

## **Digital Outcomes and Specialists 3 Framework Agreement Call-Off Contract**

This Call-Off Contract for the Digital Outcomes and Specialists 3 Framework Agreement (RM1043.5) includes

### **Part A - Order Form**

### **Part B – Terms and conditions**

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- 2. Supplier Staff**
- 3. Swap-out**
- 4. Staff vetting procedures**
- 5. Due diligence**
- 6. Warranties, representations and acceptance criteria**
- 7. Business continuity and disaster recovery**
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- 10. Insurance**
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- 39. Publicity, branding, media and official enquiries**
- 40. Non Discrimination**
- 41. Premises**
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- 43. Law and jurisdiction**
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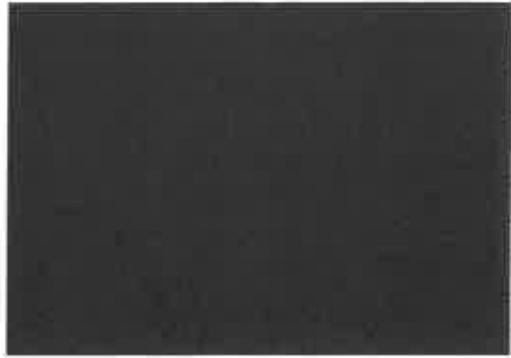
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[www.gov.uk/guidance/digital-outcomes-and-specialists-3-call-off-contract](http://www.gov.uk/guidance/digital-outcomes-and-specialists-3-call-off-contract)

**Part A - Order Form****Buyer** The Department for Business, Energy and Industrial Strategy of 1 Victoria Street, London, SW1H 0ET**Supplier** AdRoc Limited of Tower 42, 25 Old Broad St, London, EC2N 1HN**Call-Off Contract Ref.** DDeT19120**Call-Off Contract title** Office for Product Safety and Standards Ruby-on-Rails Technical Lead**Call-Off Contract description** This call-off contract is for the provision of a technical lead with a Ruby-on-Rails developer background to lead a team of R-o-R developers to develop digital services that help The Office for Product Safety and Standards support building national capacity for product safety.**Call-Off Contract period** Approximately 9 months**Start date** 9<sup>th</sup> September 2019**End date** 31<sup>st</sup> March 2020**(Optional) Maximum Call-Off Contract Extension Period** Not Applicable**Latest Extension Period End Date** Not Applicable**Notice period (prior to the Initial Call-Off Contract period) to trigger Call-Off Contract Extension** Not Applicable**Call-Off Contract value** The total value of this call off contract shall not exceed £98,250.00 excluding VAT.**Charging method**

Capped time and materials (CTM)	
Price per story	
Time and materials (T&M)	
Fixed price	

**Principle contact details**

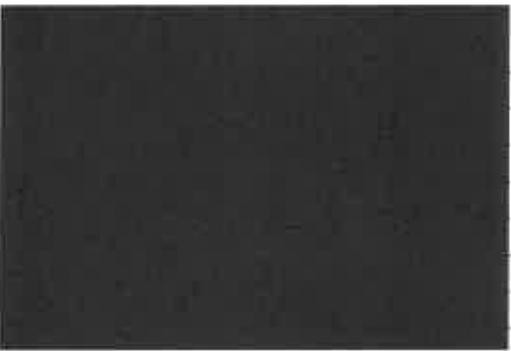
**For the Buyer:** Name:  
Title:  
Email:  
Phone:  
  
**For the supplier** Name:  
Title:  
Email:  
Phone:



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**Data Protection Officers**

**For the Buyer:** Name:  
Title:  
Email:  
Phone:  
  
**For the supplier:** Name:  
Title:  
Email:  
Phone:



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**Buyer contractual requirements**

**Digital outcomes and specialists' services required:** For the provision of a technical lead with a Ruby-on-Rails developer background required to lead a team of R-o-R developers to develop digital services that help The Office for Product Safety and Standards support building national capacity for product safety.

**Warranty period** 90 days from the date of Buyer acceptance of release.

**Location:** 1 Victoria Street  
London  
SW1H 0ET

**Staff vetting procedures:** The level of clearance for this requirement is: Baseline Personnel Security Standard (BPSS) clearance required.

**Standards:** As per clause 19

**Limit on supplier's liability:** As per clause 34

**Insurance:** As per clause 10

**Supplier's Information**

**Commercially sensitive information:** Not Applicable

**Additional Buyer terms**

**Warranties, representations and acceptance criteria**

The Supplier warrants and undertakes to the Buyer that:  
Not applicable

**Supplemental requirements in addition to the call-off terms Buyer specific amendments to/refinements of the Call-Off Contract terms Specific terms:**

Not applicable

<b>Clause</b>	<b>Minimum number of days held within the Call-Off Contract</b>
<b>6 Warranties, representations and acceptance criteria</b>	<b>Remains Ninety (90) Days from date of Buyer acceptance of release</b>
<b>22 Managing Disputes</b>	<b>Remains various shown within the Call-Off Contract terms</b>
<b>23 Termination</b>	<b>Remains Fifteen (15) consecutive Working Days</b>
<b>29 Help at retendering and handover to replacement supplier</b>	<b>Remains Ten (10) Working days</b>
<b>31 Contract Changes</b>	<b>Remains Five (5) Working Days</b>
<b>32 Force Majeure</b>	<b>Remains Fifteen (15) consecutive Calendar Days</b>
<b>34 Liability</b>	<b>Remains various shown within the Call-Off Contract terms</b>

## **Part B – Terms and conditions**

### **1. Call-Off Contract start date, length and methodology**

**1.1** The Supplier will start providing the Services in accordance with the dates specified in any Statement of Work (SOW).

**1.2** Completion dates for Deliverables will be set out in any SOW.

**1.3** Unless the Call-Off Contract period has been either increased in accordance with Clause 1.4 or decreased in accordance with Clause 1.5 then the term of the Call-Off Contract will end when the first of these occurs:

- the Call-Off Contract period End Date listed in the Order Form is reached; or
- the final Deliverable, specified in the final SOW, is completed.

