CROWN COMMERCIAL SERVICES

CALL OFF ORDER FORM AND CALL OFF TERMS

CORPORATE SOFTWARE SOLUTIONS

Framework Schedule 4

Order form and call off terms

# PART 1 – ORDER FORM

This Order Form is issued in accordance with the provisions of the Framework Agreement for Corporate Software Solutions. The Supplier agrees to supply the Services specified below on and subject to the terms of this Call Off Contract and for the avoidance of doubt this Call Off Contract consists of the terms set out in this Order Form and the Call Off Terms.

|  |  |
| --- | --- |
| **DATE** |  2018 |
| **ORDER NUMBER** | **Order No.**  **Contract Ref: CCIS18A02** |
| **FROM** | HM Treasury1 Horse Guards RoadLondonSW1A 2HQ (“**Customer**”) |
| **TO** | Deloitte MCS Limited Hill House1 Little New StreetLondonEC4A 3TR (“**Supplier**”) |

* 1. TERM
		1. Call Off Commencement Date:

 2018

* + 1. Call Off Expiry Date:

End date of Call Off Contract Period (which cannot exceed five (5) years from the Call Off Commencement Date) and is valid for 60 months (Expiry date is subject to Clause 39 (Customer Termination) and Clause 40 (Supplier Termination) in the Call Off Terms)

2023

* 1. CUSTOMER CORE goods and/or services REQUIREMENTS
		1. Goods and/or Resourced Based Services and/or Services required

The Supplier shall deliver to the Customer

 In Call Off Schedule 2 (Services)

* + 1. Installation Works (Goods only)

Not applicable

* + 1. Packing/Packaging (Goods only)

Not applicable

* + 1. Warranty Period (Goods only)

Not applicable

* + 1. Location/Sites of Delivery

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

* + 1. Dates for Delivery of the Goods and/or the Services

In Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel)

* + 1. Implementation Plan

In Part A of Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel)

* + 1. Supplier Discovery

The Supplier will be required as part of the deliverables for the Customer to undertake a Discovery phase. Further, particulars are set out in Clause 2.3 of the Call Off Terms and Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel)

* + 1. Standards

In Call Off Schedule 7 (Standards)

* + 1. Service Levels and Service Credits

In Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)

* + 1. Critical Service Level Failure

In Annex 2 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)

* + 1. Performance Monitoring

In Annex 1 to Part B (Additional Performance Monitoring Requirements) of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)

* + 1. Period for providing the Rectification Plan

In Clause 38.2.1(a) of the Call Off Terms

* + 1. Exit Management

The Supplier shall, within 90 days of the Call Off Commencement Date, deliver to the Customer an Exit Plan as set out in Call Off Schedule 11 (Exit Management)

* + 1. Quality Plan

To be provided by the Supplier and agreed with the Customer within three (3) months and in accordance with Clause 8.2 of the Call Off Contract

* + 1. Supplier Software, Customer Software, Third Party Software and Specially Written Software

As detailed in Call Off Schedule 9 (Supplier Software, Customer Software and Third Party Software)

* 1. SUPPLIER’S INFORMATION
		1. Supplier's inspection of Sites, Customer System, Customer Property and Customer Assets

In Clause 45.4 of the Call Off Terms and Call Off Schedule 11 (Exit Management)

* + 1. Commercially Sensitive Information

All information contained within the Supplier’s response to the Tender document as detailed and incorporated to this Call Off Order Form and Call Off Contract (Recital E) and in accordance with the provisions set out within Clause 32 of the Call Off Contract the Customers information shall be deemed commercially sensitive and the Parties shall rely on the commercial exemption set out in S.43 of the Freedom of information Act for a period of 5 years

* + 1. Termination on Customer Cause for Failure to Pay an undisputed sum

In accordance with Clause 42.1.1, Termination for Customer Cause for Failure to Pay an undisputed sum after 40 working days and the Suppliers issues of a notice of non-payment of an amount exceeding 20% of the current or most recent Call Off Contract Year

* 1. CUSTOMER RESPONSIBILITIES
		1. Customer Responsibilities

In Part B of Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel)

* 1. CALL OFF CONTRACT CHARGES AND PAYMENT
		1. Call Off Contract Charges payable by the Customer (including any applicable Milestone Payments and/or discount(s), but excluding VAT) and payment terms/profile including method of payment (e.g. Government Procurement Card (GPC) or BACS)

In Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)

Total Charges payable for Implementation = £REDACTED

Total Charges for Operational Fees = £REDACTED

Overall Call Off Contract value = £11,590,971

* 1. CUSTOMER OTHER CONTRACTUAL REQUIREMENTS
		1. Call Off Guarantor

Subject to responses provided within the Tender documentation, a Supplier Guarantor may be required accordance with Clauses 4, 41.1 and Clause 45.1 of the Call Off Terms and Conditions

* + 1. Key Personnel

In Part C of Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel)

* + 1. Staff Transfer

Applicable provisions in Clause 25 of the Call Off Terms and Call Off Schedule 12 (Staff Transfer)

* + 1. Relevant Convictions

In Clause 24 of the Call Off Terms

* + 1. Failure of Supplier Equipment

In Clause 29.8 of the Call Off Terms

* + 1. Maintenance of the ICT Environment

In accordance with Clause 30 (Maintenance of ICT Environment(s))

* + 1. Protection of Customer Data

In accordance with Clause 32.3 (Protection of Customer Data)

* + 1. Limitations on Liability

In accordance with Clause 34 of the Call Off Terms

* + 1. Insurance

In accordance with Framework Standard Requirements and further detailed in Clause 35 of the Call Off Terms

* + 1. Termination without cause notice period

In Clause 39.6 of the Call Off Terms

* 1. ADDITIONAL AND/OR ALTERNATIVE CLAUSES
		1. Supplemental requirements to the Call Off Terms

Not applicable

* + 1. Amendments to/refinements of the Call Off Terms

Not applicable

* 1. Key Sub-contractors

The following are the Key Sub-contractors involved in the delivery of the contract.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Company Registration Number | Full legal name and trading name where applicable | Registered Address | Organisation Size (Micro, Small, Medium, Large) | Role of Key Sub-contractor | Approximate % of the contractual obligations sub contracted |
| REDACTED | REDACTED | REDACTED | REDACTED | REDACTED | REDACTED |

* 1. FORMATION OF CALL OFF CONTRACT
		1. BY SIGNING AND RETURNING THIS ORDER FORM (which may be done by electronic means) the Supplier agrees to enter a Call Off Contract with the Customer to provide the Goods and/or Services.
		2. The Parties hereby acknowledge and agree that they have read the Order Form and the Call Off Terms and by signing below agree to be bound by this Call Off Contract.
		3. In accordance with paragraph 7 of Framework Schedule 5 (Call Off Procedure), the Parties hereby acknowledge and agree that this Call Off Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of the Order Form from the Supplier within two (2) Working Days from receipt.

|  |
| --- |
| For and on behalf of the Supplier: |
| Name and Title | **REDACTED** **REDACTED**  |
| Signature | **SIGNED** |
| Date | 7 November 2018  |
| For and on behalf of the Customer: |
| Name and Title | **REDACTED****REDACTED** |
| Signature | **SIGNED** |
| Date | 7 November 2018  |

Table of contents

[A. PRELIMINARIES 8](#_Toc528588955)

[1. DEFINITIONS AND INTERPRETATION 8](#_Toc528588956)

[2. DUE DILIGENCE & SUPPLER DISCOVERY 9](#_Toc528588957)

[3. REPRESENTATIONS AND WARRANTIES 10](#_Toc528588958)

[4. CALL OFF GUARANTEE 11](#_Toc528588959)

[B. DURATION OF CALL OFF CONTRACT 12](#_Toc528588960)

[5. CALL OFF CONTRACT PERIOD 12](#_Toc528588961)

[C. CALL OFF CONTRACT PERFORMANCE 12](#_Toc528588962)

[6. IMPLEMENTATION PLAN 12](#_Toc528588963)

[7. SERVICES 13](#_Toc528588964)

[8. STANDARDS AND QUALITY 16](#_Toc528588965)

[9. TESTING 17](#_Toc528588966)

[10. SERVICE LEVELS AND SERVICE CREDITS 17](#_Toc528588967)

[11. CRITICAL SERVICE LEVEL FAILURE 18](#_Toc528588968)

[12. BUSINESS CONTINUITY AND DISASTER RECOVERY 18](#_Toc528588969)

[13. DISRUPTION 18](#_Toc528588970)

[14. SUPPLIER NOTIFICATION OF CUSTOMER CAUSE 19](#_Toc528588971)

[15. CONTINUOUS IMPROVEMENT 19](#_Toc528588972)

[D. CALL OFF CONTRACT GOVERNANCE 19](#_Toc528588973)

[16. PERFORMANCE MONITORING 19](#_Toc528588974)

[17. REPRESENTATIVES 20](#_Toc528588975)

[18. RECORDS, AUDIT ACCESS AND OPEN BOOK DATA 20](#_Toc528588976)

[19. CHANGE 21](#_Toc528588977)

[E. PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS 23](#_Toc528588978)

[20. CALL OFF CONTRACT CHARGES AND PAYMENT 23](#_Toc528588979)

[21. PROMOTING TAX COMPLIANCE 24](#_Toc528588980)

[22. BENCHMARKING 24](#_Toc528588981)

[F. SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS 25](#_Toc528588982)

[23. KEY PERSONNEL 25](#_Toc528588983)

[24. SUPPLIER PERSONNEL 26](#_Toc528588984)

[25. STAFF TRANSFER 27](#_Toc528588985)

[26. SUPPLY CHAIN RIGHTS AND PROTECTION 27](#_Toc528588986)

[G. PROPERTY MATTERS 31](#_Toc528588987)

[27. CUSTOMER PREMISES 31](#_Toc528588988)

[28. CUSTOMER PROPERTY 31](#_Toc528588989)

[29. SUPPLIER EQUIPMENT 32](#_Toc528588990)

[30. MAINTENANCE OF THE ICT ENVIRONMENT 32](#_Toc528588991)

[H. INTELLECTUAL PROPERTY AND INFORMATION 33](#_Toc528588992)

[31. INTELLECTUAL PROPERTY RIGHTS 33](#_Toc528588993)

[32. SECURITY AND PROTECTION OF INFORMATION 38](#_Toc528588994)

[33. PUBLICITY AND BRANDING 44](#_Toc528588995)

[I. LIABILITY AND INSURANCE 44](#_Toc528588996)

[34. LIABILITY 44](#_Toc528588997)

[35. INSURANCE 46](#_Toc528588998)

[J. REMEDIES AND RELIEF 47](#_Toc528588999)

[36. CUSTOMER REMEDIES FOR DEFAULT 47](#_Toc528589000)

[37. SUPPLIER RELIEF DUE TO CUSTOMER CAUSE 48](#_Toc528589001)

[38. FORCE MAJEURE 50](#_Toc528589002)

[K. TERMINATION AND EXIT MANAGEMENT 51](#_Toc528589003)

[39. CUSTOMER TERMINATION RIGHTS 51](#_Toc528589004)

[40. SUPPLIER TERMINATION RIGHTS 53](#_Toc528589005)

[41. TERMINATION BY EITHER PARTY 53](#_Toc528589006)

[42. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION 53](#_Toc528589007)

[43. CONSEQUENCES OF EXPIRY OR TERMINATION 54](#_Toc528589008)

[L. MISCELLANEOUS AND GOVERNING LAW 55](#_Toc528589009)

[44. COMPLIANCE 55](#_Toc528589010)

[45. ASSIGNMENT AND NOVATION 56](#_Toc528589011)

[46. WAIVER AND CUMULATIVE REMEDIES 56](#_Toc528589012)

[47. RELATIONSHIP OF THE PARTIES 56](#_Toc528589013)

[48. PREVENTION OF FRAUD AND BRIBERY 57](#_Toc528589014)

[49. SEVERANCE 58](#_Toc528589015)

[50. FURTHER ASSURANCES 58](#_Toc528589016)

[51. ENTIRE AGREEMENT 58](#_Toc528589017)

[52. THIRD PARTY RIGHTS 58](#_Toc528589018)

[53. NOTICES 58](#_Toc528589019)

[54. DISPUTE RESOLUTION 59](#_Toc528589020)

[55. GOVERNING LAW AND JURISDICTION 60](#_Toc528589021)

|  |  |  |  |
| --- | --- | --- | --- |
| CALL OFF SCHEDULE 1 | DEFINITIONS |  | ***61*** |
| CALL OFF SCHEDULE 2 | SERVICES |  | ***82*** |
| CALL OFF SCHEDULE 3 | CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING |  | ***438*** |
| CALL OFF SCHEDULE 4 | IMPLEMENTATION PLAN, CUSTOMER RESPONSIBILITIES AND KEY PERSONNEL |  | ***447*** |
| CALL OFF SCHEDULE 5 | TESTING |  | ***465*** |
| CALL OFF SCHEDULE 6 | SERVICE LEVELS, SERVICE CREDITS AND PERFROMANCE MONITORING |  | ***475*** |
| CALL OFF SCHEDULE 7 | STANDARDS |  | ***491*** |
| CALL OFF SCHEDULE 8 | SECURITY |  | ***493*** |
| CALL OFF SCHEDULE 9 | SUPPLIER SOFTWARE, CUSTOMER SOFTWARE AND THIRD PARTY SOFTWARE |  | ***512*** |
| CALL OFF SCHEDULE 10 | BUSINESS CONTINUITY AND DISASTER RECOVERY |  | ***516*** |
| CALL OFF SCHEDULE 11 | EXIT MANAGEMENT |  | ***522*** |
| CALL OFF SCHEDULE 12 | STAFF TRANSFER |  | ***530*** |
| CALL OFF SCHEDULE 13 | DISPUTE RESOLUTION PROCEDURE |  | ***531*** |
| CALL OFF SCHEDULE 14 | VARIATION PROCEDURE |  | ***535*** |
| CALL OFF SCHEDULE 15 | LICENCE TERMS FOR SUPPLIER SOFTWARE AND THIRD PARTY SOFTWARE |  | ***545*** |
| CALL OFF SCHEDULE 16 | SCHEDULE OF DATA PROCESSING, PERSONAL DATA AND DATA SUBJECTS |  | ***546*** |

# PART 2 – CORPORATE SOFTWARE SOLUTIONS CALL OFF TERMS

## TERMS AND CONDITIONS

**THIS AGREEMENT** is made on **2018**

**BETWEEN**

1. HM Treasury, **REDACTED** (the “**Customer**”) and
2. Deloitte MCS Limited, **REDACTED** (the "**Supplier**");

together (“**the Parties**”);

