



## G-Cloud 10 Call-Off Contract

PFI Deal Books / Project Bibles in Intelligent Document Format for the following project(s):

Project Ref. No.	Project Name
[Redacted Content]	

Licencee

date

**Contact Us**

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Europe +44 20 3667 4866  
North America +1 404 272 6375

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London, UK, EC2A 3AG

contact@affinitext.com  
www.affinitext.com



## Part A – Order Form

<b>Digital Marketplace service ID number:</b>	[Redacted]
<b>Call-Off Contract reference:</b>	As per front sheet [Redacted]
<b>Call-Off Contract title:</b>	As per front sheet
<b>Call-Off Contract description:</b>	PFI Deal Books / Project Bibles in Intelligent Document Format [Redacted]
<b>Start date:</b>	[Redacted]

[Redacted]

The Order Form [Redacted]

change the Delive [Redacted]

There are terms in the Call-Off Contract identified in the contract with square brackets.

The Order Form [Redacted]

change the Delive [Redacted]

There are terms in the Call-Off Contract identified in the contract with square brackets.

There are terms in the Call-Off Contract identified in the contract with square brackets.

<b>From: the Buyer</b>  [Redacted]	[Redacted]
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<b>To: the Supplier</b>	Affinitext (UK) Limited T: 020 3667 4866 37 St Margaret's Street Canterbury Kent CT1 2TU
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[Redacted]

**Principle contact details**

[Redacted]

<b>For the Supplier:</b>	Name & title:	Managing Director
	Address:	Affinitext (UK) Limited Unit B 81 Curtain Road London EC2A 3AG
	Email:	[Redacted]



	<ul style="list-style-type: none"> <li>PFI Deal Books / Project Bibles in Intelligent Document Format for the projects listed on the front page, as per the Service Definition and this Call-Off Contract.</li> </ul>
<b>Additional Services</b>	Nil
<b>Location:</b>	The Services will be delivered to authorised users via an https connection through any commonly used browser.
<b>Quality Standards:</b>	The quality standards required for this Call-Off Contract are as per the Service Definition.

T	[REDACTED]
S	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
C	[REDACTED]
L	[REDACTED]
	<p>will not exceed £10,000 or one hundred percent (100%) of the Charges payable by Supplier during the Call-Off Contract (whichever is the greater).</p> <p>will not exceed £10,000 or one hundred percent (100%) of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term (whichever is the greater).</p> <p>The annual total liability for all other defaults will not exceed £10,000 or one hundred percent (100%) of the Charges payable by the Buyer to the Supplier</p>



### Supplier's information

<b>Subcontractors / Partners</b>  	The following is a list of the Supplier's Subcontractors/Partners: <ul style="list-style-type: none"> <li>• Rackspace</li> <li>• EPAM</li> </ul>
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### Call-off Contract Charges and payment

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

<p>P</p>	<p>[Redacted]</p>
<p>In</p>	<p>ation to carry out extra works at an          pay the Supplier within          of a valid invoice</p>
<p>Who and where to:</p>	<p>sent to:</p>
<p>[Redacted]</p>	<p>Address:</p> <p>[Redacted]</p>

<b>Invoice information required:</b>	All invoices must include the project reference, order date and PO number, if any.
<b>Invoice frequency</b>	Invoice will be sent to the Buyer annually for the Annual Licence Fee or upon other Fees being agreed.
<b>Call-Off Contract value:</b>	The total value of this Call-Off Contract is plus any other Fees agreed under this Call-Off Contract, including the RPI calculation.
<b>Call-Off Contract Charges</b>	The breakdown of the Charges is as per Schedule 2.

**Additional Buyer terms**

<b>Personal Data a</b>	Processing, Personal Data and used? Yes
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**Formation of Contract**

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer. [Redacted]
- 1.2 The parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier. [Redacted]
- 1.4 In cases of any ambiguity or conflict the terms and conditions of the Call-Off Contract and [Redacted]

2. [Redacted]

A. [Redacted]

[Redacted]

S	[Redacted]
N	[Redacted]
T	[Redacted]
<b>Signature:</b>	[Redacted]
<b>Date:</b>	[Redacted]





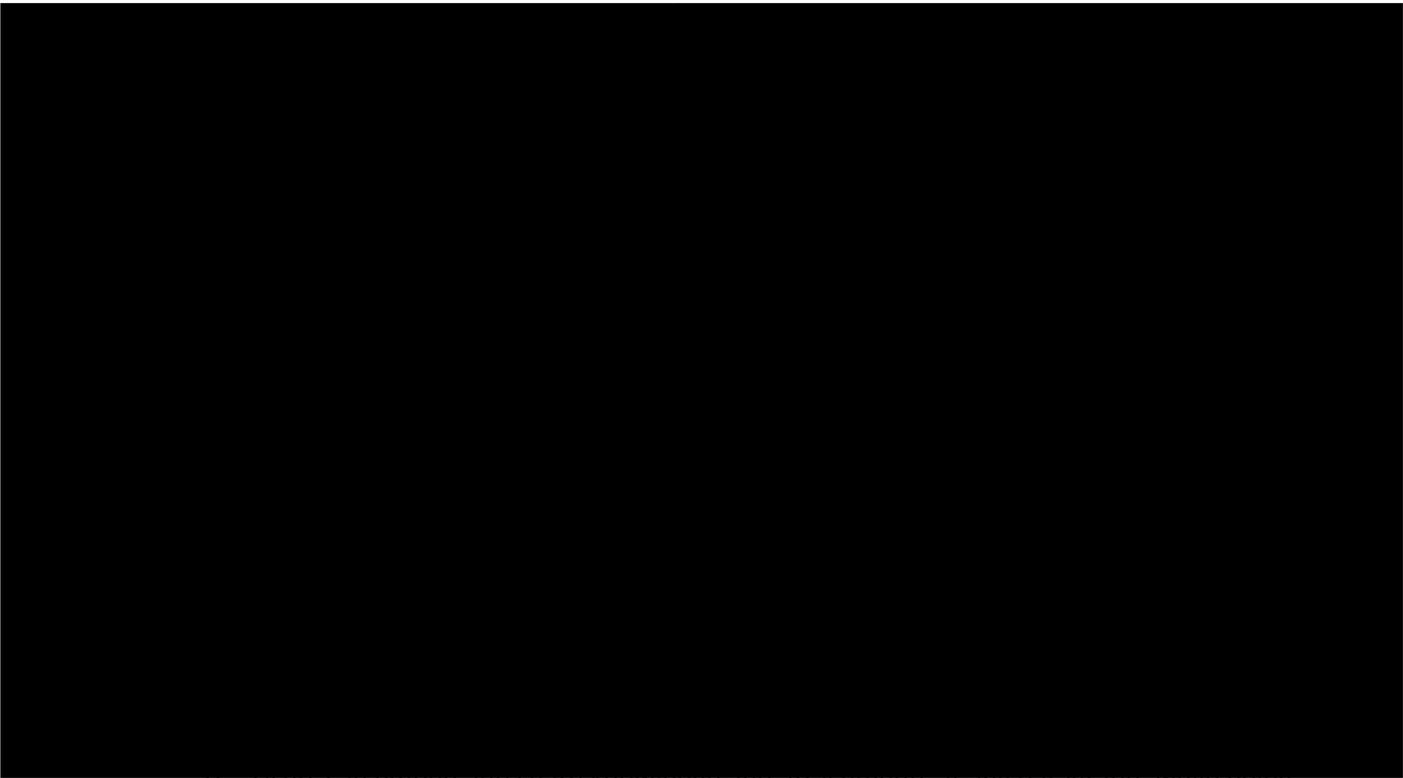
## Attachment 1 –Service Definition

### A. INTRODUCTION

#### 1. An overview of the G-Cloud Service

##### Affinitext's Intelligent Document Format (IDF)

- a) Affinitext's Intelligent Document ('IDF') format is a unique online document format. The Affinitext solution transforms traditional MS Word / PDF deal books (project bibles) for PFI, LIFT, HUB, ISO 44001, Highways Standards or other major projects into an intelligent document format, with:
  - i. 100% pop-up definitions (from wherever in the contract suite they defined terms



- f) Users can embed and share knowledge and attachments at any paragraph, while being stored in a real-time, fully filterable and exportable knowledge database.
- g) Users can track their analysis of a contractual issue within a document, across a suite of documents or across multiple projects. Analysis Tracker allows the capturing of relevant paragraphs, with the ability to annotate the paragraphs on-the-fly. Analysis Tracks can be named, saved, shared with other users and exported as PDFs with commentary. If the Track is turned when viewing a contract, any text of that contract which is part of the Track appears in highlight, with the ability to add to or edit the Track as desired.

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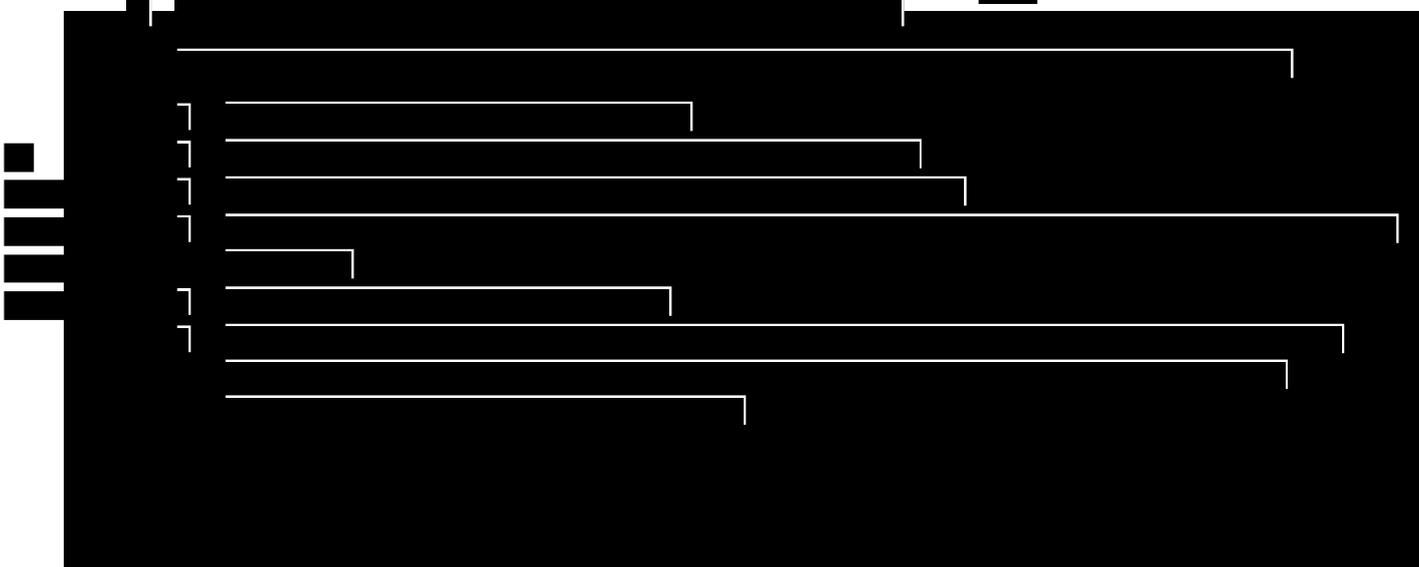
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h) Instantly identify all contractual obligations and entitlements to easily determine how they are to be managed. With Task Finder and Task Manager, tasks are instantly created against the relevant clauses to enable proactive management via "Just-In-Time" reminders from the relevant clause and tracked in a real-time database. Compliance history is captured at each clause for audit purposes.

i) The solution enables contracts to be published with 5\* transparency as part of the Government's Transparency Agenda, and identifies areas of redacted text at a mouse-click.

**2. Information assurance – Impact Level (IL) at which the G-Cloud Service is accredited to hold and process information**

Affinitext is ISO 27001, Cyber Essentials and Cyber Essentials Plus accredited, as well as being accredited by the Ministry of Defence as "OFFICIAL SENSITIVE".



Upon ce [redacted] the Buyer.

If the Bu [redacted]  
and HTM [redacted] in an SQL database. The cost of off-boarding  
this cont [redacted]  
wishes to off-board.

**5. Pricing**

The pricing is as per the Pricing Document.

**6. Service management details**

All the Buyer needs do is upload the [redacted] ct bibles via secure FTP and Affinitext provides the converted online library in IDF to authorized users via an https connection via through any common browser.

**7. Service constraints**

[redacted]  
production server downtime is very rare, and [redacted]

**8. Service Levels**

Availability is over 98%, and support is generally available 24/7 via chat, email and phone.

**9. Financial recompense model for not meeting service levels**

Not applicable

**10. Training**

Full training, annual refresher and online training and support are included in the price.

**11. Ordering and invoicing process**

Invoices are raised by Affinixtext upon order, and are payable within 14 days.

**12. Termination terms**

As per the Call-Off Agreement

[Large redacted block]

Affinixtext will [redacted]ers to move to a different supplier for [redacted]

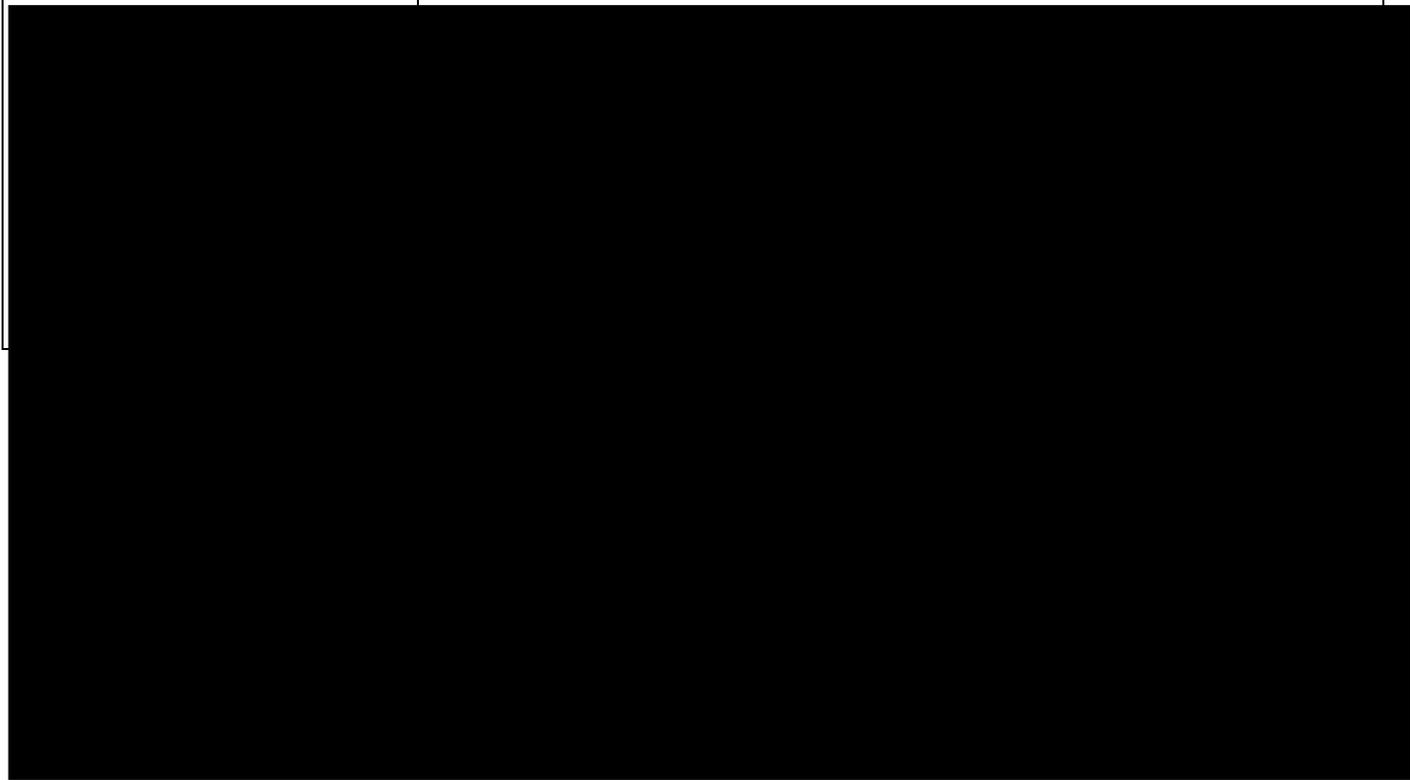
- The [redacted]
- Affinixtext commits to returning [redacted] configuration etc.) and a list of the data that will be available for extraction. Where there is a risk of confusion, data that will not be available for later extraction will also be published.
- Consumer generated data can be exported as Word, PDF, XML &/or PDF as appropriate.
- The price for extracting the data will not exceed [redacted]
- Affinixtext will purge and destroy [redacted] (as defined in security accreditation for different ILs) consumer data from any computers, storage [redacted] devices and storage media that are to be retained by the Supplier after the end of the sub[redacted]sion period and the subsequent extraction of consumer data (if requested by [redacted]sumer).