**1.4** The Buyer can extend the term of the Call-Off Contract by amending the Call-Off Contract End Date where:

- an Extension Period was specified in the Order Form; and
- written notice was given to the Supplier before the expiry of the notice period set out in the Order Form. The notice must state that the Call-Off Contract term will be extended, and must specify the number of whole days of the extension.

After this, the term of the Call-Off Contract will end on the last day of the Extension Period listed in the notice (the "Extension Period End Date").

**1.5** If the Call-Off Contract is terminated early, either during the Initial Call-Off Contract period, or during any Extension Period, the term of the Call-Off Contract will end on the termination date.

**1.6** The Supplier will plan on using an agile process, starting with user needs. The methodology will be outlined in the SOW. Waterfall methodology will only be used in exceptional circumstances, and where it can be shown to best meet user needs. Projects may need a combination of both waterfall and agile methods, playing to their respective strengths.

### **2. Supplier Staff**

**2.1** The Supplier Staff will:

- fulfil all reasonable requests of the Buyer;
- apply all due skill, care and diligence to the provisions of the Services;

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**5.1 Both parties acknowledge that information will be needed to provide the Services throughout the term of the Call-Off Contract and not just during the Further Competition process. Both parties agree to share such information freely.**

**5.2 Further to Clause 5.1, both Parties agree that when entering into a Call-Off Contract, they:**

**5.2.1 have made their own enquiries and are satisfied by the accuracy of any Information supplied by the other Party**

**5.2.2 are confident that they can fulfil their obligations according to the terms of the Call-Off Contract**

**5.2.3 have raised all due diligence questions before signing the Call-Off Contract**

**5.2.4 have entered into the Call-Off Contract relying on its own due diligence**

## **6. Warranties, representations and acceptance criteria**

**6.1 The Supplier will use the best applicable and available techniques and standards and will perform the Call-Off Contract with all reasonable care, skill and diligence, and according to Good Industry Practice.**

**6.2 The Supplier warrants that all Supplier Staff assigned to the performance of the Services have the necessary qualifications, skills and experience for the proper performance of the Services.**

**6.3 The Supplier represents and undertakes to the Buyer that each Deliverable will meet the Buyer's acceptance criteria, as defined in the Call-Off Contract Order Form.**

**6.4 The Supplier undertakes to maintain any interface and interoperability between third-party software or Services and software or Services developed by the Supplier.**

**6.5 The Supplier warrants that it has full capacity and authority and all necessary authorisations, consents, licences and permissions to perform the Call-Off Contract.**

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

**7.1 If required by the Buyer, the Supplier will ensure a disaster recovery approach is captured in a clear disaster recovery plan. All Supplier Staff must also adhere to the Buyer's business continuity and disaster recovery procedure as required in the delivery of the Services for this project.**

## **8. Payment terms and VAT**

**8.1 The Buyer will pay the Supplier within 30 days of receipt of a valid invoice submitted in accordance with the Call-Off Contract.**

**10.4.1 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or the Call-Off Contract.**

**10.4.2 Without limiting the other provisions of the Call-Off Contract, the Supplier will:**

- **take all risk control measures relating to the Services as it would be reasonable to expect of a contractor acting in accordance with Good Industry Practice, including the investigation and reports of claims to Insurers;**
- **promptly notify the insurers in writing of any relevant material fact under any insurances of which the Supplier is, or becomes, aware; and**
- **hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of placing cover representing any of the insurance to which it is a Party.**

**10.4.3 The Supplier will not do or omit to do anything, which would entitle any Insurer to refuse to pay any claim under any of the insurances.**

## **10.5 Indemnity to principals**

**10.5.1 Where specifically outlined in the Call-Off Contract, the Supplier will ensure that the third-party public and products liability policy will contain an 'indemnity to principals' clause under which the Buyer will be compensated for both of the following claims against the Buyer:**

- **death or bodily injury; and**
- **third-party Property damage arising from connection with the Services and for which the Supplier is legally liable.**

## **10.6 Cancelled, suspended, terminated or unrenewed policies**

**10.6.1 The Supplier will notify CCS and any Buyers as soon as possible if the Supplier becomes aware that any of the insurance policies have been, or are due to be, cancelled, suspended, terminated or not renewed.**

## **10.7 Premium, excess and deductible payments**

**10.7.1 Where any insurance requires payment of a premium, the Supplier will:**

- **be liable for the premium; and**
- **pay such premium promptly.**

**10.7.2 Where any insurance is subject to an excess or deductible below the Supplier will be liable for it. The Supplier will not be entitled to recover any sum paid for insurance excess or any deductible from CCS or the Buyer.**

## **11. Confidentiality**

**11.1 Except where disclosure is clearly permitted by the Call-Off Contract, neither Party will disclose the other Party's Confidential Information without the relevant Party's prior written consent.**

**12.1 The Supplier will take all appropriate steps to ensure that Supplier Staff are not in a position where there is or may be an actual conflict between the financial or personal interests of the Supplier Staff and another Supplier where both are providing the Services to the Buyer under any Call-Off Contract in accordance with the Framework Agreement.**

**12.2 Any breach of this Clause will be deemed to be a Material Breach.**

**12.3 A conflict of interest may arise in situations including where a member of the Supplier Staff:**

- is related to someone in another Supplier team who both form part of the same team performing the Services under the Framework Agreement;
- has a business interest in another Supplier who is part of the same team performing the Services under the Framework Agreement;
- is providing, or has provided, Services to the Buyer for the discovery phase;
- or
- has been provided with, or had access to, information which would give the Supplier or an affiliated company an unfair advantage in a further competition procedure.

**12.4 Where the Supplier identifies a risk of a conflict or potential conflict, they will (before starting work under the Call-Off Contract, unless otherwise agreed with the Buyer) inform the Buyer of such conflicts of interest and how they plan to mitigate the risk. Details of such mitigation arrangements are to be sent to the Buyer as soon as possible. On receiving this notification, the Buyer will, at its sole discretion, notify the Supplier if the mitigation arrangements are acceptable or whether the risk or conflict remains a Material Breach.**

### **13. Intellectual Property Rights**

**13.1 Unless otherwise specified in the Call-Off Contract:**

- the Buyer will not have any right to the Intellectual Property Rights (IPRs) of the Supplier or its licensors, including the Supplier Background IPRs and any IPRs in the Supplier Software.
- the Crown may publish any Deliverable that is software as open source.
- the Supplier will not, without prior written approval from the Buyer, include any Supplier Background IPR or third party IPR in any Deliverable in such a way to prevent its publication;
  - and failure to seek prior approval gives the Buyer right and freedom to use all Deliverables.
- the Supplier will not have any right to the Intellectual Property Rights of the Buyer or its licensors, including:
  - the Buyer Background IPRs;
  - the Project-Specific IPRs;
  - IPRs in the Buyer Data.