**RECITALS**

1. The Authority undertook a procurement as a central purchasing body on behalf of public sector bodies, to select suppliers, including the Supplier, to provide the Services.
2. The Supplier is a provider of the Services and undertook to provide such Services under the terms set out in the Framework Agreement number RM1042.
3. The Customer is entitled to enter into this Call Off Contract under the Framework Agreement and has completed the Order Form served by the Customer on the Supplier.
4. The Customer served an Order Form Services on the Supplier on the date set out in the Order Form at Section A.
5. The Supplier confirmed its agreement to the terms of the Call Off Contract, the Order Form, and acceptance of the Call Off Contract terms which expressly incorporates the Suppliers Tender at Schedule 20 of the Framework Agreement and commitments to delivering the Services therein and the Parties hereby duly execute this Call Off Contract.
6. PRELIMINARIES
7. DEFINITIONS AND INTERPRETATION
	1. In this Call Off Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Call Off Schedule 1 (“Definitions”).
	2. If a capitalised expression does not have an interpretation in Call Off Schedule 1 (“Definitions”) or relevant Call Off Schedule, it shall have the meaning given to it in the Framework Agreement. If no meaning is given to it in the Framework Agreement, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
	3. In this Call Off Contract, unless the context otherwise requires:
		1. the singular includes the plural and vice versa;
		2. reference to a gender includes the other gender and the neuter;
		3. references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
		4. a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
		5. the words **including**, **other**, **in particular**, **for example** and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words **without limitation**;
		6. references to **writing** include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
		7. references to **representations** shall be construed as references to present facts, to **warranties** as references to present and future facts and to **undertakings** as references to obligations under this Call Off Contract;
		8. references to **Clauses** and **Call Off Schedules** are, unless otherwise provided, references to the clauses and schedules of this Call Off Contract and references in any Call Off Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Call Off Schedule in which these references appear; and
		9. the headings in this Call Off Contract are for ease of reference only and shall not affect the interpretation or construction of this Call Off Contract.
	4. Subject to Clauses 1.5 and 1.6 (Definitions and Interpretation), in the event of and only to the extent of any conflict between the Order Form, the Call Off Terms and the provisions of the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:
		1. the Framework Agreement, except Framework Schedule 20 (Tender);
		2. the Order Form;
		3. the Call Off Terms and Schedule 1 (Definitions);
		4. Schedule 2 – Annex 1 (Authority Requirement);
		5. any other Schedules and their Annexes (other than Schedule 2 - Annex 2 (Supplier Solution) and its Annexes);
		6. Framework Schedule 20 (Tender); and
		7. Call Off Schedule 15 (License Terms for Supplier Software and Third Party Software); and
		8. Schedule 2 - Annex 2 (Supplier Solution).
	5. Any permitted changes by the Customer to the Call Off Terms and the Order Form under Clause 4 (Call Off Procedure) of the Framework Agreement and Framework Schedule 5 (Call Off Procedure) prior to them becoming the Call Off Terms and the Order Form and the Parties entering this Call Off Contract shall prevail over the Framework Agreement.
	6. Where Framework Schedule 20 (Tender) contains provisions which are more favourable to the Customer in relation to this Call Off Contract, such provisions of the Tender shall prevail. The Customer shall in its absolute and sole discretion determine whether any provision in the Tender is more favourable to it in this context.
8. DUE DILIGENCE & SUPPLER DISCOVERY
	1. The Supplier agrees that in accordance with Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel) as part of its due diligence responsibilities prior to commencing work to deliver the Service that a Discovery Phase shall be undertaken.
	2. Further, the Supplier acknowledges that:
		1. the Customer has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Call Off Contract;
		2. it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence and Discovery Information;
		3. it has satisfied itself (whether by inspection or having raised all relevant due diligence and Discovery questions with the Customer before the Call Off Commencement Date) of all relevant details relating to the:
			1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Call Off Commencement Date) future Operating Environment;
			2. operating processes and procedures and the working methods of the Customer;
			3. ownership, functionality, capacity, condition and suitability for use in the provision of the Services of the Customer Assets; and
			4. existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in the Due Diligence and Discovery Information which may only by express request by the Customer be novated to, assigned to or managed by the Supplier under this Call Off Contract and/or which the Supplier will require the benefit of for the provision of the Services; and
		4. it has advised the Customer in writing of:
			1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the Services;
			2. the actions needed to remedy each such unsuitable aspect; and
			3. a timetable for and the costs of those actions.
		5. the Supplier shall not be excused from the performance of any of its obligations under this Call Off Contract on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges, arising as a result of any:
			1. unsuitable aspects of the Operating Environment;
			2. misinterpretation of the requirements of the Customer in the Order Form or elsewhere in this Call Off Contract; and/or
			3. failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.
	3. Supplier Discovery
		1. The Supplier shall be required to undertake a Discovery phase (the "**Discovery Phase**") before any build for the Customer is approved or commenced. All Discovery works shall be completed in accordance with the provisions set out at Clauses 2.1 and 2.2 inclusive.
		2. Subject to Confidentiality requirements set out in Clause 32, the Customer will not unduly withhold access to the Supplier to effectively complete its Discovery exercise and the appropriate security clearances of the Suppliers staff.
9. REPRESENTATIONS AND WARRANTIES
	1. Each Party represents and warranties that:
		1. it has full capacity and authority to enter into and to perform this Call Off Contract;
		2. this Call Off Contract is executed by its duly authorised representative;
		3. there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the Supplier, any of its Affiliates) that might affect its ability to perform its obligations under this Call Off Contract; and
		4. its obligations under this Call Off Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each Party) bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or Law).
	2. The Supplier represents and warrants that:
		1. it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
		2. it has all necessary consents (including, where its procedures so require, the consent of its Parent Company) and regulatory approvals to enter into this Call Off Contract;
		3. its execution, delivery and performance of its obligations under this Call Off Contract does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a Default under any agreement by which it is bound;
		4. as at the Call Off Commencement Date, all written statements and representations in any written submissions made by the Supplier as part of the procurement process, its Tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Call Off Contract;
		5. as at the Call Off Commencement Date, it has notified the Customer and throughout the Call Off Contract it shall keep the Customer notified in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in connection with any Occasions of Tax Non-Compliance;
		6. it has and shall continue to have all necessary rights in and to the Licensed Software, the Third Party IPR, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to the Customer which are necessaryfor the performance of the Supplier’s obligations under this Call Off Contract including the receipt of the Services by the Customer;
		7. it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Call Off Contract; and
		8. it is not affected by an Insolvency Event and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier’s assets or revenue.
	3. Each of the representations and warranties set out in Clauses 3.1 and 3.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in this Call Off Contract.
	4. If at any time a Party becomes aware that a representation or warranty given by it under Clauses 3.1 and 3.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.
	5. For the avoidance of doubt, the fact that any provision within this Call Off Contract is expressed as a warranty shall not preclude any right of termination the Customer may have in respect of breach of that provision by the Supplier which constitutes a material Default.
10. CALL OFF GUARANTEe
	1. Where the Customer has stipulated during a Further Competition Procedure that the award of this Call Off Contract shall be conditional upon receipt of a Call Off Guarantee, then, on or prior to the Call Off Commencement Date, the Supplier shall deliver to the Customer:
		1. an executed Call Off Guarantee from a Call Off Guarantor; and
		2. a certified copy extract of the board minutes and/or resolution of the Call Off Guarantor approving the execution of the Call Off Guarantee.
	2. The Customer may in its sole discretion at any time agree to waive compliance with the requirement in Clause 4.1 by giving the Supplier notice in writing.
11. DURATION OF CALL OFF CONTRACT
12. CALL OFF CONTRACT PERIOD
	1. This Call Off Contract shall commence on the Call Off Commencement Date and the term of this Call Off Contract shall be the Call Off Contract Period.
	2. The Call Off Contract period shall not exceed five (5) years (60 months) and each Call Off Contract Year shall constitute 12 consecutive months from the Call Off Commencement Date.
13. CALL OFF CONTRACT PERFORMANCE
14. IMPLEMENTATION PLAN
	1. Formation of Implementation Plan
		1. Where the Parties agreed in the Order Form (or elsewhere in this Call Off Contract) that an Implementation Plan (or parts thereof) shall be provided in draft by the Supplier prior to the commencement of the provision of the Services, the Supplier’s draft must contain information at the level of detail necessary to manage the implementation stage effectively and as the Customer may require. This draft Implementation Plan (the “Baseline Implementation Plan”) shall take account of all dependencies known to, or which should reasonably be known to the Supplier.
		2. The Supplier shall submit the draft Implementation Plan to the Customer for Approval (such decision of the Customer to Approve or not shall not be unreasonably delayed or withheld) within such period as specified by the Customer in the Order Form (or elsewhere in this Call Off Contract).
		3. The Supplier shall perform each of the Deliverables identified in the Implementation Plan by the applicable date assigned to that Deliverable in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.
		4. The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and any other requirements of the Customer as set out in this Call Off Contract and report to the Customer on such performance.
	2. Control of Implementation Plan
		1. Subject to Clause 6.2.2, the Supplier shall keep the Implementation Plan under review in accordance with the Customer’s instructions and ensure that it is maintained and updated on a regular basis as may be necessary to reflect the then current state of the provision of the Services. The Customer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
		2. Changes to the Milestones (if any), Milestone Payments (if any) and Delay Payments (if any) shall only be made in accordance with the Variation Procedure and provided that the Supplier shall not attempt to postpone any of the Milestones using the Variation Procedure or otherwise (except in the event of a Customer Cause which affects the Supplier's ability to achieve a Milestone by the relevant Milestone Date).
		3. Where so specified by the Customer in the Implementation Plan or elsewhere in this Call Off Contract, time in relation to compliance with a date, Milestone Date or period shall be of the essence and failure of the Supplier to comply with such date, Milestone Date or period shall be a material Default unless the Parties expressly agree otherwise.
	3. Rectification of Delay in Implementation
		1. If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Call Off Contract:
			1. it shall:
				1. notify the Customer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay; and
				2. include in its notification an explanation of the actual or anticipated impact of the Delay; and
				3. comply with the Customer’s instructions in order to address the impact of the Delay or anticipated Delay; and
				4. use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and
			2. if the Delay or anticipated Delay relates to a Milestone in respect which a Delay Payment has been specified in the Implementation Plan, Clause 6.4 (Delay Payments) shall apply.
	4. Delay Payments
		1. If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, unless this is due in whole or in part to a Customer Cause (in which case Clause 37 shall apply) the Supplier shall pay to the Customer such Delay Payments (calculated as set out by the Customer in the Implementation Plan) and the following provisions shall apply:
			1. the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier’s failure to Achieve the corresponding Milestone;
			2. Delay Payments shall be the Customer's exclusive financial remedy for the Supplier’s failure to Achieve a corresponding Milestone by its Milestone Date except where:
				1. the Customer is otherwise entitled to or does terminate this Call Off Contract pursuant to Clause 39 (Customer Termination Rights) except Clause 39.6 (Termination Without Cause); or
				2. the delay exceeds the period of ninety (90) days commencing on the relevant Milestone Date;
			3. the Delay Payments will accrue on a daily basis from the relevant Milestone Date and shall continue to accrue until the date when the Milestone is Achieved (unless otherwise specified by the Customer in the Implementation Plan);
			4. no payment or concession to the Supplier by the Customer or other act or omission of the Customer shall in any way affect the rights of the Customer to recover the Delay Payments or be deemed to be a waiver of the right of the Customer to recover any such damages unless such waiver complies with Clause 46 (Waiver and Cumulative Remedies) and refers specifically to a waiver of the Customer’s rights to claim Delay Payments; and
			5. the Supplier waives absolutely any entitlement to challenge the enforceability in whole or in part of this Clause 6.4.1 and Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 34 (Liability).
15. SERVICES
	1. Provision of the Services
		1. The Supplier acknowledges and agrees that the Customer relies on the skill and judgment of the Supplier in the provision of the Services and the performance of its obligations under this Call Off Contract.
		2. The Supplier shall ensure that the Services:
			1. comply in all respects with Schedule 2 - Annex 1 (Authority Requirements);
			2. comply in all respects with the Customer’s description of the Services in Call Off Schedule 2 (Services) (or elsewhere in this Call Off Contract); and
			3. are supplied in accordance with the Supplier Solution and the other provisions of this Call Off Contract or the Tender.
		3. The Supplier shall perform its obligations under this Call Off Contract in accordance with:
			1. all applicable Law;
			2. Good Industry Practice;
			3. the Standards;
			4. the Security Policy;
			5. the Quality Plans;
			6. the ICT Policy (if so required by the Customer); and
			7. the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 7.1.3(a) to 7.1.3(f).
		4. The Supplier shall:
			1. at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Call Off Contract;
			2. subject to Clause 19.1 (Variation Procedure), obtain, and maintain throughout the duration of this Call Off Contract, all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;
			3. ensure that:
				1. the release of any new Supplier Software or upgrade to any Supplier Software complies with the interface requirements of the Customer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Customer three (3) Months before the release of any new Supplier Software or Upgrade;
				2. all Software including Upgrades, Updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
				3. any products or services recommended or otherwise specified by the Supplier for use by the Customer in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or Services to meet the requirements of the Customer as specified in the Order Form and Schedule 2 (Goods and Services);
				4. the Supplier System and Supplier Assets will be free of all encumbrances (except as agreed in writing with the Customer) and will be Euro Compliant; and
				5. the Services are fully compatible with any Customer Software, Customer System, Customer Property or Customer Assets described in Part B of Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel) (or elsewhere in this Call Off Contract) or otherwise used by the Supplier in connection with this Call Off Contract;
			4. minimise any disruption to the Services, the ICT Environment and/or the Customer's operations when providing the Services;
			5. ensure that any Documentation and training provided by the Supplier to the Customer are comprehensive, accurate and prepared in accordance with Good Industry Practice;
			6. co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the to any Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services and, on the Call Off Expiry Date for any reason, to enable the timely transition of the Services (or any of them) to the Customer and/or to any Replacement Supplier;
			7. assign to the Customer, or if it is unable to do so, shall (to the extent it is legally able to do so) hold on trust for the sole benefit of the Customer, all warranties and indemnities provided by third parties or any Sub-Contractor in respect of any Deliverables and/or the Services. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with any reasonable directions that the Customer may notify from time to time to the Supplier;
			8. provide the Customer with such assistance as the Customer may reasonably require during the Call Off Contract Period in respect of the supply of the Services;
			9. deliver the Services in a proportionate and efficient manner;
			10. ensure that neither it, nor any of its Affiliates, embarrasses the Customer or otherwise brings the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Supplier’s obligations under this Call Off Contract; and
			11. gather, collate and provide such information and co-operation as the Customer may reasonably request for the purposes of ascertaining the Supplier’s compliance with its obligations under this Call Off Contract.
		5. An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-Contractors and Supplier Personnel also do, or refrain from doing, such act or thing.
	2. Time of Delivery of the Services
		1. The Supplier shall provide the Services on the date(s) specified in the Order Form (or elsewhere in this Call Off Contract) and the Milestone Dates (if any) save where such dates are expressed as estimates only. Such provision shall include compliance with the obligation on the Supplier set out in Clause 6 (Implementation Plan).
	3. Location and Manner of Delivery of the Services
		1. Except where otherwise provided in this Call Off Contract, the Supplier shall provide the Services to the Customer through the Supplier Personnel at the Sites.
		2. The Customer may inspect and examine the manner in which the Supplier provides the Services at the Sites and, if the Sites are not the Customer Premises, the Customer may carry out such inspection and examination during normal business hours and on reasonable notice.
	4. Undelivered Services
		1. In the event that any of the Services are not Delivered in accordance with Clauses 7.1 (Provision of the Services) and 7.2 (Time of Delivery of the Services) (the "**Undelivered Services"**), the Customer, without prejudice to any other rights and remedies of the Customer howsoever arising, shall be entitled to withhold payment of the applicable Call Off Contract Charges for the Services that were not so Delivered until such time as the Undelivered Services are Delivered.
		2. The Customer may, at its discretion and without prejudice to any other rights and remedies of the Customer howsoever arising, deem the failure to comply with Clauses 7.1, (Provision of the Services), 7.2 (Time of Delivery of the Services) and meet the relevant Milestone Date (if any) to be a material Default.
	5. Specially Written Software warranty
		1. The Supplier warrants to the Customer that all components of the Specially Written Software shall:
			1. be free from material design and programming errors;
			2. perform in all material respects in accordance with the relevant specifications contained in Call Off Schedule 2 (Services) and Documentation; and
			3. not infringe any Intellectual Property Rights.
	6. Obligation to Remedy of Default in the Supply of the Services
		1. Subject to Clauses 31.9.2 and 31.9.3 (IPR Indemnity) and without prejudice to any other rights and remedies of the Customer howsoever arising (including under Clauses 7.4.2 (Undelivered Services) and 36 (Customer Remedies for Default)), the Supplier shall, as soon as reasonably possible:
			1. remedy any breach of its obligations in this Clause 7 within three (3) Working Days of becoming aware of the relevant Default or being notified of the Default by the Customer or within such other time period as may be agreed with the Customer (taking into account the nature of the breach that has occurred); and
			2. meet all the costs of, and incidental to, the performance of such remedial work.
	7. Continuing Obligation to Provide the Services
		1. The Supplier shall continue to perform all of its obligations under this Call Off Contract and shall not suspend the provision of the Services, notwithstanding:
			1. any withholding or deduction by the Customer of any sum due to the Supplier pursuant to the exercise of a right of the Customer to such withholding or deduction under this Call Off Contract*;*
			2. the existence of an unresolved Dispute; and/or
			3. any failure by the Customer to pay any Call Off Contract Charges,

unless the Supplier is entitled to terminate this Call Off Contract under Clause 40.1 (Termination on Customer Cause for Failure to Pay) for failure by the Customer to pay undisputed Call Off Contract Charges.

* 1. Supplier Solution
		1. The Supplier will ensure that all aspects of the Supplier Solution shall perform and are provided in accordance with, and meet the requirements of, the Authority Requirements and any other requirements in this Call Off Contract.
		2. Each obligation in Clauses 7.1 to 7.7 are independent obligations. In particular, and without prejudice to the Supplier's obligations under Clauses 7.1 to 7.7:
			1. the fact that the Supplier has complied with the Authority Requirements but not the Supplier Solution shall not be a defence to an allegation that the Supplier has not satisfied the Supplier Solution; and
			2. the fact that the Supplier has complied with the Supplier Solution but not the Authority Requirements shall not be a defence to an allegation that the Supplier has not satisfied the Authority Requirements.
		3. If the Supplier Solution does not fulfil the Authority Requirements, then the Supplier shall, at its own expense (and without invoking the Variation Procedure) amend the Supplier Solution (and such amended Supplier Solution shall be deemed to replace the then current Supplier Solution) and rectify the Supplier Solution or any part of the Supplier Solution so as to ensure that the Supplier Solution satisfies the Authority Requirements and the Supplier shall notify the Authority of such amendment and/or rectification in writing as soon as reasonably practicable.
1. STANDARDS AND QUALITY
	1. The Supplier shall at all times during the Call Off Contract Period comply with the Standards and maintain, where applicable, accreditation with the relevant Standards' authorisation body.
	2. If so required by the Customer in the Order Form or elsewhere in this Call Off Contract, the Supplier shall develop, within sixty (**60**) Working Days of the Call Off Commencement Date, quality plans that ensure that all aspects of the Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it (the "**Quality Plans"**).
	3. The Supplier shall seek Approval (the decision of the Customer to Approve or not shall not be unreasonably withheld or delayed) of the Quality Plans before implementing them. The Supplier acknowledges and accepts that Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Services are provided to the standard required by this Call Off Contract.
	4. Following the approval by the Customer of the Quality Plans:
		1. the Supplier shall implement all Deliverables in accordance with the Quality Plans; and
		2. any Variation to the Quality Plans shall be agreed in accordance with the Variation Procedure.
	5. The Supplier shall ensure that the Supplier Personnel shall at all times during the Call Off Contract Period:
		1. be appropriately experienced, qualified and trained to supply the Services in accordance with this Call Off Contract;
		2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Services; and
		3. obey all lawful instructions and reasonable directions of the Customer (including, if so required by the Customer, the ICT Policy) and provide the Services to the reasonable satisfaction of the Customer.
2. TESTING
	1. The Parties shall comply with any provisions set out Call Off Schedule 5 (Testing).
3. SERVICE LEVELS AND SERVICE CREDITS
	1. The Parties shall comply with the provisions of Part A (Service Levels and Service Credits) of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).
	2. The Supplier shall at all times during the Call Off Contract Period provide the Services to meet or exceed the Service Level Performance Measure for each Service Level Performance Criterion.
	3. The Supplier acknowledges that any Service Level Failure may have a material adverse impact on the business and operations of the Customer and that it shall entitle the Customer to the rights set out in the provisions of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) including the right to any Service Credits.
	4. The Supplier acknowledges and agrees that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier’s failure to meet any Service Level Performance Measure.
	5. A Service Credit shall be the Customer’s exclusive financial remedy for a Service Level Failure except where:
		1. the Supplier has over the previous (twelve) 12 Month period accrued Service Credits in excess of the Service Credit Cap;
		2. the Service Level Failure:
			1. exceeds the relevant Service Level Threshold;
			2. has arisen due to a Prohibited Act or wilful Default by the Supplier or any Supplier Personnel; and
			3. results in:
				1. the corruption or loss of any Customer Data (in which case the remedies under Clause 32.3.8 (Protection of Customer Data) shall also be available); and/or
				2. the Customer being required to make a compensation payment to one or more third parties; and/or
		3. the Customer is otherwise entitled to or does terminate this Call Off Contract pursuant to Clause 39 (Customer Termination Rights) except Clause 39.6 (Termination Without Cause).
	6. Not more than once in each Contract Year the Customer may, on giving the Supplier at least three (3) Months’ notice, change the weighting of Service Level Performance Measure in respect of one or more Service Level Performance Criteria and the Supplier shall not be entitled to object to, or increase the Call Off Contract Charges as a result of such changes, provided that:
		1. the total number of Service Level Performance Criteria does not exceed ten (10);
		2. the principal purpose of the change is to reflect changes in the Customer’s business requirements and/or priorities or to reflect changing industry standards; and
		3. there is no change to the Service Credit Cap.
4. CRITICAL SERVICE LEVEL FAILURE
	1. On the occurrence of a Critical Service Level Failure:
		1. any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
		2. the Customer shall (subject to the Service Credit Cap set out in Clause 34.2.1(b) (Financial Limits)) be entitled, on written notice to the Supplier, to withhold and retain as compensation for the Critical Service Level Failure a sum equal to any Call Off Contract Charges which would otherwise have been due to the Supplier in respect of that Service Period (the "**Compensation for Critical Service Level Failure"**),

provided that the operation of this Clause 11.1 shall be without prejudice to the right of the Customer to terminate this Call Off Contract and/or to claim damages from the Supplier for material Default as a result of such Critical Service Level Failure.

