grantrequest.co.uk/SID_19?SA=AM. Please use the username (your email address) and the password you used when creating your account to login (or the latest one if this has changed since your account was created). If you have forgotten your password, you can request a new one by visiting the login page via the above link.

As soon as you have done this, you can start to complete the due diligence form by clicking on the grey tab titled “Requirement Form”. Follow the instructions on the screen. Once you have submitted the form, you will receive a confirmation email. Please note the due diligence checking process can take up to **10 working days to complete**, therefore only contact us for an update if this time has elapsed.

By accepting our grant offer, you accept the terms on which we offer the grant, and you enter into a legally enforceable contract with us. You also acknowledge that you have carefully considered this letter, and the Terms and Conditions of Grant Agreement, and that you fully understand and accept them.

Your due diligence must be completed by the following date or your grant offer may lapse:

Please contact us if you need further time to complete the process, your main Groundwork UK

contact is.....

Once you have completed the due diligence process to our satisfaction, we will pay the grant by BACS. Please be aware that **no grant payment will be released until we receive the above information from you correctly completed** where appropriate. The grant paid will be 100% of your award.

Once your project is complete, we will require confirmation of grant expenditure and a project progress update. Please note that you are required to keep all evidence of spend of the grant, however only invoices over £1,000 will need to be provided to us.

We will contact you with further details on this process.

If you have any queries regarding this letter, please email [xxx]

We wish you every success in your project and we look forward to hearing from you shortly.

Encs

Schedule 1 – Details of Award

Appendix A – Standard Terms and Conditions of Grant

Schedule 1 – Details of Award

Special conditions attached to your grant and comments from the Panel can be found below. If you have been awarded a smaller grant than the value requested in your application, the reason for awarding less funding can be found below.

Instructions/conditions from Panel & Reason for awarding less money (if applicable)

- If you are using the grant to engage consultants to support your neighbourhood plan, you are strongly advised to ensure that they are appropriately qualified for the work. This would mean using a qualified planner, preferably a chartered member of the Royal Town Planning Institute (MRTPI), to provide advice on planning legislation, policy and issues. Similarly there are a range of specialists who might need to be involved in a Strategic Environmental Assessment (SEA) or work related to Habitats Regulations. If in doubt, please take advice from your Local Planning Authority.
- Please note the maximum day rate we will pay for any consultant is £500 per day excluding VAT and reasonable expenses.
- Eligible expenditure consists of payments by You during the Funding Period for the purposes of the Project. The **Grant Funding period start date** isand ends with the **Grant Funding period end date**.....
- The grant is as per the itemised budget

Approved Grant Budget

Item	Amount
Room hire	£300
Printing costs	£1,100
Stationary for engagement events	£100
Refreshments for engagement event	£100
	£0
	£0
	£0
	£0
	£0
	£0
Total	£1,600

Appendix A

TERMS AND CONDITIONS OF GRANT - Neighbourhood Planning Grant

Definitions

'You' and 'Your' referred to in this document is the Contact who confirms the acceptance of grant and the organisation that You represent.

'Us' and 'We' refers to Groundwork UK acting on behalf of DCLG.

'DCLG' refers to the Department of Communities and Local Government.

'Grant' refers to the Neighbourhood Planning Grant you have been awarded.

'Grant Funding Period' - the start of the funding period is the date listed in schedule 1 above and the end of the funding period is the grant end date listed in schedule 1 above or the 31 March 2018, whichever is the soonest.

'Funding Agreement' means this letter, schedules and appendices.

'Programme' means the Neighbourhood Planning Programme.

'Project' means the planned activities described in your grant application form to the Neighbourhood Planning Programme.

'Terms and Conditions' mean the terms and conditions of the grant, as set out in this Grant Offer/Funding Agreement.

1. General

The Grant must not be used for any other purposes other than to further your Project. If there are changes to Your planned activities then you must obtain Groundwork UK's prior approval in writing prior to entering into any agreement to purchase support. We cannot approve any changes that fall outside of the Programme's eligible criteria.

2. Meaning of Eligible Expenditure

2.1 Subject to sub-clause 2.2, eligible expenditure consists of payments by You during the Funding Period for the purposes of the Project. Eligible Expenditure is net of VAT recoverable by You from HM Revenue & Customs, and gross of irrecoverable VAT.

2.2 For the purpose of defining the time of payments, a payment is made by You when and only when money passes out of Your control. Money will be assumed to have passed out of Your control at the moment when legal tender is passed to a supplier or contractor, when a letter is posted to a supplier or contractor containing a cheque, or an electronic instruction is sent to a bank to make a payment to a supplier or contractor by direct credit or bank transfer.

2.3 The following costs are not Eligible Expenditure:-

Payments:

a) for activities of a political or exclusively religious nature;

- b) for any activity intended to influence or attempt to influence Parliament, Government or political parties, or attempting to influence the awarding or renewal of contracts and grants, or attempting to influence legislative or regulatory action;
- c) for goods or services that You have a statutory duty to provide;
- d) reimbursed or to be reimbursed by other public or private sector grants;
- e) contributions in kind (a contribution in goods or services as opposed to money);
- f) depreciation, amortisation or impairment of Fixed Assets owned by You;
- g) interest payments (including service charge payments for finance leases);
- h) gifts to individuals, other than promotional items with a value no more than £10 a year to any one individual;
- i) entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations);
- j) statutory fines, criminal fines or penalties.
- k) spend incurred before the issue of this funding agreement unless agreed in writing by Groundwork UK
- l) the acquisition or improvement of fixed assets by You (e.g. buildings, vehicles, furniture, office equipment, computers, photocopiers, etc.)
- m) paying for volunteer time (reasonable volunteer expenses are allowed)
- n) any items which fall outside of Your Approved Grant Budget specified in Schedule 1.

3. Financial requirements

3.1 You must have an organisational bank account with two signatories before we can pay you the money. Individual bank accounts are not acceptable. It is also not acceptable for the two signatories to be related or living at the same address.

3.2 All those in receipt of grants will submit a final monitoring report within 2 weeks of the completion of the planned activities which will update on Project progress, confirm the final spend of the grant and provide a complete and accurate record of the eligible expenditure. Groundwork UK will review the statement and record provided. Should any grant be unspent or expenditure be deemed to be ineligible, then this must be returned to Groundwork UK within 30 days of being requested in writing. If it is not received by this time you may not receive the final payment (in instances where Your grant is paid in instalments) and it may affect future applications to the Programme.

3.3 You must immediately notify us if you become aware of or suspect financial irregularity or fraud within Your Project by any person involved directly or indirectly with the Project. You must ensure officers, members, employees and volunteers avoid conflicts of interest. Where there is serious suspicion of fraud taking place, we will refer the matter to DCLG. If a criminal act is suspected by Us, the Police will be notified. Grants may be suspended during any investigation and terminated if financial irregularity or fraud is found to have occurred.

Groundwork UK reserves the right to claw back funding for the whole grant and it may affect future applications to the programme.

3.4 You must co-operate with requests from Groundwork UK to carry out a financial audit. If we do carry out a financial audit we will give You reasonable notice.

3.5 You should keep separate and proper records and accounts for Your Grant with a clear audit trail (invoices, receipts, etc.). Your Grant must be listed separately in Your accounts and must be kept available for a period of six years following the end of the Project. Groundwork UK may ask to see a copy of your accounts at any time and these must be provided within a reasonable time frame (i.e. one month).

3.6 In relation to any goods or service purchased with this Grant, you must make the payment for these within the time frame specified on the supplier's invoice, subject to relevant contracts being fulfilled. All payments made from the grant by You must be approved by two authorised signatories of your organisation.

3.7 You must provide Groundwork UK with invoices for all items of spend over £1,000. These should be uploaded to Groundwork UK's Programme Management System 'Gifts' when you provide your monitoring and expenditure information. In addition, We may ask to see original invoices for a period of up to six years following the end of the project.

4. Procurement Procedure

4.1 If Your organisation has existing procurement policy and procedures you must ensure that these are followed in the delivery of Your Project. Groundwork UK may ask to see a copy of your policy and procedures at any time and these must be provided within a reasonable timeframe (i.e. one month).

4.2 You should aim to achieve value for money and avoid conflicts of interest in all purchases of goods and services through Your Grant. You must obtain quotes for the provision of all goods and services with a cost of £500 or more. Where the cost is £5000 or more, or there is a potential conflict of interest, you must, if practicable, obtain at least 3 written quotes. If you follow a single tender procedure, for example, where you want to use the Grant to continue working with a consultant who has previously been providing support to Your group, you must keep a record of the reasons why that procedure was thought to be appropriate. Groundwork UK may ask to see a copy of your quotes, tenders or reasons for a single tender at any time and these must be provided within a reasonable time frame (i.e. one month).

5. Grant variations

5.1 Your Grant is awarded to you on the Terms and Conditions set out in this Grant Offer/Funding Agreement. Any changes must be approved by Groundwork UK. A Project Change Request Form can be made available to You on request once You have accepted Your Grant. We will aim to give you a response to any proposed changes within 10 working days.

5.2 You must spend Your Grant by the end of the Grant Funding Period. In exceptional circumstances, where you will be unable to spend the grant by the end of the Grant Funding Period and need an extension, you must complete the Grant Variation Request Form before the end of the Grant Funding Period. Such approval will be at Groundwork UK's absolute discretion. Grant deadlines will not be extended beyond 31 March 2017. If you do not spend Your Grant, or no longer need the grant in the Grant Funding Period, you must return the

unspent funds to Groundwork UK as soon as possible so that we can reuse the funding within the Programme or return it DCLG.

5.3 If there are changes to Your budget during Your Project, You must complete the Grant Variation Request Form and obtain Groundwork UK's written approval before spending outside of Your agreed budget. If you authorise any spend before getting Groundwork UK's approval, this may be deemed as ineligible and we may claw back any unauthorised grant usage.

6. UK Legislation

6.1 You must seek expert advice if You are unsure what legislation may need to be complied with during the course of Your Project.

6.2 You must ensure that Your organisation has adequate public and employer insurance cover with an insurer of good repute to cover claims under the Grant or any other claims or demands, which may be brought or made against it by any person suffering any injury, damage or loss in connection with the Grant.

6.3 You must comply with the Data Protection Act and keep personal details of any clients, volunteers, staff and committee members secure and confidential.

6.4 You must comply with Your obligations under the Health and Safety at Work Act 1974 and have a written health and safety policy, which all workers, volunteers or participants are made aware of on commencement of duties or beginning of activity. You must carry out risk assessments where relevant, for example, for a public event.

6.5 You must comply with Equal Opportunities legislation through best practice and by ensuring people are not exposed to discrimination in the course of their activities.

6.6 You must ensure that anyone working on Your Project who will work with children, young people or vulnerable adults, undertakes a DBS (Disclosure Barring Service) check before any activity takes place.

6.7 Groundwork UK may ask to see a copy of your insurance certificates and any policies or procedures relating to Data Protection, Health and Safety, Equal Opportunities and DBS checks and these must be provided within a reasonable timeframe (i.e. one month).

6.8 Groundwork UK and DCLG accept no liability or responsibility for any claim or matter howsoever arising out of any activity funded by the Grant.

7. Your obligations

In undertaking this Project you must:

7.1 Co-operate with any evaluation of the programme undertaken on behalf of Groundwork UK, Locality or DCLG.

7.2 Promptly comply with any requests for information or visits from Groundwork UK, Locality, DCLG, National Audit Office and other deliverers on the programme.

7.3 Allow any relevant Project information, know-how, system or process learned from or created in operating the Project to be disseminated by DCLG among all persons or bodies who have responsibility for similar projects. You agree that such persons may share and use freely all such information, know-how, system or process for their own purposes.

7.4 Agree to Locality and Groundwork UK storing the data you submitted in Your application and using it in the administration of the Programme. Agree also for that data to be shared with Locality, DCLG and the evaluators of the Programme and to be used for publicity purposes if necessary. Groundwork UK will also keep Your organisation's details on our database and send you information which you may find useful including potential sources of future funding and our monthly newsletter. Please tell us if you wish us to remove Your details from this database.

7.5 Agree to assist and cooperate to enable Groundwork UK or DCLG to comply with obligations under the Freedom of Information Act whenever a request is made for information which relates to or arises out of this Grant Offer/Funding Agreement.

8. Breach of conditions and recovery of grant

8.1 If You fail to comply with any of the Terms and Conditions, or if any of the events mentioned in sub-clause 8.2 occur, Groundwork UK may reduce, suspend, or withhold grant payments, or require all or any part of the grant to be repaid. You must repay any amount required to be repaid under this condition within 30 days of receiving the demand for repayment.

8.2 The events referred to in sub-clause 8.1 are as follows:

a) You fail, in the opinion of Groundwork UK, Locality or DCLG, to make satisfactory progress with the Project; and in particular with meeting the Project's targets and agreed completion date;

b) You owe any sum to DCLG under an offer of grant for any other project or activities under any scheme or programme administered by DCLG for regeneration or development;

c) You purport to transfer or assign any rights, interests or obligations arising under this funding;

d) there is a change in control or ownership of Your organisation or You cease to operate or changes to the nature of Your operations to an extent that Groundwork UK, Locality or DCLG considers to be significant or prejudicial to the satisfactory continuance of the Project;

e) You become the subject of a proposal for a voluntary arrangement; or have a petition for an administration order or a winding up order brought against You; or pass a resolution to wind up; or makes any composition, arrangement, conveyance or assignment for the benefit of Your creditors, or purport to do so; or are subject to the appointment of a receiver, administrator or liquidator; or are struck from the register at the Charity Commission, or, being a company, are struck from the register at Companies House;

f) Any information provided in the grant application or in any subsequent supporting correspondence is found to be incorrect or incomplete to an extent which We consider to be significant;

g) You take inadequate measures to investigate and resolve any reported irregularity;

h) Groundwork UK or DCLG in their absolute discretion consider that You no longer require grant assistance to carry out the Project or that there is some other reason that you should no longer be entitled to the Grant;

8.3 Where Groundwork UK has requested You to repay any amount, We may recover that amount by withholding, or deducting the amount from, any sum due to You under an offer of grant for any other project or activity under the Community Rights programme as administered by DCLG.

8.4 In the event that it becomes necessary to take steps to enforce the Terms and Conditions of this Funding Agreement, Groundwork UK will write to You giving particulars of its concern about the Project or of any breach of any of the Terms and Conditions of the grant.