## Attachment 2 –Supplier Terms

Affinitext Online Library licence terms and conditions for the following project(s):

Project Ref. No.	Project Name



date

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North America +1 404 272 6375

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London, UK, EC2A 3AG

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Licence terms and conditions agreed at [redacted] on [redacted] ('Licence')

Parties **Affinitext (UK) Limited**, a company incorporated in England under the Companies Acts (company number 07207185) and having its registered office at 37 St Margaret's Street, Canterbury, England, CT1 2TU ('Affinitext'); and [redacted]

(Licencee')

Recitals

A. Affinitext is the owner and provider of the Affinitext Online Library. [redacted]

[Large redacted block covering the main body of the recitals section]

'Annual License Fee' means the fee payable by the Licensee in accordance with Clause 4 hereof.

'Documents' means all documents (including but not limited to, and object code versions), manuals, diagrams, graphs, charts, tables, spreadsheets, forms, reports, plans, forms, drawings, supplier lists, price lists, customer lists, market research information and other documents.

'IDF' means the Affinitext Intelligent Document Federation.

'Order Date' means the start date in the Order Form;

'Project(s)' means those projects listed on the cover page to this Licence;

'Term' means the earlier of the date 2 years after the Order Date, or the date of termination pursuant to Clause 18 (Ending the Call-Off Contract) of the Call-Off Contract.

## 2. Affinitext Online Library

Pursuant to clause 3, Affinitext will provide the Licencee with access to the Affinitext Online Library for the Project(s), as follows:

### 2.1 Affinitext Online Library access

Online access to the secure Affinitext Online Library for those Project(s) covered by this Licence.

If the Project has not already been converted for another stakeholder for inclusion in the Affinitext Online Library, or does not otherwise contain all the documents relevant to the Project, the Licencee may provide the documents to Affinitext in Word or PDF or other native format for inclusion in the Affinitext Online Library. These will be incorporated in either their native format or in IDF, as appropriate for the nature of the document and the stage of the Project. If the documents are to be converted into IDF from PDF, there will be a one-off charge of 50p / page for that conversion, payable within 14 days of invoice.

### 2.2

[Redacted]

- Ability to update consolidated hyper-linked suite of documents (via [redacted])
- Hyper-linked documents, [redacted]
- Task [redacted] verification, extraction, tracking and confirmation of contract rights, obligations and [redacted]
- Such other functionality as Affinitext may (at its discretion) implement through upgrades to the software operating the Affinitext Online Library, from time to time.

### 2.4 Library Amendments

Initial access to the Affinitext Online Library will be provided by Affinitext to the Licencee on a staging server for a two-week review period. At the expiry of that review period, Affinitext will promptly resolve any issues notified to it by the Licencee and will then publish the library to the Licencee on the production server.

The Annual Licence Fee includes one year. Additional consolidated amendments will also be subject to the review process.

**2.5 Support**

Affinixtext generally provides 24/7 on-line customer support, and provides software updates as and when released.

**2.6 Training**

Affinixtext provides user and administrator training as reasonably required.

If the Licencee wishes to have on-site training, it is available at the following rates, plus travel expenses:

Training	Charge (excl. VAT)
Individual Training Session	█
Full Training Day (3 sessions)	█

**2.7**

**2.9**

**2.1**

done in a manner that complies with the standards and methods that conform to regulatory standards

**3. Licence**

**3.1 Annual Licence**

(a) In consideration of the payment of the Annual Licence fee by the Licencee, for the term of this Licence and for the normal business purposes of the Licencee in connection with the Project(s), a non-exclusive, non-assignable licence to use the following documents:

- (i) For Project(s) where the Licencee has provided the documents for upload into the Affinixtext Online Library, those documents within the Affinixtext Online Library; and/or
- (ii) For Project(s) where the Licencee has been authorised by another stakeholder to access documents provided by that stakeholder for upload into the Affinixtext Online Library, those documents within the Affinixtext Online Library.

The Licencee may allow its employees, consultants, lawyers, financial advisers, independent reviewers and technical advisers engaged in the Project to use the Affinitext Online Library for these purposes provided that the Licencee ensures that they comply with the terms of this Licence at all times and the Licencee takes full responsibility and liability for the actions, omissions and any breaches of such third parties as though they were the actions, omissions and breaches of the Licencee.

(b) Subject to clauses 2.8 and 2.9 and Affinitext's general obligation to comply with law, the Licencee shall be fully responsible for the content which it provides to the Affinitext Online Library and for ensuring that the use of such material and disclosure to third parties as contemplated by this Licence as part of the Affinitext Online Library shall not infringe any third parties' rights or lead to a breach of any applicable law. The Licencee hereby grants Affinitext a royalty free, perpetual and irrevocable licence to use the content which the Licencee provides for the purposes contemplated by this Licence including the licensing and disclosure of such content to third parties.

3.2 [Redacted]

4.1 **Amount**  
The Annual Licence Fee (including any applicable taxes and contract charges) of the Order Form.

4.2 **Time for payment**  
The first year of the Licence Fee shall be payable on the anniversary of the Order Date. All further Annual Licence Fees are payable on the anniversary [Redacted]

4.3 **Inflation**  
The Annual Licence Fee, other than for the first year, will be adjusted annually to take account of inflation. The adjustment will be made by reference to the following formula:

$$\text{New Annual Licence Fee} = (1 + (\text{RPI} * 0.75 / 100)) * \text{Annual Licence Fee for the first year of the Term}$$

Where RPI = the percentage increase in the UK Retail Prices Index from the Order Date to the relevant anniversary of the Order Date



**7.2 Termination for cause**

Affinix shall be entitled to terminate this Licence with immediate effect in the event that:

- 7.2.1 the Licencee fails to pay any amount due under this Licence on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- 7.2.2 the Licencee commits a material breach of this Licence and fails to remedy such breach within 30 days of being notified in writing to do so; or
- 7.2.3 the Licencee is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.

**7.3 Consequences of termination**

**8.**

**8.1**

**8.3**

**8.4**

Nothing in this Licence shall prevent either party from entering into, establishing any partnership or joint venture with any other party, nor authorise either party to make any such arrangement on behalf of the other party.

**8.5 Severance**

If any court or competent authority finds any provision of this Licence to be invalid, illegal or unenforceable, that provision shall be deleted, and the validity and enforceability of the other provisions of this Licence shall not be affected.

**8.6 Waiver**

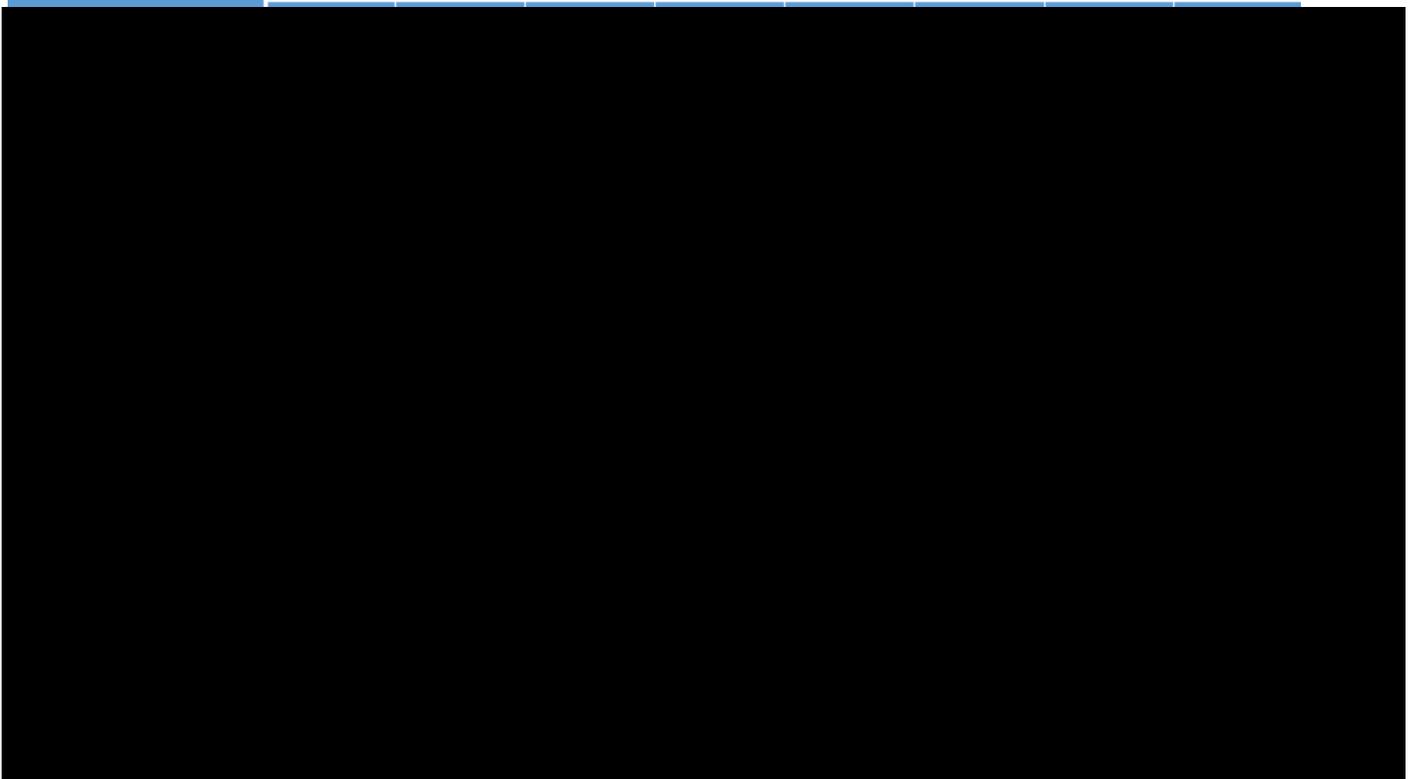
No failure or delay by a party to exercise any right or remedy provided under this Licence or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No whole or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

## Attachment 3 –Pricing Document

### 1. PFI PRICING:

The pricing is on an annual fee basis. The applicable fee depends, first, on the capital value of the project ('Small', 'Medium', 'Large' or 'Extra Large'). Secondly, it depends on the desired option (Options 1, 2, 3 or 4). These are simply Net Present Value ('NPV') options. Option 1 has no NPV component, and hence is the same fee annually. Each of the other 3 options has a higher Year 1 fee, and a commensurately lower fee for each subsequent year.

PROJECT SIZE (Capital Value)	OPTION 1 (Annual Fee)	OPTION 2 (Annual Fee)	OPTION 3 (Annual Fee)	OPTION 4 (Annual Fee)
---------------------------------	--------------------------	--------------------------	--------------------------	--------------------------



- The Annual Fee covers unlimited users and unlimited usage for the Contracting Body and its government stakeholders, employees, consultants, advisers, etc., as per the Supplier Terms. An unlimited "All Stakeholder" licence, which includes unlimited users and unlimited usage for unlimited parties is 1.8 times the above fees.

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## 2. WASTE SECTOR PRICING:

For the Waste sector, the following discounts apply to the rack-rate pricing.

### 2.1 PORTFOLIO DISCOUNT

If a Contracting Body purchases the Affinix solution across a portfolio of 20 or more waste projects, its annual licence fee for each project will be discounted to an annual fee of only [REDACTED]).

### 2.2 THE POTENTIAL WASTE SECTOR DISCOUNTS FOR AUTHORITIES\*

PROJECT SIZE (Capital Value)	RACK G-CLOUD PRICING Per Annum	WASTE SECTOR DISCOUNTED PRICING (PER ANNUM)
---------------------------------	---	---

[REDACTED TABLE CONTENT]

\* Pricing is for [REDACTED] surcharge applies for 3 years (i.e. the first [REDACTED] annual licence)

\* The Annual Fee [REDACTED] for the Contracting Body and its government stakeholders, employees, consultants, and [REDACTED] Stakeholder" licence, which includes unlimited [REDACTED] times the above fee.

### 2.3 THE 2-LIMB CALCULATION OF THE WASTE SECTOR DISCOUNT FOR AUTHORITIES

A 2-limb discount structure from the rack-rate pricing is available to the Authorities, as follows. The discounts under each limb are additive.

- i. Limb 1 is the **Portfolio Related Discount** and is available to every Authority. This discount is based on the Year 1 portfolio contribution (if any) by a Contracting Body, and a Year 2 annual payment by that Contracting Body of [REDACTED] per project [REDACTED]
- ii. Limb 2 is the **Authority Group Discount** [REDACTED] to those Authorities which licence Affinix [REDACTED]

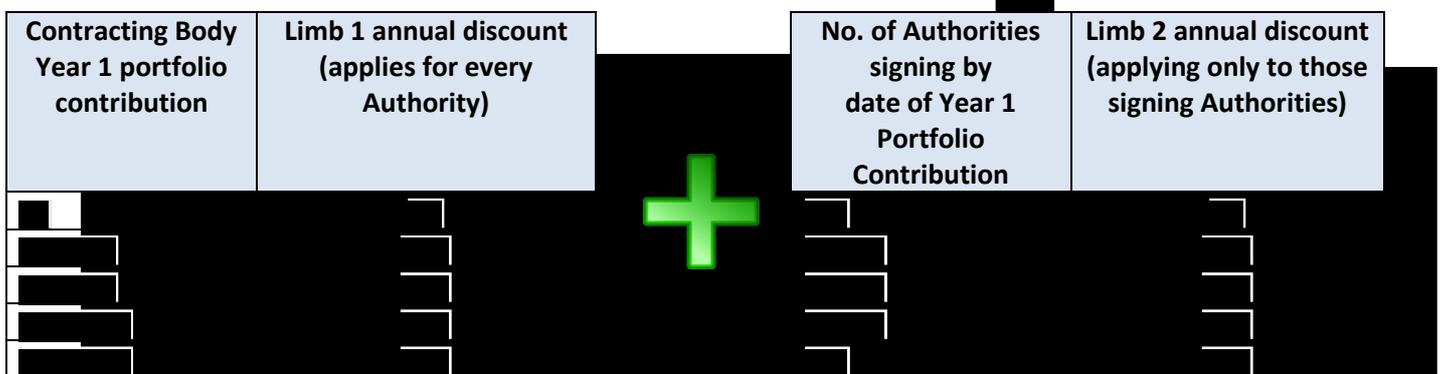


becomes available. The amount of the discount depends on the number of Authorities signing, as shown in the table below.

*E.g.: If a Contracting Body was to make a Year 1 portfolio contribution of £80,000 by, say, 31 December, and 10 Authorities were to sign by that date, all Authorities would have the advantage of a 20% annual discount, and the 10 Authorities would have a 30% annual discount. (N.B. The maximum combined annual discount available to ten Authorities is 40%)*

### Portfolio Related Discount

### Authority Group Discount



### 3. TASK EXTRACTION AND POPULATION

- £1/ row

### 4. ALTERNATIVE, "AS-USED" PRICING MODEL

An alternative pricing model to the unlimited pricing model. The per-hour usage fee for the first hour of the month in which the usage occurred.

PROJECT SIZE (Capital Value)	"AS-USED" FEE (£/login hour/user)
Extra Large (£500m+)	
Large (£200m-£500m)	
Medium (£65m-£200m)	
Small (up to £65m)	

## Part B - Terms and conditions

### 1. Call-Off Contract start date and length

- 1.1 The Supplier must start providing the Services on the date specified in the Order Form.
- 1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 24 months from the Start Date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.
- 1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, as long as this is within the maximum permitted under the Framework Agreement of 2 periods of up to 12 months each.
- 1.4 The Parties must comply with the requirements under clauses 21.3 to 1.8 if the Buyer reserves the right in the Order Form to extend the contract beyond 24 months.