**13.2 Where either Party acquires, by operation of Law, right to IPRs that is inconsistent with the allocation of rights set out above, it will assign in writing such IPRs as it has**

**13.11 Where the Supplier is granted permission to use third-party IPRs in a request for approval, the Supplier will ensure that the owner of such third-party IPRs grants to the Buyer a licence on the terms informed to the Buyer in the request for approval.**

**13.12 If the third-party IPR is made available on terms equivalent to the Open Government Licence v3.0, the request for approval will be agreed and the Supplier will buy licences under these terms. If not, and the Buyer rejects the Request for Approval, then the Call-Off Contract will need to be varied in accordance with Clause 30 'Changes to Services'.**

**13.13 The Supplier will, on written demand, fully indemnify the Buyer and the Crown for all losses which it may incur at any time as a result of any claim (whether actual alleged asserted and/or substantiated and including third party claims) that the rights granted to the Buyer in accordance with the Call-Off Contract or the performance by the Supplier of the provision of the Services or the possession or use by the Buyer of the Services or Deliverables delivered by the Supplier, including the publication of any Deliverable that is software as open source, infringes or allegedly infringes a third party's Intellectual Property Rights (an 'IPR Claim').**

**13.14 Clause 13.13 will not apply if the IPR Claim arises from:**

- **designs supplied by the Buyer;**
- **the use of data supplied by the Buyer which is not required to be verified by the Supplier under any provision of the Call-Off Contract; or**
- **other material provided by the Buyer necessary for the provision of the Services.**

**13.15 The indemnity given in Clause 13.13 will be uncapped.**

**13.16 The Buyer will notify the Supplier in writing of the IPR Claim made against the Buyer and the Buyer will not make any admissions which may be prejudicial to the defence or settlement of the IPR Claim. The Supplier will at its own expense conduct all negotiations and any litigation arising in connection with the IPR Claim provided always that the Supplier:**

- **consults the Buyer on all substantive issues which arise during the conduct of such litigation and negotiations;**
- **takes due and proper account of the interests of the Buyer;**
- **considers and defends the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Buyer into disrepute; and**
- **does not settle or compromise the IPR Claim without the prior approval of the Buyer (such decision not to be unreasonably withheld or delayed).**

**13.17 If an IPR Claim is made (or in the reasonable opinion of the Supplier is likely to be made) in connection with the Call-Off Contract, the Supplier will, at the Supplier's own expense and subject to the prompt approval of the Buyer, use its best endeavours to:**

- **modify the relevant part of the Services or Deliverables without reducing their functionality or performance, or substitute Services or Deliverables of equivalent functionality or performance, to avoid the infringement or the alleged infringement, provided that there is no additional cost or burden to the Buyer;**

**13.25 Where Deliverables that are software are written in a format that requires conversion before publication as open source software, the Supplier shall also provide the converted format to the Authority unless the Authority agrees in advance in writing that the converted format is not required.**

#### **14. Data Protection and Disclosure**

**14.1 The Parties will comply with the Data Protection Legislation and agree that the Buyer is the Controller and the Supplier is the Processor. The only processing the Supplier is authorised to do is listed at Schedule 9 unless Law requires otherwise (in which case the Supplier will promptly notify the Buyer of any additional processing if permitted by Law).**

**14.2 The Supplier will provide all reasonable assistance to the Buyer to prepare any Data Protection Impact Assessment before commencing any processing (including provision of detailed information and assessments in relation to processing operations, risks and measures) and must notify the Buyer immediately if it considers that the Buyer's instructions infringe the Data Protection Legislation.**

**14.3 The Supplier must have in place Protective Measures, which have been reviewed and approved by the Buyer as appropriate, to guard against a Data Loss Event, which take into account the nature of the data, the harm that might result, the state of technology and the cost of implementing the measures.**

**14.4 The Supplier will ensure that the Supplier Personnel only process Personal Data in accordance with this Call-Off Contract and take all reasonable steps to ensure the reliability and integrity of Supplier Personnel with access to Personal Data, including by ensuring they:**

- i) are aware of and comply with the Supplier's obligations under this Clause;**
- ii) are subject to appropriate confidentiality undertakings with the Supplier or relevant Subprocessor**
- iii) are informed of the confidential nature of the Personal Data and don't publish, disclose or divulge it to any third party unless directed by the Buyer or in accordance with this Call-Off Contract**
- iv) are given training in the use, protection and handling of Personal Data**

**14.5 The Supplier will not transfer Personal Data outside of the European Economic Area unless the prior written consent of the Buyer has been obtained and the following conditions are met:**

## **15. Buyer Data**

**15.1 The Supplier will not remove any proprietary notices relating to the Buyer Data.**

**15.2 The Supplier will not store or use Buyer Data except where necessary to fulfil its obligations.**

**15.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested and in the format specified by the Buyer.**

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

**15.5 The Supplier will ensure that any system which holds any Buyer Data complies with the security requirements prescribed by the Buyer.**

**15.6 The Supplier will ensure that any system on which the Supplier holds any protectively marked Buyer Data will be accredited as specific to the Buyer and will comply with:**

- the government security policy framework and information assurance policy;
- guidance issued by the Centre for Protection of National Infrastructure on Risk Management and Accreditation of Information Systems; and
- the relevant government information assurance standard(s).