8.5 You must act within 30 days (or earlier, depending on the severity of the problem) to address Groundwork UK's concern or rectify the breach, and may consult Groundwork UK or agree an action plan for resolving the problem. If Groundwork UK is not satisfied with steps taken by you to address its concern or rectify the breach, We may take steps to withhold or suspend the further payment of grant, or to recover grant already paid.

8.6 No term or condition of the Grant as set out in this Funding Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party (being a person who is not a party to this Funding Agreement) but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

8.7 Groundwork UK may terminate this Funding Agreement with immediate effect with no liability to make any further payment to You if at any time the funding received by Groundwork UK in relation to this Funding Agreement ceases to be paid or the Funding Agreement under which Groundwork UK receives its funding is terminated or suspended or Groundwork UK believe that it may be terminated or suspended.

8.8 If requested to do so by DCLG under the provisions of the agreement under which Groundwork UK manages the Grant, this Funding Agreement may be terminated without notice and Groundwork UK may require immediate repayment of any Grant monies paid out to You.

Schedule 2 – Grant Eligibility Summary

Grant Eligibility Summary		
Type	Who is eligible to apply for grant?	Additional detail
Basic Grant	All new Groups (including Groups updating/ replacing a plan that is in force).	To enable all new Groups to meet basic neighbourhood planning costs. Groups updating a plan that is in force shall have their grant slates 'wiped clean' because an updated plan is essentially a new plan.
Basic Grant	All existing Groups	To enable all existing Groups to meet basic neighbourhood planning costs. The net value of any 2015-18 grant spent shall be subtracted from their available grant.
Additional Grant	Groups allocating sites for housing in their plan.	To incentivise and support Groups to allocate sites for housing.
Additional Grant	Groups including site-specific design codes in their plan.	To incentivise and support Groups to including site-specific design codes in their plan.
Additional Grant	Business neighbourhood plans.	Local authorities can designate neighbourhood areas that are wholly or predominantly business in nature as business neighbourhood planning areas – necessitating an additional local business referendum.
Additional Grant	Clusters of three or more parishes.	Multi Parish areas are formed when Town or Parish Councils join together to write a joint plan.
Additional Grant	Neighbourhood Areas with a population of over 25,000.	Existing designated neighbourhood area populations range from around 100 to over 40,000.

SCHEDULE 3: CALL-OFF CONTRACT CHARGES, PAYMENT AND

INVOICING

1. DEFINITIONS

1.1 The following terms used in this Call-off Schedule 3 shall have the following meaning:

"Indexation"	means the adjustment of an amount or sum in accordance with paragraph 11 of this Call-off Schedule 3;
"Indexation Adjustment Date"	has the meaning given to it in paragraph 11.1.1(a) of this Call-off Schedule 3;
"Reimbursable Expenses"	means the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Customer's expenses policy current from time to time, but not including: <ul style="list-style-type: none">a) travel expenses incurred as a result of Supplier Personnel travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Customer otherwise agrees in advance in writing; andb) subsistence expenses incurred by Supplier Personnel whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Review Adjustment Date"	has the meaning given to it in paragraph 10.1.2 of this Call-off Schedule 3;
"CPI"	means the Consumer Prices Index as published by the Office of National Statistics (http://www.statistics.gov.uk/instantfigures.asp); and
"Supporting Documentation"	means sufficient information in writing to enable the Customer to reasonably to assess whether the Call-off Contract Charges, Reimbursable Expenses and other sums due from the Customer under this Call-off Contract detailed in the information are properly payable.

2. GENERAL PROVISIONS

2.1 This Call-off Schedule 3 details:

2.1.1 the Call-off Contract Charges for the Services under this Call-off Contract; and

- 2.1.2 the payment terms/profile for the Call-off Contract Charges;
- 2.1.3 the invoicing procedure; and
- 2.1.4 the procedure applicable to any adjustments of the Call-off Contract Charges.

3. CALL-OFF CONTRACT CHARGES

- 3.1 The Call-off Contract Charges which are applicable to this Call-off Contract are set out in Annex 1 of this Call-off Schedule 3.
- 3.2 The Supplier acknowledges and agrees that:
 - 3.2.1 in accordance with paragraph 3 (General Provisions) of Framework Schedule 3 (Framework Prices and Charging Structure), the Call-off Contract Charges can in no event exceed the Framework Prices set out in Annex 1 to Framework Schedule 3 (Framework Prices and Charging Structure); and
 - 3.2.2 subject to paragraph 8 of this Call-off Schedule 3 (Adjustment of Call-off Contract Charges), the Call-off Contract Charges cannot be increased during the Call-off Contract Period.

4. COSTS AND EXPENSES

- 4.1 Except as expressly set out in paragraph 5 of this Call-off Schedule 3 (Reimbursable Expenses), the Call-off Contract Charges include all costs and expenses relating to the Services and/or the Supplier's performance of its obligations under this Call-off Contract and no further amounts shall be payable by the Customer to the Supplier in respect of such performance, including in respect of matters such as:
 - 4.1.1 any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs required by the Supplier Personnel, network or data interchange costs or other telecommunications charges; or
 - 4.1.2 any amount for any services provided or costs incurred by the Supplier prior to the Call-off Commencement Date.

5. REIMBURSEABLE EXPENSES

- 5.1 If the Customer has so specified in the Call-off Order Form, the Supplier shall be entitled to be reimbursed by the Customer for Reimbursable Expenses (in addition to being paid the relevant Call-off Contract Charges under this Call-off Contract), provided that such Reimbursable Expenses are supported by Supporting Documentation. The Customer shall provide a copy of their current expenses policy to the Supplier upon request.

6. PAYMENT TERMS/PAYMENT PROFILE

- 6.1 The payment terms/profile which are applicable to this Call-off Contract are set out in Annex 2 of this Call-off Schedule 3.

7. INVOICING PROCEDURE

- 7.1 The Customer shall pay all sums properly due and payable to the Supplier in cleared funds within thirty (30) days of receipt of a Valid Invoice, submitted to the address specified by the Customer in paragraph 7.6 of this Call-off Schedule 3 and in accordance with the provisions of this Call-off Contract.
- 7.2 The Supplier shall ensure that each invoice (whether submitted electronically through a purchase-to-pay (P2P) automated system (or similar) or in a paper form, as the Customer may specify (but, in respect of paper form, subject to paragraph 7.3 below)):
- 7.2.1 contains:
- (a) all appropriate references, including the unique order reference number set out in the Call-off Order Form; and
 - (b) a detailed breakdown of the Delivered Services, including the Milestone(s) (if any) and Deliverable(s) within this Call-off Contract to which the Delivered Services relate, against the applicable due and payable Call-off Contract Charges; and
- 7.2.2 shows separately:
- (a) any Service Credits due to the Customer; and
 - (b) the VAT added to the due and payable Call-off Contract Charges in accordance with Clause 23.2.1 of this Call-off Contract (VAT) and the tax point date relating to the rate of VAT shown; and
- 7.2.3 is exclusive of any Management Charge (and the Supplier shall not attempt to increase the Call-off Contract Charges or otherwise recover from the Customer as a surcharge the Management Charge levied on it by the Authority); and
- 7.2.4 it is supported by any other documentation reasonably required by the Customer to substantiate that the invoice is a Valid Invoice.
- 7.3 If the Customer is a Central Government Body, the Customer's right to request paper form invoicing shall be subject to procurement policy note 11/15 (available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437471/PPN_e-invoicing.pdf), which sets out the policy in respect of unstructured electronic invoices submitted by the Supplier to the Customer (as may be amended from time to time).
- 7.4 The Supplier shall accept the Government Procurement Card as a means of payment for the Services where such card is agreed with the Customer to be a suitable means of payment. The Supplier shall be solely liable to pay any merchant fee levied for using the Government Procurement Card and shall not be entitled to recover this charge from the Customer.
- 7.5 All payments due by one Party to the other shall be made within thirty (30) days of receipt of a Valid Invoice unless otherwise specified in this Call-off Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- 7.6 The Supplier shall submit invoices directly to the Customer's billing address set out in the Call-off Order Form.

8. ADJUSTMENT OF CALL-OFF CONTRACT CHARGES

- 8.1 The Call-off Contract Charges shall only be varied:
- 8.1.1 due to a Specific Change in Law in relation to which the Parties agree that a change is required to all or part of the Call-off Contract Charges in accordance with Clause 22.2 of this Call-off Contract (Legislative Change);
 - 8.1.2 in accordance with Clause 23.1.4 of this Call-off Contract (Call-off Contract Charges and Payment) where all or part of the Call-off Contract Charges are reduced as a result of a reduction in the Framework Prices;
 - 8.1.3 where all or part of the Call-off Contract Charges are reduced as a result of a review of the Call-off Contract Charges in accordance with Clause 18 of this Call-off Contract (Continuous Improvement);
 - 8.1.4 where all or part of the Call-off Contract Charges are reduced as a result of a review of Call-off Contract Charges in accordance with Clause 25 of this Call-off Contract (Benchmarking);
 - 8.1.5 where all or part of the Call-off Contract Charges are reviewed and reduced in accordance with paragraph 9 of this Call-off Schedule 3;
 - 8.1.6 where a review and increase of Call-off Contract Charges is requested by the Supplier and Approved, in accordance with the provisions of paragraph 10 of this Call-off Schedule 3; or
 - 8.1.7 where Call-off Contract Charges or any component amounts or sums thereof are expressed in this Call-off Schedule 3 as “subject to increase by way of Indexation”, in accordance with the provisions in paragraph 11 of this Call-off Schedule 3.
- 8.2 Subject to paragraphs 8.1.1 to 8.1.5 of this Call-off Schedule 3, the Call-off Contract Charges will remain fixed for the number of Contract Years specified in the Call-off Order Form.

9. SUPPLIER PERIODIC ASSESSMENT OF CALL-OFF CONTRACT CHARGES

- 9.1 Every six (6) Months during the Call-off Contract Period, the Supplier shall assess the level of the Call-off Contract Charges to consider whether it is able to reduce them.
- 9.2 Such assessments by the Supplier under paragraph 9 of this Call-off Schedule 3 shall be carried out on the dates specified in the Call-off Order Form in each Contract Year (or in the event that such dates do not, in any Contract Year, fall on a Working Day, on the next Working Day following such dates). To the extent that the Supplier is able to decrease all or part of the Call-off Contract Charges it shall promptly notify the Customer in writing and such reduction shall be implemented in accordance with paragraph 12.1.5 of this Call-off Schedule 3 below.

10. SUPPLIER REQUEST FOR INCREASE OF THE CALL-OFF CONTRACT CHARGES

- 10.1 If the Customer has so specified in the Call-off Order Form, the Supplier may request an increase in all or part of the Call-off Contract Charges in accordance with the remaining provisions of this paragraph 10 subject always to:
- 10.1.1 paragraph 3.2 of this Call-off Schedule 3;
 - 10.1.2 the Supplier's request being submitted in writing at least three (3) Months before the effective date for the proposed increase in the

- relevant Call-off Contract Charges ("**Review Adjustment Date**") which shall be subject to paragraph 10.2 of this Call-off Schedule 3; and
- 10.1.3 the Approval of the Customer which shall be granted in the Customer's sole discretion.
- 10.2 The earliest Review Adjustment Date will be the first (1st) Working Day following the anniversary of the Call-off Commencement Date after the expiry of the period specified in paragraph 8.2 of this Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 10 is permitted). Thereafter any subsequent increase to any of the Call-off Contract Charges in accordance with this paragraph 10 of this Call-off Schedule 3 shall not occur before the anniversary of the previous Review Adjustment Date during the Call-off Contract Period.
- 10.3 To make a request for an increase of some or all of the Call-off Contract Charges in accordance with this paragraph 10, the Supplier shall provide the Customer with:
- 10.3.1 a list of the Call-off Contract Charges it wishes to review;
- 10.3.2 for each of the Call-off Contract Charges under review, written evidence of the justification for the requested increase including:
- (a) a breakdown of the profit and cost components that comprise the relevant Call-off Contract Charge;
 - (b) details of the movement in the different identified cost components of the relevant Call-off Contract Charge;
 - (c) reasons for the movement in the different identified cost components of the relevant Call-off Contract Charge;
 - (d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
 - (e) evidence that the Supplier's profit component of the relevant Call-off Contract Charge is no greater than that applying to Call-off Contract Charges using the same pricing mechanism as at the Call-off Commencement Date.

11. INDEXATION

- 11.1 Where the Call-off Contract Charges or any component amounts or sums thereof are expressed in this Call-off Schedule 3 as "subject to increase by way of Indexation" the following provisions shall apply:
- 11.1.1 the relevant adjustment shall:
- (a) be applied on the effective date of the increase in the relevant Call-off Contract Charges by way of Indexation ("**Indexation Adjustment Date**") which shall be subject to paragraph 11.1.2 of this Call-off Schedule 3;
 - (b) be determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index published for the twelve (12) Months ended on the 31st of January immediately preceding the relevant Indexation Adjustment Date;
 - (c) where the published CPI figure at the relevant Indexation Adjustment Date is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately

- confirmed or amended unless the Customer and the Supplier shall agree otherwise;
- (d) if the CPI is no longer published, the Customer and the Supplier shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified in this Call-off Schedule 3.
- 11.1.2 The earliest Indexation Adjustment Date will be the (1st) Working Day following the expiry of the period specified in paragraph 8.2 of this Call-off Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 11 is permitted). Thereafter any subsequent increase by way of Indexation shall not occur before the anniversary of the previous Indexation Adjustment Date during the Call-off Contract Period;
- 11.1.3 Except as set out in this paragraph 11 of this Call-off Schedule 3, neither the Call-off Contract Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-Contractors of the performance of their obligations under this Call-off Contract.

