



G-Cloud 13 Call-Off Contract

This Call-Off Contract for the G-Cloud 13 Framework Agreement (RM1557.13) includes:

G-Cloud 13 Call-Off Contract

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Part A: Order Form

Buyers must use this template order form as the basis for all Call-Off Contracts and must refrain from accepting a Supplier's prepopulated version unless it has been carefully checked against template drafting.

Platform service ID number	669587251694291 – Cloud Software 141524742310811 – Cloud Support
Call-Off Contract reference	710949452
Call-Off Contract title	Provision of PLUTUS 3
Call-Off Contract description	Provision of PLUTUS 3 – Licences and Support Services.
Start date	29/02/2024
Expiry date	28/02/2025 (Initial Term)
Call-Off Contract value	£3,730,250 (Initial Term) £3,954,065 (Option Period 1 – SUBJECT TO CONTRACT AMENDMENT)
Charging method	CP&F
Purchase order number	TBC Upon Contract Award

This Order Form is issued under the G-Cloud 13 Framework Agreement (RM1557.13).

Buyers can use this Order Form to specify their G-Cloud service requirements when placing an Order.

The Order Form cannot be used to alter existing terms or add any extra terms that materially change the Services offered by the Supplier and defined in the Application.

There are terms in the Call-Off Contract that may be defined in the Order Form. These are identified in the contract with square brackets.

From the Buyer	<div style="background-color: black; width: 100px; height: 20px; margin-bottom: 10px;"></div> Rapid Capabilities Office (RCO). RAF Cosford, Wolverhampton, WV7 3EX.
To the Supplier	FD Technologies Plc 028 3025 2242 Brian Conlon House Newry, Co.Down BT35 6BP N.Ireland Company number: NI030731
Together the 'Parties'	

Principal contact details

For the Buyer:

Title: [REDACTED]

Name: [REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

For the Supplier:

Title: [REDACTED]
 Name: [REDACTED]
 Email: [REDACTED]
 Phone: [REDACTED]

Call-Off Contract term

Start date	<p>Initial Term: 29/02/2024 – 28/02/2025.</p> <p>Option Period 1: 01/03/2025 – 28/02/2026 (SUBJECT TO CONTRACT AMENDMENT).</p>
Ending (termination)	<p>The notice period for the Supplier needed for Ending the Call-Off Contract is at least 90 Working Days from the date of written notice for undisputed sums (as per clause 18.6).</p> <p>The notice period for the Buyer is a maximum of 30 days from the date of written notice for Ending without cause (as per clause 18.1), provided that in the case of Ending without cause, no refund shall be paid in respect of any prepaid license fees.</p>
Extension period	<p>This Call-Off Contract can be extended by the Buyer for one period of up to 12 months, Option Period 1, by giving the Supplier 1 month written notice before its expiry. The extension period is subject to clauses 1.3 and 1.4 in Part B below.</p> <p>The Buyer is under no obligation to invoke Option Period 1 to extend the Call-Off Contract by up to 12 months. The provisions of this Call-Off Contract shall continue to apply for Option Period 1, if invoked, unless otherwise amended by the Buyer and the Supplier.</p> <p>Extensions which extend the Term beyond 36 months are only permitted if the Supplier complies with the additional exit plan requirements at clauses 21.3 to 21.8.</p> <p>If a buyer is a central government department and the contract Term is intended to exceed 24 months, then under the Spend Controls process, prior approval must be obtained from the Government Digital Service (GDS). Further guidance:</p> <p>https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service</p>

Buyer contractual details

This Order is for the G-Cloud Services outlined below. It is acknowledged by the Parties that the volume of the G-Cloud Services used by the Buyer may vary during this Call-Off Contract.