* 1. The Supplier:
		1. agrees that the application of Clause 11.1 is commercially justifiable where a Critical Service Level Failure occurs; and
		2. acknowledges that it has taken legal advice on the application of Clause 11.1 and has had the opportunity to price for that risk when calculating the Call Off Contract Charges.
1. BUSINESS CONTINUITY AND DISASTER RECOVERY
	1. The Parties shall comply with the provisions of Call Off Schedule 10 (Business Continuity and Disaster Recovery).
2. DISRUPTION
	1. The Supplier shall take reasonable care to ensure that in the performance of its obligations under this Call Off Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer.
	2. The Supplier shall immediately inform the Customer of any actual or potential industrial action, whether such action be by the Supplier Personnel or others, which affects or might affect the Supplier's ability at any time to perform its obligations under this Call Off Contract.
	3. In the event of industrial action by the Supplier Personnel, the Supplier shall seek Approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under this Call Off Contract.
	4. If the Supplier's proposals referred to in Clause 13.3 are considered insufficient or unacceptable by the Customer acting reasonably then the Customer may terminate this Call Off Contract for material Default.
	5. If the Supplier is temporarily unable to fulfil the requirements of this Call Off Contract owing to disruption of normal business solely caused by the Customer, an appropriate allowance by way of an extension of time will be Approved by the Customer. In addition, the Customer will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.
3. SUPPLIER NOTIFICATION OF CUSTOMER CAUSE
	1. Without prejudice to any other obligations of the Supplier in this Call Off Contract to notify the Customer in respect of a specific Customer Cause (including the notice requirements under Clause 40.1.1 (Termination on Customer Cause for Failure to Pay)), the Supplier shall:
		1. notify the Customer as soon as reasonably practicable (and in any event within two (2) Working Days of the Supplier becoming aware) that a Customer Cause has occurred or is reasonably likely to occur, giving details of:
			1. the Customer Cause and its effect, or likely effect, on the Supplier’s ability to meet its obligations under this Call Off Contract; and
			2. any steps which the Customer can take to eliminate or mitigate the consequences and impact of such Customer Cause; and
			3. use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Customer Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.
4. CONTINUOUS IMPROVEMENT
	1. The Supplier shall have an on-going obligation throughout the Call Off Contract Period to identify new or potential improvements to the provision of the Services in accordance with this Clause 15 with a view to reducing the Customer’s costs (including the Call Off Contract Charges) and/or improving the quality and efficiency of the Services and their supply to the Customer. As part of this obligation the Supplier shall identify and report to the Customer once every twelve (12) months:
		1. the emergence of new and evolving relevant technologies which could improve the ICT Environment and/or the provision of the Services, and those technological advances potentially available to the Supplier and the Customer which the Parties may wish to adopt;
		2. new or potential improvements to the provision of the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services;
		3. changes in business processes and ways of working that would enable the Services to be provided at lower costs and/or at greater benefits to the Customer; and/or
		4. changes to the ICT Environment, business processes and ways of working that would enable reductions in the total energy consumed annually in the provision of the Services.
	2. The Supplier shall ensure that the information that it provides to the Customer shall be sufficient for the Customer to decide whether any improvement should be implemented. The Supplier shall provide any further information that the Customer requests.
	3. If the Customer wishes to incorporate any improvement identified by the Supplier, the Customer shall request a Variation in accordance with the Variation Procedure and the Supplier shall implement such Variation at no additional cost to the Customer.
5. CALL OFF CONTRACT GOVERNANCE
6. PERFORMANCE MONITORING
	1. Unless otherwise Approved or notified by the Customer, the Supplier shall comply with the monitoring requirements set out in Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).
	2. The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure, monitor and report on the Supplier’s performance of the provision of the Services against the applicable Service Levels at a level of detail sufficient to verify compliance with the Service Levels. The Supplier shall obtain Approval of the relevant measuring and monitoring tools and procedures prior to using the same.
	3. In the case of any additional or alternative monitoring requirements of the Customer, the provisions relating to performance monitoring of this Call Off Contract shall apply as stipulated by the Customer during a Further Competition Procedure and set out in Annex 1 to Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).
7. REPRESENTATIVES
	1. The Parties shall comply with the provisions of Part D (Authority Governance Structure) of Schedule 4 in relation to the management and governance of this Call Off Contract.
	2. Each Party shall have a representative for the duration of this Call Off Contract who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Call Off Contract.
	3. The initial Supplier Representative shall be the person named as such in the Order Form. Any change to the Supplier Representative shall be agreed in accordance with Clause 4 (Supplier Personnel) and implemented following the procedure set out in Clause 19.1 (Variation Procedure).
	4. The Customer shall notify the Supplier of the identity of the initial Customer Representative within five (5) Working Days of the Call Off Commencement Date. The Customer may, by written notice to the Supplier, revoke or amend the authority of the Customer Representative or appoint a new Customer Representative.
8. RECORDS, AUDIT ACCESS AND OPEN BOOK DATA
	1. The Supplier shall keep and maintain for seven (7) years after the Call Off Expiry Date (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Call Off Contract including the Services provided under it, any Sub-Contracts and the amounts paid by the Customer.
	2. The Supplier shall:
		1. keep the records and accounts referred to in Clause 18.1 in accordance with Good Industry Practice and Law; and
		2. afford any Auditor access to the records and accounts referred to in Clause 18.1 at the Supplier’s premises and/or provide records and accounts (including copies of the Supplier's published accounts) or copies of the same, as may be required by any of the Auditors from time to time during the Call Off Contract Period and the period specified in Clause 18.1, in order that the Auditor(s) may carry out an inspection to assess compliance by the Supplier and/or its Sub-Contractors of any of the Supplier’s obligations under this Call Off Contract Agreement including for the following purposes to:
			1. verify the accuracy of the Call Off Contract Charges and any other amounts payable by the Customer under this Call Off Contract (and proposed or actual variations to them in accordance with this Call Off Contract);
			2. verify the costs of the Supplier (including the costs of all Sub-Contractors and any third party suppliers) in connection with the provision of the Services;
			3. verify the Open Book Data;
			4. verify the Supplier’s and each Sub-Contractor’s compliance with the applicable Law;
			5. identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Customer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
			6. identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Framework Guarantor and/or the Call Off Guarantor and/or any Sub-Contractors or their ability to perform the Services;
			7. obtain such information as is necessary to fulfil the Customer’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
			8. review any books of account and the internal contract management accounts kept by the Supplier in connection with this Call Off Contract;
			9. carry out the Customer’s internal and statutory audits and to prepare, examine and/or certify the Customer's annual and interim reports and accounts;
			10. enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;
			11. review any Performance Monitoring Reports provided under Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) and/or other records relating to the Supplier’s performance of the provision of the Services and to verify that these reflect the Supplier’s own internal reports and records;
			12. verify the accuracy and completeness of any information delivered or required by this Call Off Contract;
			13. inspect the ICT Environment (or any part of it) and the wider service delivery environment (or any part of it);
			14. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
			15. review the Supplier’s quality management systems (including all relevant Quality Plans and any quality manuals and procedures);
			16. review the Supplier’s compliance with the Standards;
			17. inspect the Customer Assets, including the Customer's IPRs, equipment and facilities, for the purposes of ensuring that the Customer Assets are secure and that any register of assets is up to date; and/or
			18. review the integrity, confidentiality and security of the Customer Data.
	3. The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the control of the Customer.
	4. Subject to the Supplier’s rights in respect of Confidential Information, the Supplier shall on demand provide the Auditor(s) with all reasonable co-operation and assistance in:
		1. all reasonable information requested by the Customer within the scope of the audit;
		2. reasonable access to sites controlled by the Supplier and to any Supplier Equipment used in the provision of the Services; and
		3. access to the Supplier Personnel.
	5. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 18, unless the audit reveals a Default by the Supplier in which case the Supplier shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.
9. CHANGE
	1. Variation Procedure
		1. Subject to the provisions of this Clause 19 and of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), either Party may request a variation to this Call Off Contract provided that such variation does not amount to a material change of this Call Off Contract within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a **Variation**.
		2. The Variation will be subject to the procedure set out in Schedule 14.
		3. Except during the Discovery Phase, for which Clause 19.1.4 shall apply, in the event that:
			1. the Supplier is unable to agree to or provide the Variation; and/or
			2. the Parties are unable to agree a change to the Call Off Contract Charges that may be included in a request of a Variation or response to it as a consequence thereof,

the Customer may:

* + - * 1. agree to continue to perform its obligations under this Call Off Contract without the Variation; or
				2. terminate this Call Off Contract with immediate effect, except where the Supplier has already fulfilled part or all of the Order in accordance with this Call Off Contract or where the Supplier can show evidence of substantial work being carried out to fulfil the Order, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure.
				3. **REDACTED**
		1. If the Parties agree the Variation or if the Variation is made pursuant to Clause 19.1.4, the Supplier shall implement such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in this Call Off Contract.
	1. Legislative Change
		1. The Supplier shall neither be relieved of its obligations under this Call Off Contract nor be entitled to an increase in the Call Off Contract Charges as the result of a:
			1. General Change in Law;
			2. Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Call Off Commencement Date.
		2. If a Specific Change in Law occurs or will occur during the Call Off Contract Period (other than as referred to in Clause 19.2.1(b)), the Supplier shall:
			1. notify the Customer as soon as reasonably practicable of the likely effects of that change including:
				1. whether any Variation is required to the provision of the Services, the Call Off Contract Charges or this Call Off Contract; and
				2. whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Service Level Performance Measures; and
			2. provide to the Customer with evidence:
				1. that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors;
				2. that the Variation being requested does not result in increased profit for the Supplier and is evidenced by a full breakdown of cost impacts on the provision of the Goods and/or Services; as to how the Specific Change in Law has affected the cost of providing the Goods and/or Services; and
				3. demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 15 (Continuous Improvement), has been taken into account in amending the Call Off Contract Charges.
		3. Any change in the Call Off Contract Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 19.2.1(b)) shall be implemented in accordance with the Variation Procedure.
1. PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS
2. CALL OFF CONTRACT CHARGES AND PAYMENT
	1. Call Off Contract Charges
		1. In consideration of the Supplier carrying out its obligations under this Call Off Contract, including the provision of the Goods and/or Services, the Customer shall pay the undisputed Call Off Contract Charges in accordance with the pricing and payment profile and the invoicing procedure in Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing).
		2. Except as otherwise provided, each Party shall each bear its own costs and expenses incurred in respect of compliance with its obligations under Clauses 9 (Testing), 18 (Records, Audit Access and Open Book Data), 32.6 (Freedom of Information), 32.7 (Protection of Personal Data).
		3. If the Customer fails to pay any undisputed Call Off Contract Charges properly invoiced under this Call Off Contract, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
		4. If at any time during this Call Off Contract Period the Supplier reduces its Framework Prices for any Goods and/or Services which are provided under the Framework Agreement (whether or not such Goods and/or Services are offered in a catalogue, if any, which is provided under the Framework Agreement) in accordance with the terms of the Framework Agreement, the Supplier shall immediately reduce the Call Off Contract Charges for such Goods and/or Services under this Call Off Contract by the same amount.
	2. VAT
		1. The Call Off Contract Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Customer following delivery of a Valid Invoice.
		2. The Supplier shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Customer at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Call Off Contract. Any amounts due under this Clause 20.2 (VAT) shall be paid in cleared funds by the Supplier to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.
	3. Retention and Set Off
		1. The Customer may retain or set off any amount owed to it by the Supplier against any amount due to the Supplier under this Call Off Contract or under any other agreement between the Supplier and the Customer.
		2. If the Customer wishes to exercise its right pursuant to Clause 20.3.1 it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out the Customer’s reasons for retaining or setting off the relevant Call Off Contract Charges.
		3. The Supplier shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has obtained a sealed court order requiring an amount equal to such deduction to be paid by the Customer to the Supplier.
	4. Euro
		1. Any requirement of Law to account for the Services in Euro, (or to prepare for such accounting) instead of and/or in addition to Sterling, shall be implemented by the Supplier free of charge to the Customer.
		2. The Customer shall provide all reasonable assistance to facilitate compliance with Clause 20.4.1 by the Supplier.
	5. Income Tax and National Insurance Contributions
		1. Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Call Off Contract, the Supplier shall:
			1. at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
			2. indemnify the Customer against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Goods and/or Services by the Supplier or any Supplier Personnel.
3. PROMOTING TAX COMPLIANCE
	1. If, at any point during the Call Off Contract Period, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
		1. notify the Customer in writing of such fact within five (5) Working Days of its occurrence; and
		2. promptly provide to the Customer:
			1. details of the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
			2. such other information in relation to the Occasion of Tax Non-Compliance as the Customer may reasonably require.
4. BENCHMARKING
	1. Notwithstanding the Supplier’s obligations under Clause 15 (Continuous Improvement), the Customer shall be entitled to regularly benchmark the Call Off Contract Charges and level of performance by the Supplier of the supply of the Goods and/or Services, against other suppliers providing services substantially the same as the Goods and/or Services during the Call Off Contract Period.
	2. The Customer, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking evaluation referred to in Clause 22.1 above.
	3. The Customer shall be entitled to disclose the results of any benchmarking of the Call Off Contract Charges and provision of the Goods and/or Services to the Authority and any Contracting Body (subject to the Contracting Body entering into reasonable confidentiality undertakings).
	4. The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the Customer in order to undertake the benchmarking and such information requirements shall be at the discretion of the Customer.
	5. Where, as a consequence of any benchmarking carried out by the Customer, the Customer decides improvements to the Goods and/or Services should be implemented such improvements shall be implemented by way of the Variation Procedure at no additional cost to the Customer.
	6. The benefit of any work carried out by the Supplier at any time during the Call Off Contract Period to update, improve or provide the Goods and/or Services, facilitate their delivery to any other Contracting Body and/or any alterations or variations to the Charges or the provision of the Goods and/or Services, which are identified in the Continuous Improvement Plan produced by the Supplier and/or as a consequence of any benchmarking carried out by the Authority pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking), shall be implemented by the Supplier in accordance with the Variation Procedure and at no additional cost to the Customer.
5. SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS
6. KEY PERSONNEL
	1. The Parties have agreed to the appointment of the Key Personnel. Part C of Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel) lists the key roles (the "**Key Roles"**) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Call Off Commencement Date.
	2. The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Call Off Contract Period.
	3. The Customer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.
	4. The Supplier shall not remove or replace any Key Personnel (including when carrying out its obligations under Call Off Schedule 11 (Exit Management)) unless:
		1. requested to do so by the Customer;
		2. the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
		3. the person’s employment or contractual arrangement with the Supplier or a Sub-Contractor is terminated for material breach of contract by the employee; or
		4. the Supplier obtains the Customer’s prior written consent (such consent not to be unreasonably withheld or delayed).
	5. The Supplier shall:
		1. notify the Customer promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
		2. ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
		3. give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel’s employment contract, this will mean at least three (3) Months’ notice;
		4. ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Goods and/or Services;
		5. ensure that any replacement for a Key Role:
			1. has a level of qualifications and experience appropriate to the relevant Key Role; and
			2. is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.
		6. not remove or replace any Key Personnel during the Call Off Contract Period without the Approval; and
		7. procure that any Sub-Contractor shall not remove or replace any Key Personnel during the Call Off Contract Period without the Approval.
	6. The Customer may require the Supplier to remove any Key Personnel that the Customer considers in any respect unsatisfactory. The Customer shall not be liable for the cost of replacing any Key Personnel.
7. SUPPLIER PERSONNEL
	1. Supplier Personnel
		1. The Supplier shall:
			1. provide to the Customer a list of the names of all Supplier Personnel requiring admission to Customer Premises, specifying the capacity in which they require admission and giving such other particulars as the Customer may reasonably require;
			2. ensure that all Supplier Personnel:
				1. are appropriately qualified, trained and experienced to provide the Goods and/or Services with all reasonable skill, care and diligence;
				2. are vetted in accordance with Good Industry Practice and, where applicable, the Security Policy and the Standards; and
				3. comply with all reasonable requirements of the Customer concerning conduct at the Customer Premises, including the security requirements set out in Call Off Schedule 8 (Security);
			3. subject to Call Off Schedule 12 (Staff Transfer), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of the Customer;
			4. be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Call Off Contract shall be a Default by the Supplier;
			5. use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
			6. replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;
			7. bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
			8. procure that the Supplier Personnel shall vacate the Customer Premises immediately upon the Call Off Expiry Date.
		2. If the Customer reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Call Off Contract, it may:
			1. refuse admission to the relevant person(s) to the Customer Premises; and/or
			2. direct the Supplier to end the involvement in the provision of the Goods and/or Services of the relevant person(s).
		3. The decision of the Customer as to whether any person is to be refused access to the Customer Premises shall be final and conclusive.
	2. Relevant Convictions
		1. The Supplier shall ensure that no person who discloses that he has a Relevant Conviction, or who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Services without Approval.
		2. For each member of Supplier Personnel who, in providing the Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Customer owes a special duty of care, the Supplier shall (and shall procure that the relevant Sub-Contractor shall):
			1. carry out a check with the records held by the Department for Education (DfE);
			2. conduct thorough questioning regarding any Relevant Convictions; and
			3. ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

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

1. STAFF TRANSFER
	1. The Parties agree that:
		1. on the Call Off Commencement Date there is not a relevant transfer for the purposes of the Employment Regulations, and the provisions of Parts C of Call Off Schedule 12 (Staff Transfer) will apply.
	2. If the Parties cannot agree whether or not based upon a reasonable assessment of the facts on the Call Off Commencement Date there is a situation to which the Employment Regulations may apply, the Customer shall base on a reasonable assessment of the evidence available to it make such determination. In assisting the Customer to make such determination, the Supplier and any Former Supplier shall be permitted to make representations to the Customer within such time period as the Customer may reasonably specify.
	3. The Supplier shall both during and after the Call Off Contract Period indemnify the Customer against all Employee Liabilities that may arise as a result of any claims brought against the Customer by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel.
2. SUPPLY CHAIN RIGHTS AND PROTECTION
	1. Appointment of Sub-Contractors
		1. The Supplier shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Supplier is able to:
			1. manage any Sub-Contractors in accordance with Good Industry Practice;
			2. comply with its obligations under this Call Off Contract in the delivery of the Goods and/or Services; and
			3. assign, novate or otherwise transfer to the Customer or any Replacement Supplier any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Call Off Contract.
		2. Prior to sub-contacting any of its obligations under this Call Off Contract, the Supplier shall provide the Customer with:
			1. the proposed Sub-Contractor’s name, registered office and company registration number;
			2. the scope of any Goods and/or Services to be provided by the proposed Sub-Contractor; and
			3. where the proposed Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Customer that the proposed Sub-Contract has been agreed on arm’s-length terms.
		3. If requested by the Customer within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to Clause 26.1.2, the Supplier shall also provide:
			1. a copy of the proposed Sub-Contract; and
			2. any further information reasonably requested by the Customer.
		4. The Customer may, within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to Clause 26.1.2 (or, if later, receipt of any further information requested pursuant to Clause 26.1.3), object to the appointment of the relevant Sub-Contractor they consider that:
			1. the appointment of a proposed Sub-Contractor may prejudice the provision of the Goods and/or Services or may be contrary to the interests respectively of the Customer under this Call Off Contract;
			2. the proposed Sub-Contractor is unreliable and/or has not provided reasonable goods and/or services to its other customers; and/or
			3. the proposed Sub-Contractor employs unfit persons,

in which case, the Supplier shall not proceed with the proposed appointment.

* + 1. If:
			1. the Customer has not notified the Supplier that it objects to the proposed Sub-Contractor’s appointment by the later of ten (10) Working Days of receipt of:
				1. the Supplier’s notice issued pursuant to Clause 26.1.2; and
				2. any further information requested by the Customer pursuant to Clause 26.1.3; and
			2. the proposed Sub-Contract is not a Key Sub-Contract which shall require the written consent of the Authority and the Customer in accordance with Clause 26.2 (Appointment of Key Sub-Contractors).

the Supplier may proceed with the proposed appointment.