12. IMPLEMENTATION OF ADJUSTED CALL-OFF CONTRACT CHARGES

- 12.1 Variations in accordance with the provisions of this Call-off Schedule 3 to all or part the Call-off Contract Charges (as the case may be) shall be made by the Customer to take effect:
- 12.1.1 in accordance with Clause 22.2 of this Call-off Contract (Legislative Change) where an adjustment to the Call-off Contract Charges is made in accordance with paragraph 8.1.1 of this Call-off Schedule 3;
- 12.1.2 in accordance with Clause 23.1.4 of this Call-off Contract (Call-off Contract Charges and Payment) where an adjustment to the Call-off Contract Charges is made in accordance with paragraph 8.1.2 of this Call-off Schedule 3;
- 12.1.3 in accordance with Clause 18 of this Call-off Contract (Continuous Improvement) where an adjustment to the Call-off Contract Charges is made in accordance with paragraph 8.1.3 of this Call-off Schedule 3;
- 12.1.4 in accordance with Clause 25 of this Call-off Contract (Benchmarking) where an adjustment to the Call-off Contract Charges is made in accordance with paragraph 8.1.4 of this Call-off Schedule 3;
- 12.1.5 on the dates specified in the Call-off Order Form where an adjustment to the Call-off Contract Charges is made in accordance with paragraph 8.1.5 of this Call-off Schedule 3;
- 12.1.6 on the Review Adjustment Date where an adjustment to the Call-off Contract Charges is made in accordance with paragraph 8.1.6 of this Call-off Schedule 3;
- 12.1.7 on the Indexation Adjustment Date where an adjustment to the Call-off Contract Charges is made in accordance with paragraph 8.1.7 of this Call-off Schedule 3;

and the Parties shall amend the Call-off Contract Charges shown in Annex 1 to this Call-off Schedule 3 to reflect such variations.

ANNEX 1: CALL-OFF CONTRACT CHARGES

The below table sets out the maximum charges for the entire contract term, excluding any extension options.

REDACTED

RATE CARD

The below table reflects the above pricing table and specifies the rates that the authority will be charged for each of roles specified below.

REDACTED

ANNEX 2: PAYMENT TERMS/PROFILE

The Customer agrees to pay the Supplier within thirty days of receipt of a valid monthly invoice, which must include all appropriate references and a detailed elemental breakdown of work completed and the associated costs undertaken on their behalf by the supplier. This breakdown shall include any costs charged on a pro-rata basis where appropriate (ie divided by 48 months), but regardless shall not cause the maximum costs set out in Annex 1: Call-off Contract Charges to be exceeded at any point during the contract term (excluding extension options).

The Supplier should ensure all invoices are sent to:

CP2P Team,

DCLG,

REDACTED

Call-off Contract Charges are included within Annex 1.

CALL-OFF SCHEDULE 4: IMPLEMENTATION PLAN

1. INTRODUCTION

1.1 This Call-off Schedule 4 specifies the Implementation Plan in accordance with which the Supplier shall provide the Services.

2. IMPLEMENTATION PLAN

2.1 The Implementation Plan is set out within:

2.1.1 Section 6 “Key Milestones” of Annex 1 to Call-Off Schedule 2: The Services; and

2.1.2 Call-OffSchedule 15: Call-Off Tender

2.2 Where there is any conflict the order of precedence shall be as set out above.

CALL-OFF SCHEDULE 5: TESTING

1. INTRODUCTION

- 1.1 This Call-off Schedule 5 (Testing) sets out the approach to Testing and the different Testing activities to be undertaken, including the preparation and agreement of the Test Strategy and Test Plans.

2. TESTING OVERVIEW

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy and the Test Plans.
- 2.2 Any Disputes between the Supplier and the Customer regarding this Testing shall be referred to the Dispute Resolution Procedure.

3. TEST STRATEGY

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable but in any case no later than sixty (60) Working Days (or such other period as the Parties may agree) after the Call-off Commencement Date.
- 3.2 The final Test Strategy shall include:
 - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
 - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 3.2.3 the procedure to be followed should a Deliverable fail a Test or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
 - 3.2.4 the procedure to be followed to sign off each Test; and
 - 3.2.5 the process for the production and maintenance of reports relating to Tests.

4. TEST PLANS

- 4.1 The Supplier shall develop Test Plans for the approval of the Customer as soon as practicable but in any case no later than sixty (60) Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise) prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 4.2 Each Test Plan shall include as a minimum:
 - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested;

- 4.2.2 a detailed procedure for the Tests to be carried out, including:
- (a) the timetable for the Tests including start and end dates;
 - (b) the Testing mechanism;
 - (c) dates and methods by which the Customer can inspect Test results;
 - (d) the mechanism for ensuring the quality, completeness and relevance of the Tests;
 - (e) the process with which the Customer will review Test Issues and progress on a timely basis; and
 - (f) the re-Test procedure, the timetable and the resources which would be required for re-Testing.
- 4.3 The Customer shall not unreasonably withhold or delay its approval of the Test Plans and the Supplier shall implement any reasonable requirements of the Customer in the Test Plans.

5. TESTING

- 5.1 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 5.2 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Customer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 5.3 If the Supplier successfully completes the requisite Tests, the Customer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Services are implemented in accordance with this Call-off Contract.

6. TEST ISSUES

- 6.1 Where a Test Issue is identified by the Supplier, the Parties shall agree how such Test Issue shall be dealt with and any failure to agree by the Parties shall be resolved in accordance with the Dispute Resolution Procedure.

7. TEST QUALITY AUDIT

- 7.1 Without prejudice to its rights pursuant to Clause 21 (Records, Audit Access and Open Book Data), the Customer or an agent or contractor appointed by the Customer may perform on-going quality audits in respect of any part of the Testing.
- 7.2 If the Customer has any concerns following an audit in accordance with paragraph 7.1 above the Customer will discuss such concerns with the Supplier, giving the Supplier the opportunity to provide feedback in relation to specific activities, and subsequently

prepare a written report for the Supplier detailing the same to which the Supplier shall, within a reasonable timeframe, respond in writing.

- 7.3 In the event of an inadequate response to the written report from the Supplier, the Customer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Customer.

8. OUTCOME OF TESTING

8.1 The Customer will issue a Satisfaction Certificate when it is satisfied that a Milestone has been Achieved.

8.2 If any Milestones (or any relevant part thereof) do not pass the Test in respect thereof then:

8.2.1 the Supplier shall rectify the cause of the failure and re-submit the Deliverables (or the relevant part) to Testing, provided that the Parties agree that there is sufficient time for that action prior to the relevant Milestone Date; or

8.2.2 the Parties shall treat the failure as a Supplier Default.

ANNEX 1: SATISFACTION CERTIFICATE

To: [insert name of Supplier]

FROM: [insert name of Customer]

[insert Date: dd/mm/yyyy]

Dear Sirs,

SATISFACTION CERTIFICATE

[Deliverable(s)/Milestone(s)]: *[Insert relevant description of the agreed Deliverables/Milestones]*

We refer to the agreement ("**Call-off Contract**") [insert Call-off Contract reference number] relating to the provision of the [insert description of the Services] between the [*insert Customer name*] ("**Customer**") and [*insert Supplier name*] ("**Supplier**") dated [*insert Call-off Commencement Date dd/mm/yyyy*].

The definitions for any capitalised terms in this certificate are as set out in the Call-off Contract.

We confirm that all the [Deliverables/Milestones] relating to [] [*insert relevant description of agreed Deliverables/Milestones and/or reference numbers(s) from the Implementation Plan*] have been completed.

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Customer]

CALL-OFF SCHEDULE 6: SERVICE LEVELS, SERVICE CREDITS AND PERFORMANCE MONITORING

9. SCOPE

- 9.1 This Call-off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) sets out the Service Levels which the Supplier is required to achieve when providing the Services, the mechanism by which Service Level Failures and Critical Service Level Failures will be managed and the method by which the Supplier's performance in the provision by it of the Services will be monitored.
- 9.2 This Call-off Schedule 6 comprises:
 - 9.2.1 Part A: Service Levels and Service Credits;
 - 9.2.2 Annex 1 to Part A - Service Levels and Service Credits Table; and
 - 9.2.3 Annex 1 to Part B: Performance Monitoring.

PART A: SERVICE LEVELS AND SERVICE CREDITS

10. GENERAL PROVISIONS

- 10.1 The Supplier shall provide a proactive Call-off Contract manager to ensure that all Service Levels in this Call-off Contract and Key Performance Indicators in the Framework Agreement are achieved to the highest standard throughout, respectively, the Call-off Contract Period and the Framework Period.
- 10.2 The Supplier shall provide a managed service through the provision of a dedicated Call-off Contract manager where required on matters relating to:
- 10.2.1 Service Delivery and Methodology;
 - 10.2.2 Implementation and Transition;
 - 10.2.3 Account and Contract Management and;
 - 10.2.4 Price;
- 10.3 The Supplier accepts and acknowledges that failure to meet the Service Level Performance Measures set out in the table in Annex 1 to this Part A of this Call-off Schedule 6 will result in Service Credits being issued to Customers.

11. PRINCIPAL POINTS

- 11.1 The objectives of the Service Levels and Service Credits are to:
- 11.1.1 ensure that the Services are of a consistently high quality and meet the requirements of the Customer;
 - 11.1.2 provide a mechanism whereby the Customer can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted to deliver; and
 - 11.1.3 incentivise the Supplier to comply with and to expeditiously remedy any failure to comply with the Service Levels.

12. SERVICE LEVELS

- 12.1 Annex 1 to this Part A of this Call-off Schedule 6 sets out the Service Levels the performance of which the Parties have agreed to measure.
- 12.2 The Supplier shall monitor its performance of this Call-off Contract by reference to the relevant performance criteria for achieving the Service Levels shown in Annex 1 to this Part A of this Call-off Schedule 6 (the "**Service Level Performance Criteria**") and shall

send the Customer a Performance Monitoring Report detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Call-off Schedule 6.

12.3 The Supplier shall, at all times, provide the Services in such a manner that the Service Levels Performance Measures are achieved.

12.4 If the level of performance of the Supplier of any element of the provision by it of the Services during the Call-off Contract Period:

12.4.1 is likely to or fails to meet any Service Level Performance Measure or

12.4.2 is likely to cause or causes a Critical Service Failure to occur,

12.4.3 the Supplier shall immediately notify the Customer in writing and the Customer, in its absolute discretion and without prejudice to any other of its rights howsoever arising including under Clause 13 of this Call-off Contract (Service Levels and Service Credits), may:

- (a) require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Customer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring; and
- (b) if the action taken under paragraph (a) above has not already prevented or remedied the Service Level Failure or Critical Service Level Failure, the Customer shall be entitled to instruct the Supplier to comply with the Rectification Plan Process; or
- (c) if a Service Level Failure has occurred, deduct from the Call-off Contract Charges the applicable Service Level Credits payable by the Supplier to the Customer in accordance with the calculation formula set out in Annex 1 of this Part A of this Call-off Schedule 6; or
- (d) if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure in accordance with Clause 14 of this Call-off Contract (Critical Service Level Failure) (including subject, for the avoidance of doubt, the proviso in Clause 14.2.2 of this Call-off Contract in relation to Material Breach).

12.5 Approval and implementation by the Customer of any Rectification Plan shall not relieve the Supplier of any continuing responsibility to achieve the Service Levels, or remedy any failure to do so, and no estoppels or waiver shall arise from any such Approval and/or implementation by the Customer.

13. SERVICE CREDITS

13.1 Annex 1 to this Part A of this Call-off Schedule 6 sets out the formula used to calculate a Service Credit payable to the Customer as a result of a Service Level Failure in a given service period which, for the purpose of this Call-off Schedule 6, shall be a recurrent period of one Month during the Call-off Contract Period (the “**Service Period**”).

- 13.2 Annex 1 to this Part A of this Call-off Schedule 6 includes details of each Service Credit available to each Service Level Performance Criterion if the applicable Service Level Performance Measure is not met by the Supplier.
- 13.3 The Customer shall use the Performance Monitoring Reports supplied by the Supplier under Part B (Performance Monitoring) of this Call-off Schedule 6 to verify the calculation and accuracy of the Service Credits, if any, applicable to each relevant Service Period.
- 13.4 Service Credits are a reduction of the amounts payable in respect of the Services and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in Annex 1 of Part A of this Call-off Schedule 6.

14. NATURE OF SERVICE CREDITS

- 14.1 The Supplier confirms that it has modelled the Service Credits and has taken them into account in setting the level of the Call-off Contract Charges. Both Parties agree that the Service Credits are a reasonable method of price adjustment to reflect poor performance.

ANNEX 1 TO PART A: SERVICE LEVELS AND SERVICE CREDITS TABLE

As set out in Annex 1 to Call-off Schedule 2: Services

ANNEX 1 TO PART B: PERFORMANCE MONITORING

1. PRINCIPAL POINTS

- 1.1 Part B to this Call-off Schedule 6 provides the methodology for monitoring the provision of the Services:
 - 1.1.1 to ensure that the Supplier is complying with the Service Levels; and
 - 1.1.2 for identifying any failures to achieve Service Levels in the performance of the Supplier and/or provision of the Services ("**Performance Monitoring System**").
- 1.2 Within twenty (20) Working Days of the Call-off Commencement Date the Supplier shall provide the Customer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

2. REPORTING OF SERVICE FAILURES

- 2.1 The Supplier shall report all failures to achieve Service Levels and any Critical Service Level Failure to the Customer in accordance with the processes agreed in paragraph 1.2 of Part B of this Call-off Schedule 6 above.

3. PERFORMANCE MONITORING AND PERFORMANCE REVIEW

- 3.1 The Supplier shall provide the Customer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 1.2 of Part B of this Call-off Schedule 6 above which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 3.1.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 3.1.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 3.1.3 any Critical Service Level Failures and details in relation thereto;
 - 3.1.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 3.1.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 3.1.6 such other details as the Customer may reasonably require from time to time.

- 3.2 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a monthly basis (unless otherwise agreed). The Performance Review Meetings will be the forum for the review by the Supplier and the Customer of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):
- 3.2.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier;
 - 3.2.2 take place at such location and time (within normal business hours) as the Customer shall reasonably require unless otherwise agreed in advance;
 - 3.2.3 be attended by the Supplier's Representative and the Customer's Representative; and
 - 3.2.4 be fully minuted by the Supplier. The prepared minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Customer's Representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Customer's Representative at each meeting.
- 3.3 The Customer shall be entitled to raise any additional questions and/or request any further information regarding any failure to achieve Service Levels.
- 3.4 The Supplier shall provide to the Customer such supporting documentation as the Customer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

4. SATISFACTION SURVEYS

- 4.1 In order to assess the level of performance of the Supplier, the Customer may undertake satisfaction surveys in respect of the Supplier's provision of the Services.
- 4.2 The Customer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Services which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Call-off Contract.
- 4.3 All other suggestions for improvements to the provision of Services shall be dealt with as part of the continuous improvement programme pursuant to Clause 18 of this Call-off Contract (Continuous Improvement).