### 2. Incorporation of terms

- 2.1 The following Framework Agreement clauses (including clauses and defined terms referenced by them) as modified under clause 2.2 are incorporated as separate Call-Off Contract obligations and apply between the Supplier and the Buyer:

- 4.1 (Warranties and representations)
- 4.2 to 4.7 (Liability)
- 4.11 to 4.12 (IR35)
- 5.2 to 5.3 (Force majeure)
- 5.6 (Continuing rights)
- 5.7 to 5.9 (Change of control)
- 5.10 (Fraud)
- 5.11 (Notice of fraud)

- 7.1 to 7.2 (Transparency)
- 8.3 (Order of precedence)
- 8.4 (Relationship)
- 8.7 to 8.9 (Entire agreement)
- 8.10 (Law and jurisdiction)
- 8.11 to 8.12 (Legislative change)
- 8.13 to 8.17 (Bribery and corruption)
- 8.18 to 8.27 (Freedom of Information Act)
- 8.28 to 8.29 (Promoting tax compliance)
- 8.30 to 8.31 (Official Secrets Act)
- 8.32 to 8.35 (Transfer and subcontracting)
- 8.38 to 8.41 (Complaints handling and resolution)
- 8.49 to 8.51 (Publicity and branding)
- 8.42 to 8.48 (Conflicts of interest and ethical walls)
- 8.52 to 8.54 (Equality and diversity)
- 8.66 to 8.67 (Severability)
- 8.68 to 8.82 (Managing disputes)
- 8.83 to 8.91 (Confidentiality)
- 8.92 to 8.93 (Waiver and cumulative remedies)
- paragraphs 1 to 10 of the Framework Agreement glossary and interpretations
- any audit provisions from the Framework Agreement set out by the Buyer in the Order Form

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

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

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

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

### **3. Supply of services**

3.1 The Supplier agrees to supply the G-Cloud Services and any Additional Services under the terms of the Call-Off Contract and the Supplier's Application.

3.2 The Supplier undertakes that each G-Cloud Service will meet the Buyer's acceptance

criteria, as defined in the Order Form.

#### **4. Supplier staff**

4.1 The Supplier Staff must:

- be appropriately experienced, qualified and trained to supply the Services
- apply all due skill, care and diligence in faithfully performing those duties
- obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer
- respond to any enquiries about the Services as soon as reasonably possible
- complete any necessary Supplier Staff vetting as specified by the Buyer

4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.

4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.

4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35.

4.5 The Buyer may End this Call-Off Contract for Material Breach if the Supplier is delivering the Services Inside IR35.

4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start Date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14-digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.

4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.

4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

#### **5. Due diligence**

5.1 Both Parties agree that when entering into a Call-Off Contract they:

- have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party
- are confident that they can fulfil their obligations according to the Call-Off Contract terms

- have raised all due diligence questions before signing the Call-Off Contract
- have entered into the Call-Off Contract relying on its own due diligence

## **6. Business continuity and disaster recovery**

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their service descriptions.
- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.
- 6.3 If requested by the Buyer prior to entering into this Call-Off Contract, the Supplier must ensure that its business continuity and disaster recovery plan is consistent with the Buyer's own plans.

## **7. Payment, VAT and Call-Off Contract charges**

- 7.1 The Buyer must pay the Charges following clauses 7.2 to 7.11 for the Supplier's delivery of the Services.
- 7.2 The Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice.
- 7.3 The Call-Off Contract Charges include all Charges for payment processing. All invoices submitted to the Buyer for the Services will be exclusive of any Management Charge.
- 7.4 If specified in the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and must not recover this charge from the Buyer.
- 7.5 The Supplier must ensure that each invoice contains a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.
- 7.6 If the Supplier enters into a Subcontract it must ensure that a provision is included in each Subcontract which specifies that payment must be made to the Subcontractor within 30 days of receipt of a valid invoice.
- 7.7 All Charges payable by the Buyer to the Supplier will include VAT at the appropriate rate.
- 7.8 The Supplier must add VAT to the Charges at the appropriate rate with visibility of the amount as a separate line item.
- 7.9 The Supplier will indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier must pay all sums to the Buyer at least 5 Working Days

before the date on which the tax or other liability is payable by the Buyer.

- 7.10 The Supplier must not suspend the supply of the G-Cloud Services unless the Supplier is entitled to End this Call-Off Contract under clause 18.6 for Buyer's failure to pay undisputed sums of money. Interest will be payable by the Buyer on the late payment of any undisputed sums of money properly invoiced under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.11 If there's an invoice dispute, the Buyer must pay the undisputed amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.12 Due to the nature of G-Cloud Services it isn't possible in a static Order Form to exactly define the consumption of services over the duration of the Call-Off Contract. The Supplier agrees that the Buyer's volumes indicated in the Order Form are indicative only.

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

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

## **9. Insurance**

- 9.1 The Supplier will maintain the insurances required by the Buyer including those in this clause.
- 9.2 The Supplier will ensure that:
- during this Call-Off Contract, Subcontractors hold third--party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000
  - the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit
  - all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
  - all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after

### the End or Expiry Date

- 9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.
- 9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:
- a broker's verification of insurance
  - receipts for the insurance premium
  - evidence of payment of the latest premiums due
- 9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:
- take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers
  - promptly notify the insurers in writing of any relevant material fact under any insurances
  - hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance
- 9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.
- 9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.
- 9.8 The Supplier will be liable for the payment of any:
- premiums, which it will pay promptly
  - excess or deductibles and will not be entitled to recover this from the Buyer

## 10. Confidentiality

- 10.1 Subject to clause 24.1 the Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under the Data Protection Legislation or under incorporated Framework Agreement clauses 8.83 to 8.91. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

## 11. Intellectual Property Rights

- 11.1 Unless otherwise specified in this Call-Off Contract, a Party will not acquire any right, title or interest in or to the Intellectual Property Rights (IPRs) of the other Party or its licensors.
- 11.2 The Supplier grants the Buyer a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to use the Project Specific IPRs and any Background IPRs embedded within the Project Specific IPRs for the Buyer's ordinary business activities.
- 11.3 The Supplier must obtain the grant of any third-party IPRs and Background IPRs so the Buyer can enjoy full use of the Project Specific IPRs, including the Buyer's right to publish the IPR as open source.
- 11.4 The Supplier must promptly inform the Buyer if it can't comply with the clause above and the Supplier must not use third-party IPRs or Background IPRs in relation to the Project Specific IPRs if it can't obtain the grant of a licence acceptable to the Buyer.
- 11.5 The Supplier will, on written demand, fully indemnify the Buyer and the Crown for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:
- rights granted to the Buyer under this Call-Off Contract
  - Supplier's performance of the Services
  - use by the Buyer of the Services
- 11.6 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:
- modify the relevant part of the Services without reducing its functionality or performance
  - substitute Services of equivalent functionality and performance, to avoid the infringement or the alleged infringement, as long as there is no additional cost or burden to the Buyer
  - buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer
- 11.7 Clause 11.5 will not apply if the IPR Claim is from:
- the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract
  - other material provided by the Buyer necessary for the Services
- 11.8 If the Supplier does not comply with clauses 11.2 to 11.6, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money

paid for the affected Services.

## 12. Protection of information

12.1 The Supplier must:

- comply with the Buyer's written instructions and this Call-Off Contract when Processing Buyer Personal Data
- only Process the Buyer Personal Data as necessary for the provision of the G-Cloud Services or as required by Law or any Regulatory Body
- take reasonable steps to ensure that any Supplier Staff who have access to Buyer Personal Data act in compliance with Supplier's security processes

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

- providing the Buyer with full details of the complaint or request
- complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions
- providing the Buyer with any Buyer Personal Data it holds about a Data Subject (within the timescales required by the Buyer)
- providing the Buyer with any information requested by the Data Subject

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

## 13. Buyer data

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

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

13.2 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested.

13.3 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policy and all Buyer requirements in the Order Form.

13.4 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.

13.5 The Supplier will ensure that any Supplier system which holds any protectively marked

Buyer Data or other government data will comply with:

- the principles in the Security Policy Framework at <https://www.gov.uk/government/publications/security-policy-framework> and the Government Security Classification policy at <https://www.gov.uk/government/publications/government-security-classifications>
- guidance issued by the Centre for Protection of National Infrastructure on Risk Management at <https://www.cpni.gov.uk/content/adopt-risk-management-approach> and Accreditation of Information Systems at <https://www.cpni.gov.uk/protection-sensitive-information-and-assets>
- the National Cyber Security Centre's (NCSC) information risk management guidance, available at <https://www.ncsc.gov.uk/guidance/risk-management-collection>
- government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint, available at <https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>
- the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance at <https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>

13.6 The Buyer will specify any security requirements for this project in the Order Form.

13.7 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.

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

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

#### **14. Standards and quality**

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

14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its

obligations under the Technology Code of Practice, which is available at <https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>

- 14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.
- 14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.
- 14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

## 15. Open source

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

## 16. Security

- 16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.
- 16.2 The Supplier will use software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.
- 16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.
- 16.4 Responsibility for costs will be at the:
  - Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided

- Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control

- 16.5 The Supplier will immediately notify CCS of any breach of security of CCS's Confidential Information (and the Buyer of any Buyer Confidential Information breach). Where the breach occurred because of a Supplier Default, the Supplier will recover the CCS and Buyer Confidential Information however it may be recorded.
- 16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance, available at <https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>
- 16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start Date.

## 17. Guarantee

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

## 18. Ending the Call-Off Contract

- 18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.
- 18.2 The Parties agree that the:
- Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided
  - Call-Off Contract Charges paid during the notice period is reasonable compensation and covers all the Supplier's avoidable costs or Losses
- 18.3 Subject to clause 24 (Liability), if the Buyer Ends this Call-Off Contract under clause 18.1, it will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate the Loss. If the Supplier has insurance, the Supplier will reduce its unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of the unavoidable Loss with supporting evidence.

- 18.4 The Buyer will have the right to End this Call-Off Contract at any time with immediate effect by written notice to the Supplier if either the Supplier commits:
- a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied
  - any fraud
- 18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:
- the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due) and, if that breach is remediable, fails to remedy it within 15 Working Days of being notified in writing to do so
  - an Insolvency Event of the other Party happens
  - the other Party ceases or threatens to cease to carry on the whole or any material part of its business
- 18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.
- 18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

## **19. Consequences of suspension, ending and expiry**

- 19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.
- 19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the Ordered G-Cloud Services until the dates set out in the notice.
- 19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date (whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.
- 19.4 Ending or expiry of this Call-Off Contract will not affect:
- any rights, remedies or obligations accrued before its Ending or expiration
  - the right of either Party to recover any amount outstanding at the time of Ending or expiry
  - the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses 7 (Payment, VAT and Call-Off Contract charges); 8 (Recovery of sums due

and right of set-off); 9 (Insurance); 10 (Confidentiality); 11 (Intellectual property rights); 12 (Protection of information); 13 (Buyer data); 19 (Consequences of suspension, ending and expiry); 24 (Liability); incorporated Framework Agreement clauses: 4.2 to 4.7 (Liability); 8.42 to 8.48 (Conflicts of interest and ethical walls) and 8.92 to 8.93 (Waiver and cumulative remedies)

- any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires

19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:

- return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it
- return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer
- stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer
- destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law
- work with the Buyer on any ongoing work
- return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

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

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

## 20. Notices

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

Manner of delivery	Deemed time of delivery	Proof of service
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Email	9am on the first Working Day after sending	Sent by pdf to the correct email address without getting an error message
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20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

## 21. Exit plan

- 21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.
- 21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.
- 21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 24 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 18 month anniversary of the Start Date.
- 21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.
- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.
- 21.6 The Supplier acknowledges that the Buyer's right to extend the Term beyond 24 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:
- the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the extension period on terms that are commercially reasonable and acceptable to the Buyer
  - there will be no adverse impact on service continuity
  - there is no vendor lock-in to the Supplier's Service at exit

- it enables the Buyer to meet its obligations under the Technology Code Of Practice

21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.

21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:

- the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier
- the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer
- the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier
- the testing and assurance strategy for exported Buyer Data
- if relevant, TUPE-related activity to comply with the TUPE regulations
- any other activities and information which is reasonably required to ensure continuity of Service during the exit period and an orderly transition

## **22. Handover to replacement supplier**

22.1 At least 10 Working Days before the Expiry Date or End Date, the Supplier must provide any:

- data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control
- other information reasonably requested by the Buyer

22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.

22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

## **23. Force majeure**

23.1 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off

Contract for more than the number of consecutive days set out in the Order Form, the other Party may End this Call-Off Contract with immediate effect by written notice.

## 24. Liability

24.1 Subject to incorporated Framework Agreement clauses 4.2 to 4.7, each Party's Yearly total liability for defaults under or in connection with this Call-Off Contract (whether expressed as an indemnity or otherwise) will be set as follows:

- Property: for all defaults resulting in direct loss to the property (including technical infrastructure, assets, IPR or equipment but excluding any loss or damage to Buyer Data) of the other Party, will not exceed the amount in the Order Form
- Buyer Data: for all defaults resulting in direct loss, destruction, corruption, degradation or damage to any Buyer Data caused by the Supplier's default will not exceed the amount in the Order Form
- Other defaults: for all other defaults, claims, Losses or damages, whether arising from breach of contract, misrepresentation (whether under common law or statute), tort (including negligence), breach of statutory duty or otherwise will not exceed the amount in the Order Form

## 25. Premises

25.1 If either Party uses the other Party's premises, that Party is liable for all loss or damage it causes to the premises. It is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

25.2 The Supplier will use the Buyer's premises solely for the performance of its obligations under this Call-Off Contract.

25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.

25.4 This clause does not create a tenancy or exclusive right of occupation.

25.5 While on the Buyer's premises, the Supplier will:

- comply with any security requirements at the premises and not do anything to weaken the security of the premises
- comply with Buyer requirements for the conduct of personnel
- comply with any health and safety measures implemented by the Buyer
- immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury

- 25.6 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Buyer on request.

## **26. Equipment**

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

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

- 27.1 Except as specified in clause 29.8, a person who isn't Party to this Call-Off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. This does not affect any right or remedy of any person which exists or is available otherwise.

## **28. Environmental requirements**

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

## **29. The Employment Regulations (TUPE)**

- 29.1 The Supplier agrees that if the Employment Regulations apply to this Call-Off Contract on the Start Date then it must comply with its obligations under the Employment Regulations and (if applicable) New Fair Deal (including entering into an Admission Agreement) and will indemnify the Buyer or any Former Supplier for any loss arising from any failure to comply.
- 29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:
- the activities they perform
  - age
  - start date

- place of work
- notice period
- redundancy payment entitlement
- salary, benefits and pension entitlements
- employment status
- identity of employer
- working arrangements
- outstanding liabilities
- sickness absence
- copies of all relevant employment contracts and related documents
- all information required under regulation 11 of TUPE or as reasonably requested by the Buyer

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

29.4 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.

29.5 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.

29.6 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:

- its failure to comply with the provisions of this clause
- any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer

29.7 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.

29.8 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

### **30. Additional G-Cloud services**

30.1 The Buyer may require the Supplier to provide Additional Services. The Buyer doesn't have to buy any Additional Services from the Supplier and can buy services that are the same as or similar to the Additional Services from any third party.

30.2 If reasonably requested to do so by the Buyer in the Order Form, the Supplier must provide and monitor performance of the Additional Services using an Implementation Plan.

### **31. Collaboration**

31.1 If the Buyer has specified in the Order Form that it requires the Supplier to enter into a Collaboration Agreement, the Supplier must give the Buyer an executed Collaboration Agreement before the Start Date.

31.2 In addition to any obligations under the Collaboration Agreement, the Supplier must:

- work proactively and in good faith with each of the Buyer's contractors
- co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and G-Cloud Services

### **32. Variation process**

32.1 The Buyer can request in writing a change to this Call-Off Contract if it isn't a material change to the Framework Agreement/or this Call-Off Contract. Once implemented, it is called a Variation.

32.2 The Supplier must notify the Buyer immediately in writing of any proposed changes to their G-Cloud Services or their delivery by submitting a Variation request. This includes any changes in the Supplier's supply chain.

32.3 If Either Party can't agree to or provide the Variation, the Buyer may agree to continue performing its obligations under this Call-Off Contract without the Variation, or End this Call-Off Contract by giving 30 days notice to the Supplier.

### **33. Data Protection Legislation (GDPR)**

33.1 The Parties will comply with the Data Protection Legislation and agree that the Buyer is the Controller and the Supplier is the Processor. The only Processing the Supplier is authorised to do is listed at Schedule 7 unless Law requires otherwise (in which case the Supplier will promptly notify the Buyer of any additional Processing if permitted by Law).