* 1. Appointment of Key Sub-Contractors
		1. The Authority and the Customer have consented to the engagement of the Key Sub-Contractors listed in Framework Schedule 7 (Key Sub-Contractors) and in Section D of the Order Form.
		2. Where the Supplier wishes to enter into a new Key Sub-Contract or replace a Key Sub-Contractor, it must obtain the prior written consent of the Authority and the Customer (the decision to consent or not will not be unreasonably withheld or delayed). The Authority and/or the Customer may reasonably withhold its consent to the appointment of a Key Sub-Contractor if either of them considers that:
			1. the appointment of a proposed Key Sub-Contractor may prejudice the provision of the Goods and Services or may be contrary to its interests;
			2. the proposed Key Sub-Contractor is unreliable and/or has not provided reasonable services to its other customers; and/or
			3. the proposed Key Sub-Contractor employs unfit persons.
		3. Except where the Authority and the Customer have given their prior written consent under Clause 26.2.1, the Supplier shall ensure that each Key Sub-Contract shall include:
			1. provisions which will enable the Supplier to discharge its obligations under this Call Off Contract;
			2. a right under CRTPA for the Customer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Customer;
			3. a provision enabling the Customer to enforce the Key Sub-Contract as if it were the Supplier;
			4. a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Customer or any Replacement Supplier;
			5. obligations no less onerous on the Key Sub-Contractor than those imposed on the Supplier under this Call Off Contract in respect of:
				1. data protection requirements set out in Clauses 32.1 (Security Requirements), 32.3 (Protection of Customer Data) and 32.7 (Protection of Personal Data);
				2. FOIA requirements set out in Clause 32.6 (Freedom of Information);
				3. the obligation not to embarrass the Customer or otherwise bring the Customer into disrepute set out in Clause 7.1.4(j) (Provision of Services);
				4. the keeping of records in respect of the services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
				5. the conduct of audits set out in Clause 18 (Records, Audit Access & Open Book Data);
			6. provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Customer under Clauses 39 (Customer Termination Rights), 41 (Termination by Either Party) and 43 (Consequences of Expiry or Termination) of this Call Off Contract;
			7. a provision restricting the ability of the Key Sub-Contractor to sub-contract all or any part of the provision of the Goods and/or Services provided to the Supplier under the Sub-Contract without first seeking the written consent of the Customer;
			8. a provision, where a provision in Call Off Schedule 12(Staff Transfer) imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, requiring the Key Sub-Contractor to provide such indemnity, undertaking or warranty to the Customer, Former Supplier or the Replacement Supplier as the case may be.
	2. Supply Chain Protection
		1. The Supplier shall ensure that all Sub-Contracts contain a provision:
			1. requiring the Supplier to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice; and
			2. a right for the Customer to publish the Supplier’s compliance with its obligation to pay undisputed invoices within the specified payment period.
		2. The Supplier shall:
			1. pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days from the receipt of a valid invoice;
			2. include within the Performance Monitoring Reports required under Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) a summary of its compliance with this Clause 26.3.2, such data to be certified each quarter by a director of the Supplier as being accurate and not misleading.
		3. Notwithstanding any provision of Clauses 32.4 (Confidentiality) and 33 (Publicity and Branding) if the Supplier notifies the Customer that the Supplier has failed to pay an undisputed Sub-Contractor’s invoice within thirty (30) days of receipt, or the Customer otherwise discovers the same, the Customer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).
	3. Termination of Sub-Contracts
		1. The Customer may require the Supplier to terminate:
			1. a Sub-Contract where:
				1. the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Customer's right of termination pursuant any of the termination events in Clause 39 (Customer Termination Rights) except Clause 39.6 (Termination Without Cause); and/or
				2. the relevant Sub-Contractor or its Affiliates embarrassed the Customer or otherwise brought the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Sub-Contractor’s obligations in relation to the Goods and/or Services or otherwise; and/or
			2. a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:
				1. the Customer has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
				2. the Customer has not served its notice of objection within six (6) months of the later of the date the Change of Control took place or the date on which the Customer was given notice of the Change of Control.
	4. Competitive Terms
		1. If the Customer is able to obtain from any Sub-Contractor or any other third party more favourable commercial terms with respect to the supply of any materials, equipment, software, goods or services used by the Supplier or the Supplier Personnel in the supply of the Goods and/or Services, then the Customer may:
			1. require the Supplier to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Customer in respect of the relevant item; or
			2. subject to Clause 26.4 (Termination of Sub-Contracts), enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.
		2. If the Customer exercises the option pursuant to Clause 26.5.1, then the Call Off Contract Charges shall be reduced by an amount that is agreed in accordance with the Variation Procedure.
		3. The Customer's right to enter into a direct agreement for the supply of the relevant items is subject to:
			1. the Customer making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Goods and/or Services; and
			2. any reduction in the Call Off Contract Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.
	5. Retention of Legal Obligations
		1. Notwithstanding the Supplier's right to sub-contract pursuant to this Clause 26 (Supply Chain Rights and Protection), the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.
1. PROPERTY MATTERS
2. CUSTOMER PREMISES
	1. Licence to occupy Customer Premises
		1. Any Customer Premises shall be made available to the Supplier on a non-exclusive licence basis free of charge and shall be used by the Supplier solely for the purpose of performing its obligations under this Call Off Contract. The Supplier shall have the use of such Customer Premises as licensee and shall vacate the same immediately upon completion, termination, expiry or abandonment of this Call Off Contract and in accordance with Call Off Schedule 11 (Exit Management).
		2. The Supplier shall limit access to the Customer Premises to such Supplier Personnel as is necessary to enable it to perform its obligations under this Call Off Contract and the Supplier shall co-operate (and ensure that the Supplier Personnel co-operate) with such other persons working concurrently on such Customer Premises as the Customer may reasonably request.
		3. Save in relation to such actions identified by the Supplier in accordance with Clause 2.2.3(a) (Due Diligence and Supplier Discovery) and set out in the Order Form (or elsewhere in this Call Off Contract), should the Supplier require modifications to the Customer Premises, such modifications shall be subject to Approval and shall be carried out by the Customer at the Supplier's expense. The Customer shall undertake any modification work which it approves pursuant to this Clause 27.1.3 without undue delay. Ownership of such modifications shall rest with the Customer.
		4. The Supplier shall observe and comply with such rules and regulations as may be in force at any time for the use of such Customer Premises and conduct of personnel at the Customer Premises as determined by the Customer, and the Supplier shall pay for the full cost of making good any damage caused by the Supplier Personnel other than fair wear and tear. For the avoidance of doubt, damage includes without limitation damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
		5. The Parties agree that there is no intention on the part of the Customer to create a tenancy of any nature whatsoever in favour of the Supplier or the Supplier Personnel and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Call Off Contract, the Customer retains the right at any time to use any Customer Premises in any manner it sees fit.
	2. Security of Customer Premises
		1. The Customer shall be responsible for maintaining the security of the Customer Premises in accordance with the Security Policy. The Supplier shall comply with the Security Policy and any other reasonable security requirements of the Customer while on the Customer Premises.
		2. The Customer shall afford the Supplier upon Approval (the decision to Approve or not will not be unreasonably withheld or delayed) an opportunity to inspect its physical security arrangements.
3. CUSTOMER PROPERTY
	1. Where the Customer issues Customer Property free of charge to the Supplier such Customer Property shall be and remain the property of the Customer and the Supplier irrevocably licences the Customer and its agents to enter upon any premises of the Supplier during normal business hours on reasonable notice to recover any such Customer Property.
	2. The Supplier shall not in any circumstances have a lien or any other interest on the Customer Property and at all times the Supplier shall possess the Customer Property as fiduciary agent and bailee of the Customer.
	3. The Supplier shall take all reasonable steps to ensure that the title of the Customer to the Customer Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Customer's request, store the Customer Property separately and securely and ensure that it is clearly identifiable as belonging to the Customer.
	4. The Customer Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies the Customer otherwise within five (5) Working Days of receipt.
	5. The Supplier shall maintain the Customer Property in good order and condition (excluding fair wear and tear) and shall use the Customer Property solely in connection with this Call Off Contract and for no other purpose without Approval.
	6. The Supplier shall ensure the security of all the Customer Property whilst in its possession, either on the Sites or elsewhere during the supply of the Goods and/or Services, in accordance with the Customer's Security Policy and the Customer’s reasonable security requirements from time to time.
	7. The Supplier shall be liable for all loss of, or damage to the Customer Property, (excluding fair wear and tear), unless such loss or damage was solely due to a Customer Cause. The Supplier shall inform the Customer immediately of becoming aware of any defects appearing in or losses or damage occurring to the Customer Property.
4. SUPPLIER EQUIPMENT
	1. Unless otherwise stated in the Order Form (or elsewhere in this Call Off Contract), the Supplier shall provide all the Supplier Equipment necessary for the provision of the Goods and Services.
	2. The Supplier shall not deliver any Supplier Equipment nor begin any work on the Customer Premises without obtaining Approval.
	3. The Supplier shall be solely responsible for the cost of carriage of the Supplier Equipment to the Sites and/or any Customer Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on the Call Off Expiry Date the Supplier shall be responsible for the removal of all relevant Supplier Equipment from the Sites and/or any Customer Premises, including the cost of packing, carriage and making good the Sites and/or the Customer Premises following removal.
	4. All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Customer shall be liable for loss of or damage to any of the Supplier's property located on Customer Premises which is due to the negligent act or omission of the Customer.
	5. Subject to any express provision of the BCDR Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Goods and Services in accordance with this Call Off Contract, including the Service Level Performance Measures.
	6. The Supplier shall maintain all Supplier Equipment within the Sites and/or the Customer Premises in a safe, serviceable and clean condition.
	7. The Supplier shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:
		1. remove from the Customer Premises any Supplier Equipment or any component part of Supplier Equipment which in the reasonable opinion of the Customer is either hazardous, noxious or not in accordance with this Call Off Contract; and
		2. replace such Supplier Equipment or component part of Supplier Equipment with a suitable substitute item of Supplier Equipment.
	8. Where a failure of Supplier Equipment or any component part of Supplier Equipment causes two (2) or more Service Failures in any twelve (12) Month period, the Supplier shall notify the Customer in writing and shall, at the Customer’s request (acting reasonably), replace such Supplier Equipment or component part thereof at its own cost with a new item of Supplier Equipment or component part thereof (of the same specification or having the same capability as the Supplier Equipment being replaced).
5. MAINTENANCE OF THE ICT ENVIRONMENT
	1. If specified by the Customer in the Order Form (or elsewhere in this Call Off Contact), the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment (the “**Maintenance Schedule**”).
	2. The Supplier shall provide to the Customer a draft Maintenance Schedule for Approval within such period of time and in accordance with any other instructions of the Customer as specified in the Order Form (or elsewhere in this Call Off Contract).
	3. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as “**Permitted Maintenance”**) in accordance with the Maintenance Schedule.
	4. The Supplier shall give as much notice as is reasonably practicable to the Customer prior to carrying out any Emergency Maintenance.
	5. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Goods and Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Goods and Services.
6. INTELLECTUAL PROPERTY AND INFORMATION
7. INTELLECTUAL PROPERTY RIGHTS
	1. Allocation of title to IPR
		1. Save as expressly granted elsewhere under this Call Off Contract:
			1. the Customer shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, including:
				1. in the Supplier Software;
				2. the Supplier Background IPR;
				3. in the Third Party Software;
				4. the Third Party IPR;
				5. in the Specially Written Software; and
				6. the Project Specific IPR.
			2. the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Customer or its licensors, including the:
				1. Customer Software;
				2. Customer Background IPR; and
				3. Customer Data.
		2. Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 31.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).
		3. Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
	2. Licences granted by the Supplier: Specially Written Software and Project Specific IPR
		1. The Supplier hereby grants to the Customer, or shall procure the direct grant to the Customer of, a perpetual, royalty-free, irrevocable, non-exclusive licence to use:
			1. the Documentation, Data, Source Code and the Object Code of the Specially Written Software (including any Supplier Background IPR or Third Party IPR that are embedded in or which are an integral part of the Specially Written Software) which shall include the right to load, execute, interpret, store, transmit, display, copy (for the purposes of loading, execution, interpretation, storage, transmission or display), modify, adapt, enhance, reverse compile, decode and translate such Specially Written Software;
			2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software (together the **Software Supporting Materials**); and
			3. the Project Specific IPR including but not limited to the right to copy, adapt, publish (including on the ICT Environment) and distribute such Project Specific IPR.
		2. The Supplier shall:
			1. inform the Customer of all Specially Written Software that constitutes a modification or enhancement to Supplier Software or Third Party Software; and
			2. deliver to the Customer the Specially Written Software in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified by the Customer in the Implementation Plan, Achievement of that Milestone and shall provide updates of the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Customer.
		3. The Supplier acknowledges and agrees that the ownership of the media referred to in Clause 31.2.2(b) shall vest in the Customer upon their receipt by the Customer.
	3. Licences granted by the Supplier: Supplier Software and Supplier Background IPR
		1. The Supplier hereby grants to the Customer a perpetual licence, royalty-free, unencumbered and non-exclusive licence to use:
			1. the Supplier Software for any purpose relating to the Goods and Services (or substantially equivalent Goods and Services) or for any purpose relating to the exercise of the Customer’s (or, if the Customer is a Central Government Body, any other Central Government Body’s) business or function including but not limited to the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display); and
			2. the Supplier Background IPR for any purpose relating to the Goods and Services (or substantially equivalent Goods and Services) or for any purpose relating to the exercise of the Customer’s (or, if the Customer is a Central Government Body, any other Central Government Body’s) business or function.
		2. At any time during the Call Off Contract Period or following the Call Off Expiry Date, the Supplier may terminate a licence granted in respect of the Supplier Software or the Supplier Background IPR under Clause 31.3.1 by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if there is a Customer Cause which constitutes a material breach of the terms of Clauses 31.3.1(a) or 31.3.1(b) (as the case may be) which, if the breach is capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Customer written notice specifying the breach and requiring its remedy.
		3. In the event the licence of the Supplier Software or the Supplier Background IPR is terminated pursuant to Clause 31.3.2), the Customer shall:
			1. immediately cease all use of the Supplier Software or the Supplier Background IPR (as the case may be);
			2. at the discretion of the Supplier, return or destroy documents and other tangible materials that contain any of the Supplier Software and/or the Supplier Background IPR, provided that if the Supplier has not made an election within six (6) months of the termination of the licence, the Customer may destroy the documents and other tangible materials that contain any of the Supplier Software and/or the Supplier Background IPR (as the case may be); and
			3. ensure, so far as reasonably practicable, that any Supplier Software and/or Supplier Background IPR that are held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Customer) from any computer, word processor, voicemail system or any other device containing such Supplier Software and/or Supplier Background IPR.
	4. Customer’s right to sub-license
		1. The Customer shall be freely entitled to sub-license the rights granted to it pursuant to Clause 31.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR).
		2. The Customer may sub-license:
			1. the rights granted under Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:
				1. the sub-licence is on terms no broader than those granted to the Customer; and
				2. the sub-licence only authorises the third party to use the rights licensed in Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) for purposes relating to the Goods and Services (or substantially equivalent Goods and Services) or for any purpose relating to the exercise of the Customer’s (or, if the Customer is a Central Government Body, any other Central Government Body’s) business or function; and
			2. the rights granted under Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Specifically Written Software and/or the Project Specific IPR provided that the sub-licence is on terms no broader than those granted to the Customer.
	5. Customer’s right to assign/novate licences
		1. The Customer:
			1. shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under the licence granted to it pursuant to Clause 31.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR); and
			2. may assign, novate or otherwise transfer its rights and obligations under the licence granted pursuant to Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) to:
				1. a Central Government Body; or
				2. to any public body or any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer.
			3. Where the Customer is a Central Government Body, any change in the legal status of the Customer which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 31.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR) and/or Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR). If the Customer ceases to be a Central Government Body, the successor body to the Customer shall still be entitled to the benefit of the licences granted in Clause 31.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR) and Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR).
			4. If a licence granted in Clause 31.2.1 (Licences granted by the Supplier: Specially Written Software and Project Specific IPR) and/or Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) is novated under Clause 31.5.1(b) or there is a change of the Customer’s status pursuant to Clause 31.5.1(c) (both such bodies being referred to as the **Transferee**), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Customer.
	6. Third Party IPR and Third Party Software
		1. The Supplier shall procure that the owners or the authorised licensors of any Third Party IPR and any Third Party Software which is not commercial off-the-shelf software or Open Source Software grant a direct licence to the Customer on terms at least equivalent to those set out in Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) and Clause 31.5.1(b) (Customer’s right to assign/novate licences). If the Supplier cannot obtain for the Customer a licence materially in accordance with the licence terms set out in Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) and Clause 31.5.1(b) (Customer’s right to assign/novate licences) in respect of any such Third Party IPR and/or Third Party Software, the Supplier shall:
			1. notify the Customer in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative software providers which the Supplier could seek to use; and
			2. only use such Third Party IPR and/or Third Party Software if the Customer Approves the terms of the licence from the relevant third party.
		2. The Supplier shall procure that the owners or the authorised licensors of any Third Party Software which is commercial off-the-shelf software grants a direct licence to the Customer on terms no less favourable that such software is usually made available and includes these licence terms within Call Off Schedule 15.
	7. Licence granted by the Customer
		1. The Customer hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call Off Contract Period to use the Customer Software, the Customer Background IPR and the Customer Data solely to the extent necessary for providing the Goods and Services in accordance with this Call Off Contract, including (but not limited to) the right to grant sub-licences to Sub-Contractors provided that:
			1. any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 32.4 (Confidentiality); and
			2. the Supplier shall not without Approval use the licensed materials for any other purpose or for the benefit of any person other than the Customer.
	8. Termination of licenses
		1. Subject to Clauses 31.3.2 and/or 31.3.3 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR), all licences granted pursuant to this Clause 31 (Intellectual Property Rights) (other than those granted pursuant to Clause 31.6.2 (Third Party IPR and Third Party Software) and 31.7.1 (Licence granted by the Customer)) shall survive the Call Off Expiry Date.
		2. The Supplier shall, if requested by the Customer in accordance with Call Off Schedule 11  (Exit Management), grant (or procure the grant) to the Replacement Supplier of a licence to use any Supplier Software, Supplier Background IPR, Third Party IPR and/or Third Party Software on terms equivalent to those set out in Clause 31.3.1 (Licences granted by the Supplier: Supplier Software and Supplier Background IPR) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
		3. The licence granted pursuant to Clause 31.7.1 (Licence granted by the Customer ) and any sub-licence granted by the Supplier in accordance with Clause 31.7.1 (Licence granted by the Customer) shall terminate automatically on the Call Off Expiry Date and the Supplier shall:
			1. immediately cease all use of the Customer Software, the Customer Background IPR and the Customer Data (as the case may be);
			2. at the discretion of the Customer, return or destroy documents and other tangible materials that contain any of the Customer Software, the Customer Background IPR and the Customer Data, provided that if the Customer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Customer Software, the Customer Background IPR and the Customer Data (as the case may be); and
			3. ensure, so far as reasonably practicable, that any Customer Software, Customer Background IPR and Customer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Customer Software, Customer Background IPR and/or Customer Data.
	9. IPR Indemnity
		1. The Supplier shall at during and after the Call Off Contract Period, on written demand indemnify the Customer against all Losses incurred by, awarded against or agreed to be paid by the Customer (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.
		2. If an IPR Claim is made, or the Supplier anticipates that an IPR Claim might be made, the Supplier may, at its own expense and sole option, either:
			1. procure for the Customer the right to continue using the relevant item which is subject to the IPR Claim; or
			2. replace or modify the relevant item with non-infringing substitutes provided that:
				1. the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
				2. the replaced or modified item does not have an adverse effect on any other Goods and/or Services or the ICT Environment;
				3. there is no additional cost to the Customer; and
				4. the terms and conditions of this Call Off Contract shall apply to the replaced or modified Goods and/or Services.
		3. If the Supplier elects to procure a licence in accordance with Clause 31.9.2(a) or to modify or replace an item pursuant to Clause 31.9.2(b), but this has not avoided or resolved the IPR Claim, then:
			* 1. the Customer may terminate this Call Off Contract by written notice with immediate effect; and
				2. without prejudice to the indemnity set out in Clause 31.9.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute Goods and Services including the additional costs of procuring, implementing and maintaining the substitute items.
		4. The provisions of Clauses 31.9.1 to 31.9.3 (inclusive) shall not apply to the extent that any IPR Claim is caused by any use by or on behalf of the Customer of the Software, or the use of the Customer Software by or on behalf of the Supplier, in either case in combination with any item not supplied or recommended by the Supplier pursuant to this Call Off Contract or in a manner not reasonably to be inferred from the description of the Goods and/or Services in Call Off Schedule 2 (Services) or the provisions of this Call Off Contract.
		5. The Customer agrees that:
			* 1. it will notify the Supplier in writing of any IPR Claim;
				2. it will allow the Supplier to conduct all negotiations and proceedings and will provide the Supplier with such reasonable assistance required by the Supplier, each at the Supplier's cost, regarding the IPR Claim; and
				3. it will not, without first consulting with the Supplier, agree to make any payment or make an admission relating to the IPR Claim.
		6. The Supplier shall consider and defend the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Customer into disrepute. The Supplier shall not settle or compromise any IPR Claim without the Customer's Approval (not to be unreasonably withheld or delayed).
8. SECURITY AND PROTECTION OF INFORMATION
	1. Security Requirements
		1. The Supplier shall comply with the Security Policy and the requirements of Call Off Schedule 8 (Security) including the Security Management Plan at Annex 2 of Schedule 8 and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
		2. The Customer shall notify the Supplier where reasonably practicable at least 30 days in advance in accordance with Clause 53 (Notices) of this Call Off of any changes or proposed changes to the Security Policy.
		3. If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Goods and/or Services it may propose a Variation to the Customer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Call Off Contract Charges shall then be subject to the Variation Procedure.
		4. Until and/or unless a change to the Call Off Contract Charges is agreed by the Customer pursuant to the Variation Procedure the Supplier shall continue to provide the Goods and/or Services in accordance with its existing obligations.
	2. Malicious Software
		1. The Supplier shall, as an enduring obligation throughout the Call Off Contract Period use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between the Parties).
		2. Notwithstanding Clause 32.2.1, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Customer Data, assist each other to mitigate any losses and to restore the provision of the Goods and/or Services to its desired operating efficiency.
		3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 32.2.2 shall be borne by the Parties as follows:
			1. by the Supplier, where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where the Customer has waived the obligation set out in Clause 32.2.1) or the Customer Data (whilst the Customer Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Customer when provided to the Supplier; and
			2. by the Customer if the Malicious Software originates from the Customer Software (in respect of which the Customer has waived its obligation set out in Clause 32.2.1) or the Customer Data (whilst the Customer Data was under the control of the Customer).
	3. Protection of Customer Data
		1. The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
		2. The Supplier shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Supplier of its obligations under this Call Off Contract or as otherwise Approved by the Customer.
		3. To the extent that the Customer Data is held and/or Processed by the Supplier, the Supplier shall supply that Customer Data to the Customer as requested by the Customer and in the format (if any) specified in this Call Off Contract and in any event as specified by the Customer from time to time in writing.
		4. The Supplier shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.
		5. The Supplier shall perform secure back-ups of all Customer Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the BCDR Plan. The Supplier shall ensure that such back-ups are available to the Customer (or to such other person as the Customer may direct) at all times upon request and are delivered to the Customer at no less than six (6) Monthly intervals (or such other intervals as may be agreed in writing between the Parties).
		6. The Supplier shall ensure that any system on which the Supplier holds any Customer Data, including back-up data, is a secure system that complies with the Security Policy and the Security Management Plan at Annex 2 of Schedule 8
		7. If at any time the Supplier suspects or has reason to believe that the Customer Data is corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Customer immediately and inform the Customer of the remedial action the Supplier proposes to take.
		8. If the Customer Data is corrupted, lost or sufficiently degraded as a result of a Default so as to be unusable, the Customer may:
			1. require the Supplier (at the Supplier's expense) to restore or procure the restoration of Customer Data to the extent and in accordance with the requirements specified in Call Off Schedule 10 (Business Continuity and Disaster Recovery) and the Supplier shall do so as soon as practicable but not later than five (5) Working Days from the date of receipt of the Customer’s notice; and/or
			2. itself restore or procure the restoration of Customer Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Call Off Schedule 10 (Business Continuity and Disaster Recovery)
	4. Confidentiality
		1. For the purposes of this Clause 32.4, the term **Disclosing Party** shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and **Recipient** shall mean the Party which receives or obtains directly or indirectly Confidential Information.
		2. Except to the extent set out in this Clause 32.4 or where disclosure is expressly permitted elsewhere in this Call Off Contract, the Recipient shall:
			1. treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials); and
			2. not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Call Off Contract or without obtaining the owner's prior written consent;
			3. not use or exploit the Disclosing Party’s Confidential Information in any way except for the purposes anticipated under this Call Off Contract; and
			4. immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party’s Confidential Information.
		3. The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
			1. the Recipient is required to disclose the Confidential Information by Law, provided that Clause 32.6 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;
			2. the need for such disclosure arises out of or in connection with:
				1. any legal challenge or potential legal challenge against the Customer arising out of or in connection with this Call Off Contract;
				2. the examination and certification of the Customer's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer is making use of any Goods and/or Services provided under this Call Off Contract; or
				3. the conduct of a Central Government Body review in respect of this Call Off Contract; or
			3. the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.
		4. If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
		5. Subject to Clauses 32.4.2 and 32.4.7, the Supplier may only disclose the Confidential Information of the Customer on a confidential basis to:
			1. Supplier Personnel who are directly involved in the provision of theGoods and/or Services and need to know the Confidential Information to enable performance of the Supplier’s obligations under this Call Off Contract; and
			2. its professional advisers for the purposes of obtaining advice in relation to this Call Off Contract.
		6. Where the Supplier discloses Confidential Information of the Customer pursuant to this Clause 32.4.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Call Off Contract by the persons to whom disclosure has been made.
		7. The Customer may disclose the Confidential Information of the Supplier:
			1. on a confidential basis to any Central Government Body for any proper purpose of the Customer or of the relevant Central Government Body on the basis that the information may only be further disclosed to Central Government Bodies or Other Contracting Bodies;
			2. to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
			3. to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
			4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 32.4.7(a) (including any benchmarking organisation) for any purpose relating to or connected with this Call Off Contract;
			5. on a confidential basis for the purpose of the exercise of its rights under this Call Off Contract; or
			6. on a confidential basis to a proposed Transferee body as defined in Clause 45.2 (Assignment and Novation) in connection with any assignment, novation transfer, or disposal of any of its rights, obligations or liabilities under this Call Off Contract, or successor in title to the Customer.
		8. and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this Clause 32.
		9. Nothing in this Clause 32.4 shall prevent a Recipient from using any techniques, ideas or Know-How gained during the performance of this Call Off Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party’s Confidential Information or an infringement of Intellectual Property Rights.
		10. In the event that the Supplier fails to comply with Clauses 32.4.2 to 32.4.5, the Customer reserves the right to terminate this Call Off Contract for material Default.
	5. Transparency
		1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Call Off Contract is not Confidential Information. The Customer shall determine whether any of the content of this Call Off Contract is exempt from disclosure in accordance with the provisions of the FOIA. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
		2. Notwithstanding any other provision of this Call Off Contract, the Supplier hereby gives his consent for the Customer to publish this Call Off Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Call Off Contract agreed from time to time.
		3. The Supplier shall assist and cooperate with the Customer to enable the Customer to publish this Call Off Contract.
	6. Freedom of Information
		1. The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the EIRs. The Supplier shall:
			1. provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its Information disclosure obligations under the FOIA and EIRs;
			2. transfer to the Customer all Requests for Information relating to this Call Off Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
			3. provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
			4. not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
		2. The Supplier acknowledges that the Customer may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Customer shall take reasonable steps to notify the Supplier of a Request for Information (in accordance with the Secretary of State’s Section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Call Off Contract) the Customer shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.
	7. Protection of Personal Data
		1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Call Off Schedule 18 by the Customer and may not be determined by the Supplier.
		2. The Supplier shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
		3. The Supplier shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
			1. a systematic description of the envisaged processing operations and the purpose of the processing;
			2. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
			3. an assessment of the risks to the rights and freedoms of Data Subjects; and
			4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
		4. The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Call-Off Contract:
			1. process that Personal Data only in accordance with Call Off Schedule 18 unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
			2. ensure that it has in place Protective Measures, which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
				1. nature of the data to be protected;
				2. harm that might result from a Data Loss Event;
				3. state of technological development; and
				4. cost of implementing any measures;
			3. ensure that:
				1. the Supplier Personnel do not process Personal Data except in accordance with this Call-Off Contract (and in particular Call Off Schedule 18);
				2. it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
9. are aware of and comply with the Supplier’s duties under this clause;
10. are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
11. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Call-Off Contract; and
12. have undergone adequate training in the use, care, protection and handling of Personal Data; and
	* + 1. not transfer Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
				1. the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
				2. the Data Subject has enforceable rights and effective legal remedies;
				3. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
				4. the Supplier complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
			2. at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Call-Off Contract unless the Supplier is required by Law to retain the Personal Data.
		1. Subject to clause 32.7.6, the Supplier shall notify the Customer immediately if it:
			1. receives a Data Subject Access Request (or purported Data Subject Access Request);
			2. receives a request to rectify, block or erase any Personal Data;
			3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
			4. receives any communication from the Information Commissioner or any other regulatory Customer in connection with Personal Data processed under this Call-Off Contract;
			5. receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
			6. becomes aware of a Data Loss Event.
		2. The Supplier’s obligation to notify under clause 32.7.5 shall include the provision of further information to the Customer in phases, as details become available.
		3. Taking into account the nature of the processing, the Supplier shall provide the Customer with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 32.7.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
			1. the Customer with full details and copies of the complaint, communication or request;
			2. such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
			3. the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
			4. assistance as requested by the Customer following any Data Loss Event;
			5. assistance as requested by the Customer with respect to any request from the Information Commissioner’s Office, or any consultation by the Customer with the Information Commissioner's Office.
		4. The Supplier shall 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:
			1. the Customer determines that the processing is not occasional;
			2. the Customer 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
			3. the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
		5. The Supplier shall allow for audits of its Data Processing activity by the Customer or the Customer’s designated auditor.
		6. The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
		7. Before allowing any Sub-processor to process any Personal Data related to this Call-Off Contract, the Supplier must:
			1. notify the Customer in writing of the intended Sub-processor and processing;
			2. obtain the written consent of the Customer;
			3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 32.7 such that they apply to the Sub-processor; and
			4. provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
		8. The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
		9. The Customer may, at any time on not less than 30 Working Days’ notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Call-Off Contract).
		10. The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner’s Office publishes guidance. The Customer may on not less than 30 Working Days’ notice to the Supplier amend this Call-Off Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Officer.
13. PUBLICITY AND BRANDING
	1. The Supplier shall not:
		1. make any press announcements or publicise this Call Off Contract in any way; or
		2. use the Customer's name or brand in any promotion or marketing or announcement of orders,
		3. without Approval (the decision of the Customer to Approve or not shall not be unreasonably withheld or delayed).
	2. Each Party acknowledges to the other that nothing in this Call Off Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Goods and/or Services, the Supplier System and the Customer System) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.
14. LIABILITY AND INSURANCE
15. LIABILITY
	1. Unlimited Liability
		1. Neither Party excludes or limits it liability for:
			1. death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
			2. bribery or Fraud by it or its employees;
			3. breach of any obligation as to title implied by section 2 of the Supply of Goods and Services Act 1982; or
			4. any liability to the extent it cannot be excluded or limited by Law.
	2. Financial Limits
		1. Subject to Clause 34.1.1 (Unlimited Liability), the Supplier’s total aggregate liability:
			1. in respect of the indemnities in Clauses 20.2.2 (VAT), 20.5.1(b) (Income Tax and National Insurance Contributions), 31.9 (IPR Indemnity) and, in each case, whether before or after the making of a demand pursuant to the indemnities therein shall be unlimited.
			2. in respect of all:
				1. Service Credits; and
				2. Compensation for Critical Service Level Failure;