CALL-OFF SCHEDULE 7: SECURITY

1. DEFINITIONS

1.1 In this Call-off Schedule 7, the following definitions shall apply:

"Breach of Security" means the occurrence of:

- a) any unauthorised access to or use of the Services, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Customer Data) used by the Customer and/or the Supplier in connection with this Call-off Contract; and/or
- b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Customer Data), including any copies of such information or data, used by the Customer and/or the Supplier in connection with this Call-off Contract,

in either case as more particularly set out in the Security Policy;

2. INTRODUCTION

2.1 The purpose of this Call-off Schedule 7 is to ensure a good organisational approach to security under which the specific requirements of this Call-off Contract will be met;

2.2 This Call-off Schedule 7 covers:

- 2.2.1 principles of protective security to be applied in delivering the Services;
- 2.2.2 the creation and maintenance of the Security Management Plan; and
- 2.2.3 obligations in the event of actual or attempted Breaches of Security.

3. PRINCIPLES OF SECURITY

- 3.1 The Supplier acknowledges that the Customer places great emphasis on the reliability of the performance of the Services, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
 - 3.2.1 is in accordance with the Law and this Call-off Contract;
 - 3.2.2 as a minimum demonstrates Good Industry Practice;
 - 3.2.3 complies with the Security Policy;
 - 3.2.4 meets any specific security threats of immediate relevance to the Services and/or the Customer Data; and
 - 3.2.5 complies with the Customer's ICT Policy.
- 3.3 Subject to Clause 34 of this Call-off Contract (Security and Protection of Information) the references to standards, guidance and policies contained or set out in paragraph 3.2 of this Call-off Schedule 7 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Customer's Representative of such inconsistency immediately upon becoming aware of the same, and the Customer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

4. SECURITY MANAGEMENT PLAN

- 4.1 Introduction
 - 4.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Call-off Schedule 7. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.
- 4.2 Content of the Security Management Plan
 - 4.2.1 The Security Management Plan shall:
 - (a) comply with the principles of security set out in paragraph 3 of this Call-off Schedule 7 and any other provisions of this Call-off Contract relevant to security;

- (b) identify the necessary delegated organisational roles defined for those responsible for ensuring it is complied with by the Supplier;
- (c) detail the process for managing any security risks from Sub-Contractors and third parties authorised by the Customer with access to the Services, processes associated with the provision of the Services, the Customer Premises, the Sites and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Services;
- (d) unless otherwise specified by the Customer in writing, be developed to protect all aspects of the Services and all processes associated with the provision of the Services, including the Customer Premises, the Sites, and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) to the extent used by the Customer or the Supplier in connection with this Call-off Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Services;
- (e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the provision of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Call-off Contract;
- (f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Call-off Contract and the Security Policy; and
- (g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Customer engaged in the provision of the Services and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Call-off Schedule 7.

4.3 Development of the Security Management Plan

- 4.3.1 Within twenty (20) Working Days after the Call-off Commencement Date (or such other period agreed by the Parties in writing) and in accordance with paragraph 4.4 (Amendment and Revision of the Security Management Plan), the Supplier shall prepare and deliver to the Customer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Customer in accordance with paragraph 4.3.1, or any subsequent revision to it in accordance with paragraph 4.4 (Amendment and Revision of the Security Management Plan), is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Call-off Schedule 7. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days or such other period as the Parties may agree in writing of a

notice of non-approval from the Customer and re-submit to the Customer for Approval. The parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the parties may agree in writing) from the date of its first submission to the Customer. If the Customer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

4.3.3 The Customer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to paragraph 4.3.2. However a refusal by the Customer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 4.2 shall be deemed to be reasonable.

4.3.4 Approval by the Customer of the Security Management Plan pursuant to paragraph 4.3.2 of this Call-off Schedule 7 or of any change to the Security Management Plan in accordance with paragraph 4.4 shall not relieve the Supplier of its obligations under this Call-off Schedule 7.

4.4 Amendment and Revision of the Security Management Plan

4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:

- (a) emerging changes in Good Industry Practice;
- (b) any change or proposed change to the Services and/or associated processes;
- (c) any change to the Security Policy;
- (d) any new perceived or changed security threats; and
- (e) any reasonable change in requirements requested by the Customer.

4.4.2 The Supplier shall provide the Customer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Customer. The results of the review shall include, without limitation:

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

4.4.3 Subject to paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with paragraph 4.4.1, a request by the Customer or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved by the Customer.

- 4.4.4 The Customer may, where it is reasonable to do so, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Call-off Contract.

5. BREACH OF SECURITY

- 5.1 Either party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan if one exists) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 5.1, the Supplier shall:
- 5.2.1 immediately take all reasonable steps(which shall include any action or changes reasonably required by the Customer) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - (b) remedy such Breach of Security to the extent possible and protect the integrity of the Customer and the provision of the Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
 - (c) prevent an equivalent breach in the future exploiting the same root cause failure; and
 - (d) as soon as reasonably practicable provide to the Customer, where the Customer so requests, full details (using the reporting mechanism defined by the Security Management Plan if one exists) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Customer.
- 5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security policy or the requirements of this Call-off Schedule 7, then any required change to the Security Management Plan shall be at no cost to the Customer.

CALL-OFF SCHEDULE 8: BUSINESS CONTINUITY AND DISASTER RECOVERY

1. DEFINITIONS

1.1 In this Call-off Schedule 8, the following definitions shall apply:

"Business Continuity Plan"	has the meaning given to it in paragraph 2.2.1(b) of this Call-off Schedule 8;
"Disaster Recovery Plan"	has the meaning given to it in 2.2.1(c) of this Call-off Schedule 8;
"Disaster Recovery System"	means the system embodied in the processes and procedures for restoring the provision of Services following the occurrence of a disaster;
"Review Report"	has the meaning given to it in paragraph 6.2 of this Call-off Schedule 8;
"Supplier's Proposals"	has the meaning given to it in paragraph 6.2.3 of this Call-off Schedule 8;

2. BCDR PLAN

2.1 Within thirty Working Days from the Call-off Commencement Date the Supplier shall prepare and deliver to the Customer for the Customer's written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and
- 2.1.2 the recovery of the Services in the event of a Disaster.

2.2 The BCDR Plan shall:

- 2.2.1 be divided into three parts:
 - (a) Part A which shall set out general principles applicable to the BCDR Plan;
 - (b) Part B which shall relate to business continuity (the "**Business Continuity Plan**"); and
 - (c) Part C which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and

- 2.2.2 unless otherwise required by the Customer in writing, be based upon and be consistent with the provisions of paragraphs 3, 4 and 5.
- 2.3 Following receipt of the draft BCDR Plan from the Supplier, the Customer shall:
 - 2.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and
 - 2.3.2 notify the Supplier in writing that it approves or rejects the draft BCDR Plan no later than twenty (20) Working Days after the date on which the draft BCDR Plan is first delivered to the Customer.
- 2.4 If the Customer rejects the draft BCDR Plan:
 - 2.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and
 - 2.4.2 the Supplier shall then revise the draft BCDR Plan (taking reasonable account of the Customer's comments) and shall re-submit a revised draft BCDR Plan to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 2.3 and 2.4 of this Call-off Schedule 8 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3. PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

- 3.1 Part A of the BCDR Plan shall:
 - 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the provision of the Services and any Services provided to the Customer by a Related Supplier;
 - 3.1.3 contain an obligation upon the Supplier to liaise with the Customer and (at the Customer's request) any Related Suppliers with respect to issues concerning business continuity and disaster recovery where applicable;
 - 3.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Customer and any of its other Related Supplier in each case as notified to the Supplier by the Customer from time to time;
 - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Customer;
 - 3.1.6 contain a risk analysis, including:

- (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Services and processes for managing the risks arising therefrom;
 - (c) identification of risks arising from the interaction of the provision of Services and with the Services provided by a Related Supplier; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-Contractors) and for the Customer;
- 3.1.9 identify the procedures for reverting to “normal service”;
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
- 3.1.11 identify the responsibilities (if any) that the Customer has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical advice and assistance to key contacts at the Customer as notified by the Customer from time to time to inform decisions in support of the Customer’s business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
- 3.2.1 the Services are provided in accordance with this Call-off Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Customer is minimal as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002 and all other industry standards from time to time in force; and
 - 3.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the provision of Services.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Call-off Contract.

4. BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the provision of Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Customer expressly states otherwise in writing:
 - 4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Services; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
 - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Services;
 - 4.2.2 set out the Services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such Services and steps, the “**Business Continuity Services**”);
 - 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Services during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5. DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Customer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
 - 5.3.1 the technical design and build specification of the Disaster Recovery System;
 - 5.3.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
 - (a) data centre and disaster recovery site audits;

- (b) backup methodology and details of the Supplier's approach to data back-up and data verification;
 - (c) identification of all potential disaster scenarios;
 - (d) risk analysis;
 - (e) documentation of processes and procedures;
 - (f) hardware configuration details;
 - (g) network planning including details of all relevant data networks and communication links;
 - (h) invocation rules;
 - (i) Service recovery procedures; and
 - (j) steps to be taken upon resumption of the provision of Services to address any prevailing effect of the failure or disruption of the provision of Services;
- 5.3.3 any applicable Service Levels with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Services during any period of invocation of the Disaster Recovery Plan;
- 5.3.4 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.3.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule 8; and
- 5.3.6 testing and management arrangements.

6. REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1 The Supplier shall review the BCDR Plan (and the risk analysis on which it is based):
- 6.1.1 on a regular basis and as a minimum once every six (6) months;
 - 6.1.2 within three calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
 - 6.1.3 where the Customer requests any additional reviews (over and above those provided for in paragraphs 6.1.1 and 6.1.2 of this Call-off Schedule 8) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Customer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Customer for the Customer's approval. The costs of both

Parties of any such additional reviews shall be met by the Customer except that the Supplier shall not be entitled to charge the Customer for any costs that it may incur above any estimate without the Customer's prior written approval.

- 6.2 Each review of the BCDR Plan pursuant to paragraph 6.1 of this Call-off Schedule 8 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within the period required by the BCDR Plan or, if no such period is required, within such period as the Customer shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Customer a report (a **"Review Report"**) setting out:
- 6.2.1 the findings of the review;
 - 6.2.2 any changes in the risk profile associated with the provision of Services; and
 - 6.2.3 the Supplier's proposals (the **"Supplier's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.
- 6.3 Following receipt of the Review Report and the Supplier's Proposals, the Customer shall:
- 6.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
 - 6.3.2 notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Customer.
- 6.4 If the Customer rejects the Review Report and/or the Supplier's Proposals:
- 6.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and
 - 6.4.2 the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Customer's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 6.3 and 6.4 of this Call-off Schedule 8 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the Customer's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

7. TESTING OF THE BCDR PLAN

- 7.1 The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 7.2 of this Call-off Schedule 8, the Customer may require the Supplier to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Customer considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 7.2 If the Customer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Customer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Customer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with the Customer and shall liaise with the Customer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Customer in this regard. Each test shall be carried out under the supervision of the Customer or its nominee.
- 7.4 The Supplier shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with the Customer. Copies of live test data used in any such testing shall be (if so required by the Customer) destroyed or returned to the Customer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Customer a report setting out:
- 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Customer, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Customer, by the date reasonably required by the Customer and set out in such notice.

- 7.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of any of its obligations under this Call-off Contract.
- 7.8 The Supplier shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Customer.

8. INVOCATION OF THE BCDR PLAN

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Customer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Customer.

CALL-OFF SCHEDULE 9: EXIT MANAGEMENT

1. DEFINITIONS

1.1 In this Call-off Schedule 9, the following definitions shall apply:

"Exclusive Assets"	means those Supplier Assets used by the Supplier or a Key Sub-Contractor which are used exclusively in the provision of the Services;
"Exit Information"	has the meaning given to it in paragraph 4.1 of this Call-off Schedule 9;
"Exit Manager"	means the person appointed by each Party pursuant to paragraph 3.4 of this Call-off Schedule 9 for managing the Parties' respective obligations under this Call-off Schedule 9;
"Net Book Value"	means the net book value of the relevant Supplier Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Customer of even date with this Call-off Contract;
"Non-Exclusive Assets"	means those Supplier Assets (if any) which are used by the Supplier or a Key Sub-Contractor in connection with the Services but which are also used by the Supplier or Key Sub-Contractor for other purposes;
"Registers"	means the register and configuration database referred to in paragraphs 3.1.1 and 3.1.2 of this Call-off Schedule 9;
"Termination Assistance"	means the activities to be performed by the Supplier pursuant to the Exit Plan, and any

	other assistance required by the Customer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in paragraph 6.1 of this Call-off Schedule 9;
"Termination Assistance Period"	means in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to paragraph 6.2 of this Call-off Schedule 9;
"Transferable Assets"	means those of the Exclusive Assets which are capable of legal transfer to the Customer;
"Transferable Contracts"	means the Sub-Contracts, licences for Supplier Background IPR, Project Specific IPR, licences for Third Party IPR or other agreements which are necessary to enable the Customer or any Replacement Supplier to provide the Services or the Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in paragraph 9.2.1 of this Call-off Schedule 9;
"Transferring Contracts"	has the meaning given to it in paragraph 9.2.3 of this Call-off Schedule 9.

2. INTRODUCTION

- 2.1 This Call-off Schedule 9 describes provisions that should be included in the Exit Plan, the duties and responsibilities of the Supplier to the Customer leading up to and covering the Call-off Expiry Date and the transfer of service provision to the Customer and/or a Replacement Supplier.
- 2.2 The objectives of the exit planning and service transfer arrangements are to ensure a smooth transition of the availability of the Services from the Supplier to the Customer and/or a Replacement Supplier at the Call-off Expiry Date.