**15.7 Where the duration of the Call-Off Contract exceeds one year, the Supplier will review the accreditation status at least once a year to assess whether material changes have occurred which could alter the original accreditation decision in relation to Buyer Data. If any changes have occurred, the Supplier will re-submit such system for accreditation.**

**15.8 If at any time the Supplier suspects that the Buyer Data that the Supplier has held, used, or accessed has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will at its own cost comply with any remedial action proposed by the Buyer.**

**15.9 The Supplier will provide, at the request of CCS or the Buyer, any information relating to the Supplier's compliance with its obligations under the Data Protection Legislation. The Supplier will also ensure that it does not knowingly or negligently fail to do something that places CCS or any Buyer in breach of its obligations of the Data Protection Legislation. This is an absolute obligation and is not qualified by any other provision of the Call-Off Contract.**

**Security Management Plan and an Information Security Management System (ISMS) which, after Buyer approval, will apply during the term of the Call-Off Contract. Both the ISMS and the Security Management Plan will comply with the security policy of the Buyer and protect all aspects of the Services, and all processes associated with the delivery of the Services.**

**20.2 The Supplier will use software and the most up-to-date antivirus definitions available from an industry accepted antivirus software vendor to minimise the impact of Malicious Software.**

**20.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, the Supplier will help the Buyer to mitigate any losses and will restore the Services to their desired operating efficiency as soon as possible.**

**20.4 The Supplier will immediately notify CCS of any breach of security in relation to CCS's Confidential Information (and the Buyer in relation to any breach regarding Buyer Confidential Information). The Supplier will recover such CCS and Buyer Confidential Information however it may be recorded.**

**20.5 Any system development by the Supplier must also comply with the government's '10 Steps to Cyber Security' guidance, as amended from time to time and currently available at: <https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>**

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

## **21. Incorporation of terms**

**21.1 Upon the execution of a Statement of Work (SOW), the terms and conditions agreed in the SOW will be incorporated into the Call-Off Contract that the terms of the SOW are agreed under.**

## **22. Managing disputes**

**22.1 When either Party notifies the other of a dispute, both Parties will attempt in good faith to negotiate a settlement as soon as possible.**

**22.2 Nothing in this prevents a Party from seeking any interim order restraining the other Party from doing any act or compelling the other Party to do any act.**

**22.3 If the dispute cannot be resolved, either Party will be entitled to refer it to mediation in accordance with the procedures below, unless:**

- the Buyer considers that the dispute is not suitable for resolution by mediation;**
- the Supplier does not agree to mediation.**

appointment or as soon as reasonably practicable and the Parties will help and provide the documentation that the expert needs for the determination;

- any amount payable by one Party to another as a result of the expert's determination will be due and payable within 20 Working Days of the expert's determination being notified to the Parties
- the process will be conducted in private and will be confidential;
- the expert will determine how and by whom the costs of the determination, including their fees and expenses, are to be paid.

**22.8** Without prejudice to any other rights of the Buyer under the Call-Off Contract, the obligations of the Parties under the Call-Off Contract will not be suspended, ceased or delayed by the reference of a dispute submitted to mediation or expert determination and the Supplier and the Supplier Staff will comply fully with the Requirements of the Call-Off Contract at all times.

## **23. Termination**

**23.1** The Buyer will have the right to terminate the Call-Off Contract at any time by giving the notice to the Supplier specified in the Order Form. The Supplier's obligation to provide the Services will end on the date set out in the Buyer's notice.

**23.2** The minimum notice period (expressed in Working Days) to be given by the Buyer to terminate under this Clause will be the number of whole days that represent 20% of the total duration of the current SOW to be performed under the Call-Off Contract, up to a maximum of 30 Working Days.

**23.3** Partial days will be discounted in the calculation and the duration of the SOW will be calculated in full Working Days.

**23.4** The Parties acknowledge and agree that:

- the Buyer's right to terminate under this Clause is reasonable in view of the subject matter of the Call-Off Contract and the nature of the Service being provided.
- the Call-Off Contract Charges paid during the notice period given by the Buyer in accordance with this Clause are a reasonable form of compensation and are deemed to fully cover any avoidable costs or losses incurred by the Supplier which may arise either directly or indirectly as a result of the Buyer exercising the right to terminate under this Clause without cause.
- Subject to clause 34 (Liability), if the Buyer terminates the Call-Off Contract without cause, they will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate such Loss. If the Supplier holds insurance, the Supplier will reduce its unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of such Loss, with supporting evidence of unavoidable Losses incurred by the Supplier as a result of termination.

- **destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 months after the date of expiry or termination (whichever is the earlier), and provide written confirmation to the Buyer that the data has been destroyed, except where the retention of Buyer Data is required by Law;**
- **vacate the Buyer premises;**
- **work with the Buyer on any work in progress and ensure an orderly transition of the Services to the replacement supplier;**
- **return any sums prepaid for Services which have not been delivered to the Buyer by the date of expiry or termination;**
- **provide all information requested by the Buyer on the provision of the Services so that:**
  - **the Buyer is able to understand how the Services have been provided;**
  - and**
  - **the Buyer and the replacement supplier can conduct due diligence.**

**24.4 Each Party will return all of the other Party's Confidential Information. Each Party will confirm that it does not retain the other Party's Confidential Information except where the Information must be retained by the Party as a legal requirement or where the Call-Off Contract states otherwise.**

**24.5 All licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Services will be terminated at the end of the Call-Off Contract period (howsoever arising) without the need for the Buyer to serve notice except where the Call-Off Contract states otherwise.**

- 24.6 Termination or expiry of the Call-Off Contract will not affect:**
- **any rights, remedies or obligations accrued under the Call-Off Contract prior to termination or expiration;**
  - **the right of either Party to recover any amount outstanding at the time of such termination or expiry;**
  - **the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses:**
    - **8 - Payment Terms and VAT**
    - **9 - Recovery of Sums Due and Right of Set-Off**
    - **11 - Confidentiality**
    - **12 - Conflict of Interest**
    - **13 - Intellectual Property Rights**
    - **24 - Consequences of Termination**
    - **28 - Staff Transfer**
    - **34 - Liability**
    - **35 - Waiver and cumulative remedies**
  - **any other provision of the Framework Agreement or the Call-Off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry will survive the termination or expiry of the Call-Off Contract.**

**29.1** When requested, the Supplier will (at its own expense where the Call-Off Contract has been terminated before and of term due to Supplier cause) help the Buyer to migrate the Services to a replacement Supplier in line with the exit plan (Clause 27) to ensure continuity of the Services. Such help may include Supplier demonstrations of the existing code and development documents, software licences used and Buyer approval documents. The Supplier will also answer Service and development-related clarification questions.