- 33.2 The Supplier will assist the Buyer with the preparation of any Data Protection Impact Assessment required by the Data Protection Legislation before commencing any Processing (including provision of detailed information and assessments in relation to Processing operations, risks and measures) and must notify the Buyer immediately if it considers that the Buyer's instructions infringe the Data Protection Legislation.
- 33.3 The Supplier must have in place Protective Measures, details of which shall be provided to the Buyer on request, to guard against a Data Loss Event, which take into account the nature of the data, the harm that might result, the state of technology and the cost of implementing the measures.
- 33.4 The Supplier will ensure that the Supplier Staff only process Personal Data in accordance with this Call-Off Contract and take all reasonable steps to ensure the reliability and integrity of Supplier Personnel with access to Personal Data, including by ensuring they:
- i) are aware of and comply with the Supplier's obligations under this Clause;
  - ii) are subject to appropriate confidentiality undertakings with the Supplier
  - iii) are informed of the confidential nature of the Personal Data and don't publish, disclose or divulge it to any third party unless directed by the Buyer or in accordance with this Call-Off Contract
  - iv) are given training in the use, protection and handling of Personal Data.
- 33.5 The Supplier will not transfer Personal Data outside of the European Union unless the prior written consent of the Buyer has been obtained, which shall be dependent on such a transfer satisfying relevant Data Protection Legislation requirements.
- 33.6 The Supplier will delete or return Buyer's Personal Data (including copies) if requested in writing by the Buyer at the End or Expiry of this Call-Off Contract, unless required to retain the Personal Data by Law.
- 33.7 The Supplier will notify the Buyer without undue delay if it receives any communication from a third party relating to the Parties' obligations under the Data Protection Legislation, or it becomes aware of a Data Loss Event, and will provide the Buyer with full and ongoing assistance in relation to each Party's obligations under the Data Protection Legislation, and insofar as this is possible, in accordance with any timescales reasonably required by the Buyer
- 33.8 The Supplier will maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- i) the Buyer determines that the Processing is not occasional;
  - ii) the Buyer determines the Processing includes special categories of data as

referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and

iii) the Buyer determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.

33.9 Before allowing any Sub-processor to Process any Personal Data related to this Call-Off Contract, the Supplier must:

- i. notify the Buyer in writing of the proposed Sub-processor(s) and obtain its written consent;
- ii. ensure that it has entered into a written agreement with the Sub-processor(s) which gives effect to obligations set out in this Clause 33 such that they apply to the Sub-processor(s); and
- iii. inform the Buyer of any additions to, or replacements of the notified Sub-processors and the Buyer shall either i) provide its written consent or ii) object.

33.10 The Buyer may at any time put forward a Variation request to amend this Call-Off Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

### **Schedule 3 - Collaboration agreement**

The Collaboration agreement is available at <https://www.gov.uk/guidance/g-cloud-templates-and-legal-documents>

### **Schedule 4 - Alternative clauses**

The Alternative clauses are available at <https://www.gov.uk/guidance/g-cloud-templates-and-legal-documents>

### **Schedule 5 - Guarantee**

The Guarantee is available at <https://www.gov.uk/guidance/g-cloud-templates-and-legal-documents>

## Schedule 6 - Glossary and interpretations

In this Call-Off Contract the following expressions mean:

<b>Additional Services</b>	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Section 2 (Services Offered) which a Buyer may request.
<b>Admission Agreement</b>	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
<b>Application</b>	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Digital Marketplace).
<b>Audit</b>	An audit carried out under the incorporated Framework Agreement clauses specified by the Buyer in the Order (if any).
<b>Background IPRs</b>	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> <li>• owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes</li> <li>• created by the Party independently of this Call-Off Contract, or</li> </ul> <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>
<b>Buyer</b>	The contracting authority ordering services as set out in the Order Form.
<b>Buyer Data</b>	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
<b>Buyer Personal Data</b>	The personal data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
<b>Buyer Representative</b>	The representative appointed by the Buyer under this Call-Off Contract.
<b>Buyer Software</b>	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.
<b>Call-Off Contract</b>	This call-off contract entered into following the provisions of the

	Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.
<b>Charges</b>	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
<b>Collaboration Agreement</b>	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
<b>Commercially Sensitive Information</b>	Information, which the Buyer has been notified about by the Supplier in writing before the Start Date with full details of why the Information is deemed to be commercially sensitive.
<b>Confidential Information</b>	Data, personal data and any information, which may include (but isn't limited to) any: <ul style="list-style-type: none"> <li>• information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above</li> <li>• other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').</li> </ul>
<b>Control</b>	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
<b>Controller</b>	Takes the meaning given in the Data Protection Legislation.
<b>Crown</b>	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.
<b>Data Loss Event</b>	Means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed

<b>Data Protection Impact Assessment</b>	An assessment by the Controller of the impact of the envisaged Processing by the Processor under this Call-Off Contract on the protection of Personal Data.
<b>Data Protection Legislation</b>	Data Protection Legislation means: <ul style="list-style-type: none"> <li>i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time</li> <li>ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy;</li> <li>iii) all applicable Law about the processing of personal data and privacy, including if applicable legally binding guidance and codes of practice issued by the Information Commissioner.</li> </ul>
<b>Data Subject</b>	Takes the meaning given in the Data Protection Legislation.
<b>Default</b>	Default is any: <ul style="list-style-type: none"> <li>• breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term)</li> <li>• other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract</li> </ul> <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
<b>Deliverable</b>	The G-Cloud Services the Buyer contracts the Supplier to provide under this Call-Off Contract.
<b>Digital Marketplace</b>	The government marketplace where Services are available for Buyers to buy. ( <a href="https://www.digitalmarketplace.service.gov.uk/">https://www.digitalmarketplace.service.gov.uk/</a> )
<b>DPA 2018</b>	Data Protection Act 2018.
<b>Employment Regulations</b>	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') which implements the Acquired Rights Directive.
<b>End</b>	Means to terminate; and Ended and Ending are construed accordingly.
<b>Environmental Information</b>	The Environmental Information Regulations 2004 together with

<b>Regulations or EIR</b>	any guidance or codes of practice issued by the Information Commissioner or relevant Government department about the regulations.
<b>Equipment</b>	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.
<b>ESI Reference Number</b>	The 14 digit ESI reference number from the summary of outcome screen of the ESI tool.
<b>Employment Status Indicator test tool or ESI tool</b>	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here: <a href="http://tools.hmrc.gov.uk/esi">http://tools.hmrc.gov.uk/esi</a>
<b>Expiry Date</b>	The expiry date of this Call-Off Contract in the Order Form.
<b>Force Majeure</b>	<p>A Force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none"> <li>• acts, events or omissions beyond the reasonable control of the affected Party</li> <li>• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare</li> <li>• acts of government, local government or Regulatory Bodies</li> <li>• fire, flood or disaster and any failure or shortage of power or fuel</li> <li>• industrial dispute affecting a third party for which a substitute third party isn't reasonably available</li> </ul> <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> <li>• any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain</li> <li>• any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure</li> <li>• the event was foreseeable by the Party seeking to rely on Force Majeure at the time this Call-Off Contract was entered into</li> <li>• any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans</li> </ul>
<b>Former Supplier</b>	A supplier supplying services to the Buyer before the Start Date that are the same as or substantially similar to the Services. This

	also includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).
<b>Framework Agreement</b>	The clauses of framework agreement RM1557.10 together with the Framework Schedules.
<b>Fraud</b>	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.
<b>Freedom of Information Act or FOIA</b>	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to the legislation.
<b>G-Cloud Services</b>	The cloud services described in Framework Agreement Section 2 (Services Offered) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
<b>GDPR</b>	The General Data Protection Regulation (Regulation (EU) 2016/679).
<b>Good Industry Practice</b>	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances.
<b>Guarantee</b>	The guarantee described in Schedule 5.
<b>Guidance</b>	Any current UK Government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK Government guidance and the Crown Commercial Service guidance, current UK Government guidance will take precedence.
<b>Indicative Test</b>	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
<b>Information</b>	Has the meaning given under section 84 of the Freedom of Information Act 2000.
<b>Information Security</b>	The information security management system and process

<b>Management System</b>	developed by the Supplier in accordance with clause 16.1.
<b>Inside IR35</b>	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
<b>Insolvency Event</b>	Can be: <ul style="list-style-type: none"> <li>• a voluntary arrangement</li> <li>• a winding-up petition</li> <li>• the appointment of a receiver or administrator</li> <li>• an unresolved statutory demand</li> <li>• a Schedule A1 moratorium.</li> </ul>
<b>Intellectual Property Rights or IPR</b>	Intellectual Property Rights are: <ul style="list-style-type: none"> <li>• copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information</li> <li>• 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</li> <li>• all other rights having equivalent or similar effect in any country or jurisdiction</li> </ul>
<b>Intermediary</b>	For the purposes of the IR35 rules an intermediary can be: <ul style="list-style-type: none"> <li>• the supplier's own limited company</li> <li>• a service or a personal service company</li> <li>• a partnership</li> </ul> <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>
<b>IPR Claim</b>	A claim as set out in clause 11.5.
<b>IR35</b>	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.
<b>IR35 Assessment</b>	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.
<b>Know-How</b>	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or CCS's possession before the

	Start Date.
<b>Law</b>	Any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.
<b>LED</b>	Law Enforcement Directive (EU) 2016/680.
<b>Loss</b>	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' <b>Losses</b> ' will be interpreted accordingly.
<b>Lot</b>	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
<b>Malicious Software</b>	Any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.
<b>Management Charge</b>	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
<b>Management Information</b>	The management information specified in Framework Agreement section 6 (What you report to CCS).
<b>Material Breach</b>	Those breaches which have been expressly set out as a material breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.
<b>Ministry of Justice Code</b>	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.
<b>New Fair Deal</b>	The revised Fair Deal position in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 as amended.

<b>Order</b>	An order for G-Cloud Services placed by a Contracting Body with the Supplier in accordance with the Ordering Processes.
<b>Order Form</b>	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
<b>Ordered G-Cloud Services</b>	G-Cloud Services which are the subject of an Order by the Buyer.
<b>Outside IR35</b>	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
<b>Party</b>	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
<b>Personal Data</b>	Takes the meaning given in the Data Protection Legislation.
<b>Personal Data Breach</b>	Takes the meaning given in the Data Protection Legislation.
<b>Processing</b>	Takes the meaning given in the Data Protection Legislation but, for the purposes of this Call-Off Contract, it will include both manual and automatic Processing. 'Process' and 'processed' will be interpreted accordingly.
<b>Processor</b>	Takes the meaning given in the Data Protection Legislation.
<b>Prohibited Act</b>	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>● induce that person to perform improperly a relevant function or activity</li> <li>● reward that person for improper performance of a relevant function or activity</li> <li>● commit any offence: <ul style="list-style-type: none"> <li>○ under the Bribery Act 2010</li> <li>○ under legislation creating offences concerning Fraud</li> <li>○ at common Law concerning Fraud</li> <li>○ committing or attempting or conspiring to commit Fraud</li> </ul> </li> </ul>
<b>Project Specific IPRs</b>	Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.

<b>Property</b>	Assets and property including technical infrastructure, IPRs and equipment.
<b>Protective Measures</b>	Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
<b>PSN or Public Services Network</b>	The Public Services Network (PSN) is the Government's high-performance network which helps public sector organisations work together, reduce duplication and share resources.
<b>Regulatory Body or Bodies</b>	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.
<b>Relevant Person</b>	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
<b>Relevant Transfer</b>	A transfer of employment to which the Employment Regulations applies.
<b>Replacement Services</b>	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.
<b>Replacement Supplier</b>	Any third party service provider of Replacement Services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).
<b>Services</b>	The services ordered by the Buyer as set out in the Order Form.
<b>Service Data</b>	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
<b>Service Definition(s)</b>	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Section 2 (Services Offered) of the Framework Agreement.
<b>Service Description</b>	The description of the Supplier service offering as published on the Digital Marketplace.

<b>Service Personal Data</b>	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.
<b>Spend Controls</b>	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see <a href="https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service">https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service</a>
<b>Start Date</b>	The start date of this Call-Off Contract as set out in the Order Form.
<b>Subcontract</b>	Any contract or agreement or proposed agreement between the Supplier and a Subcontractor in which the Subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
<b>Subcontractor</b>	Any third party engaged by the Supplier under a Subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
<b>Subprocessor</b>	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
<b>Supplier Representative</b>	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.
<b>Supplier Staff</b>	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and Subcontractors used in the performance of its obligations under this Call-Off Contract.
<b>Supplier Terms</b>	The relevant G-Cloud Service terms and conditions as set out in the Terms and Conditions document supplied as part of the Supplier's Application.
<b>Term</b>	The term of this Call-Off Contract as set out in the Order Form.
<b>Variation</b>	This has the meaning given to it in clause 32 (Variation process).
<b>Working Days</b>	Any day other than a Saturday, Sunday or public holiday in England and Wales.
<b>Year</b>	A contract year.

## Schedule 7 - Processing, Personal Data and Data Subjects

Description	Details
Subject matter of the processing	Creating and maintaining an Affinitext Online Library [REDACTED] The Supplier converts MS Word and PDF documents into an Intelligent Document Format ('IDF') in a secure Affinitext Online Library which authorised users can access
Duration of the processing	For the period from the establishment of the Affinitext Online Library until termination of the licence
N [REDACTED]	[REDACTED] details and library usage
Type of Personal Data	[REDACTED], email addresses, telephone nos, IP
Categories of Data Subject	Buyer contact representatives and Affinitext Online Library users
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Destroyed 3 years after termination of the licence unless required to do so earlier by the Buyer [REDACTED]



Crown  
Commercial  
Service

## G-Cloud 10 Framework Agreement

Dated: 18 June 2018

Framework reference: RM1557.10

This Framework Agreement is between:

**Crown Commercial Service**

and

**Affinitext (UK) Limited**

## **G-Cloud 10 Framework Agreement**

This Framework Agreement governs the relationship between the Crown Commercial Service (CCS), and the Supplier. It covers the provision of G-Cloud 10 services by the Supplier to CCS and to Buyers.

CCS and the Supplier are known together as the 'Parties'.

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**Section 1 - The appointment**

This section includes terms about the Supplier appointment.

**Appointment**

1.1 Under the terms of this Framework Agreement (RM1557.10) and the Supplier's Application, the Minister for the Cabinet Office, represented by the Crown Commercial Service (CCS), 9th Floor, The Capital, Old Hall Street, Liverpool, L3 9PP, appoints:

**company:** Affinixtext (UK) Limited

**registered address:** 37 St Margarets Street, Canterbury, CT1 2TU

**company number:** 07207185

(the 'Supplier'), as a Framework Agreement Supplier of G-Cloud 10 services who can be considered for Call-Off Contracts as outlined in the Contract Notice in the Official Journal of the European Union reference 2018/S 074-164715 (OJEU Contract Notice).

1.2 **Appointment is to:** Lot 2: Cloud software

1.3 **Appointment starts at:** 2 July 2018

1.4 **Appointment ends at:** 23:59 on 1 July 2019 (unless this Framework Agreement is extended by CCS or ends early).

1.5 **Framework extension:** Up to 12 months, by CCS giving written notice to Suppliers.

1.6 **Framework term:** From and including the date at 1.3 above (Appointment starts at) to and including the date at 1.4 above (Appointment ends at).

1.7 **Call-Off Contract length:** Up to 24 months plus 2 optional extension periods of up to 12 months each.

1.8 The Parties agree that they have read this Framework Agreement and by signing below agree to be bound by its terms.

1.9 All Sections, including the Invitation To Tender (known as the Invitation to Apply on the Digital Marketplace) and Schedules to this Framework Agreement are expressly part of this Framework Agreement.

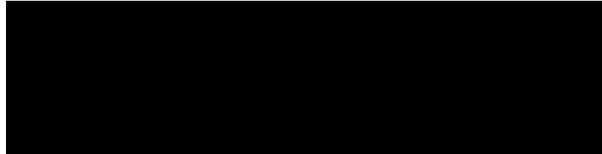
1.10 CCS will pay £1 to the Supplier to perform its obligations under this Framework Agreement, receipt of which is acknowledged by the Supplier signing this Framework Agreement.

1.11 The finalised Framework Agreement will include:

- a signature page, signed by the supplier
- a signature page, signed by the Crown Commercial Service
- the rest of the Framework Agreement document

1.12 The signature pages and the rest of the Framework Agreement document are counterparts before signing and duplicate originals after signing. The duplicate originals together make one Framework Agreement signed by all the necessary parties.