3. OBLIGATIONS DURING THE CALL-OFF CONTRACT PERIOD TO FACILITATE EXIT

- 3.1 During the Call-off Contract Period, the Supplier shall:
 - 3.1.1 create and maintain a Register of all:
 - (a) Supplier Assets, detailing their:
 - (i) make, model and asset number;
 - (ii) ownership and status as either Exclusive Assets or Non-Exclusive Assets;
 - (iii) Net Book Value;
 - (iv) condition and physical location; and
 - (v) use (including technical specifications); and
 - (b) Sub-Contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services;
 - 3.1.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Services, which shall contain sufficient detail to permit the Customer and/or Replacement Supplier to understand how the Supplier provides the Services and to enable the smooth transition of the Services with the minimum of disruption;
 - 3.1.3 agree the format of the Registers with the Customer as part of the process of agreeing the Exit Plan; and
 - 3.1.4 at all times keep the Registers up to date, in particular in the event that Assets, Sub-Contracts or other relevant agreements are added to or removed from the Services.
- 3.2 The Supplier shall:
 - 3.2.1 procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Services under this Call-off Contract; and

- 3.2.2 (unless otherwise agreed by the Customer in writing) procure that all licences for Third Party IPR and all Sub-Contracts shall be assignable and/or capable of novation at the request of the Customer to the Customer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by the Customer.
- 3.3 Where the Supplier is unable to procure that any Sub-Contract or other agreement referred to in paragraph 3.2.2 of this Call-off Schedule 9 which the Supplier proposes to enter into after the Call-off Commencement Date is assignable and/or capable of novation to the Customer (and/or its nominee) and/or any Replacement Supplier without restriction or payment, the Supplier shall promptly notify the Customer of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the Customer so directs, may include the Supplier seeking an alternative Sub-Contractor or provider of Services to which the relevant agreement relates.
- 3.4 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Call-off Schedule 9 and provide written notification of such appointment to the other Party within three (3) months of the Call-off Commencement Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-Contractors comply with this Call-off Schedule 9. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Call-off Schedule 9. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Call-off Contract and all matters connected with this Call-off Schedule 9 and each Party's compliance with it.

4. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 4.1 On reasonable notice at any point during the Call-off Contract Period, the Supplier shall provide to the Customer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Customer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
- 4.1.1 details of the Service(s);
 - 4.1.2 a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;
 - 4.1.3 an inventory of Customer Data in the Supplier's possession or control;
 - 4.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
 - 4.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Services;

- 4.1.6 all information relating to Transferring Supplier Employees required to be provided by the Supplier under this Call-off Contract; and
- 4.1.7 such other material and information as the Customer shall reasonably require,
(together, the “**Exit Information**”).
- 4.2 The Supplier acknowledges that the Customer may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Customer is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Customer may not under this paragraph 4.2 of this Call-off Schedule 9 disclose any Supplier’s Confidential Information which is information relating to the Supplier’s or its Sub-Contractors’ prices or costs).
- 4.3 The Supplier shall:
 - 4.3.1 notify the Customer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Services and shall consult with the Customer regarding such proposed material changes; and
 - 4.3.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Customer.
- 4.4 The Supplier may charge the Customer for its reasonable additional costs to the extent the Customer requests more than four (4) updates in any six (6) month period.
- 4.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:
 - 4.5.1 prepare an informed offer for those Services; and
 - 4.5.2 not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).

5. EXIT PLAN

- 5.1 The Supplier shall, within three (3) months after the Call-off Commencement Date, deliver to the Customer an Exit Plan which:
 - 5.1.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the Services from the Supplier to the Customer and/or its Replacement Supplier on the expiry or termination of this Call-off Contract;
 - 5.1.2 complies with the requirements set out in paragraph 5.3 of this Call-off Schedule 9;
 - 5.1.3 is otherwise reasonably satisfactory to the Customer.

- 5.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 5.3 Unless otherwise specified by the Customer or Approved, the Exit Plan shall set out, as a minimum:
- 5.3.1 how the Exit Information is obtained;
 - 5.3.2 the management structure to be employed during both transfer and cessation of the Services;
 - 5.3.3 the management structure to be employed during the Termination Assistance Period;
 - 5.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
 - 5.3.5 how the Services will transfer to the Replacement Supplier and/or the Customer, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Customer's technology components from any technology components operated by the Supplier or its Sub-Contractors (where applicable);
 - 5.3.6 details of contracts (if any) which will be available for transfer to the Customer and/or the Replacement Supplier upon the Call-off Expiry Date together with any reasonable costs required to effect such transfer (and the Supplier agrees that all assets and contracts used by the Supplier in connection with the provision of the Services will be available for such transfer);
 - 5.3.7 proposals for the training of key members of the Replacement Supplier's personnel in connection with the continuation of the provision of the Services following the Call-off Expiry Date charged at rates agreed between the Parties at that time;
 - 5.3.8 proposals for providing the Customer or a Replacement Supplier copies of all documentation:
 - (a) used in the provision of the Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Supplier; and
 - (b) relating to the use and operation of the Services;
 - 5.3.9 proposals for the assignment or novation of the provision of all services, leases, maintenance agreements and support agreements utilised by the Supplier in connection with the performance of the supply of the Services;
 - 5.3.10 proposals for the identification and return of all Customer Property in the possession of and/or control of the Supplier or any third party (including any Sub-Contractor);
 - 5.3.11 proposals for the disposal of any redundant Services and materials;
 - 5.3.12 procedures to deal with requests made by the Customer and/or a Replacement Supplier for Staffing Information pursuant to Call-off Schedule 10 (Staff Transfer);

- 5.3.13 how each of the issues set out in this Call-off Schedule 9 will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or the Customer with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period; and
- 5.3.14 proposals for the supply of any other information or assistance reasonably required by the Customer or a Replacement Supplier in order to effect an orderly handover of the provision of the Services.

6. TERMINATION ASSISTANCE

- 6.1 The Customer shall be entitled to require the provision of Termination Assistance at any time during the Call-off Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) months prior to the Call-off Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
 - 6.1.1 the date from which Termination Assistance is required;
 - 6.1.2 the nature of the Termination Assistance required; and
 - 6.1.3 the period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) months after the date that the Supplier ceases to provide the Services.
- 6.2 The Customer shall have an option to extend the Termination Assistance Period beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than six (6) months after the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Customer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier to such effect.

7. TERMINATION ASSISTANCE PERIOD

- 7.1 Throughout the Termination Assistance Period, or such shorter period as the Customer may require, the Supplier shall:
 - 7.1.1 continue to provide the Services (as applicable) and, if required by the Customer pursuant to paragraph 6.1 of this Call-off Schedule 9, provide the Termination Assistance;
 - 7.1.2 in addition to providing the Services and the Termination Assistance, provide to the Customer any reasonable assistance requested by the Customer to allow the Services to continue without interruption following the termination or expiry of this Call-off Contract and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Customer and/or its Replacement Supplier;

- 7.1.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call-off Schedule 9 without additional costs to the Customer;
 - 7.1.4 provide the Services and the Termination Assistance at no detriment to the Service Level Performance Measures, save to the extent that the Parties agree otherwise in accordance with paragraph 7.3; and
 - 7.1.5 at the Customer's request and on reasonable notice, deliver up-to-date Registers to the Customer.
- 7.2 Without prejudice to the Supplier's obligations under paragraph 7.1.3 of this Call-off Schedule 9, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call-off Schedule 9 without additional costs to the Customer, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Assistance or the Exit Plan shall be subject to the Variation Procedure.
- 7.3 If the Supplier demonstrates to the Customer's reasonable satisfaction that transition of the Services and provision of the Termination Assist during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Level Performance Measure(s), the Parties shall vary the relevant Service Level Performance Measure(s) and/or the applicable Service Credits to take account of such adverse effect.

8. TERMINATION OBLIGATIONS

- 8.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 8.2 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Call-off Schedule 9), the Supplier shall:
- 8.2.1 cease to use the Customer Data;
 - 8.2.2 provide the Customer and/or the Replacement Supplier with a complete and uncorrupted version of the Customer Data in electronic form (or such other format as reasonably required by the Customer);
 - 8.2.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Customer Data and promptly certify to the Customer that it has completed such deletion;
 - 8.2.4 return to the Customer such of the following as is in the Supplier's possession or control:
 - (a) all materials created by the Supplier under this Call-off Contract in which the IPRs are owned by the Customer;
 - (b) any equipment which belongs to the Customer;
 - (c) any items that have been on-charged to the Customer, such as consumables; and

- (d) all Customer Property issued to the Supplier under Clause 31 of this Call-off Contract (Customer Property). Such Customer Property shall be handed back to the Customer in good working order (allowance shall be made only for reasonable wear and tear);
 - (e) any sums prepaid by the Customer in respect of Services not Delivered by the Call-off Expiry Date;
- 8.2.5 vacate any Customer Premises;
- 8.2.6 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Services and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier and/or any Supplier Personnel;
- 8.2.7 provide access during normal working hours to the Customer and/or the Replacement Supplier for up to twelve (12) months after expiry or termination to:
 - (a) such information relating to the Services as remains in the possession or control of the Supplier; and
 - (b) such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Customer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this paragraph.
- 8.3 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Call-off Schedule 9), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or termination services or for statutory compliance purposes.
- 8.4 Except where this Call-off Contract provides otherwise, all licences, leases and authorisations granted by the Customer to the Supplier in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

9. ASSETS AND SUB-CONTRACTS

- 9.1 Following notice of termination of this Call-off Contract and during the Termination Assistance Period, the Supplier shall not, without the Customer's prior written consent:
- 9.1.1 terminate, enter into or vary any Sub-Contract;
 - 9.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets; or
 - 9.1.3 terminate, enter into or vary any licence for software in connection with the provision of Services.
- 9.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to paragraph 7.1.5 of this Call-off Schedule 9, the Customer shall provide written notice to the Supplier setting out:
- 9.2.1 which, if any, of the Transferable Assets the Customer requires to be transferred to the Customer and/or the Replacement Supplier (“**Transferring Assets**”);
 - 9.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets,the Customer and/or the Replacement Supplier requires the continued use of; and
 - 9.2.3 which, if any, of Transferable Contracts the Customer requires to be assigned or novated to the Customer and/or the Replacement Supplier (the “**Transferring Contracts**”),
- in order for the Customer and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Customer and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Customer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Customer and/or its Replacement Supplier requires to provide the Services or the Replacement Services.
- 9.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Customer and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where the cost of the Transferring Asset has been partially or fully paid for through the Call-off Contract Charges at the Call-off expiry Date, in which case the Customer shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Call-off Contract Charges.
- 9.4 Risk in the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) on payment for the same.

- 9.5 Where the Supplier is notified in accordance with paragraph 9.2.2 of this Call-off Schedule 9 that the Customer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 9.5.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Customer) for the Customer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - 9.5.2 procure a suitable alternative to such assets and the Customer or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.
- 9.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Customer and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Customer reasonably requires to effect this novation or assignment.
- 9.7 The Customer shall:
- 9.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - 9.7.2 once a Transferring Contract is novated or assigned to the Customer and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 9.8 The Supplier shall hold any Transferring Contracts on trust for the Customer until such time as the transfer of the relevant Transferring Contract to the Customer and/or the Replacement Supplier has been effected.
- 9.9 The Supplier shall indemnify the Customer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Customer (and/or Replacement Supplier) pursuant to paragraph 9.6 of this Call-off Schedule 9 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract.

10. SUPPLIER PERSONNEL

- 10.1 The Customer and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Services or part of them for any reason, Call-off Schedule 10 (Staff Transfer) shall apply.
- 10.2 The Supplier shall not take any step (expressly or implicitly and directly or indirectly by itself or through any other person) to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Customer and/or the Replacement Supplier.

- 10.3 During the Termination Assistance Period, the Supplier shall give the Customer and/or the Replacement Supplier reasonable access to the Supplier's personnel to present the case for transferring their employment to the Customer and/or the Replacement Supplier.
- 10.4 The Supplier shall immediately notify the Customer or, at the direction of the Customer, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
- 10.5 The Supplier shall not for a period of twelve (12) months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-Contractors whose employment or engagement is transferred to the Customer and/or the Replacement Supplier, unless approval has been obtained from the Customer which shall not be unreasonably withheld.

11. CHARGES

- 11.1 Except as otherwise expressly specified in this Call-off Contract, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Customer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Call-off Schedule 9 including the preparation and implementation of the Exit Plan, the Termination Assistance and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

12. APPORTIONMENTS

- 12.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Customer and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:
- 12.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
- 12.1.2 the Customer shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
- 12.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 12.2 Each Party shall pay (and/or the Customer shall procure that the Replacement Supplier shall pay) any monies due under paragraph 12.1 of this Call-off Schedule 9 as soon as reasonably practicable.

CALL-OFF SCHEDULE 10: STAFF TRANSFER

1. DEFINITIONS

In this Call-off Schedule 10, the following definitions shall apply:

“Admission Agreement”	The agreement to be entered into by which the supplier agrees to participate in the Schemes as amended from time to time;
“Eligible Employee”	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Agreement;
“Employee Liabilities”	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:</p> <ul style="list-style-type: none">(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;(b) unfair, wrongful or constructive dismissal compensation;(c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy

and maternity or sexual orientation or claims for equal pay;

- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;

any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

“Fair Deal Employees”

those Transferring Customer Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal and any Transferring Former Supplier Employees who originally transferred pursuant to a Relevant Transfer under the Employment Regulations (or the predecessor legislation to the Employment Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal;

“Former Supplier”

a supplier supplying services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);

“New Fair Deal”	the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October 2013;
“Notified Sub-Contractor”	a Sub-Contractor identified in the Annex to this Call-off Schedule 10 to whom Transferring Customer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“Replacement Sub-Contractor”	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
“Relevant Transfer”	a transfer of employment to which the Employment Regulations applies;
“Relevant Transfer Date”	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
“Schemes”	the Principal Civil Service Pension Scheme available to employees of the civil service and employees of bodies under the Superannuation Act 1972, as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme; and the 2015 New Scheme (with effect from a date to be notified to the Supplier by the Minister for the Cabinet Office);
“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
“Service Transfer Date”	the date of a Service Transfer;

“Staffing Information”

in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Customer may reasonably request (subject to all applicable provisions of the DPA), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);

- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations;

“Supplier’s Final Supplier Personnel List”

a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Relevant Transfer Date;

“Supplier’s Provisional Supplier Personnel List”

a list prepared and updated by the Supplier of all Supplier Personnel who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;

“Transferring Customer Employees”

those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;

“Transferring Former Supplier Employees”

in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and

“Transferring Supplier Employees”

those employees of the Supplier and/or the Supplier’s Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. INTERPRETATION

Where a provision in this Call-off Schedule 10 imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Customer, Former Supplier, Replacement Supplier or Replacement Sub-Contractor, as the case may be.