**29.2** Within 10 Working Days of a request by the Buyer, the Supplier will provide any information needed by the Buyer to prepare for any procurement exercise or to facilitate any potential replacement Supplier undertaking due diligence. The exception to this is where such Information is deemed to be Commercially Sensitive Information, in which case the Supplier will provide the information in a redacted form.

### **30. Changes to services**

**30.1** It is likely that there will be changes to the scope of the Services during the Call-Off Contract period. Agile projects have a scope that will change over time. The detailed scope (eg as defined in user stories) can evolve and change during the Call-Off Contract Period. These changes do not require formal contract changes but do require the Buyer and Supplier to agree these changes.

**30.2** Any changes to the high-level scope of the Services must be agreed between the Buyer and Supplier. The Supplier will consider any request by the Buyer to change the scope of the Services, and may agree to such request.

### **31. Contract changes**

**31.1** All changes to the Call-Off Contract which cannot be accommodated informally as described in Clause 30 will require a Contract Change Note.

**31.2** Either Party may request a contract change by completing and sending a draft Contract Change Note in the form in Schedule 4 of Part C - The Schedules ('the Contract Change Notice') to the other Party giving sufficient information to enable the other Party to assess the extent of the change and any additional cost that may be incurred. The Party requesting the contract change will bear the costs of preparation of the Contract Change Notice. Neither Party will unreasonably withhold or delay consent to the other Party's proposed changes to the Call-Off Contract.

**31.3** Due to the agile-based delivery methodology recommended by the Framework Agreement, it may not be possible to exactly define the consumption of Services over the duration of the Call-Off Contract in a static Order Form. The Supplier should state the initial value of all Services that are likely to be consumed under the Call-Off Contract.

**200% of the estimated Call-Off Contract Charges for the first 6 months of the Call-Off Contract.**

**34.4 Subject to clause 34.1, in no event will either Party be liable to the other for any:**

- **loss of profits;**
- **loss of business;**
- **loss of revenue;**
- **loss of or damage to goodwill;**
- **loss of savings (whether anticipated or otherwise); or**
- **any indirect, special or consequential loss or damage.**

**34.5 The Supplier will be liable for the following types of loss which will be regarded as direct and will be recoverable by the Buyer:**

- **the additional operational or administrative costs and expenses arising from any Material Breach; and/or**
- **any regulatory losses, fines, expenses or other losses arising from a breach by the Supplier of any Law.**

**34.6 No enquiry, inspection, approval, sanction, comment, consent, or decision at any time made or given by, or on behalf of, the Buyer to any document or information provided by the Supplier in its provision of the Services, and no failure of the Buyer to discern any defect in, or omission from, any such document or information will exclude or limit the obligation of the Supplier to carry out all the obligations of a professional Supplier employed in a client and Buyer relationship.**

**34.7 Unless otherwise expressly provided, the obligations of the Buyer under the Call-Off Contract are obligations of the Buyer in its capacity as a Contracting counterparty and nothing in the Call-Off Contract will be an obligation on, or in any other way constrain the Buyer in any other capacity, nor will the exercise by the Buyer of its duties and powers in any other capacity lead to any liability under the Call-Off Contract on the part of the Buyer to the Supplier.**

**34.8 Any liabilities which are unlimited will not be taken into account for the purposes of establishing whether any limits relating to direct loss or damage to physical Property within this Clause have been reached.**

## **35. Waiver and cumulative remedies**

**35.1 The rights and remedies provided by this agreement may be waived only in writing by the Buyer or the Supplier representatives in a way that expressly states that a waiver is intended, and such waiver will only be operative regarding the specific circumstances referred to.**

**35.2 Unless a right or remedy of the Buyer is expressed to be exclusive, the exercise of it by the Buyer is without prejudice to the Buyer's other rights and remedies. Any failure to**

**40.1 The Supplier will notify CCS and relevant Buyers immediately of any legal proceedings issued against it by any Supplier Staff on the grounds of discrimination.**

#### **41. Premises**

**41.1 Where either Party uses the other Party's premises, such Party is liable for all Loss or damage it causes to the premises. Such Party is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.**

**41.2 The Supplier will use the Buyer's premises solely for the Call-Off Contract.**

**41.3 The Supplier will vacate the Buyer's premises upon termination or expiry of the Call-Off Contract.**

**41.4 This Clause does not create any tenancy or exclusive right of occupation.**

**41.5 While on the Buyer's premises, the Supplier will:**

- ensure the security of the premises;
- comply with Buyer requirements for the conduct of personnel;
- comply with any health and safety measures implemented by the Buyer;
- comply with any instructions from the Buyer on any necessary associated safety measures; and
- notify the Buyer immediately in the event of any incident occurring on the premises where that incident causes any personal injury or damage to Property which could give rise to personal injury.

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

**41.7 All Equipment brought onto the Buyer's premises will be at the Supplier's risk. Upon termination or expiry of the Call-Off Contract, the Supplier will remove such Equipment.**

#### **42. Equipment**

**42.1 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any loss of, or damage to, any Equipment.**

**42.2 Upon termination or expiry of the Call-Off Contract, the Supplier will remove the Equipment, and any other materials, leaving the premises in a safe and clean condition.**

#### **43. Law and Jurisdiction**

**43.1 The Call-Off Contract will be governed by the Laws of England and Wales. Each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.**