G-Cloud Lot	<p>This Call-Off Contract is for the provision of Services Under:</p> <ul style="list-style-type: none"> • Lot 2: Cloud software • Lot 3: Cloud support
G-Cloud Services required	<p>The Services to be provided by the Supplier under the above Lot are listed in Framework Schedule 4 and outlined below:</p> <ul style="list-style-type: none"> • 2.5.2 – Analytics & Business Intelligence • 2.7.9 – Ongoing Support
Deliverables	<p><u>Initial Term (29/02/2024 – 28/02/2025)</u></p> <p><u>Lot 2:</u></p> <p>██████████</p> <ul style="list-style-type: none"> • Enterprise Plus Support (24/7 availability) is included with the licence. <p><u>Lot 3:</u></p> <ul style="list-style-type: none"> • Enterprise Plus Software support services ██████████ • Additional Services: Please see Annex 1 to Schedule 1 for Deliverables detail. <p><u>Option Period 1 (01/03/2025 – 28/02/2026) SUBJECT TO CONTRACT AMENDMENT.</u></p> <p><u>Lot 2:</u></p> <p>██████████</p> <ul style="list-style-type: none"> • Enterprise Plus Support (24/7 availability) is included with the licence. <p><u>Lot 3:</u></p> <ul style="list-style-type: none"> • Enterprise Plus Software support services shall ██████████

	<ul style="list-style-type: none"> Additional Services: Please see Annex 1 to Schedule 1 for Deliverables detail.
Additional Services	Please see Annex 1 to Schedule 1 for Additional Services detail.
Location	<p>The Licenced Software will be deployed on NEXUS in Buyer's own datacentres.</p> <p>The Services will be delivered remotely from the Supplier's premises in the UK except where on-site attendance is necessary for the performance of any services, to access classified material, or is reasonably requested by the Buyer, in which case the Services will be delivered to:</p> <p>Air Innovation and Experimentation (AIX), AIX Lab, Building A2, Cody Technology Park, Farnborough, GU14 0LX</p>
Quality Standards:	The quality standards required for this Call-Off Contract can be found in Annex 1 to Schedule 1.
Technical Standards:	The technical standards used as a requirement for this Call-Off Contract can be found in Annex 1 to Schedule 1.
Service level agreement:	NOT APPLICABLE.
Onboarding	If the Supplier is not registered on CP&F or Exostar, they must notify the Buyer upon Contract Award so the Supplier can be onboarded to facilitate payment.
Offboarding	An exit plan will be agreed between the Buyer and Supplier no less than 60 days before the End Date of this Call-Off Contract. It is anticipated that this exit plan will include agreed technical handover documents.

Collaboration agreement	NOT APPLICABLE.
Limit on Parties' liability	<p>Defaults by either party resulting in direct loss to the property (including technical infrastructure, assets or equipment but excluding any loss or damage to Buyer Data and excluding any violation of Supplier's Intellectual Property) of the other Party will not exceed £500,000 per year.</p> <p>The annual total liability of the Supplier for Buyer Data Defaults resulting in direct loss, destruction, corruption, degradation or damage to any Buyer Data will not exceed 150% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term.</p> <p>The annual total liability of the Supplier for all other Defaults will not exceed 150% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term.</p>

Insurance	<p>The Supplier insurance(s) required will be:</p> <ul style="list-style-type: none"> • a minimum insurance period of 6 years following the expiration or Ending of this Call-Off Contract • professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £1,000,000 for each individual claim or any higher limit the Buyer requires (and as required by Law) • employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law
Buyer's responsibilities	<p>The Buyer is responsible for:</p> <ul style="list-style-type: none"> • Ensuring access is provided to Supplier personnel when accessing sites for the delivery of the Contract only. • Providing access to Buyer equipment, as detailed below. • Sponsor for SC Clearances.
Buyer's equipment	<p>The Buyer's equipment to be used with this Call-Off Contract can include:</p> <ul style="list-style-type: none"> • Provision of SECRET development accounts. • Access to SECRET Develop terminals on a non-interference basis. • CIS hardened GOLD image to support deployments on OS and SECRET. • AIX infrastructure, support, architecture and platform resources on a non-interference basis. <p>The above equipment will only be provided by the Buyer where the Buyer deems it is necessary for the Supplier to deliver the Contract.</p>