PART A

TRANSFERRING CUSTOMER EMPLOYEES AT COMMENCEMENT OF SERVICES

3. RELEVANT TRANSFERS

- 3.1 The Customer and the Supplier agree that:
- 3.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Customer Employees; and
 - 3.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Customer and the Transferring Customer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Notified Sub-Contractor and each such Transferring Customer Employee.
- 3.2 The Customer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Customer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Customer; and (ii) the Supplier and/or any Notified Sub-Contractor (as appropriate).

4. CUSTOMER INDEMNITIES

- 4.1 Subject to Paragraph 2.2, the Customer shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities in respect of any Transferring Customer Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 4.1.1 any act or omission by the Customer occurring before the Relevant Transfer Date;
 - 4.1.2 the breach or non-observance by the Customer before the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Customer Employees; and/or
 - (b) any custom or practice in respect of any Transferring Customer Employees which the Customer is contractually bound to honour;

- 4.1.3 any claim by any trade union or other body or person representing the Transferring Customer Employees arising from or connected with any failure by the Customer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
 - 4.1.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Customer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Customer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Customer to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
 - 4.1.5 a failure of the Customer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Customer Employees arising before the Relevant Transfer Date;
 - 4.1.6 any claim made by or in respect of any person employed or formerly employed by the Customer other than a Transferring Customer Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
 - 4.1.7 any claim made by or in respect of a Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee relating to any act or omission of the Customer in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 4.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor (whether or not a Notified Sub-Contractor) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
- 4.2.1 arising out of the resignation of any Transferring Customer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 4.2.2 arising from the failure by the Supplier or any Sub-Contractor to comply with its obligations under the Employment Regulations.

- 4.3 If any person who is not identified by the Customer as a Transferring Customer Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Customer Employee, that his/her contract of employment has been transferred from the Customer to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 4.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Customer; and
 - 4.3.2 the Customer may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of receipt of the notification by the Supplier and/or any Notified Sub-Contractor, or take such other reasonable steps as the Customer considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 4.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Customer, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 4.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
- 4.5.1 no such offer of employment has been made;
 - 4.5.2 such offer has been made but not accepted; or
 - 4.5.3 the situation has not otherwise been resolved,
- the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 4.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law, the Customer shall indemnify the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or procures that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 4.7 The indemnity in Paragraph 2.6:
- 4.7.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
 - (b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
- 4.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to the Customer within 6 months of the Call-off Commencement Date.
- 4.8 If any such person as is referred to in Paragraph 2.3 is neither re-employed by the Customer nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 2.5 such person shall be treated as having transferred to the Supplier and/or any Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under applicable Law.

5. SUPPLIER INDEMNITIES AND OBLIGATIONS

- 5.1 Subject to Paragraph 3.2 the Supplier shall indemnify the Customer against any Employee Liabilities in respect of any Transferring Customer Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 5.1.1 any act or omission by the Supplier or any Sub-Contractor whether occurring before, on or after the Relevant Transfer Date;
 - 5.1.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Customer Employees; and/or
 - (b) any custom or practice in respect of any Transferring Customer Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 5.1.3 any claim by any trade union or other body or person representing any Transferring Customer Employees arising from or connected with any failure by the Supplier or any Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 5.1.4 any proposal by the Supplier or a Sub-contractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Customer Employees to their material detriment on or after their transfer to the Supplier or the relevant Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Customer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

- 5.1.5 any statement communicated to or action undertaken by the Supplier or any Sub-Contractor to, or in respect of, any Transferring Customer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Customer in writing;
 - 5.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Customer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Customer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Customer to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
 - 5.1.7 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Customer Employees in respect of the period from (and including) the Relevant Transfer Date; and
 - 5.1.8 any claim made by or in respect of a Transferring Customer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Customer Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Customer's failure to comply with its obligations under regulation 13 of the Employment Regulations.
- 5.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Customer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Customer's failure to comply with its obligations under the Employment Regulations.
- 5.3 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Customer Employees, from (and including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Customer and the Supplier.

6. INFORMATION

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer in writing such information as is necessary to enable the Customer to carry out its duties under regulation 13 of the Employment Regulations. The Customer shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

7. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 7.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
- 7.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Customer Employee as set down in:
 - 7.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
 - 7.2.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
 - 7.2.3 HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
 - 7.2.4 the New Fair Deal.
- 7.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 7.1 or 7.2 shall be agreed in accordance with the Variation Procedure.

8. PENSIONS

The Supplier shall, and shall procure that each of its Sub-Contractors shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART A: PENSIONS

1. PARTICIPATION

- 1.1 The Supplier undertakes to enter into the Admission Agreement.
- 1.2 The Supplier and the Customer:
 - 1.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
 - 1.2.2 agree that the Customer is entitled to make arrangements with the body responsible for the Schemes for the Customer to be notified if the Supplier breaches the Admission Agreement;
 - 1.2.3 notwithstanding Paragraph 1.2.2 of this Annex, the Supplier shall notify the Customer in the event that it breaches the Admission Agreement; and
 - 1.2.4 agree that the Customer may terminate this Call-off Contract for material default in the event that the Supplier breaches the Admission Agreement.
- 1.3 The Supplier shall bear its own costs and all costs that the Customer reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes.

2. FUTURE SERVICE BENEFITS

- 2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Customer, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Customer in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes at the relevant date.
- 2.3 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3. FUNDING

- 3.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2 The Supplier shall indemnify and keep indemnified the Customer on demand against any claim by, payment to, or loss incurred by, the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

4. PROVISION OF INFORMATION

The Supplier and the Customer respectively undertake to each other:

- 4.1 to provide all information which the other Party may reasonably request concerning matters referred to in this Annex and set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 4.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

The Supplier undertakes to the Customer to indemnify and keep indemnified the Customer on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of the Pensions Act 2008 and the Transfer of Employment (Pension Protection) Regulations 2005.

7. SUBSEQUENT TRANSFERS

The Supplier shall:

- 7.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer;
- 7.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or the Customer may reasonably require to enable the Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal; and

7.3 for the period either:

7.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Call-off Contract, to terminate the Agreement or any part of the Services; or

7.3.2 after the date which is two (2) years prior to the date of expiry of this Call-off Contract,

ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or the Customer, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Customer (such approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

PART B

TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

1.1 The Customer and the Supplier agree that:

1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Em

1.1.2 ployees; and

1.1.3 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-Contractor and each such Transferring Former Supplier Employee.

1.2 Subject to Paragraph 6, the Customer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Customer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

2. FORMER SUPPLIER INDEMNITIES

2.1 Subject to Paragraphs 2.2 and 6, the Customer shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities in respect of any Transferring Former Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

2.1.1 any act or omission by the Former Supplier arising before the Relevant Transfer Date;

2.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

(a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or

(b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;

- 2.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
 - 2.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
 - 2.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of this Call-off Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
- 2.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 2.2.2 arising from the failure by the Supplier and/or any Sub-Contractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by the Customer as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Former Supplier Employee, that his/her contract of employment

has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- 2.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, to the Former Supplier; and
 - 2.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier and/or the Notified Sub-Contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Customer, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
- 2.5.1 no such offer of employment has been made;
 - 2.5.2 such offer has been made but not accepted; or
 - 2.5.3 the situation has not otherwise been resolved,
- the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Customer shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
- 2.7.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
- 2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to the Customer and, if applicable, the Former Supplier, within 6 months of the Call-off Commencement Date.
- 2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier or Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under the Law.

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

- 3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Customer and/or the Former Supplier against any Employee Liabilities in respect of any Transferring Former Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 3.1.1 any act or omission by the Supplier or any Sub-Contractor whether occurring before, on or after the Relevant Transfer Date;
 - 3.1.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or
 - (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 3.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 3.1.4 any proposal by the Supplier or a Sub-Contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation

- 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Supplier or a Sub-Contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Customer and/or the Former Supplier in writing;
- 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date; and
- 3.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses,

commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

4. INFORMATION

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and/or at the Customer's direction, the Former Supplier, in writing such information as is necessary to enable the Customer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. Subject to Paragraph 6, the Customer shall procure that the Former Supplier shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 5.1 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:
- 5.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
 - 5.1.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999";
 - 5.1.3 HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
 - 5.1.4 the New Fair Deal.
- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

6. PROCUREMENT OBLIGATIONS

Notwithstanding any other provisions of this Part B, where in this Part B the Customer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Customer's contract with the Former Supplier contains a contractual right in that regard which the Customer may enforce, or otherwise so that it requires only that the Customer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

7. PENSIONS

The Supplier shall, and shall procure that each Sub-Contractor shall, comply with the pensions provisions in the following Annex in respect of any Transferring Former Supplier Employees who transfer from the Former Supplier to the Supplier.

ANNEX TO PART B: PENSIONS

1. PARTICIPATION

- 1.1 The Supplier undertakes to enter into the Admission Agreement.
- 1.2 The Supplier and the Customer:
 - 1.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
 - 1.2.2 agree that the Customer is entitled to make arrangements with the body responsible for the Schemes for the Customer to be notified if the Supplier breaches the Admission Agreement;
 - 1.2.3 notwithstanding Paragraph 1.2.2 of this Annex, the Supplier shall notify the Customer in the event that it breaches the Admission Agreement; and
 - 1.2.4 agree that the Customer may terminate this Call-off Contract for material default in the event that the Supplier breaches the Admission Agreement.
- 1.3 The Supplier shall bear its own costs and all costs that the Customer reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes.

2. FUTURE SERVICE BENEFITS

- 2.1 If the Supplier is rejoining the Schemes for the first time, the Supplier shall procure that the Fair Deal Employees shall be either admitted to or offered continued membership of the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date and shall continue to accrue or accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 If staff have already been readmitted to the Schemes, the Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.3 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Customer, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department

or any actuary nominated by the Customer in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes at the relevant date.

- 2.4 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3. FUNDING

- 3.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2 The Supplier shall indemnify and keep indemnified the Customer on demand against any claim by, payment to, or loss incurred by the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

4. PROVISION OF INFORMATION

The Supplier and the Customer respectively undertake to each other:

- 4.1 to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 4.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

The Supplier undertakes to the Customer to indemnify and keep indemnified the Customer on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

The Supplier shall comply with the requirements of the Pensions Act 2008 and the Transfer of Employment (Pension Protection) Regulations 2005.

7. SUBSEQUENT TRANSFERS

The Supplier shall:

- 7.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer;
- 7.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or the Customer may reasonably require to enable the Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under the New Fair Deal; and
- 7.3 for the period either
 - 7.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Call-off Contract, to terminate the Agreement or any part of the Services; or
 - 7.3.2 after the date which is two (2) years prior to the date of expiry of this Call-off Contract,ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or the Customer, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Customer (such approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

PART C

NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1. PROCEDURE IN THE EVENT OF TRANSFER

- 1.1 The Customer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Customer and/or any Former Supplier.
- 1.2 If any employee of the Customer and/or a Former Supplier claims, or it is determined in relation to any employee of the Customer and/or a Former Supplier, that his/her contract of employment has been transferred from the Customer and/or the Former Supplier to the Supplier and/or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 1.2.1 the Supplier shall, and shall procure that the relevant Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, give notice to the Former Supplier; and
 - 1.2.2 the Customer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier or the Sub-Contractor (as appropriate) or take such other reasonable steps as the Customer or Former Supplier (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Customer and/or the Former Supplier), the Supplier shall, or shall procure that the Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the fifteen (15) Working Day period specified in Paragraph 1.2.2:
 - 1.4.1 no such offer of employment has been made;
 - 1.4.2 such offer has been made but not accepted; or
 - 1.4.3 the situation has not otherwise been resolved,the Supplier and/or the Sub-Contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2. INDEMNITIES

- 2.1 Subject to the Supplier and/or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Customer shall:
- 2.1.1 indemnify the Supplier and/or the relevant Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Customer referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities; and
 - 2.1.2 subject to paragraph 3, procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.2 If any such person as is described in Paragraph 1.2 is neither re employed by the Customer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Sub-Contractor within the fifteen (15) Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Sub-Contractor (as appropriate) and the Supplier shall, or shall procure that the Sub-Contractor shall, comply with such obligations as may be imposed upon it under Law.
- 2.3 Where any person remains employed by the Supplier and/or any Sub-Contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-Contractor and the Supplier shall indemnify the Customer and any Former Supplier, and shall procure that the Sub-Contractor shall indemnify the Customer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-Contractor.
- 2.4 The indemnities in Paragraph 2.1:
- 2.4.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
 - (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-Contractor neglected to follow a fair dismissal procedure; and

2.4.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Sub-Contractor to the Customer and, if applicable, Former Supplier within 6 months of the Call-off Commencement Date.

3. PROCUREMENT OBLIGATIONS

Where in this Part C the Customer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Customer's contract with the Former Supplier contains a contractual right in that regard which the Customer may enforce, or otherwise so that it requires only that the Customer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

PART D

EMPLOYMENT EXIT PROVISIONS

1. PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Customer of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Call-off Contract;
 - 1.1.3 the date which is twelve (12) months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Customer at any time (provided that the Customer shall only be entitled to make one such request in any six (6) month period),
- it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Customer.
- 1.2 At least thirty (30) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Customer or at the direction of the Customer to any Replacement Supplier and/or any Replacement Sub-Contractor:
- 1.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
 - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Customer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-Contractor.
- 1.4 The Supplier warrants, for the benefit of the Customer, any Replacement Supplier, and any Replacement Sub-Contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1, the Supplier agrees, that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Customer (not to be unreasonably withheld or delayed):

- 1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- 1.5.2 make, promise, propose or permit any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);
- 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Customer or, at the direction of the Customer, any Replacement Supplier and any Replacement Sub-Contractor of any notice to terminate employment given by the Supplier or relevant Sub-Contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer any information the Customer may reasonably require relating to the manner in which Services are organised, which shall include:
 - 1.6.1 the numbers of employees engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each employee engaged in providing the Services; and
 - 1.6.3 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Customer, any Replacement Supplier and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer or, at the direction of the Customer, to any Replacement Supplier and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
- 1.7.2 details of cumulative pay for tax and pension purposes;
- 1.7.3 details of cumulative tax paid;
- 1.7.4 tax code;
- 1.7.5 details of any voluntary deductions from pay; and
- 1.7.6 bank/building society account details for payroll purposes.

2. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1 The Customer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Call-off Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-Contractor. Such change in the identity of the Supplier of such Services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Customer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but not including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-Contractor.
- 2.3 Subject to Paragraph 2.4, where a Relevant Transfer occurs the Supplier shall indemnify the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor against any Employee Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

- 2.3.1 any act or omission of the Supplier or any Sub-Contractor whether occurring before, on or after the Service Transfer Date;
- 2.3.2 the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
 - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Customer and/or Replacement Supplier and/or any Replacement Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- 2.3.5 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee for whom it is alleged the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor may be liable by virtue of this Call-off Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Customer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-Contractor to occur in the period on or after the Service Transfer Date; or
 - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-Contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not a Transferring Supplier Employee claims, or it is determined in relation to any person who is not a Transferring Supplier Employee, that his/her contract of employment has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier and/or Replacement Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1 the Customer shall procure that the Replacement Supplier shall, or any Replacement Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
 - 2.5.2 the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-Contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-Contractor, the Customer shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7 If after the fifteen (15) Working Day period specified in Paragraph 2.5.2 has elapsed:
- 2.7.1 no such offer of employment has been made;
 - 2.7.2 such offer has been made but not accepted; or
 - 2.7.3 the situation has not otherwise been resolved
- the Customer shall advise the Replacement Supplier and/or Replacement Sub-Contractor, as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
- 2.8 Subject to the Replacement Supplier and/or Replacement Sub-Contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify

the Replacement Supplier and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

(a) any claim for:

(i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-Contractor; or

(b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure; and

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-Contractor to the Supplier within six (6) months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-Contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee and the Replacement Supplier and/or Replacement Sub-Contractor shall comply with such obligations as may be imposed upon it under applicable Law.

2.11 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Supplier Employees before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.11.1 the Supplier and/or any Sub-Contractor; and

2.11.2 the Replacement Supplier and/or the Replacement Sub-Contractor.

- 2.12 The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and any Replacement Supplier and/or Replacement Sub-Contractor, in writing such information as is necessary to enable the Customer, the Replacement Supplier and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Customer shall procure that the Replacement Supplier and/or Replacement Sub-Contractor, shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.13 Subject to Paragraph 2.14, where a Relevant Transfer occurs the Customer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-Contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Supplier Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee) arising from or as a result of:
- 2.13.1 any act or omission of the Replacement Supplier and/or Replacement Sub-Contractor;
 - 2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-Contractor on or after the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
 - (b) any custom or practice in respect of any Transferring Supplier Employees which the Replacement Supplier and/or Replacement Sub-Contractor is contractually bound to honour;
 - 2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 2.13.4 any proposal by the Replacement Supplier and/or Replacement Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees on or after their transfer to the Replacement Supplier or Replacement Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-Contractor to, or in respect of, any Transferring Supplier Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
 - 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions;

- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-Contractor, to the Replacement Supplier or Replacement Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
 - 2.13.7 a failure of the Replacement Supplier or Replacement Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period from (and including) the Service Transfer Date; and
 - 2.13.8 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.
- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

ANNEX TO SCHEDULE 10: LIST OF NOTIFIED SUB-CONTRACTORS

Not applicable for this contractual requirement.

CALL-OFF SCHEDULE 11: DISPUTE RESOLUTION PROCEDURE

1. DEFINITIONS

1.1 In this Call-off Schedule 11, the following definitions shall apply:

"CEDR"	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
"Counter Notice"	has the meaning given to it in paragraph 6.2 of this Call-off Schedule 11;
"Exception"	a deviation of project tolerances in accordance with PRINCE2 methodology in respect of this Call-off Contract or in the supply of the Services;
"Expert"	the person appointed by the Parties in accordance with paragraph 5.2 of this Call-off Schedule 11; and
"Mediation Notice"	has the meaning given to it in paragraph 3.2 of this Call-off Schedule 11;
"Mediator"	the independent third party appointed in accordance with paragraph 4.2 of this Call-off Schedule 11.

2. INTRODUCTION

2.1 If a Dispute arises then:

- 2.1.1 the representative of the Customer and the Supplier Representative shall attempt in good faith to resolve the Dispute; and
- 2.1.2 if such attempts are not successful within a reasonable time either Party may give to the other a Dispute Notice.

2.2 The Dispute Notice shall set out:

- 2.2.1 the material particulars of the Dispute;

- 2.2.2 the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
- 2.2.3 if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable as set out in paragraph 2.6 of this Call-off Schedule 11, the reason why.
- 2.3 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Call-off Contract regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure.
- 2.4 Subject to paragraph 3.2 of this Call-off Schedule 11, the Parties shall seek to resolve Disputes:
 - 2.4.1 first by commercial negotiation (as prescribed in paragraph 3 of this Call-off Schedule 11);
 - 2.4.2 then by mediation (as prescribed in paragraph 4 of this Call-off Schedule 11); and
 - 2.4.3 lastly by recourse to arbitration (as prescribed in paragraph 6 of this Call-off Schedule 11) or litigation (in accordance with Clause 57 of this Call-off Contract (Governing Law and Jurisdiction)).
- 2.5 Specific issues shall be referred to Expert Determination (as prescribed in paragraph 5 of this Call-off Schedule 11) where specified under the provisions of this Call-off Contract and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 5 of this Call-off Schedule 11.
- 2.6 In exceptional circumstances where the use of the times in this Call-off Schedule 11 would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use of the Expedited Dispute Timetable within five (5) Working Days of the issue of the Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Customer.
- 2.7 If the use of the Expedited Dispute Timetable is determined in accordance with paragraph 2.5 or is otherwise specified under the provisions of this Call-off Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs:
 - 2.7.1 in paragraph 3.2.3, ten (10) Working Days;
 - 2.7.2 in paragraph 4.2, ten (10) Working Days;
 - 2.7.3 in paragraph 5.2, five (5) Working Days; and
 - 2.7.4 in paragraph 6.2, ten (10) Working Days.
- 2.8 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension.

3. COMMERCIAL NEGOTIATIONS

3.1 Following the service of a Dispute Notice, the Customer and the Supplier shall use reasonable endeavours to resolve the Dispute as soon as possible, by discussion between the Customer Representative and the Supplier Representative.

3.2 If:

3.2.1 either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiations, will not result in an appropriate solution;

3.2.2 the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiations in accordance with this paragraph 3 of this Call-off Schedule 11; or

3.2.3 the Parties have not settled the Dispute in accordance with paragraph 3.1 of this Call-off Schedule 11 within thirty (30) Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation (a "**Mediation Notice**") in accordance with paragraph 4 of this Call-off Schedule 11.

4. MEDIATION

4.1 If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with CEDR's Model Mediation Agreement which shall be deemed to be incorporated by reference into this Call-off Contract.

4.2 If the Parties are unable to agree on the joint appointment of a Mediator within thirty (30) Working Days from service of the Mediation Notice then either Party may apply to CEDR to nominate the Mediator.

4.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if the Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.

4.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Variation Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

5. EXPERT DETERMINATION

5.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a financial technical or other aspect of a technical nature (as the Parties may agree) and the Dispute has not been resolved by discussion or

mediation, then either Party may request (which request will not be unreasonably withheld or delayed) by written notice to the other that the Dispute is referred to an Expert for determination.

- 5.2 The Expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days, or if the person appointed is unable or unwilling to act, the Expert shall be appointed on the instructions of the relevant professional body.
- 5.3 The Expert shall act on the following basis:
 - 5.3.1 he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
 - 5.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
 - 5.3.3 the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
 - 5.3.4 any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
 - 5.3.5 the process shall be conducted in private and shall be confidential; and
 - 5.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

6. ARBITRATION

- 6.1 The Customer may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of paragraph 6.4 of this Call-off Schedule 11.
- 6.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Customer of its intentions and the Customer shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a "**Counter Notice**") on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with paragraph 6.4 of this Call-off Schedule 11 or be subject to the jurisdiction of the courts in accordance with Clause 57 of this Call-off Contract (Governing Law and Jurisdiction). The Supplier shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.
- 6.3 If:

- 6.3.1 the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 6.4 of this Call-off Schedule 11 shall apply;
 - 6.3.2 the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts in accordance with Clause 61 of this Call-off Contract (Governing Law and Jurisdiction), the Dispute shall be so referred to the courts and the Supplier shall not commence arbitration proceedings;
 - 6.3.3 the Customer does not serve a Counter Notice within the fifteen (15) Working Days period referred to in paragraph 6.2 of this Call-off Schedule 11, the Supplier may either commence arbitration proceedings in accordance with paragraph 6.4 of this Call-off Schedule 11 or commence court proceedings in the courts in accordance with Clause 57 of this Call-off Contract (Governing Law and Jurisdiction) which shall (in those circumstances) have exclusive jurisdiction.
- 6.4 In the event that any arbitration proceedings are commenced pursuant to paragraphs 6.1 to 6.3 of this Call-off Schedule 11, the Parties hereby confirm that:
- 6.4.1 all disputes, issues or claims arising out of or in connection with this Call-off Contract (including as to its existence, validity or performance) shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to paragraphs 6.4.5 to 6.4.7 of this Call-off Schedule 11);
 - 6.4.2 the arbitration shall be administered by the LCIA;
 - 6.4.3 the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Call-off Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
 - 6.4.4 if the Parties fail to agree the appointment of the arbitrator within ten (10) days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
 - 6.4.5 the chair of the arbitral tribunal shall be British;
 - 6.4.6 the arbitration proceedings shall take place in London and in the English language; and
 - 6.4.7 the seat of the arbitration shall be London.

7. URGENT RELIEF

- 7.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

- 7.1.1 for interim or interlocutory remedies in relation to this Call-off Contract or infringement by the other Party of that Party's Intellectual Property Rights; and/or
- 7.1.2 where compliance with paragraph 2.1 of this Call-off Schedule 11 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

CALL-OFF SCHEDULE 12: VARIATION FORM

.....
No of Call-off Order Form being varied:

.....

Variation Form No:

.....

BETWEEN:

[insert name of Customer] ("**the Customer**")

and

[insert name of Supplier] ("**the Supplier**")

1. This Call-off Contract is varied as follows and shall take effect on the date signed by both Parties:

[Insert details of the Variation]

2. Words and expressions in this Variation shall have the meanings given to them in this Call-off Contract.

3. This Call-off Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Customer

Signature

Date

Name (in
Capitals)

Address

.....

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

Signature

.....

Date

.....

Name (in
Capitals)

.....

Address

.....

CALL-OFF SCHEDULE 13: TRANSPARENCY REPORTS

- 1.1 Within three (3) months from the Call-off Commencement Date or the date so specified by the Customer in the Call-off Order Form the Supplier shall provide to the Customer for Approval (the Customer's decision to approve or not shall not be unreasonably withheld or delayed) draft Transparency Reports consistent with the content and format requirements in Annex 1 below.
- 1.2 If the Customer rejects any proposed Transparency Report, the Supplier shall submit a revised version of the relevant report for further Approval by the Customer within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Customer. This process shall be repeated until the Parties have agreed versions of each Transparency Report.
- 1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Customer at the frequency referred to in Annex 1 of this Call-off Schedule 13 below.
- 1.4 Any Dispute in connection with the preparation and/or approval of Transparency Reports shall be resolved in accordance with the Dispute Resolution Procedure.
- 1.5 The requirements in this Schedule 13 are in addition to any other reporting requirements in this Call-off Contract.

ANNEX 1: LIST OF TRANSPARENCY REPORTS

All transparency reports that are required from the supplier to be issued to the authority are listed within Annex 1: The Services (Statement of Requirement).

CALL-OFF SCHEDULE 14: ALTERNATIVE AND/OR ADDITIONAL CLAUSES

1. INTRODUCTION

- 1.1 This Call-off Schedule 14 specifies the range of Alternative Clauses and Additional Clauses that may be requested in the Call-off Order Form and, if requested in the Call-off Order Form, shall apply to this Call-off Contract.

2. CLAUSES SELECTED

- 2.1 The Customer may, in the Call-off Order Form, request the following Alternative Clauses:
- 2.1.1 Scots Law (see paragraph 4.1 of this Call-off Schedule 14);
 - 2.1.2 Northern Ireland Law (see paragraph 4.2 of this Call-off Schedule 14);
 - 2.1.3 Non-Crown Bodies (see paragraph 4.3 of this Call-off Schedule 14);
 - 2.1.4 Non-FOIA Public Bodies (see paragraph 4.4 of this Call-off Schedule 14);
 - 2.1.5 Financial Limits (see paragraph 4.5 of this Call-off Schedule 14).
- 2.2 The Customer may, in the Call-off Order Form, request the following Additional Clauses should apply:
- 2.2.1 Security Measures (see paragraph 5.1 of this Call-off Schedule 14);
 - 2.2.2 NHS Additional Clauses (see paragraph **Error! Reference source not found.** of this Call-off Schedule 14)
 - 2.2.3 MOD (“Ministry of Defence”) Additional or Alternative Clauses (see paragraph **Error! Reference source not found.** of this Call-off Schedule 14)

3. IMPLEMENTATION

- 3.1 The appropriate changes have been made in this Call-off Contract to implement the Alternative and/or Additional Clauses specified in paragraph 2.1 of this Call-off Schedule 14 and the Additional Clauses specified in paragraphs 2.2 and 2.2.1 of this Call-off Schedule 14 shall be deemed to be incorporated into this Call-off Contract.

4. ALTERNATIVE CLAUSES

4.1 SCOTS LAW

- 4.1.1 Law and Jurisdiction (Clause 57)

- (a) References to “England and Wales” in the original Clause 57 of this Call-off Contract (Law and Jurisdiction) shall be replaced with “Scotland”.
- (b) Where legislation is expressly mentioned in this Call-off Contract the adoption of Clause 4.1.1 (a) shall have the effect of substituting the equivalent Scots legislation.

4.2 NORTHERN IRELAND LAW

4.2.1 Law and Jurisdiction (Clause 57)

- (a) References to “England and Wales” in the original Clause 57 of this Call-off Contract (Law and Jurisdiction) shall be replaced with “Northern Ireland”.
- (b) Where legislation is expressly mentioned in this Call-off Contract the adoption of Clause 4.1.1(a) shall have the effect of substituting the equivalent Northern Ireland legislation.