incurred in any rolling period of any contiguous twelve (12) month period shall be subject in aggregate to the Service Credit Cap;

* + - 1. in respect of all other Losses incurred by the Customer under or in connection with this Call Off Contract as a result of Defaults by the Supplier shall in no event exceed:
				1. in relation to any Defaults occurring from the Call Off Commencement Date to the end of the first Call Off Contract Year, a sum **REDACTED** of the Estimated Year 1 Call Off Contract Charges;
				2. in relation to any Defaults occurring in each subsequent Call Off Contract Year that commences during the remainder of the Call Off Contract Period, the higher **REDACTED** in each such Call Off Contract Year or a sum **REDACTED** of the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the previous Call Off Contract Year; and
				3. in relation to any Defaults occurring in each Calendar Year that commences after the end of the Call Off Contract Period, the higher **REDACTED** in each such Call Off Contract Year or a sum **REDACTED** of the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the last Call Off Contract Year commencing during the Call Off Contract Period,

unless a different aggregate limit or percentage under this Clause (c) is stipulated by the Customer during a Further Competition Procedure.

* + 1. Subject to Clauses 34.1.1 (Unlimited Liability) and 34.2.1 (Financial Limits) and without prejudice to its obligation to pay the undisputed Call Off Contract Charges as and when they fall due for payment, the Customer's total aggregate liability in respect of all Losses as a result of Customer Causes shall be limited to:
			1. in relation to any Customer Causes occurring from the Call Off Commencement Date to the end of the first Call Off Contract Year, a sum equal to the Estimated Year 1 Call Off Contract Charges;
			2. in relation to any Customer Causes occurring in each subsequent Call Off Contract Year that commences during the remainder of the Call Off Contract Period, a sum equal to the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the previous Call Off Contract Year; and
			3. in relation to any Customer Causes occurring in each Call Off Contract Year that commences after the end of the Call Off Contract Period, a sum equal to the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the last Call Off Contract Year commencing during the Call Off Contract Period.
	1. Non-recoverable Losses
		1. Subject to Clause 34.1.1 (Unlimited Liability) neither Party shall be liable to the other Party for any:
			1. indirect, special or consequential Loss;
			2. loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
	2. Recoverable Losses
		1. Subject to Clause 34.2.1 (Financial Limits), and notwithstanding Clause 34.3.1 (Non-recoverable Losses), the Supplier acknowledges that the Customer may, recover from the Supplier the following direct Losses incurred by the Customer to the extent that they arise as a result of a Default by the Supplier:
			1. any additional operational and/or administrative costs and expenses incurred by the Customer, including costs relating to time spent by or on behalf of the Customer in dealing with the consequences of the Default;
			2. any wasted expenditure or charges;
			3. the additional cost of procuring Replacement Goods and/or Services for the remainder of the Call Off Contract Period and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Goods and/or Services and/or replacement Deliverables above those which would have been payable under this Call Off Contract;
			4. any compensation or interest paid to a third party by the Customer; and
			5. any fine, penalty or costs incurred by the Customer pursuant to Law.
	3. Miscellaneous
		1. A Party shall not be responsible for any Loss under this Call Off Contract if and to the extent that it is caused by the default of the other (Default on the part of the Supplier and Customer Cause on the part of the Customer).
		2. Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Call Off Contract.
		3. Any Deductions shall not be taken into consideration when calculating the Supplier’s liability under Clause 34.2.1 (Financial Limits).
1. INSURANCE
	1. Notwithstanding any benefit to the Customer of the policy or policies of insurance referred to in Clause 28 (Insurance) of the Framework Agreement, the Supplier shall effect and maintain such further policy or policies of insurance or extensions to such existing policy or policies of insurance procured under the Framework Agreement in respect of all risks which may be incurred by the Supplier arising out of its performance of its obligations under this Call Off Contract as the Customer may stipulate during a Further Competition Procedure.
	2. The Supplier shall effect and maintain the policy or policies of insurance referred to in Clause 35.1 above for six (6) years after the Call Off Expiry Date.
	3. The Supplier shall give the Customer, on request, copies of all insurance policies referred to in Clause 35.1 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
	4. If, for whatever reason, the Supplier fails to give effect to and maintain the insurance policies required under Clause 35.1, the Customer may make alternative arrangements to protect its interests and may recover the premium and other costs of such arrangements as a debt due from the Supplier.
	5. The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liability under this Call Off Contract. It shall be the responsibility of the Supplier to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability in relation to the performance of its obligations under this Call Off Contract.
	6. The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Customer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.
2. REMEDIES AND RELIEF
3. CUSTOMER REMEDIES FOR DEFAULT
	1. Remedies
		1. Without prejudice to any other right or remedy of the Customer howsoever arising (including under Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)) and subject to the exclusive financial remedy provisions in Clauses 10.5 (Service Levels and Service Credits) and 6.4.1(b) (Delay Payments), if the Supplier commits any Default of this Call Off Contract then the Customer may (whether or not any part of the Goods and/or Services have been Delivered) do any of the following:
			1. at the Customer's option, give the Supplier the opportunity (at the Supplier's expense) to remedy the Default together with any damage resulting from such Default (and where such Default is capable of remedy) or to supply Replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of this Call Off Contract are fulfilled, in accordance with the Customer's instructions;
			2. carry out, at the Supplier's expense, any work necessary to make the provision of the Goods and/or Services comply with this Call Off Contract;
			3. if the Default is a material Default that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults – whether of the same or different obligations and regardless of whether such Defaults are remedied – which taken together constitute a material Default):
				1. instruct the Supplier to comply with the Rectification Plan Process;
				2. suspend this Call Off Contract (whereupon the relevant provisions of Clause 42 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) the Goods and/or Services; or
				3. without terminating or suspending the whole of this Call Off Contract, terminate or suspend this Call Off Contract in respect of part of the provision of the Goods and/or Services only (whereupon the relevant provisions of Clause 42 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) such part of the Goods and/or Services;
		2. Where the Customer exercises any of its step-in rights under Clauses 36.1.1(c)(ii) or 36.1.1(c)(iii), the Customer shall have the right to charge the Supplier for and the Supplier shall on demand pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Goods and/or Services by the Customer or a third party and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining Replacement Goods and/or Services.
	2. Rectification Plan Process
		1. Where the Customer has instructed the Supplier to comply with the Rectification Plan Process pursuant to Clause 36.1.1(c)(i):
			1. the Supplier shall submit a draft Rectification Plan to the Customer for it to review as soon as possible and in any event within ten (10) Working Days (or such other period as may be agreed between the Parties) from the date of Customer’s instructions. The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Default giving rise to the Customer’s request for a draft Rectification Plan.
			2. the draft Rectification Plan shall set out:
				1. full details of the Default that has occurred, including a root cause analysis;
				2. the actual or anticipated effect of the Default; and
				3. the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable).
		2. The Supplier shall promptly provide to the Customer any further documentation that the Customer requires to assess the Supplier’s root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with paragraph 5 of Call Off Schedule 13 (Dispute Resolution Procedure).
		3. The Customer may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
			1. is insufficiently detailed to be capable of proper evaluation;
			2. will take too long to complete;
			3. will not prevent reoccurrence of the Default; and/or
			4. will rectify the Default but in a manner which is unacceptable to the Customer.
		4. The Customer shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Customer rejects the draft Rectification Plan, the Customer shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Customer for review within five (5) Working Days (or such other period as agreed between the Parties) of the Customer’s notice rejecting the first draft.
		5. If the Customer consents to the Rectification Plan, the Supplier shall immediately start work on the actions set out in the Rectification Plan.
4. SUPPLIER RELIEF DUE TO CUSTOMER CAUSE
	1. If the Supplier has failed to:
		1. Achieve a Milestone by its Milestone Date;
		2. provide the Goods and/or Services in accordance with the Service Levels;
		3. comply with its obligations under this Call Off Contract,

(each a Supplier Non-Performance),

and can demonstrate that the Supplier Non-Performance would not have occurred but for a Customer Cause, then (subject to the Supplier fulfilling its obligations in Clause 14 (Supplier Notification of Customer Cause)):

* + - 1. the Supplier shall not be treated as being in breach of this Call Off Contract to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Customer Cause;
			2. the Customer shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance to terminate this Call Off Contract pursuant to Clause 39 (Customer Termination Rights) except Clause 39.6 (Termination Without Cause);
			3. where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:
				1. the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Customer Cause;
				2. if the Customer, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Customer Cause;
				3. if failure to Achieve a Milestone attracts a Delay Payment, the Supplier shall have no liability to pay any such Delay Payment associated with the Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Customer Cause; and/or
			4. where the Supplier Non-Performance constitutes a Service Level Failure:
				1. the Supplier shall not be liable to accrue Service Credits;
				2. the Customer shall not be entitled to any Compensation for Critical Service Level Failure pursuant to Clause 11 (Critical Service Level Failure); and
				3. the Supplier shall be entitled to invoice for the Call Off Contract Charges for the provision of the relevant Goods and/or Services affected by the Customer Cause;
				4. in each case, to the extent that the Supplier can demonstrate that the Service Level Failure was caused by the Customer Cause.
	1. In order to claim any of the rights and/or relief referred to in Clause 37.1, the Supplier shall:
		1. comply with its obligations under Clause 14 (Notification of Customer Cause); and
		2. within ten (10) Working Days of becoming aware that a Customer Cause has caused, or is likely to cause, a Supplier Non-Performance, give the Customer notice (a **Relief Notice**) setting out details of:
			1. the Supplier Non-Performance;
			2. the Customer Cause and its effect on the Supplier’s ability to meet its obligations under this Call Off Contract; and
			3. the relief claimed by the Supplier.
	2. Following the receipt of a Relief Notice, the Customer shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Customer Cause and whether it agrees with the Supplier’s assessment set out in the Relief Notice as to the effect of the relevant Customer Cause and its entitlement to relief, consulting with the Supplier where necessary.
	3. Without prejudice to Clauses 7.7 (Continuing obligation to provide the Goods and/or Services) if a Dispute arises as to:
		1. whether a Supplier Non-Performance would not have occurred but for a Customer Cause; and/or
		2. the nature and/or extent of the relief claimed by the Supplier,

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

* 1. Any Variation that is required to the Implementation Plan or to the Call Off Contract Charges pursuant to this Clause 37 shall be implemented in accordance with the Variation Procedure, unless otherwise agreed by the Parties in writing.
1. FORCE MAJEURE
	1. Subject to the remainder of this Clause 38 (and, in relation to the Supplier, subject to its compliance with its obligations in Clause 12 (Business Continuity and Disaster Recovery)), a Party may claim relief under this Clause 38 from liability for failure to meet its obligations under this Call Off Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Call Off Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
	2. The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
	3. If the Supplier is the Affected Party, it shall not be entitled to claim relief under this Clause 38 to the extent that consequences of the relevant Force Majeure Event:
		1. are capable of being mitigated by any of the provision of any Goods and/or Services including the BCDR Services, but the Supplier has failed to do so; and/or
		2. should have been foreseen and prevented or avoided by a prudent provider of services similar to the Goods and/or Services, operating to the standards required by this Call Off Contract.
	4. Subject to Clause 38.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Goods and/or Services affected by the Force Majeure Event.
	5. The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
	6. Where, as a result of a Force Majeure Event:
		1. an Affected Party fails to perform its obligations in accordance with this Call Off Contract, then during the continuance of the Force Majeure Event:
			1. the other Party shall not be entitled to exercise any rights to terminate this Call Off Contract in whole or in part as a result of such failure unless the provision of the Goods and/or Services is materially impacted by a Force Majeure Event which endures for a continuous period of more than ninety (90) days; and
			2. the Supplier shall not be liable for any Default and the Customer shall not be liable for any Customer Cause arising as a result of such failure;
		2. the Supplier fails to perform its obligations in accordance with this Call Off Contract:
			1. the Customer shall not be entitled:
				1. during the continuance of the Force Majeure Event to exercise its step-in rights under Clause 36.1.1(b) and 36.1.1(c) (Customer Remedies for Default) as a result of such failure;
				2. to receive Delay Payments pursuant to Clause 6.4 (Delay Payments) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and
				3. to receive Service Credits or withhold and retain any of the Call Off Contract Charges as Compensation for Critical Service Level Failure pursuant to Clause 11 (Critical Service Level Failure) to the extent that a Service Level Failure or Critical Service Level Failure has been caused by the Force Majeure Event; and
			2. the Supplier shall be entitled to receive payment of the Call Off Contract Charges (or a proportional payment of them) only to the extent that the Goods and/or Services (or part of the Goods and/or Services) continue to be provided in accordance with the terms of this Call Off Contract during the occurrence of the Force Majeure Event.
	7. The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Call Off Contract.
	8. Relief from liability for the Affected Party under this Clause 38 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Call Off Contract and shall not be dependent on the serving of notice under Clause 38.7.
2. TERMINATION AND EXIT MANAGEMENT
3. CUSTOMER TERMINATION RIGHTS
	1. Termination in Relation to Guarantee
		1. Where the Supplier has procured a Call Off Guarantee pursuant to Clause 4 (Call Off Guarantee), the Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where:
			1. the Call Off Guarantor withdraws the Call Off Guarantee for any reason whatsoever;
			2. the Call Off Guarantor is in breach or anticipatory breach of the Call Off Guarantee;
			3. an Insolvency Event occurs in respect of the Call Off Guarantor;
			4. the Call Off Guarantee becomes invalid or unenforceable for any reason whatsoever

and in each case the Call Off Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Customer.