Signed by or on behalf of Affinixtext (UK) Limited,



Countersigned by or on behalf of CCS,

**Signature:** .....

**Name:** .....

**Role:** .....

**Date:** .....

## 2. **Section 2 - Services offered**

2.1 The Supplier must provide G-Cloud Services for the Lot that they've been appointed to. The G-Cloud 10 framework is split into 3 Lots:

- Lot 1: Cloud hosting
- Lot 2: Cloud software
- Lot 3: Cloud support

For all Lots, the Supplier must help buyers comply with the Technology Code of Practice.

### **Lot 1 - Cloud hosting**

2.2 Cloud hosting services sold through G-Cloud are cloud platform or infrastructure services that can help buyers do at least one of:

- deploy, manage and run software
- provision and use processing, storage or networking resources

Buyers only need to pay for what they use.

The G-Cloud cloud hosting lot is equivalent to the National Institute of Standards and Technology (NIST) definitions of 'Platform as a Service' and 'Infrastructure as a Service':

<http://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf>

Cloud hosting Suppliers will provide services in at least one of these categories:

- archiving, backup and disaster recovery
- compute and application hosting
- container service
- content delivery network
- database
- data warehousing
- NoSQL database
- relational database
- load balancing
- logging and analysis
- message queuing and processing
- networking (including Network as a Service)
- Platform as a Service (PaaS)
- infrastructure and platform security

- distributed denial of service attack (DDOS) protection
- firewall
- intrusion detection
- protective monitoring
- search
- storage
- block storage
- object storage

## Lot 2 - Cloud software

2.3 Cloud software services sold through G-Cloud are applications that are accessed over the internet and hosted in the cloud. Buyers only need to pay for what they use.

The G-Cloud cloud software lot is equivalent to the National Institute of Standards and Technology definition of 'Software as a Service':

<http://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf>

G-Cloud cloud software Suppliers will provide cloud software services in at least one of these categories:

- accounting and finance
- analytics and business intelligence
- application security
- collaborative working
- creative, design and publishing
- customer relationship management (CRM)
- electronic document and records management (EDRM)
- healthcare
- human resources and employee management
- information and communication technology (ICT)
- legal and enforcement
- marketing
- operations management
- project management and planning
- sales

- schools, education and libraries
- software development tools
- transport and logistics

### **Lot 3 - Cloud support**

2.4 Cloud support services sold through G-Cloud can help buyers set up and maintain their cloud software or hosting.

G-Cloud cloud support Suppliers will provide services in at least one of these categories:

- planning
- setup and migration
- training
- security services
- quality assurance and performance testing
- ongoing support

### **Additional services**

2.5 Additional Services, through Lot 3 - Cloud support only, must support buyers in their transition to Cloud services.

2.6 A description for Additional Services must be included by the Supplier and it must be G-Cloud Service-related. Additional Services must help the Supplier with its main G-Cloud Services offering. Non-G-Cloud Services will be removed from the Digital Marketplace.

2.7 Additional Services must not include:

- Services that aren't cloud-related
- recruitment or contractor (contingent labour) Services or Services that are Inside IR35
- 'colocation' Services, for example equipment the buyer rents from a Supplier's datacentre
- hardware
- bespoke design or development

The Buyer doesn't have to buy any Additional Services from the Supplier and can buy Services that are the same as or similar to the Additional Services from any third party.

### **Service application**

2.8 The Supplier's Service Application must include as a minimum an overview of the G-Cloud Service and information about:

- the scope of the G-Cloud Service, for example any constraints Buyers should know about like maintenance windows

- whether the Supplier is a reseller or not
- any support the Supplier provides
- how users work with the G-Cloud Service
- the G-Cloud Service onboarding and offboarding process
- an overview of pricing, including unit prices, volume discounts and data extraction costs
- the Supplier's security certifications and standards
- the Supplier's approach to personnel security

### 3. Section 3 - How services will be bought

#### Digital Marketplace

- 3.1 The Supplier will describe its Services on the Digital Marketplace. It will keep this information updated for the Term of this Framework Agreement.
- 3.2 The Supplier agrees that the prices and other terms quoted in its Digital Marketplace Application will not be increased during the Term of this Framework Agreement, but Suppliers may reduce any of their G-Cloud prices at any time.
- 3.3 The pricing of Call-Off Contracts must be based on the most up-to-date prices on the Supplier's Digital Marketplace Service page.
- 3.4 Discounted pricing periods may be considered on an individual basis, and subject to CCS approval, will be available to all Buyers.
- 3.5 The Supplier will tell any relevant Buyer about their Digital Marketplace offering on the G-Cloud Framework Agreement at the earliest opportunity.
- 3.6 The Supplier agrees that its G-Cloud Services, pricing, and terms and conditions will be on the Digital Marketplace and will be used as part of the evaluation criteria.
- 3.7 Subject to CCS's approval, the Supplier may update, but not materially change, its Digital Marketplace entry or Service Definitions and CCS may ask the Supplier to provide evidence to show that any updates it makes are non-material. These variations must be within scope of the Framework Agreement and Lot it's in. The Supplier can remove any Digital Marketplace entries if it tells CCS in writing.
- 3.8 If the Supplier fails to provide acceptable evidence for any updates to their service offering, CCS will remove the service from the Digital Marketplace and may suspend the Supplier from the Framework Agreement.
- 3.9 The Supplier's Terms and Conditions, submitted as part of its Application, can't be amended during the Term of this Framework Agreement.
- 3.10 Subject to clause 3.2, once the G-Cloud Services have been ordered by a Buyer, the Supplier must maintain the Supplier Terms, including the pricing in the Supplier's Digital Marketplace entry at the time of the Order, for the length of any Call-Off Contract.

## Background

- 3.11 All Buyers listed under the OJEU Contract Notice can award a Call-Off Contract under this Framework Agreement.
- 3.12 The Buyer can appoint an agent to act on their behalf.
- 3.13 CCS is not responsible for the actions of any Buyer.

## Process

- 3.14 If a Buyer decides to source G-Cloud Services and any Additional Services through this Framework Agreement it must search on the Digital Marketplace for a capable Supplier and then award its Call-Off Contract using this process and following the Regulations and Guidance.
- 3.15 The initial search will return a long list and the Buyer will use additional keywords to refine the search of Suppliers whose service offerings are capable of meeting the Buyer's requirement.
- 3.16 The additional search will return a short list and the Buyer will review supplier documents (to include Supplier Terms and pricing) on the Digital Marketplace to assess suitability against their requirement. All shortlisted offerings must be evaluated against the same evaluation model.
- 3.17 The Buyer will apply some or all of the evaluation criteria in 3.20 (or use their own weightings) against the Supplier documents (including Supplier Terms and pricing) on the Digital Marketplace, to evaluate the Services offered following the shortlist and determine the Service that best meets their requirements.
- 3.18 The Buyer may choose to use a credit reference agency (CRA) to carry out due diligence before any appointment to assess the Supplier's economic and financial standing. The CRA report will be used to determine the level of financial risk that appointing the Supplier would represent. If the Buyer determines that the Supplier's credit risk is poorer than average the Buyer reserves the right not to award a Call-Off Contract to the Supplier.
- 3.19 The Buyer will appoint a Supplier based on Most Economically Advantageous Tender (MEAT).
- 3.20 Buyers will apply their own weighting to each of the direct award criteria to award the Call-Off Contract to the Supplier:

Criteria number	Direct award criteria
1	Whole-life cost: cost effectiveness; price and running costs
2	Technical merit and functional fit: coverage, network capacity and performance as specified in relevant service levels
3	After-sales service management: help desk, account management function and assurance of supply of a range of services
4	Non-functional characteristics

- 3.21 Buyers may notify all unsuccessful shortlisted suppliers so they can review and improve their Service Descriptions.

## 4. Section 4 - How services will be delivered

### Warranties and representations

4.1 The Supplier warrants, represents and undertakes to CCS and each Buyer that:

- it has full capacity, authority and all necessary authorisations, consents, licences and permissions, to enter into and perform its obligations under the Framework Agreement and each Call-Off Contract, including if a Supplier's processes need the consent of its Parent Company
- the Supplier or an authorised representative will sign the Framework Agreement and the Call-Off Contract
- it has used and must continue to use all reasonable endeavours to prevent viruses and malware accessing systems owned by, under the control of, or used by CCS or any Buyer via its own access to these systems
- in entering into this Framework Agreement and any Call-Off Contract, it has not committed, will not commit or agree to commit a Prohibited Act
- it will continue to pay all taxes due to HMRC and will not indulge in 'disguised employment' practices when delivering services under this Framework Agreement
- at the Start Date, it has notified CCS in writing of any Tax Non-Compliance or any Tax Non-Compliance litigation it is involved in
- it will perform all obligations under this Framework Agreement and any Call-Off Contract complying with all Laws
- it will perform its obligations with all reasonable care, skill and diligence, according to Good Industry Practice
- on a Call-Off Start Date, all information, statements and representations in the Application are accurate and not misleading except if the Buyer has been notified in writing before signing the Call-Off Contract

The fact that any provision within this Framework Agreement is expressed as a warranty does not preclude any right of Ending CCS may have if the Supplier breaches that provision.

### Liability

4.2 Neither Party excludes or limits its liability for:

- death or personal injury caused by its negligence, or that of its Staff
- bribery, Fraud or fraudulent misrepresentation by it or its employees
- breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or sections 2 or 11B of the Supply of Goods and Services Act 1982
- any liability that cannot be excluded or limited by Law

4.3 Nothing in this Framework Agreement affects a Party's duty to mitigate their loss.

- 4.4 Except for liabilities which can't be limited by Law, neither Party will be liable to the other for any:
- loss of profits
  - loss of business
  - loss of revenue
  - loss of or damage to goodwill
  - loss of savings (whether anticipated or otherwise)
  - indirect, special or consequential loss or damage
- 4.5 The Supplier will be liable for the following types of loss which will be regarded as direct and will be recoverable by CCS for any:
- regulatory losses or fines arising directly from the Supplier's breach of any Laws
  - additional operational or administrative costs and expenses from any Material Breach
  - wasted expenditure or unnecessary charges CCS pays because of the Supplier's Default
  - other liabilities suffered by CCS in connection with the loss of, corruption or damage to, or failure to deliver CCS Data by the Supplier
- 4.6 The Supplier will not be responsible for any injury, loss, damage, cost or expense that is directly caused by the negligence or wilful misconduct of CCS or breach by CCS of its obligations under the Framework Agreement.
- 4.7 CCS's obligations under this Framework Agreement are only in its capacity as a contracting party and won't constrain CCS in any other capacity or lead to any liability to the Supplier under this Framework Agreement where CCS exercises its public duties and powers.
- 4.8 The Supplier's liability to pay any Management Charges due to CCS will be unlimited.
- 4.9 Subject to any liabilities which can't be limited by Law under clause 4.2, each Party's total aggregate liability under this Framework Agreement in each 12-month period during the Term (whether in contract, tort (including negligence), breach of statutory duty or otherwise) will be limited to 125% of the Management Charge paid or payable in the Year the default happened; or £100,000, whichever is greater. The Parties agree that these clauses 4.2 to 4.8 (inclusive) will not limit the Supplier's and Buyers' liability under any Call-Off Contract.

### **Guarantee**

- 4.10 If requested by a Buyer, the Supplier must provide a completed Guarantee before the Call-Off Start Date in the form set out in Call-Off Schedule 5.

### **IR35**

- 4.11 The Parties do not intend the Framework Agreement to be used for provision of Services or off-payroll worker recruitment that is Inside IR35.
- 4.12 CCS may End this Framework Agreement under clause 5.1 for Material Breach if the Supplier is found to be delivering Services to a Buyer Inside IR35.

## 5. Section 5 - What happens if the supplier fails to meet the terms of this framework agreement

### Ending and suspension of a supplier's appointment

#### With cause by CCS

5.1 CCS can suspend or End this Framework Agreement by notice with immediate effect if:

- there's a Supplier Insolvency Event
- the Supplier has breached clauses 2.5 to 2.8
- there are at least 3 MI Failures within a 6-month rolling period
- the Supplier has tried to renegotiate any terms of a Call-Off Contract or potential Call-Off Contract
- the Supplier commits a Material Breach of this Framework Agreement
- CCS reasonably considers that the Services supplied by the Supplier to a Buyer is Inside IR35

#### Force majeure

- 5.2 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under this Framework Agreement (other than a payment of money) to the extent that such delay or failure is a result of a Force Majeure event.
- 5.3 A Party will promptly (on becoming aware of the same) notify the other Party of a Force Majeure event or potential Force Majeure event which could affect its ability to perform its obligations under this Framework Agreement.
- 5.4 Each Party will use all reasonable endeavours to continue to perform its obligations under the Framework Agreement and to mitigate the effects of Force Majeure. If a Force Majeure event prevents a Party from performing its obligations under the Framework Agreement for more than 60 consecutive Working Days, the other Party can End the Framework Agreement with immediate effect by notice in writing.

#### Without cause by CCS

- 5.5 CCS will have the right, without cause and without liability, to suspend or End this Framework Agreement, or any provisions of any part of this Framework Agreement, by giving at least one month's written notice to the Supplier.
- 5.6 Ending, suspension or expiry of this Framework Agreement will not affect any accrued rights, remedies or obligations of either Party.

#### Ending on change of control

- 5.7 The Supplier must tell CCS immediately if the Supplier has a change of Control and, provided this does not contravene any Law, will notify CCS immediately in writing of any circumstances suggesting that a change of Control could happen.
- 5.8 CCS may End this Framework Agreement by giving notice in writing to the Supplier within 6

months of CCS either:

- being notified in writing by the Supplier that a change of Control could happen
- if it hasn't notified CCS, the date that CCS becomes aware that a change of Control could happen

5.9 CCS can End this Framework Agreement by giving notice in writing to the Supplier with immediate effect if either:

- CCS determines at its discretion that the change of Control is prohibited under the Regulations
- CCS's written approval has not been granted before the change of Control and CCS reasonably believes that the change is likely to have an adverse effect on the provision of the Services

## **Fraud**

5.10 If the Supplier commits any Prohibited Act, it will be a Material Breach and:

- CCS may End this Framework Agreement
- Buyers may End their Call-Off Contracts
- CCS and any Buyer may fully recover any resulting Losses from the Supplier

## **Notice of fraud**

5.11 The Supplier must tell CCS immediately and in writing if it suspects that any Prohibited Act has happened, is happening or is likely to happen, except if complying with this provision would mean committing an offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.

## **Consequences of suspension, ending and expiry**

5.12 Suspension, Ending or expiry of this Framework Agreement will not affect existing Call-Off Contracts. Call-Off Contracts will remain in force unless they End, are suspended or expire under the terms of the Call-Off Contract.

5.13 Even if a notice is served to End this Framework Agreement, the Supplier will continue to fulfil its obligations, including those obligations expressed to be for the Buyer's benefit until the End date or date of expiry of any Call-Off Contract.

5.14 The Supplier must continue to provide Management Information and pay the Management Charges due to CCS even if this Framework Agreement Ends, is suspended or expires.

5.15 Ending, suspension or expiry of this Framework Agreement will not affect any prior rights, remedies or obligations of either CCS or the Supplier accrued under this Framework Agreement.

5.16 All licences, leases and authorisations granted by CCS to the Supplier under this Framework Agreement will cease when it Ends or expires without the need for CCS to serve notice except if the Framework Agreement states otherwise.

## **Assurance verification**

- 5.17 The Supplier accepts that an Assurance verification process is an important part of the operation of the Framework Agreement. CCS or its agents may check any claims made by the Supplier in their Response and in their Service Definitions. CCS will continue to verify that:
- any information submitted is still an accurate reflection of the actual characteristics of the Supplier and its G-Cloud Service offerings
  - the Supplier's Services remain within scope of the Framework Agreement
  - the Supplier continues to meet the essential qualification criteria established when the Framework Agreement was awarded
- 5.18 Failure of the Assurance verification process by the Supplier will mean that the service will be removed from the Digital Marketplace and the Supplier may be suspended from the Framework Agreement.