#### **44. Defined Terms**

	terms and conditions as set out in the Call-Off Contract Order Form
<b>'Charges'</b>	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract, as set out in the applicable SOW(s), in consideration of the full and proper performance by the Supplier of the Supplier's obligations under the Call-Off Contract and the specific obligations in the applicable SOW
<b>'Commercially Sensitive Information'</b>	Information, which CCS has been notified about, (before the start date of the Framework Agreement) or the Buyer (before the Call-Off Contract start date) with full details of why the Information is deemed to be commercially sensitive
<b>'Comparable Supply'</b>	The supply of services to another customer of the Supplier that are the same or similar to any of the Services
<b>'Confidential Information'</b>	CCS's Confidential Information or the Supplier's Confidential Information, which may include (but is not limited to): <ul style="list-style-type: none"> <li>• any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above</li> <li>• any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential')</li> </ul>
<b>'Contracting Bodies'</b>	The Buyer and any other person as listed in the OJEU Contract Notice or Regulation 2 of the Public Contracts Regulations 2015, as amended from time to time, including CCS
<b>'Control'</b>	Control as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly
<b>'Controller'</b>	Takes the meaning given in the Data Protection Legislation.
<b>'Crown'</b>	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
<b>'Data Loss Event'</b>	Any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Call-Off Contract, and/or actual or potential loss

	and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under the Call-Off Contract
<b>'Extension Period'</b>	The period (expressed in Working Days) that the Initial Call-Off Contract term is extended by following notice given by the Buyer to the Supplier in accordance with Clause 1.4, such period not to exceed the number of whole days that represent 25% of the Initial Call-Off Contract period.
<b>'FoIA'</b>	The Freedom of Information Act 2000 and any subordinate legislation made under the Act occasionally together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation
<b>'Force Majeure'</b>	<p>Force Majeure means anything affecting either Party's performance of their obligations arising from any of the following:</p> <ul style="list-style-type: none"> <li>• acts, events, omissions, happenings or non-happenings beyond the reasonable control of the affected Party</li> <li>• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare</li> <li>• acts of government, local government or Regulatory Bodies</li> <li>• fire, flood, any disaster and any failure or shortage of power or fuel</li> <li>• an industrial dispute affecting a third party for which a substitute third party is not reasonably available</li> </ul> <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> <li>• any industrial dispute relating to the Supplier, its staff, or any other failure in the Supplier's (or a Subcontractor's) supply chain</li> <li>• any event or occurrence which is attributable to the wilful act, neglect or failure to take reasonable precautions against the event or occurrence by the Party concerned</li> </ul>
<b>'Framework Agreement'</b>	The Framework Agreement between CCS and the Supplier for the provision of the Services dated 27/09/2018
<b>'Further Competition'</b>	The Further Competition procedure as described in Section 3 (how Services will be bought) of the Framework Agreement.
<b>'GDPR'</b>	The General Data Protection Regulation (Regulation

	legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body
<b>'LED'</b>	Law Enforcement Direction (Directive (EU) 2016/680).
<b>'Loss'</b>	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and 'Losses' will be interpreted accordingly.
<b>'Lot'</b>	A subdivision of the Services which are the subject of this procurement as described in the OJEU Contract Notice
<b>'Malicious Software'</b>	Any software program or code intended to destroy, or cause any undesired effects. It could be introduced wilfully, negligently or without the Supplier having knowledge of its existence.
<b>'Management Charge'</b>	The sum paid by the Supplier to CCS being an amount of 1.0% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or termination of any Call-Off Contract
<b>'Management Information'</b>	The Management Information (MI) specified in section 6 of the Framework Agreement
<b>'Management Information (MI) Failure'</b>	If any of the below instances occur, CCS may treat this as an 'MI Failure': <ul style="list-style-type: none"> <li>• there are omissions or errors in the Supplier's submission</li> <li>• the Supplier uses the wrong template</li> <li>• the Supplier's report is late</li> <li>• the Supplier fails to submit a report</li> </ul>
<b>'Material Breach' (Framework Agreement)</b>	A breach by the Supplier of the following Clauses in the Framework Agreement: <ul style="list-style-type: none"> <li>• Subcontracting</li> <li>• Non-Discrimination</li> <li>• Conflicts of Interest and Ethical Walls</li> <li>• Warranties and Representations</li> <li>• Provision of Management Information</li> <li>• Management Charge</li> <li>• Prevention of Bribery and Corruption</li> <li>• Safeguarding against Fraud</li> <li>• Data Protection and Disclosure</li> <li>• Intellectual Property Rights and Indemnity</li> </ul>