* 1. Termination on Material Default
		1. The Customer may terminate this Call Off Contract for material Default by issuing a Termination Notice to the Supplier where:
			1. the Supplier commits a Critical Service Level Failure;
			2. the representation and warranty given by the Supplier pursuant to Clause 3.2.5  (Representations and Warranties) is materially untrue or misleading;
			3. as a result of any Defaults, the Customer incurs Losses in any Contract Year which exceed 80% of the value of the Supplier’s aggregate annual liability limit for that Contract Year as set out in Clauses 34.2.1(b) and 34.2.1(c) (Liability);
			4. the Customer expressly reserves the right to terminate this Call Off Contract for material Default, including pursuant to any of the following Clauses: 6.2.3 (Implementation Plan), 7.4.2 (Provision of Services), 11.1 (Critical Service Failure), 13.4 (Disruption), 18.5 (Records, Audit Access and Open Book Data), 32.4.10 (Confidentiality), 48.6.2 (Prevention of Fraud and Bribery);
			5. the Supplier commits any material Default of this Call Off Contract which is not, in the reasonable opinion of the Customer, capable of remedy; and/or
			6. the Supplier commits a Default, including a material Default, which in the opinion of the Customer is remediable but has not remedied such Default to the satisfaction of the Customer in accordance with the Rectification Plan Process;
		2. For the purpose of Clause 39.2.1, a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default.
	2. Termination in Relation to Financial Standing
		1. The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where in the reasonable opinion of the Customer there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:
			1. adversely impacts on the Supplier's ability to supply the Goods and/or Services under this Call Off Contract; or
			2. could reasonably be expected to have an adverse impact on the Suppliers ability to supply the Goods and/or Services under this Call Off Contract.
		2. The Customer shall not issue such a Termination Notice as specified in Clause 39.3.1 without first notifying the Supplier of the Customer’s intentions and giving the Supplier five (5) Working Days to demonstrate to the reasonable satisfaction of the Customer that such change in the financial standing and/or the credit rating of the Supplier will not impact the Supplier’s ability to perform the Call-Off Contract. The Customer’s decision (following Supplier’s representations) regarding change in the financial standing and/or the credit rating of the Supplier shall be the final decision.
	3. Termination on Insolvency
		1. The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where an Insolvency Event affecting the Supplier occurs.
	4. Termination on Change of Control
		1. The Supplier shall notify the Customer immediately if the Supplier undergoes a Change of Control and provided this does not contravene any Law shall notify the Customer immediately in writing of any circumstances suggesting that a Change of Control is planned or in contemplation. The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier within six (6) Months of:
			1. being notified in writing that a Change of Control has occurred or is planned or in contemplation; or
			2. where no notification has been made, the date that the Customer becomes aware of the Change of Control,

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

* 1. Termination Without Cause
		1. The Customer shall have the right to terminate this Call Off Contract at any time by issuing a Termination Notice to the Supplier giving at least one hundred and twenty (120) Working Days written notice.
	2. Termination in Relation to Framework Agreement
		1. The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier if the Framework Agreement is terminated for any reason whatsoever.
	3. Termination In Relation to Benchmarking
		1. The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in paragraphs 3 and 4 of Framework Schedule 12 (Continuous Improvement and Benchmarking).
	4. Termination in Relation to Variation
		1. The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier for failure of the Parties to agree or the Supplier to implement a Variation in accordance with the Variation Procedure.
	5. Termination in relation to Promoting Tax Compliance
		1. The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier in the event that:
			1. the warranty given by the Supplier pursuant to Clause 3.2.5 is materially untrue; or
			2. the Supplier commits a material breach of its obligation to notify the Customer of any Occasion of Tax Non-Compliance as required by Clause 21; or
			3. the Supplier fails to provide details of proposed mitigating factors as required by Clause 21.1.2 (a) which in the reasonable opinion of the Customer, are acceptable.
1. SUPPLIER TERMINATION RIGHTS
	1. Termination on Customer Cause for Failure to Pay
		1. The Supplier may, by issuing a Termination Notice to the Customer, terminate this Call Off Contract if the Customer fails to pay an undisputed sum due to the Supplier under this Call Off Contract which in aggregate exceeds the amount set out in Part 1 Order Form Section B Paragraph 3.3 and such amount remains outstanding forty (40) Working Days (the **Undisputed Sums Time Period**) after the receipt by the Customer of a written notice of non-payment from the Supplier specifying:
			1. the Customer’s failure to pay; and
			2. the correct overdue and undisputed sum; and
			3. the reasons why the undisputed sum is due; and
			4. the requirement on the Customer to remedy the failure to pay; and

this Call Off Contract shall then terminate on the date specified in the Termination Notice (which shall not be less than twenty (20) Working Days from the date of the issue of the Termination Notice), save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under this Call Off Contract including Clause 20.3 (Retention and Set off).

* + 1. The Supplier shall not suspend the supply of the Goods and Services for failure of the Customer to pay undisputed sums of money (whether in whole or in part).
1. TERMINATION BY EITHER PARTY
	1. Termination for continuing Force Majeure Event
		1. Either Party may, by issuing a Termination Notice to the other Party terminate this Call Off Contract, in accordance with Clause 38.6.1(a) (Force Majeure).
2. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION
	1. Where the Customer has the right to terminate this Call Off Contract, the Customer shall be entitled to terminate or suspend all or part of this Call Off Contract provided always that, if the Customer elects to terminate or suspect this Call Off Contract in part, the parts of this Call Off Contract not terminated or suspended can, in the Customer’s reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Call Off Contract.
	2. Any suspension of this Call Off Contract under Clause 42.1 shall be for such period as the Customer may specify in writing and without prejudice to any right of termination which has already accrued, or subsequently accrues, to the Customer.
	3. The Parties shall seek to agree the effect of any Variation necessitated by a partial termination, suspension or partial suspension in accordance with the Variation Procedure, including the effect that the partial termination, suspension or partial suspension may have on the provision of any other Goods and Services and the Call Off Contract Charges, provided that the Supplier shall not be entitled to:
		1. an increase in the Call Off Contract Charges in respect of the provision of the Goods and Services that have not been terminated if the partial termination arises due to the exercise of any of the Customer’s termination rights under Clause 39 (Customer Termination Rights) except Clause 39.6 (Termination Without Cause); and
		2. reject the Variation.
3. CONSEQUENCES OF EXPIRY OR TERMINATION
	1. Consequences of termination under Clauses 39.1 (Termination in Relation to Guarantee), 39.2 (Termination on Material Default), 39.3 (Termination in Relation to Financial Standing), 39.7 (Termination in Relation to Framework Agreement), 39.8 (Termination in Relation to Benchmarking) and 39.9 (Termination in Relation to Variation)
		1. Where the Customer:
			1. terminates (in whole or in part) this Call Off Contract under any of the Clauses referred to in this Clause 43.1; and
			2. then makes other arrangements for the supply of the Goods and Services,

the Customer may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Call Off Contract Period provided that Customer shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by the Customer to the Supplier until the Customer has established the final cost of making those other arrangements.

* + 1. If this Call Off Contract is terminated (in part or in whole) under any of the Clauses referred to in this Clause 43.1, the only payments that the Customer shall be required to make as a result of such termination (whether by way of compensation or otherwise) shall be in respect of unpaid Charges for Services received up until receipt of the Termination Notice.
	1. Consequences of termination under Clauses 39.6 (Termination without Cause) and 40.1 (Termination on Customer Cause for Failure to Pay)
		1. Where:
			1. the Customer terminates (in whole or in part) this Call Off Contract under Clause 39.6 (Termination without Cause); or
			2. the Supplier terminates this Call Off Contract pursuant to Clause 40.1 (Termination on Customer Cause for Failure to Pay),

the Customer shall indemnify the Supplier against any reasonable and proven Losses which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call Off Contract, provided that the Supplier takes all reasonable steps to mitigate such Losses. The Supplier shall submit a fully itemised and costed list of such Losses, with supporting evidence including such further evidence as the Customer may require, reasonably and actually incurred by the Supplier as a result of termination under Clause 39.6 (Termination without Cause).

* + 1. The Customer shall not be liable under Clause 43.2.1 to pay any sum which:
			1. was claimable under insurance held by the Supplier, and the Supplier has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
			2. when added to any sums paid or due to the Supplier under this Call Off Contract, exceeds the total sum that would have been payable to the Supplier if this Call Off Contract had not been terminated.
	1. Consequences of termination under Clause 41.1 (Termination for Continuing Force Majeure Event)
		1. The costs of termination incurred by the Parties shall lie where they fall if either Party terminates or partially terminates this Agreement for a continuing Force Majeure Event pursuant to Clause 41.1 (Termination for Continuing Force Majeure Event).
	2. Consequences of Termination for Any Reason
		1. Save as otherwise expressly provided in this Call Off Contract:
			1. termination or expiry of this Call Off Contract shall be without prejudice to any rights, remedies or obligations accrued under this Call Off Contract prior to termination or expiration and nothing in this Call Off Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and
			2. termination of this Call Off Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Supplier under Clauses 18 (Records, Audit Access & Open Book Data), 31 (Intellectual Property Rights), 32.4 (Confidentiality), 32.6 (Freedom of Information) 32.7 (Protection of Personal Data), 34.4 (Liability), 43 (Consequences of Expiry or Termination), 49 (Severance), 51 (Entire Agreement), 52 (Third Party Rights) 54 (Dispute Resolution) and 55 (Governing Law and Jurisdiction), and the provisions of Call Off Schedule 1 (Definitions), Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), Call Off Schedule 11 (Exit Management), Call Off Schedule 12 (Staff Transfer), Call Off Schedule 13 (Dispute Resolution Procedure) and, without limitation to the foregoing, any other provision of this Call Off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the Call Off Expiry Date.
	3. Exit management
		1. The Parties shall comply with the exit management provisions set out in Call Off Schedule 11 (Exit Management).
1. MISCELLANEOUS AND GOVERNING LAW
2. COMPLIANCE
	1. Health and Safety
		1. The Supplier shall perform its obligations under this Call Off Contract (including those in relation to the Goods and Services) in accordance with:
			1. all applicable Law regarding health and safety; and
			2. the Customer’s health and safety policy (as provided to the Supplier from time to time) whilst at the Customer Premises.
		2. Each Party shall promptly notify the other of as soon as possible of any health and safety incidents or material health and safety hazards at the Customer Premises of which it becomes aware and which relate to or arise in connection with the performance of this Call Off Contract.
		3. While on the Customer Premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of Supplier Personnel and other persons working there and any instructions from the Customer on any necessary associated safety measures.
	2. Equality and Diversity
		1. The Supplier shall:
			1. perform its obligations under this Call Off Contract (including those in relation to provision of the Goods and Services) in accordance with:
				1. all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
				2. any other requirements and instructions which the Customer reasonably imposes in connection with any equality obligations imposed on the Customer at any time under applicable equality Law; and
			2. take all necessary steps, and inform the Customer of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).
	3. Official Secrets Act and Finance Act
		1. The Supplier shall comply with the provisions of:
			1. the Official Secrets Acts 1911 to 1989; and
			2. section 182 of the Finance Act 1989.
	4. Environmental Requirements
		1. The Supplier shall, when working on the Sites, perform its obligations under this Call Off Contract in accordance with the Environmental Policy of the Customer.
		2. The Customer shall provide a copy of its written Environmental Policy (if any) to the Supplier upon the Supplier’s written request.
3. ASSIGNMENT AND NOVATION
	1. The Supplier shall not assign, novate, Sub-Contract or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Call Off Contract or any part of it without Approval.
	2. The Customer may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Call Off Contract or any part thereof to:
		1. any other Contracting Body; or
		2. any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Customer; or
		3. any private sector body which substantially performs the functions of the Customer,

and the Supplier shall, at the Customer’s request, enter into a novation agreement in such form as the Customer shall reasonably specify in order to enable the Customer to exercise its rights pursuant to this Clause 45.2.

* 1. A change in the legal status of the Customer such that it ceases to be a Contracting Body shall not, subject to Clause 45.4 affect the validity of this Call Off Contract and this Call Off Contract shall be binding on any successor body to the Customer.
	2. If the Customer assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Call Off Contract to a body which is not a Contracting Body or if a body which is not a Contracting Body succeeds the Customer (both Transferee in the rest of this Clause) the right of termination of the Customer in Clause 39.4 (Termination on Insolvency) shall be available to the Supplier in the event of insolvency of the Transferee (as if the references to Supplier in Clause 39.4 (Termination on Insolvency) and to Supplier or Framework Guarantor or Call Off Guarantor in the definition of Insolvency Event were references to the Transferee).
1. WAIVER AND CUMULATIVE REMEDIES
	1. The rights and remedies under this Call Off Contract may be waived only by notice in accordance with Clause 53 (Notices) and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Call Off Contract or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of the same.
	2. Unless otherwise provided in this Call Off Contract, rights and remedies under this Call Off Contract are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.
2. RELATIONSHIP OF THE PARTIES
	1. Except as expressly provided otherwise in this Call Off Contract, nothing in this Call Off Contract, nor any actions taken by the Parties pursuant to this Call Off Contract, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.
3. PREVENTION OF FRAUD AND BRIBERY
	1. The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Call Off Commencement Date:
		1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
		2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
	2. The Supplier shall not during the Call Off Contract Period:
		1. commit a Prohibited Act; and/or
		2. do or suffer anything to be done which would cause the Customer or any of the Customer’s employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
	3. The Supplier shall during the Call Off Contract Period:
		1. establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
		2. keep appropriate records of its compliance with its obligations under Clause 48.3.1 and make such records available to the Customer on request;
		3. if so required by the Customer, within twenty (20) Working Days of the Call Off Commencement Date, and annually thereafter, certify to the Customer in writing of the Supplier and all persons associated with it or its Sub-Contractors or other persons who are supplying the Goods and Services in connection with this Call Off Contract. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request; and
		4. have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Customer on request) to prevent it and any Supplier Personnel or any person acting on the Supplier's behalf from committing a Prohibited Act.
	4. The Supplier shall immediately notify the Customer in writing if it becomes aware of any breach of Clause 48.1, or has reason to believe that it has or any of the Supplier Personnel have:
		1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
		2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
		3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Call Off Contract or otherwise suspects that any person or Party directly or indirectly connected with this Call Off Contract has committed or attempted to commit a Prohibited Act.
	5. If the Supplier makes a notification to the Customer pursuant to Clause 48.4, the Supplier shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit any books, records and/or any other relevant documentation in accordance with Clause 18 (Records, Audit Access and Open Book Data).
	6. If the Supplier breaches Clause 48.3, the Customer may by notice:
		1. require the Supplier to remove from performance of this Call Off Contract any Supplier Personnel whose acts or omissions have caused the Supplier’s breach; or
		2. immediately terminate this Call Off Contract for material Default.
	7. Any notice served by the Customer under Clause 48.3 shall specify the nature of the Prohibited Act, the identity of the Party who the Customer believes has committed the Prohibited Act and the action that the Customer has elected to take (including, where relevant, the date on which this Call Off Contract shall terminate).
4. SEVERANCE
	1. If any provision of this Call Off Contract (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Call Off Contract are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Call Off Contract shall not be affected.
	2. In the event that any deemed deletion under Clause 49 is so fundamental as to prevent the accomplishment of the purpose of this Call Off Contract or materially alters the balance of risks and rewards in this Call Off Contract, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Call Off Contract so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Call Off Contract and, to the extent that is reasonably practicable, achieves the Parties' original commercial intention.
	3. If the Parties are unable to resolve the Dispute arising under this Clause 49 within twenty (20) Working Days of the date of the notice given pursuant to Clause 49.2, this Call Off Contract shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Call Off Contract is terminated pursuant to this Clause 49.
5. FURTHER ASSURANCES
	1. Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of this Call Off Contract.
6. ENTIRE AGREEMENT
	1. This Call Off Contract constitutes the entire agreement between the Parties in respect of the matter and supersedes and extinguishes all prior negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.
	2. Neither Party has been given, nor entered into this Call Off Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Call Off Contract.
	3. Nothing in this Clause 51 shall exclude any liability in respect of misrepresentations made fraudulently.
7. THIRD PARTY RIGHTS
	1. The provisions of Paragraph 9.9 of Schedule 11 (Exit Management) (together Third Party Provisions) confer benefits on persons named in such provisions other than the Parties (each such person a Third Party Beneficiary) and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.
	2. Subject to Clause 52.1, a person who is not a Party to this Call Off Contract has no right under the CTRPA to enforce any term of this Call Off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
	3. No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Customer, which may, if given, be given on and subject to such terms as the Customer may determine.
	4. Any amendments or modifications to this Call Off Contract may be made, and any rights created under Clause 52.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.
8. NOTICES
	1. Except as otherwise expressly provided within this Call Off Contract, any notices sent under this Call Off Contract must be in writing. For the purpose of this Clause 53, an e-mail is accepted as being in writing.
	2. Subject to Clause 53.3, the following table sets out the method by which notices may be served under this Call Off Contract and the respective deemed time and proof of service:

|  |  |  |
| --- | --- | --- |
| Manner of Delivery | Deemed time of delivery | Proof of Service |
| Email (Subject to Clauses 53.3 and 53.4) | 9.00am on the first Working Day after sending | Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message  |
| Personal delivery | On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day | Properly addressed and delivered as evidenced by signature of a delivery receipt |
| Royal Mail Signed For™ 1st Class or other prepaid, next Working Day service providing proof of delivery | At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm) | Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt |

* 1. The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or Royal Mail Signed For™ 1st Class or other prepaid in the manner set out in the table in Clause 53.2:
		1. any Termination Notice (Clause 39 (Customer Termination Rights)),
		2. any notice in respect of:
			1. partial termination, suspension or partial suspension (Clause 42 (Partial Termination, Suspension and Partial Suspension)),
			2. waiver (Clause 46 (Waiver and Cumulative Remedies))
			3. Default or Customer Cause; and
		3. any Dispute Notice.
	2. Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 53.3 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in Clause 53.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.
	3. This Clause 53 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under the Dispute Resolution Procedure).
	4. For the purposes of this Clause 53, the address and email address of each Party shall be the address and email address set out in the Order Form.
1. DISPUTE RESOLUTION
	1. The Parties shall resolve Disputes arising out of or in connection with this Call Off Contract in accordance with the Dispute Resolution Procedure at Schedule 13(Dispute Resolution).
	2. The Supplier shall continue to provide the Goods and Services in accordance with the terms of this Call Off Contract until a Dispute has been resolved.
2. GOVERNING LAW AND JURISDICTION
	1. This Call Off Contract and any issues, Disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.
	2. Subject to Clause 54 (Dispute Resolution) and Call Off Schedule 13 (Dispute Resolution Procedure) (including the Customer’s right to refer the Dispute to arbitration), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Call Off Contract or its subject matter or formation.