## 6. Section 6 - What you report to CCS

### Management information

- 6.1 The Supplier will provide complete and accurate Management Information (MI) to CCS using MI Reports. Suppliers will provide these reports for free and using the template provided by CCS.
- 6.2 CCS must provide the Supplier with the latest MI reporting template. See Framework Schedule 1 for the link to an example MI reporting template.
- 6.3 The Supplier must not use templates from previous months.
- 6.4 The Supplier will not make any amends to the format of the MI reporting template provided by CCS.
- 6.5 CCS has the right at any time and on reasonable notice, to amend the format of the reporting template and its reporting method.
- 6.6 Using the MI report to upload monthly returns to the CCS Management Information System Online (MISO), the Supplier must:
- report on each order agreed
  - report on each invoice raised or submitted in each month
  - use the template and complete all appropriate data fields provided to submit the report
  - send the report by the 7th day of the following month, or the nearest Working Day before the 7th day if it's a weekend or public holiday
- 6.7 If there has been no activity for a particular month, the Supplier must submit a 'nil return' for that month.
- 6.8 The Supplier must also inform CCS of any corrections to previous MI Reports.
- 6.9 CCS may consider that an MI Failure has happened if an MI Report:
- contains any material errors or omissions

- is submitted using an incorrect MI reporting template
- isn't submitted by the Reporting Date (including if a nil return should have been filed)
- isn't submitted for the relevant period

6.10 After an MI Failure CCS may issue reminders to the Supplier or require the Supplier to fix mistakes in the MI Report. The Supplier must do this as soon as possible and not more than 5 Working Days after receiving the reminder.

### Use of management information

- 6.11 The Supplier grants CCS a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to use and to share with any Buyers and Relevant Person any Management Information supplied to CCS for CCS's normal operational activities as a central purchasing body for government.
- 6.12 If CCS shares the Management Information, any Buyer receiving the information will be informed of its sensitive nature and requested not to disclose it to any person who is not a Crown body or Buyer.

### Admin fees

- 6.13 If there are 2 or more MI Failures in any 3-month rolling period, CCS will charge the Supplier for the costs (an Admin Fee) of chasing the Supplier to provide the information.
- 6.14 The Admin Fee is the amount payable by the Supplier to CCS if:
- CCS incurs costs because of incorrect MI
  - the MI Report is not returned within the agreed timescales
- 6.15 Details of the Admin Fees are available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/382985/MI\\_admin\\_fees.xlsx](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382985/MI_admin_fees.xlsx)
- 6.16 By signing this Framework Agreement, the Supplier agrees that the Admin Fees are a fair reflection of the additional costs incurred by CCS due to the Supplier failing to supply the MI as required.
- 6.17 CCS will tell the Supplier about any Admin Fees and will be entitled to invoice the Supplier admin fees, which will be payable as a supplement to the Management Charge.
- 6.18 Payment of the Admin Fee will not affect any of CCS's other rights under this Framework Agreement.
- 6.19 If three (3) MI Failures occur in a six (6) Month rolling period then an "**MI Default**" shall be deemed to have occurred and CCS shall be entitled to:
- charge and the Supplier shall pay an additional default management charge ("**Default Management Charge**") in respect of the Months in which the MI failure occurred and subsequent Months in which they continue, calculated in accordance with Paragraph 6.20; and/or
  - End this Framework Agreement.

6.20 The Default Management Charge shall be the higher of

- the average Management Charge paid or payable by the Supplier in the previous six (6) Month period or, if the MI Default occurred within less than six (6) Months from the commencement date of the first Call-Off Contract, in the whole period preceding the date on which the MI Default occurred; or
- the sum of five hundred pounds (£500).

6.21 If the Supplier provides sufficient Management Information to rectify any MI Failures to the satisfaction of CCS and the Management Information demonstrates that:

- the Supplier has overpaid the Management Charges as a result of the application of the Default Management Charge then the Supplier shall be entitled to a refund of the overpayment, net of any Admin Fees where applicable; or
- the Supplier has underpaid the Management Charges during the period when a Default Management Charge was applied, then CCS shall be entitled to immediate payment of the balance as a debt together with interest.

### **Management charge**

6.22 The Supplier must pay CCS the Management Charge for setting up and running this Framework Agreement.

6.23 The Management Charge excludes VAT and will be a figure of up to 1% of all Charges for the Services invoiced to Buyers. It is currently set at 0.75% of all Charges invoiced to Buyers but may be increased at CCS's discretion.

6.24 CCS will submit invoices to the Supplier for the Management Charge due each month based on the MI provided by the Supplier, which must be paid by the Supplier within 30 days of the date of the invoice.

6.25 The Management Charge applies to the full Charges specified in each order and will not be varied because of any service credits or other deductions.

6.26 The Supplier must pay the VAT on the Management Charge.

6.27 Interest will be payable on any late payments of the Management Charge under this Framework Agreement as set out in the Late Payment of Commercial Debts (Interest) Act 1998.

### **Buyer satisfaction monitoring**

6.28 CCS or a CCS agent may carry out a Buyer satisfaction survey at any time to:

- assess Buyer satisfaction with the provision, performance and delivery of G-Cloud Services by the Supplier and with the quality, efficiency and effectiveness of the supply
- monitor how the Supplier is complying with the terms of its Digital Marketplace Application
- carry out any other assessment it considers appropriate

6.29 CCS can include the results of Buyer satisfaction surveys on the Digital Marketplace and any Buyer can use those results to make decisions about any contract between the Buyer and the

Supplier.

## Key performance indicators

6.30 Key Performance Indicator Targets that CCS may use to measure the performance of the Supplier on this Framework Agreement are:

KPI number	Performance criteria	Target	Measured by
Contract management			
1	Respond to CCS about any Framework management matters.	≥95%	The Supplier responding to correspondence (email or phone) from CCS within 2 Working Days. Resolving issues raised within 5 Working Days.
Management information			
2	Complete and accurate MI reports to be returned to CCS by 7th day of the following month.	100%	Complete and accurate MI template submitted by the Supplier to CCS by 7th day of the following month.
3	Management Charges to be paid within 30 days from date of invoice issue.	100%	Confirmation of payment received by CCS within 30 calendar days.

## 7. Section 7 - Transparency and access to records

### Transparency

7.1 Under the government's transparency policy, CCS can make all or part of the Information (including the Framework Agreement and Call-Off Contract) publicly available subject to any redactions made at the discretion of CCS by considering and applying relevant exemptions under the Freedom of Information Act (FoIA).

7.2 The terms of this Framework Agreement and any Call-Off Contract mean:

- CCS can publish the full text of the Framework Agreement concluded with the Supplier
- the Buyer can publish the signed Call-Off Contract after considering (at CCS's or the Buyer's discretion) any representations made by the Supplier about the application of any relevant FoIA or EIR exemptions
- CCS or the Buyer can publish any information provided by the Supplier as part of early market engagement

The Supplier agrees that information in its Application may be incorporated by CCS into any Call-Off Contract awarded to, or any Framework Agreement concluded with, the Supplier and may be published.

### What will happen during the Framework Agreement's term

7.3 The Supplier will maintain full and accurate records and accounts, using Good Industry Practice

and generally accepted accounting principles, of the:

- operation of the Framework Agreement and the Call-Off Contracts entered into with Buyers
- Services provided under any Call-Off Contracts (including any Subcontracts)
- amounts paid by each Buyer under the Call-Off Contracts

#### **What will happen when the Framework Agreement ends**

- 7.4 The Supplier will provide a completed self audit certificate (Schedule 2) to CCS within 3 months of the expiry or Ending of this Framework Agreement.
- 7.5 The Supplier's records and accounts will be kept until the latest of the following dates:
- 7 years after the date of Ending or expiry of this Framework Agreement
  - 7 years after the date of Ending or expiry of the last Call-Off Contract to expire or End
  - another date agreed between the Parties
- 7.6 During the timeframes highlighted in clause 7.5, the Supplier will maintain:
- commercial records of the Charges and costs (including Subcontractors' costs) and any variations to them, including proposed variations
  - books of accounts for this Framework and all Call-Off Contracts
  - MI reports
  - access to its published accounts and trading entity information
  - proof of its compliance with its obligations under the Data Protection Legislation and the Transparency provisions under this Framework Agreement
  - records of its delivery performance under each Call-Off Contract, including that of its Subcontractors

#### **What will happen during an audit or inspection**

- 7.7 CCS will use reasonable endeavours to ensure that the Audit does not unreasonably disrupt the Supplier, but the Supplier accepts that control over the conduct of Audits carried out by the auditors is outside of CCS's control.
- 7.8 Subject to any Confidentiality obligations, the Supplier will use reasonable endeavours to:
- provide audit information without delay
  - provide all audit information within scope and give auditors access to Supplier Staff
- 7.9 The Supplier will allow the representatives of CCS, Buyers receiving Services, the Comptroller and Auditor General and their staff, any appointed representatives of the National Audit Office, HM Treasury, the Cabinet Office and any successors or assigns of any of the above, access to the records, documents, and account information referred to in clause 7.6 (including at the Supplier's premises) as may be required by them and subject to reasonable and appropriate

confidentiality undertakings, to verify and review:

- the accuracy of Charges (and proposed or actual variations to them under this Framework Agreement)
- any books of accounts kept by the Supplier in connection with the provision of the G-Cloud Services for the purposes of auditing the Charges and Management Charges under the Framework Agreement and Call-Off Contract only
- the integrity, Confidentiality and security of the CCS Personal Data and the Buyer Data held or used by the Supplier
- any other aspect of the delivery of the Services including to review compliance with any legislation
- the accuracy and completeness of any MI delivered or required by the Framework Agreement
- any MI Reports or other records about the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records
- the Buyer's assets, including the Intellectual Property Rights, Equipment, facilities and maintenance, to ensure that the Buyer's assets are secure and that any asset register is up to date

### **Costs of conducting audits or inspections**

7.10 The Supplier will reimburse CCS its reasonable Audit costs if it reveals:

- an underpayment by the Supplier to CCS in excess of 5% of the total Management Charge due in any monthly reporting and accounting period
- a Material Breach

7.11 CCS can End this Framework Agreement under Section 5 (Ending and suspension of a supplier's appointment) for Material Breach if either event in clause 7.10 applies.

7.12 Each Party is responsible for covering all their own other costs incurred from their compliance with these audit obligations.

## **8. Section 8 - General governance**

### **Definitions and interpretation**

8.1 This Framework Agreement will be interpreted using the definitions and provisions in the Glossary and interpretations section.

8.2 All 3 schedules are incorporated into this Framework Agreement:

- Schedule 1: MI reporting template
- Schedule 2: Self audit certificate
- Schedule 3: Glossary and interpretations

## Order of precedence

8.3 If there's any conflict or ambiguity between the clauses of this agreement, to the extent necessary, the order of precedence for resolving the conflict is:

- the completed Order Form
- the Framework Agreement
- the clauses of a Call-Off Contract (excluding Supplier Terms)
- the Supplier's Terms
- any other document referred to in the Call-Off Contract clauses

Alternative Clauses specified in a Buyer's Order Form will take precedence over their corresponding clauses in the Call-Off Contract.

If the Application contains provisions which are more favourable to CCS or the Buyer compared to the rest of the Framework Agreement or Call-Off Contract, the Application provisions will apply. CCS and the Buyer will at their discretion determine whether any provision is more favourable.

## Relationship

8.4 Nothing in this Framework Agreement is intended to:

- create a partnership, or legal relationship of any kind that would impose liability on one Party for the act or failure to act of the other Party
- authorise either Party to act as agent for the other Party

## Who can buy using this Framework Agreement

8.5 CCS and Buyers can order G-Cloud Services from the Supplier using the Buying Process and the provisions of the Call-Off Contract.

## No guarantee of work

8.6 No exclusivity or guarantee of volume or quantity of work has been offered by CCS to Suppliers under this Framework Agreement and the Supplier confirms that it accepts this. Neither CCS or any other Buyer has to offer the Supplier a Call-Off Contract.

## Entire agreement

8.7 This Framework Agreement is the entire agreement and understanding between the Parties.

8.8 Each of the Parties agrees that in entering into this Framework Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Framework Agreement.

8.9 Nothing in these Entire agreement clauses 8.7 to 8.9 (inclusive) will exclude liability or remedy for Fraud or fraudulent misrepresentation.

## Law and jurisdiction

- 8.10 Any disputes or matters (including non-contractual) under this Framework Agreement will be governed by and construed under the Laws of England and Wales and without prejudice to the dispute resolution process. Each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

### **Legislative change**

- 8.11 The Supplier won't be relieved of its obligations under this Framework Agreement, or be entitled to increase the Framework Agreement prices as the result of a general change in Law or a Specific Change in Law, without prior written approval from CCS.
- 8.12 If a Specific Change in Law is made which has a material impact on the delivery of the Services or the Framework Agreement price range, the Supplier will notify CCS of the likely effects of that change. This will include whether any change is required to the Services, the Framework Agreement price range or this Framework Agreement.

### **Bribery and corruption**

- 8.13 The Supplier must ensure that neither it, nor any person acting on its behalf, will commit any Prohibited Act in connection with this Framework Agreement.
- 8.14 If the Supplier breaches the Bribery Act 2010, CCS can End this Framework Agreement.
- 8.15 If the Supplier breaches these Bribery and corruption clauses 8.13 to 8.17 (inclusive), CCS can End this Framework Agreement.
- 8.16 CCS will be entitled to recover in full from the Supplier and the Supplier will on demand compensate CCS in full for:
- the amount of value of any such gift, consideration or commission
  - any other Loss sustained by CCS because of any breach of these Bribery and corruption clauses 8.13 to 8.17 (inclusive)
- 8.17 The Parties agree that the Management Charge isn't an offence as described in section 1 of the Bribery Act 2010.

### **Freedom of Information Act (FoIA)**

- 8.18 The Supplier acknowledges that CCS is subject to the Freedom of Information Act (FoIA) and the Environmental Information Regulations (EIR).
- 8.19 The Supplier will co-operate with CCS and Buyers to enable them to comply with their Information disclosure obligations under this Framework Agreement and any Call-Off Contracts.
- 8.20 The Supplier must not respond directly to a Request for Information under the FoIA or EIR.
- 8.21 The Supplier will note that the Information disclosed in response to a FoIA or EIR request may include its Response. This may include attachments, embedded documents, any score or details of its evaluation.
- 8.22 CCS is responsible for deciding whether the Commercially Sensitive Information or any other Information is exempt from disclosure under the provisions of the FoIA or the EIR.
- 8.23 CCS may be required to disclose Information under the FoIA, EIR and the Ministry of Justice

Code even where Information is identified as confidential or commercially sensitive. This may include disclosure of the information without consulting the Supplier or after having taken the Supplier's views into account.

- 8.24 If the Supplier considers any part of its Response or any other Supplier information to be confidential or commercially sensitive, the Supplier will promptly and in writing:
- identify this Information to CCS
  - explain the potential implications of its disclosure, specifically addressing the public interest test as in the FoIA
  - estimate how long it believes such Information will remain confidential or commercially sensitive
- 8.25 CCS will consider this when making a decision under the FoIA or EIR.
- 8.26 The Supplier must:
- transfer to CCS all Requests for Information that it receives within 2 Working Days of receiving it
  - provide all necessary help reasonably requested by CCS to enable CCS to respond to the Request for Information within the timescales set out in section 10 of the FoIA or regulation 5 of the EIR
  - provide CCS with a copy of all Information about a Request for Information, in its possession or control, in the form that CCS requires within 5 Working Days of CCS's request
- 8.27 CCS will make reasonable efforts to notify the Supplier when it receives a relevant FoIA or EIR request so that the Supplier may make appropriate representations.

### **Promoting tax compliance**

- 8.28 If tax non-compliance happens during the Framework Agreement, the Supplier will:
- tell CCS in writing within 5 Working Days
  - promptly provide CCS with details of the steps it has taken to address the non-compliance
  - provide any other information as CCS reasonably needs
- 8.29 CCS can End this Framework Agreement for Material Breach if the Supplier doesn't:
- comply with clause 8.28
  - provide details of any mitigating factors and its plans to prevent recurrence, which are acceptable to CCS

### **Official Secrets Act**

- 8.30 The Supplier will comply with, and ensure that the Supplier Staff comply with, the provisions of the Official Secrets Act 1911 to 1989 and Section 182 of the Finance Act 1989.
- 8.31 If the Supplier or the Supplier Staff fail to comply with the above Official Secrets Act clause 8.30,

CCS reserves the right to End this Framework Agreement with immediate effect by giving notice in writing to the Supplier.