Supplier's information

Subcontractors or partners	<p>The following is a list of the Supplier's Subcontractors or Partners</p> <p>SRC UK Limited, a company registered in England under no. 11853991, whose registered office is at Gravity Building Lincoln Science & Innovation Park, Poplar Avenue, Lincoln, LN6 7GZ, England ('SRC');</p> <p>SiXworks Limited a company registered in England and Wales (Company registered number 10855156) whose registered office is at A2 G005 Cody Technology Park, Old Ively Road, Farnborough. Hants. GU14 0LX</p>
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Call-Off Contract charges and payment

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

Payment method	The payment method for this Call-Off Contract is via CP&F.												
Payment profile (Initial Term)	<p>The payment profile for this Call-Off Contract is as follows:</p> <p><u>Licences (Lot 2):</u> XXXXXXXXXX = £2,500,000 (Ex VAT)</p> <p><u>Additional Services (Lot 3):</u> £1,230,250 (Ex VAT)</p> <p>This is based on up to 5 KX software engineers inclusive of 1 ML Engineer and 4 KX Developers, 1 KX Project Manager, 1 KX Solutions Architect and a KX QA Tester.</p> <p>Rate Card for Additional Services:</p> <table> <tr> <th>Role</th><th>Daily Rate FY24 to FY25</th></tr> <tr> <td>Software Engineer</td><td>£ 595.00</td></tr> <tr> <td>Senior Software Engineer</td><td>£ 750.00</td></tr> <tr> <td>Expert Software Engineer</td><td>£ 1,000.00</td></tr> <tr> <td>Machine Learning Engineer</td><td>£ 1,500.00</td></tr> <tr> <td>Project Manager</td><td>£ 950.00</td></tr> </table>	Role	Daily Rate FY24 to FY25	Software Engineer	£ 595.00	Senior Software Engineer	£ 750.00	Expert Software Engineer	£ 1,000.00	Machine Learning Engineer	£ 1,500.00	Project Manager	£ 950.00
Role	Daily Rate FY24 to FY25												
Software Engineer	£ 595.00												
Senior Software Engineer	£ 750.00												
Expert Software Engineer	£ 1,000.00												
Machine Learning Engineer	£ 1,500.00												
Project Manager	£ 950.00												

	<p>Note: the Licence fee includes Enterprise Plus Support (24/7 availability), as detailed in the 'Deliverables' section (in relation to the Licenced Software).</p>
Payment profile (Option Period)	<p>The payment profit for this Call-Off Contract Option Period is as follows:</p> <p><u>Licences (Lot 2):</u> XXXXXXXXXX = £2,650,000 (Ex VAT)</p> <p><u>Additional Services (Lot 3):</u> £1,304,065 (Ex VAT)</p> <p>Note: the Licence fee includes Enterprise Plus Support (24/7 availability), as detailed in the 'Deliverables' section (in relation to the Licenced Software).</p> <p>Note: this Option Period, as outlined in the 'Deliverables' section, is SUBJECT TO CONTRACT AMENDMENT.</p>
Invoice details	<p>The Supplier will issue electronic invoices monthly in arrears for the Additional Services deliverables of the Call-Off Contract for 11 monthly values of £102,520.83 (Ex VAT) and 1 monthly payment of £102,520.87 (Ex VAT) only.</p> <p>Note: no payment shall be made for the Licence Fee until after 01 April 2024 unless confirmed in writing by the Buyer's representative otherwise.</p> <p>The Supplier must submit invoices on Exostar for consideration from the Buyer. The Buyer will pay any sums due under such an invoice no later than a period of 30 calendar days from the date on which the Buyer has determined that the invoice is valid and undisputed.</p>
Who and where to send invoices to	<p>Invoices will be sent to the Buyer's representative as per the 'Principal contact details' section.</p>