**CALL OFF SCHEDULE 1: DEFINITIONS**

In accordance with Clause 1 (Definitions and Interpretations) of this Call Off Contract including its recitals the following expressions shall have the following meanings:

|  |  |
| --- | --- |
| 1. Achieve
 | means in respect of a Test, to successfully pass such Test without any Test Issues in accordance with the Test Strategy Plan and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and **Achieved** and **Achievement** shall be construed accordingly; |
| 1. Acquired Rights Directive
 | means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time; |
| 1. Additional Clauses
 | means the additional Clauses in Call Off Schedule 15 (Alternative and/or Additional Clauses) and any other additional Clauses stipulated by the Customer during a Further Competition Procedure and set out in the Order Form or elsewhere in this Call Off Contract; |
| 1. Affected Party
 | means the party seeking to claim relief in respect of a Force Majeure; |
| 1. Affiliates
 | means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time; |
| 1. Alternative Clauses
 | means the alternative Clauses in Call Off Schedule 15 (Alternative and/or Additional Clauses) and any other alternative Clauses stipulated by the Customer during a Further Competition Procedure and set out in the Order Form or elsewhere in this Call Off Contract; |
| 1. Annual Hosting Fee
 | the Annual Hosting Fee shall be as identified in Annex 2 to Schedule 3 (Call Off Contract Charges, Payment and Invoicing); |
| 1. Approval
 | means the prior written consent of the Customer and **Approve** and **Approved** shall be construed accordingly; |
| 1. Approved Sub-Licensee
 | means any of the following:* + 1. a Central Government Body;
		2. any third party providing Goods and Services to a Central Government Body; and/or
		3. any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer;
 |
| 1. Auditor
 | means:* + 1. the Customer’s internal and external auditors;
		2. the Customer’s statutory or regulatory auditors;
		3. the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office
		4. HM Treasury or the Cabinet Office
		5. any party formally appointed by the Customer to carry out audit or similar review functions; and
		6. successors or assignees of any of the above;
 |
| 1. Authority
 | means **HER MAJESTY’S TREASURY “HMT”** as represented by Crown Commercial Service a trading fund of the Cabinet Office, whose offices are located at Rosebery Court, St Andrews Business Park, Norwich NR7 0HS;  |
| 1. Authority Requirements
 | means the requirements of the Authority as set out in Schedule 2 - Annex 1, and as otherwise set out in this Call Off Contract; |
| 1. BCDR Plan
 | means the plan prepared pursuant to paragraph 2 of Call Off Schedule 10 (Business Continuity and Disaster Recovery), as may be amended from time to time; |
| 1. BCDR Services
 | means the Business Continuity Services and Disaster Recovery Services; |
| 1. Business Continuity Services
 | has the meaning given to it in paragraph 6.2.2 of Call Off Schedule 10 (Business Continuity and Disaster Recovery); |
| 1. Call Off Commencement Date
 | means the date of commencement of this Call Off Contract set out in paragraph 1.1 of the Order Form; |
| 1. Call Off Contract
 | means this legally binding agreement between the Customer and the Supplier (entered into pursuant to the provisions of the Framework Agreement Schedule 5 (Call Off Procedure) for the provision of the Goods and/or Services) consisting of the Order Form and the Call Off Terms; |
| 1. Call Off Contract Charges
 | means the prices (inclusive of any Milestone Payments and exclusive of any applicable VAT), payable to the Supplier by the Customer under this Call Off Contract, as set out in Annex 1 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), for the full and proper performance by the Supplier of its obligations under this Call Off Contract less any Deductions; |
| 1. Call Off Contract Period
 | means the term of this Call Off Contract from the Call Off Commencement Date until the Call Off Expiry Date, which shall in no event exceed a maximum duration of five (5) years;  |
| 1. Call Off Contract Year
 | means a consecutive period of twelve (12) Months commencing on the Call Off Commencement Date or each anniversary thereof; |
| 1. Call Off Expiry Date
 | means: * + 1. the end date of the Call Off Contract Period or any Call Off Extension Period; or
		2. if this Call Off Contract is terminated before the date specified in (a) above, the earlier date of termination of this Call Off Contract;
 |
| 1. Call Off Extension Period
 | means the extension term of this Call Off Contract from the end date of the Call Off Contract Period to the end date of the extension period stated in the Order Form; |
| 1. Call Off Guarantee
 | means a deed of guarantee in favour of the Customer in the form set out in Framework Schedule 13 (Guarantee) granted pursuant to Clause 7 (Call Off Guarantee); |
| 1. Call Off Guarantor
 | means the person acceptable to the Customer to give a Call Off Guarantee; |
| 1. Call Off Initial Period
 | means the initial term of this Call Off Contract from the Call Off Commencement Date to the end date of the initial term stated in the Order Form;  |
| 1. Call Off Schedule
 | means a schedule to this Call Off Contract; |
| 1. Call Off Terms
 | means these terms and conditions entered by the Parties (excluding the Order Form) in respect of the provision of the Goods and/or Services, together with the Call Off Schedules hereto; |
| 1. Central Government Body
 | means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:* + 1. Government Department;
		2. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
		3. Non-Ministerial Department; or
		4. Executive Agency;
 |
| 1. Change in Law
 | means any change in Law which impacts on the supply of the Goods and/or Services and performance of the Call Off Terms which comes into force after the Call Off Commencement Date; |
| 1. Change of Control
 | means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010; |
| 1. Charges
 | means the charges raised under or in connection with a Call Off Contract from time to time, which Charges shall be calculated in a manner which is consistent with the Charging Structure; |
| 1. Charging Structure
 | means the structure as set out by the Customer in Annex 1 of Schedule 3 (Call Off Contract Charges, Payment & Invoicing) to be used in the establishment of the charging model which is applicable to each Call Off Contract, which structure is consistent with the provisions set out in Framework Schedule 3 (Framework Prices); |
| 1. Commercially Sensitive Information
 | means the Confidential information listed in the Order Form (if any) comprising of a commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Customer that, if disclosed by the Customer, would cause the Supplier significant commercial disadvantage or material financial loss; |
| 1. Comparable Supply
 | means the supply of Goods and/or Services to another customer of the Supplier that are the same or similar to the Goods and/or Services; |
| 1. Compensation for Critical Service Level Failure
 | has the meaning given to it in Clause 11.1.2 (Critical Service Level Failure);  |
| 1. Confidential Information
 | means the Customer's Confidential Information and/or the Supplier's Confidential Information, as the context specifies; |
| 1. Continuous Improvement Plan
 | means a plan for improving the provision of the Goods and/or Services and/or reducing the Charges produced by the Supplier pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking); |
| 1. Contracting Body
 | means the Authority, the Customer and any other bodies listed in paragraph VI.3 of the OJEU Notice;  |
| 1. Control
 | means control as defined in section 1124 and 450 Corporation Tax Act 2010 and Controls and Controlled shall be interpreted accordingly; |
| 1. Conviction
 | means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order, or being placed on a list kept pursuant to section 1 of the Protection of Children Act 1999 or being placed on a list kept pursuant to the Safeguarding Vulnerable Groups Act 2006); |
| 1. Costs
 | the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Goods and/or Services:* + 1. the cost to the Supplier or the Key Sub-Contractor (as the context requires), calculated per Man Day, of engaging the Supplier Personnel, including:
			1. base salary paid to the Supplier Personnel;
			2. employer’s national insurance contributions;
			3. pension contributions;
			4. car allowances;
			5. any other contractual employment benefits;
			6. staff training;
			7. work place accommodation;
			8. work place IT equipment and tools reasonably necessary to provide the Goods and/or Services (but not including items included within limb (b) below); and
			9. reasonable recruitment costs, as agreed with the Customer;
		2. costs incurred in respect of those Supplier Assets which are detailed on the Registers and which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Customer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;
		3. operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Goods and/or Services;

but excluding:* + 1. Overhead;
		2. financing or similar costs;
		3. maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Call Off Contract Period whether in relation to Supplier Assets or otherwise;
		4. taxation;
		5. fines and penalties;
		6. amounts payable under Clause 22 (Benchmarking); and
		7. non-cash items (including depreciation, amortisation, impairments and movements in provisions);
 |
| 1. Critical Service Level Failure
 | means any instance of critical service level failure specified in Annex 2 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring); |
| 1. Crown
 | means 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 from time to time carrying out functions on its behalf; |
| 1. Crown Body
 | means any department, office or executive agency of the Crown; |
| 1. CRTPA
 | means the Contracts (Rights of Third Parties) Act 1999; |
| 1. Customer
 | means the customer(s) identified in the Order Form; |
| 1. Customer Assets
 | means the Customer’s infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Customer and which is or may be used in connection with the provision of the Goods and/or Services; |
| 1. Customer Background IPR
 | means:* + 1. IPRs owned by the Customer before the Call Off Commencement Date, including IPRs contained in any of the Customer's Know-How, documentation, processes and procedures;
		2. IPRs created by the Customer independently of this Call Off Contract; and/or
		3. Crown Copyright which is not available to the Supplier otherwise than under this Call Off Contract;

but excluding IPRs owned by the Customer subsisting in the Customer Software; |
| 1. Customer Cause
 | means any breach of the obligations of the Customer or any other default, act, omission, negligence or statement of the Customer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Customer is liable to the Supplier; |
| 1. Customer Data
 | means:* + 1. the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Customer’s Confidential Information, and which:
			1. are supplied to the Supplier by or on behalf of the Customer; or
			2. the Supplier is required to generate, process, store or transmit pursuant to this Call Off Contract; or
		2. any Personal Data for which the Customer is the Data Controller;
 |
| 1. Customer Financial Year
 | means the **REDACTED**  |
| 1. Customer Premises
 | means premises owned, controlled or occupied by the Customer which are made available for use by the Supplier or its Sub-Contractors for provision of the Goods and/or Services (or any of them); |
| 1. Customer Property
 | means the property, other than real property and IPR, including the Customer System issued or made available to the Supplier by the Customer in connection with this Call Off Contract; |
| 1. Customer Representative
 | means the representative appointed by the Customer from time to time in relation to this Call Off Contract; |
| 1. Customer Responsibilities
 | means the responsibilities of the Customer set out in the Part B of Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel) and any other responsibilities of the Customer in the Order Form or agreed in writing between the Parties from time to time in connection with this Call Off Contract; |
| 1. Customer Software
 | means any software identified as such in the Order Form together with all other software which is not identified as such in the Order Form but which is owned by or licensed to the Customer and which is or will be used by the Supplier for the purposes of providing the Goods and/or Services; |
| 1. Customer System
 | means the Customer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Customer or the Supplier in connection with this Call Off Contract which is owned by or licensed to the Customer by a third party and which interfaces with the Supplier System or which is necessary for the Customer to receive the Goods and/or Services; |
| 1. Customer's Confidential Information
 | means: * + 1. all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Customer (including all Customer Background IPR and Project Specific IPR);
		2. any other information clearly designated as being confidential (whether or not it is marked confidential) or which ought reasonably be considered confidential which comes (or has come) to the Customer’s attention or into the Customer’s possession in connection with this Call Off Contract; and
		3. information derived from any of the above;
 |
| 1. Data Controller
 | has the meaning given to it in the Data Protection Act 1998, as amended from time to time; |
| 1. Data Processor
 | has the meaning given to it in the Data Protection Act 1998, as amended from time to time; |
| 1. Data Protection Legislation or DPA
 | means the Data Protection Act 1998 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;Note references in this contract to Data Protection will be subject to amends in accordance with the following Procurement Policy Note 03/17: Changes to Data Protection Legislation & General Data Protection Regulation <https://www.gov.uk/government/publications/procurement-policy-note-0317> |
| 1. Data Subject
 | has the meaning given to it in the Data Protection Act 1998, as amended from time to time;Note references in this contract to Data Protection will be subject to amends in accordance with the following Procurement Policy Note 03/17: Changes to Data Protection Legislation & General Data Protection Regulation <https://www.gov.uk/government/publications/procurement-policy-note-0317> |
| 1. Data Subject Access Request
 | means a request made by a Data Subject in accordance with rights granted pursuant to the DPA to access his or her Personal Data;Note references in this contract to Data Protection will be subject to amends in accordance with the following Procurement Policy Note 03/17: Changes to Data Protection Legislation & General Data Protection Regulation <https://www.gov.uk/government/publications/procurement-policy-note-0317> |
| 1. Deductions
 | means all Service Credits, Delay Payments or any other deduction which the Customer is paid or is payable under this Call Off Contract;  |
| 1. Default
 | means any breach of the obligations of the Supplier (including but not limited to including abandonment of this Call Off Contract in breach of its terms) or any other default (including material Default) after the words, act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Supplier is liable to the Customer; |
| 1. Defect
 | means any of the following: * + 1. any error, damage or defect in the manufacturing of a Deliverable; or
		2. any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or
		3. any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Customer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Call Off Contract; or
		4. any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Customer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Call Off Contract;
 |
| 1. Delay
 | means:* + 1. a delay in the Achievement of a Milestone by its Milestone Date; or
		2. a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
 |
| 1. Delay Payments
 | means the amounts payable by the Supplier to the Customer in respect of a delay in respect of a Milestone as specified in the Implementation Plan; |
| 1. Deliverable
 | means an item or feature in the supply of the Goods and/or Services delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan (if any) or at any other stage during the performance of this Call Off Contract; |
| 1. Delivery
 | means, the time at which the Goods and/or Services have been provided or performed by the Supplier as confirmed by the issue by the Customer of a Satisfaction Certificate in respect of the relevant Milestone thereof (if any) or otherwise in accordance with this Call Off Contract and accepted by the Customer and **Deliver** and **Delivered** shall be construed accordingly; |
| 1. Disaster
 | means the occurrence of one or more events which, either separately or cumulatively, mean that the Goods and/or Services, or a material part thereof will be unavailable for a period of twenty four (24) hours or which is reasonably anticipated will mean that the provision of the Goods and/or Services or a material part thereof will be unavailable for that period;  |
| 1. Disaster Recovery Services
 | means the services embodied in the processes and procedures for restoring the provision of Goods and/or Services following the occurrence of a Disaster, as detailed further in Call Off Schedule 10 (Business Continuity and Disaster Recovery); |
| 1. Disclosing Party
 | has the meaning given to it in Clause 32.4.1 (Confidentiality); |
| 1. Discovery/ Supplier Discovery
 | has the meaning given at Clause 2.3 (Supplier Discovery);  |
| 1. Discovery Phase
 | means the period of time set out for Discovery as provided for under Clause 2.3; |
| 1. Dispute
 | means any dispute, difference or question of interpretation arising out of or in connection with this Call Off Contract, including any dispute, difference or question of interpretation relating to the Goods and/or Services, failure to agree in accordance with the Variation Procedure or any matter where this Call Off Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure; |
| 1. Dispute Notice
 | means a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute; |
| 1. Dispute Resolution Procedure
 | means the dispute resolution procedure set out in Call Off Schedule 13 (Dispute Resolution Procedure); |
| 1. Documentation
 | means all documentation as:* + 1. is required to be supplied by the Supplier to the Customer under this Call Off Contract;
		2. would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Customer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Goods and/or Services;
		3. is required by the Supplier in order to provide the Goods and/or Services; and/or
		4. has been or shall be generated for the purpose of providing the Goods and/or Services;
 |
| 1. DOTAS
 | means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;  |
| 1. Due Diligence Information
 | means any information supplied to the Supplier by or on behalf of the Customer prior to the Call Off Commencement Date; |
| 1. Emergency Maintenance
 | means ad hoc and unplanned maintenance provided by the Supplier where:* + 1. the Customer reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or Services, has or may have developed a fault, and notifies the Supplier of the same; or
		2. the Supplier reasonably suspects that the ICT Environment or the Services, or any part the ICT Environment or the Services, has or may have developed a fault;
 |
| 1. Employee Liabilities
 | means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:* + 1. redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
		2. unfair, wrongful or constructive dismissal compensation;
		3. compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
		4. compensation for less favourable treatment of part-time workers or fixed term employees;
		5. outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Customer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-Contractor if such payment should have been made prior to the Service Transfer Date;
		6. claims whether in tort, contract or statute or otherwise;
		7. any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
 |
| 1. Employment Regulations
 | means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive; |
| 1. Environmental Information Regulations or EIRs
 | means to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Customer; |
| 1. Environmental Policy
 | means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations; |
| 1. Estimated Year 1 Call Off Contract Charges
 | means the amount set out in Schedule 3 Annex 2; estimated by the Customer to be payable by it to the Supplier as the total aggregate Call Off Contract Charges from the Call Off Commencement Date until the end of the first Call Off Contract Year; |
| 1. Euro Compliant
 | means that: (i) the introduction of the euro within any part(s) of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect the Customer’s business; (ii) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and (iii) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data): * + 1. be able to perform all such functions in any number of currencies and/or in Euros;
		2. during any transition phase applicable to the relevant part(s) of the UK, be able to deal with multiple currencies and, in relation to the euro and the national currency of the relevant part(s) of the UK, dual denominations;
		3. recognise accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;
		4. incorporate protocols for dealing with rounding and currency conversion;
		5. recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any output data in the national currency of the relevant part(s) of the UK and/or the euro; and
		6. permit the input of data in euro and display an outcome in euro where such data, supporting the Customer’s normal business practices, operates in euro and/or the national currency of the relevant part(s) of the UK;
 |
| 1. Expedited Dispute Timetable
 | means the timetable set out in paragraph 5 of Schedule 13 (Dispute Resolution Procedure); |
| 1. FOIA
 | means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation; |
| 1. Force Majeure Event
 | means any event, occurrence, circumstance, matter or cause affecting the performance by either the Customer or the Supplier of its obligations arising from:* + 1. acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under this Call Off Contract;
		2. riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;
		3. acts of the Crown, local government or Regulatory Bodies;
		4. fire, flood or any disaster; and
		5. an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:
			1. any industrial dispute relating to the Supplier, the Supplier Personnel (including any subsets of them) or any other failure in the Supplier or the Sub-Contractor's supply chain; and
			2. any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and
			3. any failure of delay caused by a lack of funds;
 |
| 1. Force Majeure Notice
 | means a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event; |
| 1. Former Supplier
 | means a supplier supplying the services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);  |
| 1. Framework Agreement
 | means the framework agreement between the Authority and the Supplier referred to in the Order Form; |
| 1. Framework Commencement Date
 | means the date of commencement of the Framework Agreement as stated in the Call Off Schedule 1 (Definitions); |
| 1. Framework Period
 | means the period from the Framework Commencement Date until the expiry or earlier termination of the Framework Agreement; |
| 1. Framework Price(s)
 | means the price(s) applicable to the provision of the Resource Based Services comprising of the Grade Day Rates set out in Framework Schedule 3 (Framework Prices); |
| 1. Framework Schedule
 | means a schedule to the Framework Agreement; |
| 1. Fraud
 | means any offence under any Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts of forgery; |
| 1. Further Competition Procedure
 | means the award procedure described in paragraph 3 of Framework Schedule 5 (Call Off Procedure); |
| 1. General Anti-Abuse Rule
 | means the legislation in Part 5 of the Finance Act 2013 and any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions; |
| 1. General Change in Law
 | means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply; |
| 1. GDPR
 | means the General Data Protection Regulation (Regulation (EU) 2016/679) which applies to processing carried out by organisations operating within the EU. It also applies to organisations outside the EU that offer goods or services to individuals in the EU;Note references in this contract to Data Protection will be subject to amends in accordance with the following Procurement Policy Note 03/17: Changes to Data Protection Legislation & General Data Protection Regulation <https://www.gov.uk/government/publications/procurement-policy-note-0317>  |
| 1. Good Industry Practice
 | means standards, practices, methods and procedures conforming to the Law and the exercise of the 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 within the relevant industry or business sector; |
| 1. Goods
 | means the goods to be provided by the Supplier to the Customer as specified in Annex 2 of Call Off Schedule 2 (Services); |
| 1. Government
 | means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf; |
| 1. Grade Day Rate
 | means the maximum rate for a day, based on 8 hour day and whether or not such hours are worked consecutively and whether or not they are worked on the same day, exclusive of lunch break, travel and related expenses, as set out in the Tender (Framework Schedule 20), and which forms the Framework Price(s) set out in Framework Schedule 3 (Framework Prices ); |
| 1. Halifax Abuse Principle
 | means the principle explained in the CJEU Case C-255/02 Halifax and others; |
| 1. HMRC
 | means Her Majesty’s Revenue and Customs; |
| 1. Holding Company
 | has the meaning given to it in section 1159 of the Companies Act 2006; |
| 1. ICT Environment
 | means the Customer System and the Supplier System; |
| 1. ICT Policy
 | means the Customer's ICT policy in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure; |
| 1. Impact Assessment
 | has the meaning given to it in Clause 19.1 (Variation Procedure); |
| 1. Implementation Plan
 | means the plan set out in paragraph 2.7 of the Order Form; |
| 1. Information
 | has the meaning given to it under section 84 of the Freedom of Information Act 2000; |
| 1. Infostore
 | means the Customers internal document management system;  |
| 1. Insolvency Event
 | means, in respect of the Supplier or Framework Guarantor or Call Off Guarantor (as applicable):* + 1. a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
		2. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
		3. a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or
		4. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
		5. an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
		6. it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
		7. being a small company within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
		8. where the Supplier or Framework Guarantor or Call Off Guarantor is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or
		9. any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;
 |
| 1. Installation Works
 | means the process of installing a software application in a Contracting Bodies or Contracting Bodies nominated hosting environment. Installation will include all necessary works specified by the Contracting Body from readying the application for Contracting Body testing to promotion to a live production environment. |
| 1. Intellectual Property Rights or IPR
 | means* + 1. copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, designs, Know-How, trade secrets and other rights in Confidential Information;
		2. applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
		3. all other rights having equivalent or similar effect in any country or jurisdiction;
 |
| 1. IPR Claim
 | means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, in Specially Written Software or Project Specific IPR, used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Customer in the fulfilment of its obligations under this Call Off Contract; |
| 1. Key Performance Indicators or KPIs
 | means the performance measurements and targets in respect of the Supplier’s performance of the Framework Agreement set out in Part B of Framework Schedule 2 (Goods and Services and Key Performance Indicators); |
| 1. Key Personnel
 | means the individuals (if any) identified as such in Part C of Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel); |
| 1. Key Role(s)
 | has the meaning given to it in Clause 23.1 (Key Personnel);  |
| 1. Key Sub-Contract
 | means each Sub-Contract with a Key Sub-Contractor; |
| 1. Key Sub-Contractor
 | means any Sub-Contractor:* + 1. listed in Framework Schedule 7 (Key Sub-Contractors);
		2. which, in the opinion of the Authority and the Customer, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or
		3. with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Call Off Contract Charges forecast to be payable under this Call Off Contract;
 |
| 1. Know-How
 | means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know-how already in the other Party’s possession before the Call Off Commencement Date; |
| 1. Law
 | means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply; |
| 1. Licensed Software
 | means all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Customer for the purposes of or pursuant to this Call Off Contract, including any Supplier Software, Third Party Software and/or any Specially Written Software; |
| 1. Losses
 | means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and **Loss** shall be interpreted accordingly; |
| 1. Maintenance Schedule
 | has the meaning given to it in Clause 300 (Maintenance of the ICT Environment); |
| 1. Malicious Software
 | means 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; |
| 1. Man Day
 | means 8 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; |
| 1. Man Hours
 | means the hours spent by the Supplier Personnel properly working on the provision of the Services including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks; |
| 1. Milestone
 | means an event or task described in the Implementation Plan which, if applicable, must be completed by the relevant Milestone Date; |
| 1. Milestone Date
 | means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved; |
| 1. Milestone Payment
 | means a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone; |
| 1. Milestone Start Date
 | means the date referred to in Schedule 4 – Annex 1 to Part 1 of this Call-Off Contract; |
| 1. Month
 | means a calendar month and **Monthly** shall be interpreted accordingly; |
| 1. New Release
 | means an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;  |
| 1. Occasion of Tax Non Compliance
 | means:* + 1. any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:
			1. a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
			2. the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime in any jurisdiction; and/or
		2. the Supplier’s tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Call Off Commencement Date or to a penalty for civil fraud or evasion;
 |
| 1. Open Book Data
 | means complete and accurate financial and non-financial information which is sufficient to enable the Customer to verify the Call Off Contract Charges already paid or payable and Call Off Contract Charges forecast to be paid during the remainder of this Call Off Contract, including details and all assumptions relating to:* + 1. the Supplier’s Costs broken down against each Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software;
		2. operating expenditure relating to the provision of the Services including an analysis showing:
			1. the unit costs and quantity of any consumables and bought-in services;
			2. manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;
			3. a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier’s Profit Margin; and
		3. Overheads;
		4. all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
		5. the Supplier Profit achieved over the Call Off Contract Period and on an annual basis;
		6. confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
		7. an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and
		8. the actual Costs profile for each Service Period.
 |
| 1. Open Source Software
 | means computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge; |
| 1. Operating Environment
 | means the Customer System and the Sites; |
| 1. Order
 | means the order for the provision of the Services placed by the Customer with the Supplier in accordance with the Framework Agreement and under the terms of this Call Off Contract; |
| 1. Order Form
 | means the form, as completed and forming part of this Call Off Contract, which contains details of an Order, together with other information in relation to such Order, including without limitation the description of the Services to be supplied; |
| 1. Other Supplier
 | means any supplier to the Customer (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;  |
| 1. Overhead
 | means those amounts which are intended to recover a proportion of the Supplier’s or the Key Sub-Contractor’s (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Personnel and accordingly included within limb (a) of the definition of Costs; |
| 1. Parent Company
 | means any company which is the ultimate Holding Company of the Supplier and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged by the same or similar business to the Supplier. The term Holding or Parent Company shall have the meaning ascribed by the Companies Act 2006 or any statutory re-enactment or amendment thereto; |
| 1. Party
 | means the Customer or the Supplier and **Parties** shall mean both of them; |
| 1. Performance Monitoring System
 | has the meaning given to it in paragraph 1.1.2 in Part B of Schedule 6 (Service Levels, Service Credits and Performance Monitoring); |
| 1. Performance Monitoring Reports
 | has the meaning given to it in paragraph 3.1 of Part B of Schedule 6 (Service Level, Service Credit and Performance Monitoring); |
| 1. Personal Data
 | has the meaning given to it in the Data Protection Act 1998; |
| 1. Permitted Maintenance
 | has the meaning given to it in Clause 30.3 (Maintenance of the ICT Environment); |
| 1. Processing
 | has the meaning given to it in the Data Protection Legislation but, for the purposes of this Call Off Contract, it shall include both manual and automatic processing and **Process** and **Processed** shall be interpreted accordingly; |
| 1. Prohibited Act
 | means any of the following:* + 1. to directly or indirectly offer, promise or give any person working for or engaged by the Customer and/or the Authority or other Contracting Body or any other public body a financial or other advantage to:
			1. induce that person to perform improperly a relevant function or activity; or
			2. reward that person for improper performance of a relevant function or activity;
		2. to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
		3. committing any offence:
			1. under the Bribery Act 2010 (or any legislation repealed or revoked by such Act)
			2. under legislation or common law concerning fraudulent acts; or
			3. defrauding, attempting to defraud or conspiring to defraud the Customer; or
			4. any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
 |
| 1. Project Fees
 | shall have the meaning set out in Annex 1 to Schedule 3 (Call Off Contract Charges, Payment an Invoicing); |
| 1. Project Specific IPR
 | means:* + 1. Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract and updates and amendments of these items including (but not limited to) database schema; and/or
		2. IPR in or arising as a result of the performance of the Supplier’s obligations under this Call Off Contract and all updates and amendments to the same;