### **Transfer and subcontracting**

- 8.32 The Supplier must not assign, novate, subcontract or in any other way dispose of this Framework Agreement or any part of it without CCS's prior written approval. Subcontracting any part of this Framework Agreement will not relieve the Supplier of its duties under this Framework Agreement.
- 8.33 The Supplier will only subcontract with the prior written approval of the Buyer. If the Supplier chooses to use Subcontractors, this will be outlined in any order along with the percentage of delivery allocated to each Subcontractor.
- 8.34 The Supplier is responsible for the acts and omissions of its Subcontractors and Supplier Staff as though they are its own.
- 8.35 Provided that it does not increase the burden on the Supplier under the Framework Agreement, CCS may assign, novate or otherwise dispose of its rights and obligations under the Framework Agreement or any part of it to any:
- other body established by the Crown or under statute to substantially perform any of the functions previously performed by CCS
  - private sector body which substantially performs the functions of CCS

### **Contracts (Rights of Third Parties) Act 1999**

- 8.36 With the exception of Buyers who can enforce provisions intended for their benefit with CCS's approval, a person who is not Party to this Framework Agreement has no right to enforce any of its terms.
- 8.37 CCS may act as agent and trustee for each Buyer. CCS can enforce any clause or recover any Loss for a Buyer for a breach of any clause.

### **Complaints handling and resolution**

- 8.38 Either Party will notify the other Party of any complaints made by the Buyer's end users, which are not resolved within 5 Working Days.
- 8.39 If the Supplier is the Party providing the notice, the notice will contain full details of the Supplier's plans to resolve the complaint.
- 8.40 The Supplier will work to resolve the complaint within 10 Working Days.
- 8.41 The Supplier will provide full details of a complaint, including details of steps taken to resolve it, within 5 Working Days of a request by CCS or the Buyer.

### **Conflicts of interest and ethical walls**

- 8.42 The Supplier must not be in a position if there is a conflict, and will use reasonable endeavours to avoid being in a position if there is potential conflict between its financial, personal, and other interests (or those of the Supplier Staff or any affiliated company) and the duties owed to CCS and the Buyer under this Framework Agreement or any Call-Off Contract.
- 8.43 Any breach of these Conflict of interest and ethical walls clauses 8.42 to 8.48 (inclusive) will be

deemed to be a Material Breach.

- 8.44 A conflict of interest can happen if the Supplier, an affiliated company or a member of the Supplier Staff:
- is being considered for the opportunity to deliver Services and any of them has had involvement in the same or other related projects that may give them an advantage
  - is related to someone in another supplier team or has a business interest in another supplier and both are part of the same team performing the Services
  - has been provided with, or had access to, information which would give an unfair advantage in the buying process
- 8.45 The Supplier will fully compensate and keep CCS and all Buyers safe from Losses which the Buyer or the government may suffer as a result of a breach of these Conflict of interest and ethical walls clauses 8.42 to 8.47 (inclusive).
- 8.46 If the Supplier identifies a risk of a conflict or potential conflict, it will (before starting work under a Call-Off Contract) :
- inform the Buyer of the conflict of interest and how it plans to mitigate the risk
  - if agreed by the Buyer, promptly establish the necessary ethical wall arrangements
- 8.47 Details of the mitigation arrangements must be sent to the Buyer as soon as possible.
- 8.48 The Buyer will, at its discretion, notify the Supplier if the arrangements are acceptable or whether the risk or conflict is a Material Breach.

### **Publicity and branding**

- 8.49 The Supplier will not do or fail to do anything which may damage the public reputation of CCS under this Framework Agreement or otherwise. CCS may End the Framework Agreement for Material Breach if the Supplier causes material adverse publicity relating to or affecting CCS or the Framework Agreement.
- 8.50 The Supplier will indemnify CCS against all Losses resulting from the Supplier's use of CCS's logo.
- 8.51 The Supplier will not make any press announcements about the Framework Agreement or any Call-Off Contracts without CCS's written approval.

### **Equality and diversity**

- 8.52 The Supplier will comply with any discrimination Laws and other requirements and instructions which CCS and the Buyer reasonably require.
- 8.53 The Supplier will make sure that all Supplier Staff engaged in the performance of this Framework Agreement and any Call-Off Contract observe these Equality and diversity clauses 8.52 to 8.54 (inclusive).
- 8.54 The Supplier will notify CCS immediately of any legal proceedings issued against it by any Supplier Staff on the grounds of discrimination.

### **Intellectual property rights**

- 8.55 Other than as set out in any Call-Off Contract, neither CCS, the Buyer nor the Supplier will acquire any right, title or interest in the other's Intellectual Property Rights (IPRs).
- 8.56 The Supplier must own or have a valid licence for any IPRs used to perform its obligations under this Framework Agreement and any Call-Off Contract. These must be maintained for the Term of the Framework Agreement and any relevant Call-Off Contracts.

### **Data protection and disclosure**

- 8.57 a) The Parties will comply with the Data Protection Legislation and the provisions of these Data protection and disclosure clauses 8.57 to 8.62 (inclusive) will apply during the Term and for as long as the Supplier holds CCS Personal Data. The Parties acknowledge that for the purposes of the Data Protection Legislation, CCS is the Controller and the Supplier is the Processor. The only Processing that the Supplier is authorised to do in relation to this Framework Agreement is:
- restricted to operations that are strictly necessary for the management/administration of this Framework Agreement; and
  - limited to Personal Data relating to CCS and Buyer personnel, such as contact details, strictly required for the fulfilment of the Supplier's obligation under this Framework Agreement
- b) The Supplier shall assist CCS in the preparation of any Data Protection Impact Assessment required by the Data Protection Legislation prior to commencing any Processing.
- c) The Supplier shall notify CCS immediately if it considers that any of CCS's instructions infringe the Data Protection Legislation. Otherwise the Supplier shall only Process Personal Data only in accordance with paragraph a) above unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify CCS before Processing the Personal Data unless prohibited by Law.
- 8.58 a) The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement:
- i. ensure that it has in place Protective Measures, details of which shall be provided to CCS on request, which are appropriate to protect against a Data Loss Event;
  - ii. take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data, ensuring they are aware of and comply with the Supplier's obligations under Clauses 8.57 to 8.62 and are subject to appropriate confidentiality undertakings
- b) Before allowing any Sub-processor to Process any Personal Data related to this Framework Agreement, the Supplier must:
- i. notify CCS in writing of the proposed Sub-processor(s) and obtain its written consent;
  - ii. ensure that it has entered into a written agreement with the Sub-processor(s) which gives effect to obligations set out in Clauses 8.57 to 8.62 such that they apply to the Sub-processor(s); and
  - iii. inform CCS of any additions to, or replacements of the notified Sub-processors and CCS shall either i) provide its written consent or ii) object
- c) The Supplier shall not transfer Personal Data outside of the European Union unless CCS's

prior written agreement has been obtained, which shall be dependent on such a transfer satisfying relevant Data Protection Legislation requirements.

- 8.59 Taking account of the nature of the Processing the Supplier shall implement appropriate technical and organisational measures, insofar as this is possible to;
- i. without undue delay notify CCS of any third party communication relating to the Parties' obligations under the Data Protection Legislation;
  - ii. assist CCS in meeting any Data Protection Legislation obligations arising from such a communication within the timescales mandated by the legislation;
  - iii. without undue delay notify CCS of any Data Loss Event and provide such assistance as reasonably required by the CCS in respect of such Data Loss Event.
- 8.60 The Supplier shall maintain complete and accurate records to demonstrate its compliance with Clauses 8.57 to 8.62. This obligation does not apply where the Supplier employs fewer than 250 staff unless CCS decides that the Data Protection Legislation so requires. Whatever, the Supplier shall allow for audits of its Data Processing activity by CCS or CCS's designated auditor and shall designate a data protection officer if required by the Data Protection Legislation.
- 8.61 The CCS may at any time propose an agreement variation to revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.
- 8.62 The parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. CCS may at any time propose an agreement variation to amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Officer.

### Notices

- 8.63 Any notices sent must be in writing. An email is accepted as being 'in writing'. CCS's email address is: [info@crownccommercial.gov.uk](mailto:info@crownccommercial.gov.uk)

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

- 8.64 Other than a dispute notice under this Framework Agreement, this clause does not apply to any legal action or other method of dispute resolution which will be served at the following addresses:

<b>For CCS:</b>	<b>For the Supplier:</b>
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<p>Crown Commercial Service 9th Floor The Capital Old Hall Street Liverpool L3 9PP</p> <p>For the attention of: G-Cloud Team</p> <p>Email: <a href="mailto:info@crowcommercialservice.gov.uk">info@crowcommercialservice.gov.uk</a></p>	<p>Affinitext (UK) Limited Unit B 81 Curtain Road London EC2A 3AG</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
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## Insurance

- 8.65 The Supplier must have employer's liability insurance of at least £5,000,000 before the framework is awarded unless the Supplier is exempt under law. Suppliers will need to maintain further insurances to the indemnity levels and as set out in each Call-Off Contract.

## Severability

- 8.66 If any part of the Framework Agreement becomes invalid, illegal or unenforceable, it will be removed from the Framework Agreement and the remaining parts of the Framework Agreement or any Call-Off Contract will be unaffected.
- 8.67 If any fundamental part of this Framework Agreement becomes invalid, CCS and the Supplier may agree to remedy the invalidity. If the Parties can't do this within 20 Working Days of becoming aware of the invalidity, the Framework Agreement will be automatically Ended and each Party will be responsible for their own costs.

## Managing disputes

- 8.68 When either Party notifies the other of a dispute, both Parties will attempt in good faith to negotiate a settlement within 20 Working Days. This will include escalation of the dispute to the CCS Representative and the Supplier Representative.
- 8.69 The obligations of the Parties under this Framework Agreement will not be suspended, ceased or delayed by the reference of a dispute to mediation or arbitration and the Supplier and Supplier's Staff will continue to comply with the requirements of this Framework Agreement.
- 8.70 Nothing in this process prevents a Party from seeking any interim order restraining the other Party from, or compelling the other Party to do, any act.
- 8.71 If the dispute can't be resolved, either Party will be entitled to refer it to mediation unless:
- i. CCS considers that the dispute is not suitable for resolution by mediation
  - ii. the Supplier does not agree to mediation

## Mediation process

- 8.72 A neutral adviser or mediator will be agreed by both Parties. If the Parties cannot agree on a mediator within 10 Working Days after a request by one Party to the other, either Party will as soon as possible, apply to the mediation provider or to the Centre for Effective Dispute Resolution (CEDR) to appoint a mediator. This application to CEDR must take place within 12 Working Days from the date of the proposal to appoint a mediator, or within 3 Working Days of notice from the mediator to either Party that they can't or won't act.
- 8.73 The Parties will meet the mediator within 10 Working Days of the mediator's appointment to agree a structure for the negotiations. The Parties can at any stage ask the mediation provider for advice about the process.
- 8.74 Unless otherwise agreed, all negotiations and settlement agreements connected with the dispute will be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- 8.75 If the Parties reach agreement, it will be put in writing and will be binding once it's signed by the Parties' authorised representatives.
- 8.76 Failing agreement, either Party can invite the mediator to provide a non-binding opinion in writing. This opinion will be provided and will not be used in evidence in any proceedings about this Framework Agreement without the prior written consent of both Parties.
- 8.77 If the dispute can't be resolved by mediation, the Parties can refer it to arbitration.
- 8.78 If the Parties fail to reach agreement within 60 Working Days of the mediator being appointed, or other period as agreed by the Parties, it can be referred to the courts.
- 8.79 Either Party can request by written notice that the dispute is referred to expert determination if the dispute relates to:
- any technical aspect of the delivery of the Services
  - the underlying technology
  - financial issues
- 8.80 An expert will be appointed by written agreement between the Parties, but if they fail to agree on an expert within 10 Working Days of the first proposal by a Party, or if the person appointed is unable or unwilling to act, the expert will be appointed on the instructions of the relevant professional body.
- 8.81 The expert will:
- act fairly and impartially and not as an arbitrator
  - provide a determination that will be final and binding on the Parties, unless there's a material failure to follow the agreed process
  - decide the process to be followed and will be requested to make their determination within 30 Working Days of their appointment or as soon as possible and the Parties will provide the documentation that the expert needs
  - decide how and by whom the costs of the determination, including their fees and expenses, are to be paid. Any amount payable by one Party to another will be due within

20 Working Days of the Parties being notified of the determination

8.82 The expert determination process will be conducted in private and will be confidential.

### **Confidentiality**

8.83 Unless disclosure is expressly permitted elsewhere in this Framework Agreement, each Party will:

- treat the other Party's Confidential Information as confidential and safeguard it accordingly
- not disclose it without the relevant Party's written consent

8.84 The Supplier must take all necessary precautions to ensure that any CCS Confidential Information is only disclosed to Supplier Staff to the extent that it is strictly necessary for this Framework Agreement and must ensure that they comply with the obligations under this clause.

8.85 The Confidentiality clauses will not apply to any Confidential Information received by one Party from the other which:

- is or becomes public knowledge (unless by breach of this Framework Agreement)
- was already in the possession of the receiving Party without restriction as to its disclosure
- is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure
- is information independently developed without access to the other Party's Confidential Information
- must be disclosed under a statutory or legal obligation
- is disclosed on a Confidential Basis to a professional adviser

8.86 Nothing in this Framework Agreement will prevent CCS from disclosing the Supplier's Confidential Information (including Management Information):

- for the examination and certification of CCS's accounts
- for any examination under Section 6(1) of the National Audit Act 1983
- to the UK Parliament, Scottish Parliament or Welsh or Northern Ireland Assemblies, including their committees
- to any government department or any Buyer on the basis that the information can only be further disclosed to central government bodies and Buyers
- if CCS (acting reasonably) deems disclosure is appropriate for the performance of public functions
- for sharing knowledge of the G-Cloud Services and their performance to Buyers
- on a Confidential Basis to exercise its rights or comply with its obligations under any Call-Off Contract

- on a Confidential Basis to a proposed transferee, assignee or novatee of, or successor in title to CCS
- 8.87 The Supplier will maintain physical and IT security that follows Good Industry Practice to ensure there is no unauthorised access to any CCS or Buyer Confidential Information and data.
- 8.88 Information about orders placed by a Buyer (including pricing information and the terms of any Call-Off Contract) can be published by CCS and shared with other Buyers. If Confidential Information is shared with other Buyers, CCS will notify the recipient that its contents are confidential.
- 8.89 If the Supplier fails to comply with these confidentiality clauses, CCS reserves the right to End this Framework Agreement with immediate effect by notice in writing.
- 8.90 The Supplier will immediately tell CCS about any security breach of CCS's Confidential Information and will keep a record of those breaches. The Supplier will take all necessary steps to recover this information. The Supplier will co-operate with CCS in any investigation into the breach that CCS considers necessary.
- 8.91 Either Party can use techniques, ideas or knowledge gained during this Framework Agreement unless using them results in unauthorised disclosure of the other Party's Confidential Information or infringes Intellectual Property Rights under this Framework Agreement.

#### **Waiver and cumulative remedies**

- 8.92 The rights and remedies provided by this Framework Agreement can only be waived in writing by a Party if intent is clear and will only apply in the specific circumstances outlined here. Unless a right or remedy of CCS is expressed to be an exclusive right or remedy, the exercise of it by CCS doesn't affect CCS's other rights and remedies. Any failure or delay by a Party to exercise a right or remedy will not constitute a waiver.
- 8.93 The rights and remedies provided by this Framework Agreement are cumulative and, unless otherwise provided in this Framework Agreement, are not exclusive of any right or remedies provided at Law.

#### **Schedule 1 - MI reporting template**

The MI reporting template is available at

<https://www.digitalmarketplace.service.gov.uk/suppliers/frameworks/g-cloud-10>

You need to be logged in to the Digital Marketplace to see it.

#### **Schedule 2 - Self audit certificate**

[The Supplier must provide CCS with Self audit certificates within 3 months of this Framework Agreement expiring or Ending. It must be signed by the Head of Internal Audit, a Finance Director or the company's external auditor.]

Dear Sir or Madam,

Under the Framework Agreement entered into on [ ] 20[ ] between [insert Supplier name] and the

Crown Commercial Service, we confirm the following:

In our opinion [Supplier name] has in place suitable systems for identifying and recording the transactions taking place under the provisions of the above Framework Agreement.

We have tested the systems for identifying and reporting on framework activity and found them to be operating satisfactorily.

We have tested a sample of [ ] [Insert number of sample transactions tested] orders and invoices during our audit for the financial year ended [insert financial year] and confirm that they are correct and under the terms and conditions of the above Framework Agreement.