Invoice information required	<p>All invoices must include:</p> <ul style="list-style-type: none"> • Description of work undertaken. • Associated Cost Breakdown. 						
Call-Off Contract value	<p>£3,730,250 (Initial Term)</p> <p>£3,954,065 (Option Period 1 – SUBJECT TO CONTRACT AMENDMENT)</p>						
Call-Off Contract charges	<p>The breakdown of the Charges is as below:</p> <table border="1"> <thead> <tr> <th>Period</th><th>Cost (£) (Ex VAT)</th></tr> </thead> <tbody> <tr> <td>Initial</td><td>3,730,250</td></tr> <tr> <td>Option Period 1</td><td>3,954,065</td></tr> </tbody> </table> <p>Total Call-Off Charges (Initial Period): £3,730,250 Total Call-Off Charges (Initial Period + Option Period 1): £7,684,315</p>	Period	Cost (£) (Ex VAT)	Initial	3,730,250	Option Period 1	3,954,065
Period	Cost (£) (Ex VAT)						
Initial	3,730,250						
Option Period 1	3,954,065						

Additional Buyer terms

Performance of the Service	<p>This Call-Off Contract will include the following Implementation Plan, exit and offboarding plans and milestones as per Annex 1 to Schedule 1.</p>
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Guarantee	NOT APPLICABLE.
Warranties, representations	As provided in the Call-Off Contract and Licence Terms.
Supplemental requirements in addition to the Call-Off terms	<p>Within the scope of the Call-Off Contract, the following MOD DEFCONs will apply:</p> <ul style="list-style-type: none"> • DEFCON 659A (Edn 02/24) – Security Measures. • DEFCON 660 (Edn 12/15) – Official-Sensitive Security Requirements. • DEFCON 703 (Edn 06/21) – Intellectual Property Rights – Vesting in The Authority. Note: only applies to Project-Specific IP, as outlined in the 'Intellectual Property' section. The associated DEFFORM 711 can be found at Schedule 10. • DEFCON 76 (Edn 11/22) – Contractor's at Government Establishments. • DEFCON 611 (Edn 12/22) – Issued Property. • DEFCON 612 (Edn 06/21) – Loss of or Damage to the Articles. <p><u>Personnel Clearances and List X:</u></p> <ul style="list-style-type: none"> • Any SECRET support functions must be delivered by British Nationals who are SC-Cleared. • Any SECRET support functions must occur on MOD sites or MOD-leased sites that hold valid List X accreditation. • No SECRET information should be processed or accessed on Supplier sites. <p><u>Security Aspects Letter:</u></p> <ul style="list-style-type: none"> • For the purposes of DEFCON 659A and DEFCON 660, the SAL can be found attached at Schedule 9. The Supplier must adhere to the measures specified to protect the information in accordance with the relevant classification.

Alternative clauses	NOT APPLICABLE.
Buyer specific amendments to/refinements of the Call-Off Contract terms	NOT APPLICABLE.
Personal Data and Data Subjects	NOT APPLICABLE.
Intellectual Property	<p>The IP provisions are listed in Clause 11 to Part B: Terms and conditions.</p> <p><u>Software Licences only:</u></p> <ul style="list-style-type: none"> • No element of the Licensed Software is created for the Buyer; • The Licensed Software is provided in object code format only; • The Licensed Software is provided to the Buyer solely in accordance with the License Terms attached in Schedule 9. • The Intellectual Property Rights in the Licensed Software are proprietary to the Supplier and/or its licensors, and do not comprise Project Specific IPR • The Licensed Software shall be used only for the following Permitted Use: Customer (and not Main Contractor) may use the functionality of the Licensed Software, for internal business operations for UK HMG, for the purposes of Project NEXUS combat cloud only, for data ingestion and cleansing of data from Customer owned assets. The deployment will be for an Initial Operational Capability classified as UK SECRET according to the 2018 UK Government Security

	<p>Classifications https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715778/May-2018_Government-Security-Classifications-2.pdf.</p> <p><u>Project-Specific IP only:</u></p> <ul style="list-style-type: none"> Any intellectual property generated through the 'Additional Services' deliverable under Lot 3 shall be termed 'Project-Specific IP'. Any Project-Specific IP shall be subject to DEFCON 703 (Edn 06/21) as outlined in the 'Supplemental requirements in addition to the Call-Off terms' section of this Call-Off Contract.
Social Value	NOT APPLICABLE.