4.2.2 Insolvency Event

In Call-off Schedule 1 (Definitions), reference to “section 123 of the Insolvency Act 1986” in limb f) of the definition of Insolvency Event shall be replaced with “Article 103 of the Insolvency (NI) Order 1989”.

4.3 NON-CROWN BODIES

Clause 46.3.1(a) of this Call-off Contract (Official Secrets Act and Finance Act) shall be deleted.

4.4 NON-FOIA PUBLIC BODIES

Replace Clause 34.5 of this Call-off Contract (Freedom of Information) with “The Customer has notified the Supplier that the Customer is exempt from the provisions of FOIA and EIR.”

4.5 FINANCIAL LIMITS

In Clause 36.2.1(b)(i) remove the monetary amount and the percentage stated therein and replace respectively with:

[enter monetary amount in words] [£ X]

One hundred and fifty percent

In Clause 36.2.1(b)(ii) remove the monetary amount and the percentage stated therein and replace respectively with:

[enter monetary amount in words] [£ X]

[enter percentage in words] [£ X]

In Clause 336.2.1(b)(iii) remove the monetary amount and the percentage stated therein and replace respectively with:

[enter monetary amount in words] [£ X]

[enter percentage in words] [£ X]

5. ADDITIONAL CLAUSES: GENERAL

5.1 SECURITY MEASURES

5.1.1 The following definitions to be added to Call-off Schedule 1 (Definitions) to the Call-off Order Form and the Call-off Terms:

"**Document**" includes specifications, plans, drawings, photographs and books;

"**Secret Matter**" means any matter connected with or arising out of the performance of this Call-off Contract which has been, or may hereafter be, by a notice in writing given by the Customer to the Supplier be designated 'top secret', 'secret', or 'confidential';

"**Servant**" where the Supplier is a body corporate shall include a director of that body and any person occupying in relation to that body the position of director by whatever name called.

5.1.2 The following new Clause 58 shall apply:

58. SECURITY MEASURES

58.1. The Supplier shall not, either before or after the completion or termination of this Call-off Contract, do or permit to be done anything which it knows or ought reasonably to know may result in information about a secret matter being:

58.1.1. without the prior consent in writing of the Customer, disclosed to or acquired by a person who is an alien or who is a British subject by virtue only of a certificate of naturalisation in which his name was included;

58.1.2. disclosed to or acquired by a person as respects whom the Customer has given to the Supplier a notice in writing which has not been cancelled stating that the Customer requires that secret matters shall not be disclosed to that person;

58.1.3. without the prior consent in writing of the Customer, disclosed to or acquired by any person who is not a servant of the Supplier; or

58.1.4. disclosed to or acquired by a person who is an employee of the Supplier except in a case where it is necessary for the proper performance of this Call-off Contract that such person shall have the information.

- 58.2. Without prejudice to the provisions of Clause 58.1, the Supplier shall, both before and after the completion or termination of this Call-off Contract, take all reasonable steps to ensure:
- 58.2.1. no such person as is mentioned in Clauses 58.1, 58.1.1 or 58.1.2 hereof shall have access to any item or document under the control of the Supplier containing information about a secret matter except with the prior consent in writing of the Customer;
 - 58.2.2. that no visitor to any premises in which there is any item to be supplied under this Call-off Contract or where Services are being supplied shall see or discuss with the Supplier or any person employed by him any secret matter unless the visitor is authorised in writing by the Customer so to do;
 - 58.2.3. that no photograph of any item to be supplied under this Call-off Contract or any portions of the Services shall be taken except insofar as may be necessary for the proper performance of this Call-off Contract or with the prior consent in writing of the Customer, and that no such photograph shall, without such consent, be published or otherwise circulated;
 - 58.2.4. that all information about any secret matter and every document model or other item which contains or may reveal any such information is at all times strictly safeguarded, and that, except insofar as may be necessary for the proper performance of this Call-off Contract or with the prior consent in writing of the Customer, no copies of or extracts from any such document, model or item shall be made or used and no designation of description which may reveal information about the nature or contents of any such document, model or item shall be placed thereon; and
 - 58.2.5. that if the Customer gives notice in writing to the Supplier at any time requiring the delivery to the Customer of any such document, model or item as is mentioned in Clause 58.2.3, that document, model or item (including all copies of or extracts therefrom) shall forthwith be delivered to the Customer who shall be deemed to be the owner thereof and accordingly entitled to retain the same.
- 58.3. The decision of the Customer on the question whether the Supplier has taken or is taking all reasonable steps as required by the foregoing provisions of Clause 58 shall be final and conclusive.
- 58.4. If and when directed by the Customer, the Supplier shall furnish full particulars of all people who are at any time concerned with any secret matter.
- 58.5. If and when directed by the Customer, the Supplier shall secure that any person employed by it who is specified in the direction, or is one of a class of people who may be so specified, shall sign a statement that he understands that

the Official Secrets Act, 1911 to 1989 and, where applicable, the Atomic Energy Act 1946, apply to the person signing the statement both during the carrying out and after expiry or termination of a Call-off Contract.

- 58.6. If, at any time either before or after the expiry or termination of this Call-off Contract, it comes to the notice of the Supplier that any person acting without lawful authority is seeking or has sought to obtain information concerning this Call-off Contract or anything done or to be done in pursuance thereof, the matter shall be forthwith reported by the Supplier to the Customer and the report shall, in each case, be accompanied by a statement of the facts, including, if possible, the name, address and occupation of that person, and the Supplier shall be responsible for making all such arrangements as it may consider appropriate to ensure that if any such occurrence comes to the knowledge of any person employed by it, that person shall forthwith report the matter to the Supplier with a statement of the facts as aforesaid.
- 58.7. The Supplier shall place every person employed by it, other than a Sub-Contractor, who in its opinion has or will have such knowledge of any secret matter as to appreciate its significance, under a duty to the Supplier to observe the same obligations in relation to that matter as are imposed on the Supplier by Clauses 58.1 and 58.2 and shall, if directed by the Customer, place every person who is specified in the direction or is one of a class of people so specified, under the like duty in relation to any secret matter which may be specified in the direction, and shall at all times use its best endeavours to ensure that every person upon whom obligations are imposed by virtue of Clause 58 observes the said obligations, and the Supplier shall give such instructions and information to every such person as may be necessary for that purpose, and shall, immediately upon becoming aware of any act or omission which is or would be a breach of the said obligations, report the facts to the Supplier with all necessary particulars.
- 58.8. The Supplier shall, if directed by the Customer, include in the Sub-Contract provisions in such terms as the Customer may consider appropriate for placing the Sub-Contractor under obligations in relation to secrecy and security corresponding to those placed on the Supplier by Clause 58, but with such variations (if any) as the Customer may consider necessary. Further the Supplier shall:
- 58.8.1. give such notices, directions, requirements and decisions to its Sub-Contractors as may be necessary to bring the provisions relating to secrecy and security which are included in Sub-Contracts under Clause 58 into operation in such cases and to such extent as the Customer may direct;
- 58.8.2. if there comes to its notice any breach by the Sub-Contractor of the obligations of secrecy and security included in their Sub-Contracts in pursuance of Clause 58, notify such breach forthwith to the Customer; and
- 58.8.3. if and when so required by the Customer, exercise its power to determine the Sub-Contract under the provision in that Sub-Contract which corresponds to Clause 58.11.

- 58.9. The Supplier shall give the Customer such information and particulars as the Customer may from time to time require for the purposes of satisfying the Customer that the obligations imposed by or under the foregoing provisions of Clause 58 have been and are being observed and as to what the Supplier has done or is doing or proposes to do to secure the observance of those obligations and to prevent any breach thereof, and the Supplier shall secure that a representative of the Customer duly authorised in writing shall be entitled at reasonable times to enter and inspect any premises in which anything is being done or is to be done under this Call-off Contract or in which there is or will be any item to be supplied under this Call-off Contract, and also to inspect any document or item in any such premises or which is being made or used for the purposes of this Call-off Contract and that any such representative shall be given all such information as he may require on the occasion of, or arising out of, any such inspection.
- 58.10. Nothing in Clause 58 shall prevent any person from giving any information or doing anything on any occasion when it is, by virtue of any enactment, the duty of that person to give that information or do that thing.
- 58.11. If the Customer shall consider that any of the following events has occurred:
- 58.11.1. that the Supplier has committed a breach of, or failed to comply with any of, the foregoing provisions of Clause 58; or
 - 58.11.2. that the Supplier has committed a breach of any obligations in relation to secrecy or security imposed upon it by any other contract with the Customer, or with any department or person acting on behalf of the Crown; or
 - 58.11.3. that by reason of an act or omission on the part of the Supplier, or of a person employed by the Supplier, which does not constitute such a breach or failure as is mentioned in 58.11.2, information about a secret matter has been or is likely to be acquired by a person who, in the opinion of the Customer, ought not to have such information;
- and shall also decide that the interests of the State require the termination of this Call-off Contract, the Customer may by notice in writing terminate this Call-off Contract forthwith.
- 58.12. A decision of the Customer to terminate this Call-off Contract in accordance with the provisions of Clause 58.11 shall be final and conclusive and it shall not be necessary for any notice of such termination to specify or refer in any way to the event or considerations upon which the Customer's decision is based.
- 58.13. Supplier's notice

- 58.13.1. The Supplier may within five (5) Working Days of the termination of this Call-off Contract in accordance with the provisions of Clause 58.11, give the Customer notice in writing requesting the Customer to state whether the event upon which the Customer's decision to terminate was based is an event mentioned in Clauses 58.11, 58.11.1 or 58.11.2 and to give particulars of that event; and
 - 58.13.2. the Customer shall within ten (10) Working Days of the receipt of such a request give notice in writing to the Supplier containing such a statement and particulars as are required by the request.
- 58.14. Matters pursuant to termination
- 58.14.1. The termination of this Call-off Contract pursuant to Clause 58.11 shall be without prejudice to any rights of either party which shall have accrued before the date of such termination;
 - 58.14.2. The Supplier shall be entitled to be paid for any work or thing done under this Call-off Contract and accepted but not paid for by the Customer at the date of such termination either at the price which would have been payable under this Call-off Contract if this Call-off Contract had not been terminated, or at a reasonable price;
 - 58.14.3. The Customer may take over any work or thing done or made under this Call-off Contract (whether completed or not) and not accepted at the date of such termination which the Customer may by notice in writing to the Supplier given within thirty (30) Working Days from the time when the provisions of Clause 58 shall have effect, elect to take over, and the Supplier shall be entitled to be paid for any work or thing so taken over a price which, having regard to the stage which that work or thing has reached and its condition at the time it is taken over, is reasonable. The Supplier shall in accordance with directions given by the Customer, deliver any work or thing taken over under this Clause, and take all such other steps as may be reasonably necessary to enable the Customer to have the full benefit of any work or thing taken over under this Clause; and
 - 58.14.4. Save as aforesaid, the Supplier shall not be entitled to any payment from the Customer after the termination of this Call-off Contract
- 58.15. If, after notice of termination of this Call-off Contract pursuant to the provisions of 58.11:
- 58.15.1. the Customer shall not within ten (10) Working Days of the receipt of a request from the Supplier, furnish such a statement and particulars as are detailed in Clause 58.13.1; or

58.15.2. the Customer shall state in the statement and particulars detailed in Clause 58.13.2. that the event upon which the Customer's decision to terminate this Call-off Contract was based is an event mentioned in Clause 58.11.3,

the respective rights and obligations of the Supplier and the Customer shall be terminated in accordance with the following provisions:

58.15.3. the Customer shall take over from the Supplier at a fair and reasonable price all unused and undamaged materials, bought-out parts and components and articles in course of manufacture in the possession of the Supplier upon the termination of this Call-off Contract under the provisions of Clause 58.11 and properly provided by or supplied to the Supplier for the performance of this Call-off Contract, except such materials, bought-out parts and components and articles in course of manufacture as the Supplier shall, with the concurrence of the Customer, elect to retain;

58.15.4. the Supplier shall prepare and deliver to the Customer within an agreed period or in default of agreement within such period as the Customer may specify, a list of all such unused and undamaged materials, bought-out parts and components and articles in course of manufacture liable to be taken over by or previously belonging to the Customer and shall deliver such materials and items in accordance with the directions of the Customer who shall pay to the Supplier fair and reasonable handling and delivery charges incurred in complying with such directions;

58.15.5. the Customer shall indemnify the Supplier against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the Supplier in connection with this Call-off Contract to the extent to which the said commitments, liabilities or expenditure would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call-off Contract;

58.15.6. if hardship to the Supplier should arise from the operation of Clause 58.15 it shall be open to the Supplier to refer the circumstances to the Customer who, on being satisfied that such hardship exists shall make such allowance, if any, as in its opinion is reasonable and the decision of the Customer on any matter arising out of this Clause 58.15 shall be final and conclusive; and

subject to the operation of Clauses 58.15.3, 58.15.4, 58.15.5 and 58.15.6 termination of this Call-off Contract shall be without prejudice to any rights of either party that may have accrued before the date of such termination.

CALL-OFF SCHEDULE 15: CALL OFF TENDER

4.1. Please describe the IT Systems that you have in place and will use to deliver the requirement as set out in the Statement of Requirements.

RESPONSE REDACTED

4.2. With regard to Grant Award as specified in section 5 of the Statement of Requirements, how will your organisation demonstrate proportionate and robust due diligence of the various organisations who will be recipients.

RESPONSE REDACTED

4.3. Please demonstrate how your organisation will draw down and onwardly transfer funds to ensure secure, efficient and transparent handling of grant monies with no delays in service delivery to Groups

RESPONSE REDACTED

4.4. Please provide your approach to providing a robust, transparent and effective monitoring and reporting of grant usage. Please further demonstrate appropriate, effective, secure and timely recovery of any unspent / mis-spent funds.

RESPONSE REDACTED

5.1. How will you meet the requirements set out within section 6 of the Statement of Requirements Document? Please include a detailed, un-costed project plan

RESPONSE REDACTED

6.1. Please provide your contract management strategy which includes robust, efficient and effective approaches with regards to the following:

RESPONSE REDACTED

6.2. Please set out a robust Exit Strategy for exiting the Contract, in order to ensure a successful transition back to the Authority or to a new Supplier

RESPONSE REDACTED