Signature:

Name:

Role:

Date:

### **Schedule 3 - Glossary and interpretations**

1. If the context allows, any words in the singular also include the plural meaning and the other way round.
2. The words 'include', 'includes' 'including' and 'for example' and words of similar effect will not limit the general effect of the words which precede them.
3. References to any person will include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees.
4. References to any statute, enactment, order, regulation or other similar instrument will be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted.
5. Headings are included in this Framework Agreement for ease of reference only and will not affect the interpretation or construction of this Framework Agreement.
6. References in this Framework Agreement to any clause or Framework Schedule without further designation will be construed as a reference to the clause or sub-clause or Schedule to this Framework Agreement so numbered.
7. References in this Framework Agreement to any paragraph or sub-paragraph without further designation will be construed as a reference to the paragraph or sub-paragraph of the relevant Framework Schedule to this Framework Agreement so numbered.
8. Reference to a clause is a reference to the whole of that clause unless stated otherwise.
9. Approvals or agreements to be given by a Party should not be unreasonably withheld or delayed.
10. Reference to a month means a calendar month.

<b>Additional Services</b>	Any services ancillary to the G-Cloud Services that are in the scope of Section 2 (Services Offered) which a Buyer may request.
<b>Admin Fees</b>	The fees payable by the Supplier under clauses 6.13 to 6.18.
<b>Alternative Clauses</b>	The alternative clauses which the Buyer can incorporate as set out in Call-Off Schedule 4.
<b>Applicant</b>	Has the meaning given in paragraph 1.2 of the Invitation to Tender.
<b>Application</b>	The response submitted by the Supplier to the Invitation to Tender.
<b>Assurance</b>	The assurance verification process performed by CCS under clauses 5.17 and 5.18.
<b>Audit</b>	An audit carried out under this Framework Agreement in accordance with clauses 7.3 to 7.12
<b>Buyer</b>	A UK public sector body, or contracting authority, as described in the OJEU Contract Notice or Regulation 2 of the Public Contracts Regulations 2015, that can execute a Call-Off Contract under this Framework Agreement; or the contracting authority ordering services as identified in the Order Form (as the context provides).
<b>Buyer Data</b>	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
<b>Buyer Satisfaction Survey</b>	A survey carried out under clauses 6.28 to 6.29 (Buyer Satisfaction Monitoring).
<b>Buyer Software</b>	Software owned by or licensed to the Buyer (other than under or for this Framework Agreement), which is or will be used by the Supplier for the purposes of providing the Services.
<b>Buying Process</b>	The ordering and award process specified in Section 3 (How services will be bought).
<b>Call-Off Buying Process</b>	The process for placing orders given in Section 3 (How services will be bought).

<b>Call-Off Contract</b>	The legally binding agreement (entered into following the provisions of this Framework Agreement) for the provision of Services made between a Buyer and the Supplier including the completed Order Form.
<b>Call-Off Term</b>	The period of the Call-Off Contract as specified in the Order Form.
<b>CCS Data</b>	All data supplied by the Buyer to the Supplier including Personal Data that is owned and managed by CCS.
<b>CCS Representative</b>	The CCS representative for this Framework Agreement.
<b>Charges</b>	The prices (excluding any applicable VAT) payable to the Supplier by the Buyer under the Call-Off Contract.
<b>Collaboration Agreement</b>	An agreement between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end IT
<b>Commercially Sensitive Information</b>	Information, which CCS has been notified about by the Supplier in writing (before the Start Date of the Framework Agreement) or the Buyer (before the Call-Off Contract Start Date) with full details of why the Information is considered commercially sensitive.
<b>Comparable Supply</b>	The supply of services to another customer of the Supplier that are the same or similar to any of the Services.
<b>Confidential Basis</b>	Any disclosure by the recipient to a third party is subject to a confidentiality agreement or arrangement containing the same terms as those placed on the recipient under the confidentiality clauses.
<b>Confidential Information</b>	Data, personal data and any information, which may include (but is not limited to) any: <ul style="list-style-type: none"> <li>• information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above</li> <li>• other information clearly designated as being confidential or which should reasonably be considered to be confidential (whether or not it is marked 'confidential').</li> </ul>

<b>Control</b>	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
<b>Controller</b>	Takes the meaning given in the Data Protection Legislation
<b>Crown</b>	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.
<b>Data Loss Event</b>	Means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
<b>Data Protection Impact Assessment</b>	An assessment by the Controller of the impact of the envisaged Processing by the Processor under this Framework Agreement on the protection of Personal Data.
<b>Data Protection Legislation</b>	(i) The GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy, including if applicable legally binding guidance and codes of practice issued by the Information Commissioner.
<b>Data Subject</b>	Takes the meaning given in the Data Protection Legislation

<b>Default</b>	<p>This means any:</p> <ul style="list-style-type: none"> <li>• breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term)</li> <li>• other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Framework Agreement</li> </ul> <p>Unless otherwise specified in this Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
<b>Digital Marketplace</b>	<p>The government marketplace where Services are available for purchase <a href="https://www.digitalmarketplace.service.gov.uk/">https://www.digitalmarketplace.service.gov.uk/</a></p>
<b>Direct Award Criteria</b>	<p>The award criteria to be applied for the award of Call-Off Contracts for G-Cloud Services set out in Section 3 (How services will be bought).</p>
<b>DOTAS</b>	<p>The Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue &amp; Customs of any specified notifiable arrangements or proposals and to provide information on them within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made that Act as extended to National Insurance Contributions by the National Insurance Contributions Regulations 2012 made under section 132A Social Security Administration Act 1992.</p>
<b>DPA 2018</b>	<p>Data Protection Act 2018</p>
<b>End</b>	<p>Means to terminate; and Ended and Ending will be construed accordingly.</p>

<b>Environmental Information Regulations or EIR</b>	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department about these regulations.
<b>Employment Status Indicator test tool or ESI tool</b>	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting, the tool may be found here: <a href="http://tools.hmrc.gov.uk/esi">http://tools.hmrc.gov.uk/esi</a>



<b>Fraud</b>	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the Crown.
<b>Freedom Of Information Act or FoIA</b>	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to the legislation.
<b>G-Cloud Services</b>	The cloud services described in Section 2 (Services Offered) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
<b>GDPR</b>	The General Data Protection Regulation (Regulation (EU) 2016/679)
<b>General Anti-Abuse Rule</b>	The legislation in Part 5 of the Finance Act 2013 and any future legislation introduced to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.
<b>Good Industry Practice</b>	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking under the same or similar circumstances.
<b>Group of Economic Operators</b>	A partnership or consortium not (yet) operating through a separate legal entity.
<b>Guarantee</b>	The guarantee in Call-Off Schedule 5 (Guarantee).
<b>Guidance</b>	Any current UK Government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK Government guidance and the Crown Commercial Service Guidance, current UK Government guidance will take precedence.

<b>Halifax Abuse Principle</b>	The principle explained in the CJEU Case C-255/02 Halifax and others.
<b>Implementation Plan</b>	The plan set out in the Order Form.
<b>Information</b>	This has the meaning given under section 84 of the Freedom of Information Act 2000.
<b>IR35</b>	IR35 is also known as 'intermediaries legislation'. It's a set of rules that affect tax and National Insurance if a Supplier is contracted to work for a client through an intermediary.
<b>Inside IR35</b>	Employment engagements that would be within the scope of the IR35 Intermediaries legislation if assessed by the ESI tool.
<b>Insolvency Event</b>	Can be: <ul style="list-style-type: none"> <li>• a voluntary arrangement</li> <li>• a winding-up petition</li> <li>• the appointment of a receiver or administrator</li> <li>• an unresolved statutory demand</li> <li>• a Schedule A1 moratorium</li> </ul>
<b>Intellectual Property Rights or IPR</b>	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction</p>
<b>Intermediary</b>	<p>For the purposes of the IR35 rules, an intermediary can be:</p> <ul style="list-style-type: none"> <li>• the supplier's own limited company</li> <li>• a service or a personal service company</li> <li>• a partnership</li> </ul> <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example an employment agency).</p>
<b>Invitation to Tender</b>	The Invitation to Tender for this Framework Agreement

<b>Key Performance Indicators</b>	The performance indicators in clause 6.30.
<b>Know-How</b>	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or CCS's possession before the Start Date.
<b>Law</b>	Any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.
<b>LED</b>	Law Enforcement Directive (Directive (EU) 2016/680)
<b>Loss</b>	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' <b>Losses</b> ' will be interpreted accordingly.
<b>Lot</b>	Any of the 3 lots specified in the Invitation to Tender and 'Lots' will be construed accordingly.
<b>Management Charge</b>	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
<b>Management Information or MI</b>	The management information specified in Section 6 (What you report to CCS).

<b>Material Breach</b>	<p>A breach by the Supplier of the following clauses in this Framework Agreement:</p> <ul style="list-style-type: none"> <li>• IR35</li> <li>• Transfer and subcontracting</li> <li>• Equality and diversity</li> <li>• Conflicts of interest and ethical walls</li> <li>• Warranties and representations</li> <li>• Management information</li> <li>• Management charge</li> <li>• Publicity and branding</li> <li>• Bribery and corruption</li> <li>• Fraud and notice of fraud</li> <li>• Data protection and disclosure</li> <li>• Intellectual Property Rights</li> <li>• Confidentiality</li> <li>• any single serious breach or persistent failure to perform as required by this Framework Agreement or under a Call-Off Contract</li> </ul>
<b>MI Failure</b>	A failure by the Supplier to provide as set out in clause 6.9.
<b>Ministry of Justice Code</b>	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.
<b>MI report</b>	The management information report provided by the Supplier under Section 6 (What you report to CCS).
<b>OJEU Notice</b>	The contract notice in the Official Journal of the European Union, seeking expressions of interest from potential providers of G-Cloud Services.
<b>Order</b>	An order for G-Cloud Services placed by a Buyer with the Supplier in accordance with the Buying Process.
<b>Order Form</b>	The order form in the Call-Of Contract to be used by a Buyer to order G-Cloud Services.

<b>Parent Company</b>	Any company which is the ultimate Holding Company of the Supplier.
<b>Party</b>	<p>Party for the purposes of the:</p> <ul style="list-style-type: none"> <li>• Framework Agreement, CCS or the Supplier</li> <li>• Call-Off Contract, the Supplier or the Buyer and 'Parties' will be interpreted accordingly</li> </ul>
<b>Personal Data</b>	Takes the meaning given in the Data Protection Legislation
<b>Processing</b>	Takes the meaning given in the Data Protection Legislation
<b>Processor</b>	Takes the meaning given in the Data Protection Legislation
<b>Prohibited Act</b>	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>• induce that person to perform improperly a relevant function or activity</li> <li>• reward that person for improper performance of a relevant function or activity</li> <li>• commit any offence: <ul style="list-style-type: none"> <li>○ under the Bribery Act 2010</li> <li>○ under legislation creating offences concerning Fraud</li> <li>○ at common Law concerning Fraud</li> <li>○ committing or attempting or conspiring to commit Fraud</li> </ul> </li> </ul>
<b>Protective Measures</b>	<p>Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.</p>

<b>Regulations</b>	The Public Contracts Regulations 2015 (at <a href="http://www.legislation.gov.uk/ukSI/2015/102/contents/made">http://www.legislation.gov.uk/ukSI/2015/102/contents/made</a> ) and the Public Contracts (Scotland) Regulations 2015 (at <a href="http://www.legislation.gov.uk/ssi/2015/446/contents/made">http://www.legislation.gov.uk/ssi/2015/446/contents/made</a> ).
<b>Regulatory Bodies</b>	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Framework Agreement.
<b>Relevant Person</b>	Any employee, agent, servant, or representative of CCS, any other public body or person employed by or on behalf of CCS, or any other public body.
<b>Reporting Date</b>	The seventh day of each month following the month to which the relevant MI relates. A different date can be chosen if agreed between the Parties.
<b>Request(s) for Information</b>	A request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.
<b>Response</b>	The response submitted by the Supplier to the Invitation to Tender.
<b>Self Audit Certificate</b>	The certificate in the form in Schedule 2 (Self Audit Certificate), to be provided to CCS by the Supplier.
<b>Services</b>	Means G-Cloud Services and any/or Additional Services.
<b>Service Definition(s)</b>	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but is not limited to, those items listed in Section 2 (Services Offered) of this Framework Agreement.
<b>Service Description</b>	The description of the Supplier service offering as published on the Digital Marketplace.
<b>Service Personal Data</b>	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of, or in connection with, this Framework Agreement or a Call-Off Contract.

<b>Specific Change in Law</b>	A change in the Law that relates specifically to the business of CCS and which would not affect a Comparable Supply.
<b>Standstill Period</b>	Has the meaning given in paragraph 11.4 of the Invitation to Tender.
<b>Start Date</b>	For the Framework Agreement, the start date is as outlined in 'Section 1 - The appointment'. For the Call-Off Contract, start date is as described in the Order Form.
<b>Subcontract</b>	Any contract or agreement or proposed agreement between the Supplier and a Subcontractor in which the Subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
<b>Subcontractor</b>	Any third party engaged by the Supplier under a Subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
<b>Subprocessor</b>	Any third party appointed to process Personal Data on behalf of the Supplier under this Framework Agreement.
<b>Supplier Declaration</b>	The document containing the selection and award questions for the procurement.
<b>Supplier Representative</b>	The representative appointed by the Supplier in relation to this Framework Agreement.
<b>Supplier Staff</b>	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and Subcontractors used in the performance of its obligations under this Framework Agreement or any Call-Off Contracts.
<b>Supplier Terms</b>	The Supplier's terms and conditions for G-Cloud Services and as set out in Section 2 (Services offered) and in the form supplied as part of the Supplier's Application.

<b>Tax Non-Compliance</b>	<p>(a) Any tax return the Supplier submitted to HMRC, or the relevant tax authority if the Supplier is established on or after 1 October 2012, is found to be incorrect as a result of:</p> <ul style="list-style-type: none"> <li>(i) HMRC or the 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 that have an equivalent effect</li> <li>(ii) the failure of an avoidance scheme used by the Supplier which should be notified to HMRC or the relevant tax authority under the DOTAS or any equivalent regime</li> </ul> <p>(b) the Supplier's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any country for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion</p>
<b>Term</b>	The term of this Framework Agreement as specified in Section 1 (The appointment).
<b>Working Days</b>	Any day other than a Saturday, Sunday or public holiday in England and Wales.
<b>Year</b>	A contract year.

**Section 1 - The appointment**

This section includes terms about the Supplier appointment.

**Appointment**

1.1 Under the terms of this Framework Agreement (RM1557.10) and the Supplier's Application, the Minister for the Cabinet Office, represented by the Crown Commercial Service (CCS), 9th Floor, The Capital, Old Hall Street, Liverpool, L3 9PP, appoints:

**company:** Affinixtext (UK) Limited

**registered address:** 37 St Margarets Street, Canterbury, CT1 2TU

**company number:** 07207185

(the 'Supplier'), as a Framework Agreement Supplier of G-Cloud 10 services who can be considered for Call-Off Contracts as outlined in the Contract Notice in the Official Journal of the European Union reference 2018/S 074-164715 (OJEU Contract Notice).

1.2 **Appointment is to:** Lot 2: Cloud software

1.3 **Appointment starts at:** 2 July 2018

1.4 **Appointment ends at:** 23:59 on 1 July 2019 (unless this Framework Agreement is extended by CCS or ends early).

1.5 **Framework extension:** Up to 12 months, by CCS giving written notice to Suppliers.

1.6 **Framework term:** From and including the date at 1.3 above (Appointment starts at) to and including the date at 1.4 above (Appointment ends at).

1.7 **Call-Off Contract length:** Up to 24 months plus 2 optional extension periods of up to 12 months each.

1.8 The Parties agree that they have read this Framework Agreement and by signing below agree to be bound by its terms.

1.9 All Sections, including the Invitation To Tender (known as the Invitation to Apply on the Digital Marketplace) and Schedules to this Framework Agreement are expressly part of this Framework Agreement.

1.10 CCS will pay £1 to the Supplier to perform its obligations under this Framework Agreement, receipt of which is acknowledged by the Supplier signing this Framework Agreement.

1.11 The finalised Framework Agreement will include:

- a signature page, signed by the supplier
- a signature page, signed by the Crown Commercial Service
- the rest of the Framework Agreement document

1.12 The signature pages and the rest of the Framework Agreement document are counterparts before signing and duplicate originals after signing. The duplicate originals together make one Framework Agreement signed by all the necessary parties.

Signed by or on behalf of Affinixtext (UK) Limited,



Countersigned by or on behalf of CCS,

**Signature:** .....

**Name:** .....

**Role:** .....

**Date:** .....