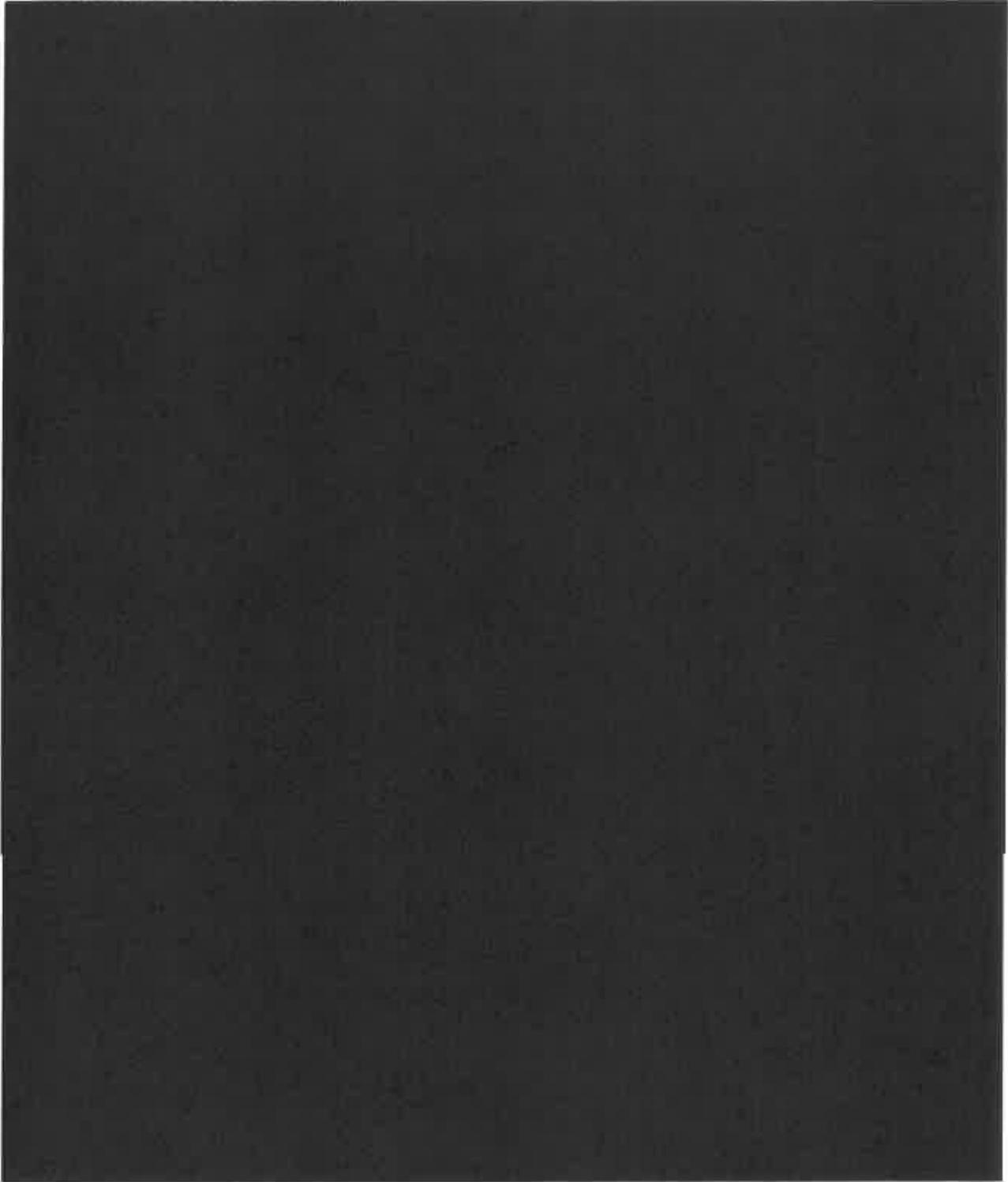
	<p>updates and amendments of these items including (but not limited to) database schema; and/or</p> <ul style="list-style-type: none"> <li>Intellectual Property Rights arising as a result of the performance of the Supplier's obligations under the Call-Off Contract;</li> </ul> <p>but not including the Supplier Background IPRs</p>
<b>'Property'</b>	The property, other than real property and IPR, issued or made available to the Supplier by the Buyer in connection with a Call-Off Contract
<b>'Protective Measures'</b>	Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
<b>'Regulations'</b>	The Public Contracts Regulations 2015 (at <a href="http://www.legislation.gov.uk/uksl/2015/102/contents/made">http://www.legislation.gov.uk/uksl/2015/102/contents/made</a> ) and the Public Contracts (Scotland) Regulations 2012 (at <a href="http://www.legislation.gov.uk/ssi/2012/88/made">http://www.legislation.gov.uk/ssi/2012/88/made</a> ), as amended from time to time
<b>'Regulatory Bodies'</b>	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in the Framework Agreement or the Call-Off Contract
<b>'Release'</b>	The Deliverable for a particular Statement of Work. Its delivery by the Supplier and its acceptance by the Buyer completes the Statement of Work.
<b>'Reporting Date'</b>	The seventh day of each month following the month to which the relevant MI relates. A different date may be chosen if agreed between the Parties
<b>'Request for Information'</b>	A request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations
<b>'Self Audit Certificate'</b>	The certificate in the form as set out in Framework Agreement Schedule 1 - Self Audit Certificate, to be provided to CCS by the Supplier in accordance with Framework Agreement Clause 7.6.
<b>'Services'</b>	Digital outcomes, digital specialists, user research studios or user research participants to be provided by the Supplier under a Call-Off Contract
<b>'Specific Change In'</b>	A change in the Law that relates specifically to the