but shall not include the Supplier Background IPR or the Specially Written Software;  |
| 1. Quality Plans
 | shall have the meaning given in Clause 8.2 (Standards and Quality); |
| 1. Quarterly Hosting Fee
 | shall have the meaning given in Call Off Schedule 6 – Annex 1 to Part A;  |
| 1. Recipient
 | has the meaning given to it in Clause 32.4.1 (Confidentiality); |
| 1. Rectification Plan
 | means the rectification plan pursuant to the Rectification Plan Process;  |
| 1. Rectification Plan Process
 | means the process set out in Clause 36.2 (Rectification Plan Process);  |
| 1. Registers
 | has the meaning given to in Call Off Schedule 11 (Exit Management); |
| 1. Regulations
 | means the Public Contracts Regulations 2006 and/or the Public Contracts (Scotland) Regulations 2012 (as the context requires) as amended from time to time; |
| 1. Reimbursable Expenses
 | has the meaning given to it in Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing); and refers to * + 1. the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the services, calculated at the rates and in accordance with the customer’s expenses policy current from time to time, but not including:
		2. travel expenses incurred as a result of Supplier Personnel travelling to and from their usual work place, or to and from the premises at which the Services are principally to be performed, unless the Customer otherwise agrees in advance and in writing
		3. subsistence expenses incurred by Supplier Personnel whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed
 |
| 1. Related Supplier
 | means any person who provides services to the Customer which are related to the Services from time to time; |
| 1. Relevant Conviction
 | means a Conviction that is relevant to the nature of the Services to be provided or as specified by the Customer in the Order Form or elsewhere in this Call Off Contract; |
| 1. Relevant Requirements
 | means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010; |
| 1. Relevant Tax Authority
 | means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is required to submit a tax return; |
| 1. Relevant Transfer
 | means a transfer of employment to which the Employment Regulations applies; |
| 1. Relevant Transfer Date
 | means, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place; |
| 1. Relief Notice
 | has the meaning given to it in Clause 37.2.2 (Supplier Relief Due to Customer Cause); |
| 1. Replacement Services
 | means any services which are substantially similar to any of the Services and which the Customer receives in substitution for any of the Services following the Call Off Expiry Date, whether those services are provided by the Customer internally and/or by any third party; |
| 1. Replacement Sub-Contractor
 | means a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);  |
| 1. Replacement Supplier
 | means any third party provider of Replacement Services appointed by or at the direction of the Customer from time to time or where the Customer is providing Replacement Services for its own account, shall also include the Customer; |
| 1. Request for Information
 | means a request for information or an apparent request relating to this Call Off Contract or the provision of the Services or an apparent request for such information under the FOIA or the EIRs; |
| 1. Resource Based Services
 | means those services as defined by the Customer in Schedule 2 (Goods and Services) and in Schedule 14 Variation Form that are charged on the basis of Grade Day Rates; |
| 1. Restricted Countries
 | has the meaning given to it in Clause 32.7 (Protection of Personal Data); |
| 1. Satisfaction Certificate
 | means the certificate materially in the form of the document contained in Annex 3 to Call Off Schedule 5 (Testing) granted by the Customer when the Supplier has Achieved a Milestone or a Test; |
| 1. Security Management Plan
 | means the Supplier's security management plan prepared pursuant to Schedule 8 (Security) a draft of which has been provided by the Supplier to the Customer in accordance with Call Off Schedule 8 (Security) and as updated from time to time; |
| 1. Security Policy
 | means the Customer's security policy in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier; |
| 1. Service Credit Cap
 | means: * + 1. in the period from the Call Off Commencement Date to the end of the first Call Off Contract Year 25 **%** of the Estimated Year 1 Call Off Contract Charges; and
		2. during the remainder of the Call Off Contract Period, 25% of the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the period of twelve (12) Months immediately preceding the Month in respect of which Service Credits are accrued;
 |
| 1. Service Credits
 | means any service credits specified in Annex 1 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) being payable by the Supplier to the Customer in respect of any failure by the Supplier to meet one or more Service Levels; |
| 1. Service Failure
 | means an unplanned failure and interruption to the provision of the Services, reduction in the quality of the provision of the Services or event which could affect the provision of the Services in the future; |
| 1. Service Level Failure
 | means a failure to meet the Service Level Performance Measure in respect of a Service Level Performance Criterion; |
| 1. Service Level Performance Criteria
 | has the meaning given to it in paragraph 3.2 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring); |
| 1. Service Level Performance Measure
 | shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring); |
| 1. Service Level Threshold
 | shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring); |
| 1. Service Levels
 | means any service levels applicable to the provision of the Services under this Call Off Contract specified in Annex 1 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring); |
| 1. Service Period
 | has the meaning given to in paragraph 4.1 of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring); |
| 1. Service Transfer
 | means any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor; |
| 1. Service Transfer Date
 | means the date of a Service Transfer; |
| 1. Services
 | means the services including any ancillary services and any Resource Based Services as set out in Schedule 2 (Goods and Services) to be provided by the Supplier to the Customer as referred to Annex A of Call Off Schedule 2 (Services); |
| 1. Sites
 | means:* + 1. any premises (including the Customer Premises, the Supplier’s premises or third party premises):
			1. from, to or at which:
				1. the Services are (or are to be) provided; or
				2. the Supplier manages, organises or otherwise directs the provision or the use of the Services; or
			2. where: any part of the Supplier System is situated; or
		2. any physical interface with the Customer System takes place;
 |
| 1. Software
 | means Specially Written Software, Supplier Software and Third Party Software; |
| 1. Software Supporting Materials
 | has the meaning given to it in Clause 31.2.1(b) (Licences granted by the Supplier: Specially Written Software and Project Specific IPR); |
| 1. Source Code
 | means computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software; |
| 1. Specially Written Software
 | means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Call Off Contract; |
| 1. Specific Change in Law
 | means a Change in Law that relates specifically to the business of the Customer and which would not affect a Comparable Supply; |
| 1. Staffing Information
 | has the meaning give to it in Call Off Schedule 12 (Staff Transfer); |
| 1. Standards
 | means any:* + 1. standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;
		2. standards detailed in the specification in Framework Schedule 2 (Goods and Services and Key Performance Indicators);
		3. standards detailed by the Customer in Call Off Schedule 7 (Standards) following a Further Competition Procedure or agreed between the Parties from time to time;
		4. relevant Government codes of practice and guidance applicable from time to time.
 |
| 1. Sub-Contract
 | means any contract or agreement or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier the Services or any part thereof or facilities, services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the provision of the Services or any part thereof; |
| 1. Sub-Contractor
 | means any third party engaged by the Supplier, including any Key Sub-Contractor, from time to time under a Sub-Contract permitted pursuant to the Framework Agreement and this Call Off Contract or its servants or agents and any third party with whom that third party enters into a Sub-Contract or its servants or agents; |
| 1. Supplier
 | means the person, firm or company with whom the Customer enters into this Call Off Contract as identified in the Order Form; |
| 1. Supplier Assets
 | means all assets and rights used by the Supplier to provide the Services in accordance with this Call Off Contract but excluding the Customer Assets; |
| 1. Supplier Background IPR
 | means * + 1. Intellectual Property Rights owned by the Supplier before the Call Off Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or
		2. Intellectual Property Rights created by the Supplier independently of this Call Off Contract,

but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software; |
| 1. Supplier Personnel
 | means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier’s obligations under this Call Off Contract; |
| 1. Supplier Equipment
 | means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Customer) in the performance of its obligations under this Call Off Contract; |
| 1. Supplier Non-Performance
 | has the meaning given to it in Clause 37.1 (Supplier Relief Due to Customer Cause); |
| 1. Supplier Profit
 | means, in relation to a period or a Milestone (as the context requires), the difference between the total Call Off Charges (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) for the relevant period or in relation to the relevant Milestone; |
| 1. Supplier Profit Margin
 | means, in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Call Off Contract Charges over the same period or in relation to the relevant Milestone and expressed as a percentage; |
| 1. Supplier Solution
 | the Supplier Solution for the Services set out in Schedule 2 Annex 2 (Supplier Solution); |
| 1. Supplier Representative
 | means the representative appointed by the Supplier named in the Order Form; |
| Supplier Software | means any software which is proprietary to the Supplier (or an Affiliate of the Supplier) and identified as such in the Order Form together with all other such software which is not identified in the Order Form but which is or will be used by the Supplier or any Sub-Contractor for the purposes of providing the Services or is embedded in and in respect of such other software as required to be licensed in order for the Customer to receive the benefit of and/or make use of the Services (according to the terms in Call Off Schedule 17) in order for the Customer to receive the benefit of and/or make use of the Services; |
| 1. Supplier System
 | means the information and communications technology system used by the Supplier in supplying the Services, including the Supplier Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Customer System); |
| 1. Supplier's Confidential Information
 | means * + 1. any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Background IPR) trade secrets, Know-How, and/or personnel of the Supplier;
		2. any other information clearly designated as being confidential (whether or not it is marked as confidential) or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier’s attention or into the Supplier’s possession in connection with this Call Off Contract;
		3. information derived from any of the above.
 |
| 1. Technical Design Authority (TDA)
 | means the body from managed by the Authority responsible for technical design and signoff for the solution; |
| 1. Template Call Off Terms
 | means the template terms and conditions in Annex 2 of Framework Schedule 4 (Template Order Form and Template Call Off Terms); |
| 1. Template Order Form
 | means the template order form in Annex 1 of Framework Schedule 4 (Template Order Form and Template Call Off Terms); |
| 1. Tender
 | means the tender submitted by the Supplier to the Authority in 18 April 2018, as updated prior to Call Off Commencement Date, and annexed to Framework Schedule 20 (Tender); |
| 1. Test and Testing
 | means any tests required to be carried out pursuant to this Call Off Contract as set out in the Test Strategy Plan or elsewhere in this Call Off Contract and **Tested** shall be construed accordingly; |
| 1. Test Issue
 | means any variance or non-conformity of the Services or Deliverables from their requirements as set out in this Call Off Contract; |
| 1. Testing Strategy Plan
 | means a plan:* + 1. for the Testing of Deliverables; and
		2. setting out other agreed criteria related to the achievement of Milestones,

as described further in paragraph 6 of this Call Off Schedule;  |
| 1. Termination Notice
 | means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Call Off Contract on a specified date and setting out the grounds for termination; |
| 1. Third Party IPR
 | means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software; |
| 1. Third Party Software
 | means any software identified as such in the Order Form together with all other software which is not listed in the Order Form which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source Software which is or will be used by the Supplier for the purposes of providing the Services; |
| 1. Transferring Supplier Employees
 | means those employees of the Supplier and/or the Supplier’s Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.  |
| 1. Undelivered Services
 | has the meaning given to it in Clause 7.4.1 (Supply of Services); |
| 1. Undisputed Sums Time Period
 | has the meaning given to it Clause 40.1.1 (Termination of Customer Cause for Failure to Pay); |
| 1. Update
 | means in relation to any Software and/or any Deliverable means a version of such item which has been produced primarily to overcome Defects in, or to improve the operation of, that item; |
| 1. Upgrade
 | means any patch, New Release or upgrade of Software and/or a Deliverable, including standard upgrades, product enhancements, and any modifications, but excluding any Update which the Supplier or a third party software supplier (or any Affiliate of the Supplier or any third party) releases during the Call Off Contract Period; |
| 1. Valid Invoice
 | means an invoice issued by the Supplier to the Customer that complies with the invoicing procedure in paragraph 7 (Invoicing Procedure) of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing); |
| 1. Variation
 | has the meaning given to it in Clause 19.1 (Variation Procedure); |
| 1. Variation Form
 | means the form set out in Schedule 14 (Variation Form); |
| 1. Variation Procedure
 | means the procedure set out in Schedule 14 (Variation Procedure); |
| 1. VAT
 | means value added tax in accordance with the provisions of the Value Added Tax Act 1994;  |
| 1. Whole of Government Accounts (WGA)
 | Whole of Government Accounts – the Government’s consolidated annual financial accounts in IFRS format; and |
| 1. Working Day
 | means any Day other than a Saturday or Sunday or public holiday in England and Wales. |