## Part C - The Schedules

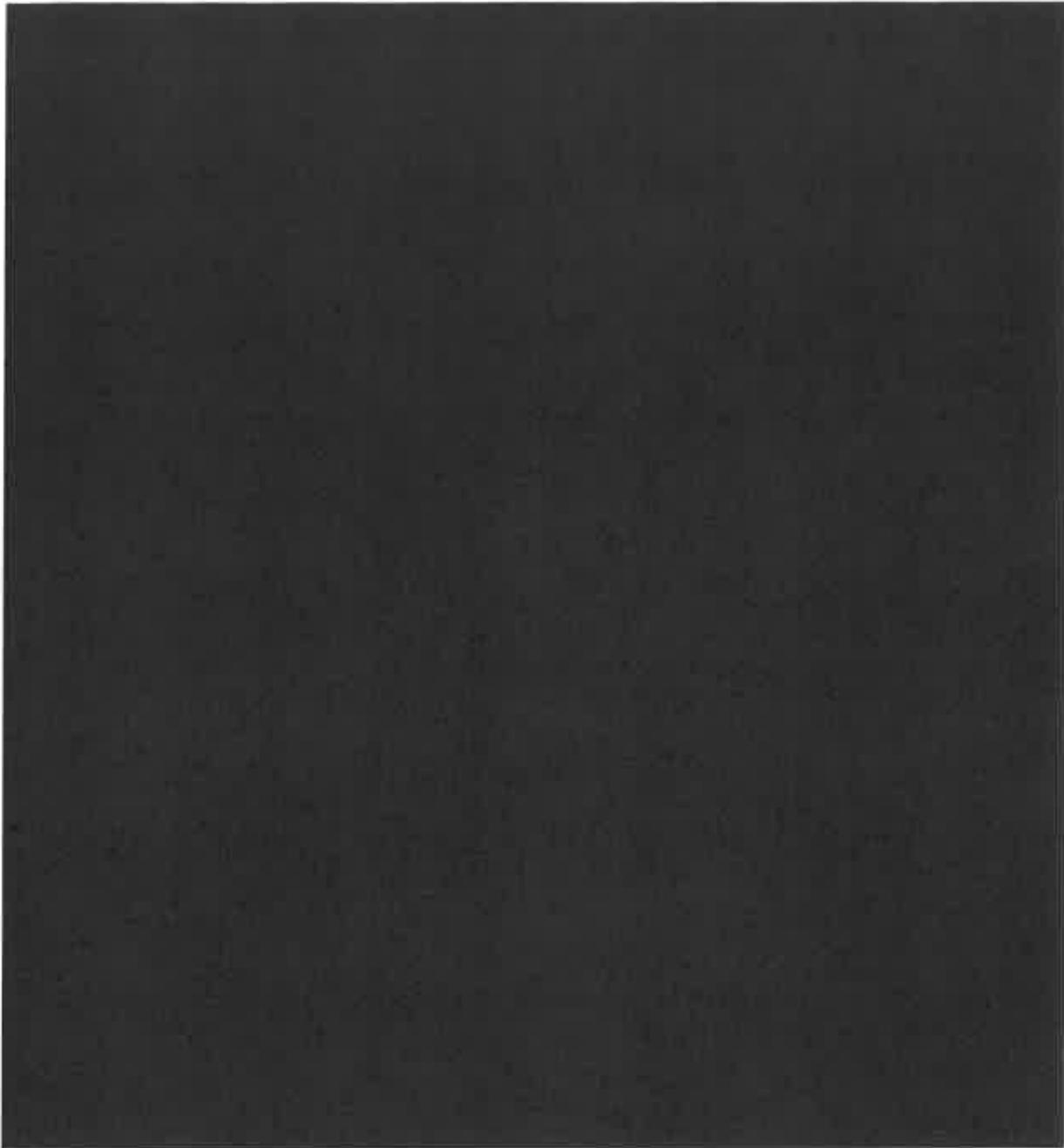
### Schedule 1 - Requirements

Organisation the work is for	Office for Product Safety and Standards (OPSS) – part of BEIS
What the specialist will work on	<p>We require a Technical lead with a Ruby-on-Rails/developer background to provide technical leadership to a RoR developer team in developing services to help us build national capacity for product safety.</p> <ul style="list-style-type: none"> <li>• Product safety database (including planned work on consumers and businesses)</li> <li>• Submit Cosmetic Notification Portal</li> </ul> <p>Further information on services will be provided to short-listed suppliers.</p> <p>We need help completing outstanding work and developing new features and functionality as part of ongoing service development and iteration.</p> <p>Our tech stack includes: Rails 5.2 running on Ruby 2.4.3;GOV.UK PaaS and Notify;GOV.UK Registers (country information);Companies House API for business details; Yam;Sidekiq;ClamAV;Postgres 9.5;Elasticsearch 6 (on AWS)</p>
Early market engagement	N/A
Who the specialist will work with	<p>You will work as part of the OPSS digital team. The team is a mix of OPSS permanent staff and contractors currently consisting of:</p> <p>Head of Digital  UX Design lead  Product Managers  Delivery Manager  User Researchers  Content Designers  Business Analyst  Developers  QA Tester</p> <p>We are also supplemented by 3<sup>rd</sup> party supplier delivery partners who provide specific services on our behalf.</p>
Address where the work will take place	The primary site will be 1 Victoria Street, London SW1H 0EH. However, OPSS have other sites including Birmingham and Teddington and the team may be required to work there on occasion to engage with OPSS colleagues and stakeholders.

**Schedule 2 - Supplier's response**



### **Sch 3.3 Deliverables**



### **Sch 3.4 Call-Off Contract Charges**

**3.4.1. For each individual Statement of Work (SOW), the applicable Call-Off Contract Charges (in accordance with the charging method in the Order Form) will be calculated using all of the following:**

**3.4.4 Risks or contingencies will be included in the Charges. The Parties agree that the following assumptions, representations, risks and contingencies will apply in relation to the Charges.**

**3.4.5 Any changes to the Supplier Staff (not applicable to Lot 3 Services) should be agreed with the Buyer and covered by a separate SOW where it cannot be accommodated within an existing SOW.**

**3.4.6 Multiple SOWs can operate concurrently.**

**3.4.7 The Supplier will keep accurate records of the time spent by the Supplier staff in providing the services and will provide records to the Buyer for inspection on request (not applicable to Lot 3 Services)**

### **Sch 3.5. Call-Off Contract Extension Period**

**Where the Buyer has specified an Extension Period in the Order Form, the Parties agree that an Extension Period of up to 25% of the initial Call-Off Contract Period can be added to the term of the Call-Off Contract, to accommodate any changes to the Deliverables, or delay in meeting the Buyer's requirements. The Buyer must give the Supplier the minimum notice specified in the Order Form that an Extension Period is required, set out how long the Extension Period is to be, and obtain prior written approval from the Supplier before applying any Extension Period to the Call-Off Contract period.**

### **Sch 3.6. Agreement of statement of works**

**BY SIGNING this SOW, the parties agree to be bound by the terms and conditions set out herein:**



**Please note that this is the first SOW. If the value of the first SOW is lower than the overall Call-Off Contract value, and subsequent SOW(s) are required to ensure the Services are delivered, they must be raised and signed by the Buyer and the Supplier, with a copy sent to CCS for its records.**

**Digital Outcomes and Specialists 3 Framework Agreement Call-Off Contract  
[www.gov.uk/guidance/digital-outcomes-and-specialists-3-call-off-contract](http://www.gov.uk/guidance/digital-outcomes-and-specialists-3-call-off-contract)**

## Schedule 4 - Contract Change Notice (CCN)

Order Form reference for the Call-Off Contract being varied:

**BETWEEN:**

**Buyer Full Name ("the Buyer")**

**and**

**Supplier Full Name ("the Supplier")**

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

***Guidance Note: Insert full details of the change including:***

***Reason for the change;***

***Full Details of the proposed change;***

***Likely Impact, If any, of the change on other aspects of the Call-Off Contract;***

2. Words and expressions in this Contract Change Notice shall have the meanings given to them in the Call-Off Contract.
3. The Call-Off Contract, including any previous changes shall remain effective and unaltered except as amended by this change.

**Signed by an authorised signatory for and on behalf of the Buyer**

**Signature:**

X \_\_\_\_\_

**Date:** Click here to enter a date.  
**Name:** Click here to enter text.  
**Address:** Click here to enter text.

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

**Signature:**

X \_\_\_\_\_

**Date:** Click here to enter a date.  
**Name:** Click here to enter text.  
**Address:** Click here to enter text.

4. Following agreement of final scores, the process is repeated as per the agreed schedule

CCS encourages Buyers to share final scores with CCS, so that performance of the Framework Agreement can be monitored. This may be done by emailing scores to: [cloud\\_digital@crowncommercial.gov.uk](mailto:cloud_digital@crowncommercial.gov.uk).

## **Schedule 7 - How Services are bought (Further Competition process)**

**Services are bought under this Call-Off Contract using the Further Competition process set out in Section 3 of the Framework Agreement (How Services will be bought).**

**Schedule 9 - Processing, Personal Data and Data Subjects**