1. Formation of contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.
- 1.4 In cases of any ambiguity or conflict, the terms and conditions of the Call-Off Contract (Part B) and Order Form (Part A) will supersede those of the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

2. Background to the agreement

- 2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.13.

Signed	Supplier	Buyer
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Name		
Title		
Signature		
Date		29/02/2024

2.2 The Buyer provided an Order Form for Services to the Supplier.

Customer Benefits

For each Call-Off Contract please complete a customer benefits record, by following this link:

[G-Cloud 13 Customer Benefit Record](#)

Part B: Terms and conditions

1. Call-Off Contract Start date and length

- 1.1 The Supplier must start providing the Services on the date specified in the Order Form.
- 1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 36 months from the Start date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.
- 1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, provided that this is within the maximum permitted under the Framework Agreement of 1 period of up to 12 months.
- 1.4 The Parties must comply with the requirements under clauses 21.3 to 21.8 if the Buyer reserves the right in the Order Form to set the Term at more than 24 months.

2. Incorporation of terms

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

- 2.3 (Warranties and representations)
- 4.1 to 4.6 (Liability)
- 4.10 to 4.11 (IR35)
- 10 (Force majeure)
- 5.3 (Continuing rights)
- 5.4 to 5.6 (Change of control)
- 5.7 (Fraud)
- 5.8 (Notice of fraud)
- 7 (Transparency and Audit)
- 8.3 (Order of precedence)
- 11 (Relationship)
- 14 (Entire agreement)
- 15 (Law and jurisdiction)
- 16 (Legislative change)
- 17 (Bribery and corruption)
- 18 (Freedom of Information Act)
- 19 (Promoting tax compliance)
- 20 (Official Secrets Act)
- 21 (Transfer and subcontracting)
- 23 (Complaints handling and resolution)
- 24 (Conflicts of interest and ethical walls)
- 25 (Publicity and branding)
- 26 (Equality and diversity)
- 28 (Data protection)
- 31 (Severability)
- 32 and 33 (Managing disputes and Mediation)

- 34 (Confidentiality)
- 35 (Waiver and cumulative remedies)
- 36 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement Schedule 3

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

2.2.1 a reference to the 'Framework Agreement' will be a reference to the 'Call-Off Contract'

2.2.2 a reference to 'CCS' or to 'CCS and/or the Buyer' will be a reference to 'the Buyer'

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

2.3 The Parties acknowledge that they are required to complete the applicable Annexes contained in Schedule 7 (Processing Data) of the Framework Agreement for the purposes of this Call-Off Contract. The applicable Annexes being reproduced at Schedule 7 of this Call-Off Contract.

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

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

3. Supply of services

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

3.2 The Supplier undertakes that each G-Cloud Service will meet the Buyer's acceptance criteria, as defined in the Order Form.

4. Supplier staff

4.1 The Supplier Staff must:

4.1.1 be appropriately experienced, qualified and trained to supply the Services

4.1.2 apply all due skill, care and diligence in faithfully performing those duties

4.1.3 obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer

4.1.4 respond to any enquiries about the Services as soon as reasonably possible

4.1.5 complete any necessary Supplier Staff vetting as specified by the Buyer

- 4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.
- 4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.
- 4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35.
- 4.5 The Buyer may End this Call-Off Contract for Material Breach as per clause 18.5 hereunder if the Supplier is delivering the Services Inside IR35.
- 4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.
- 4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.
- 4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

5. Due diligence

- 5.1 Both Parties agree that when entering into a Call-Off Contract they:
 - 5.1.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party
 - 5.1.2 are confident that they can fulfil their obligations according to the Call-Off Contract terms
 - 5.1.3 have raised all due diligence questions before signing the Call-Off Contract
 - 5.1.4 have entered into the Call-Off Contract relying on their own due diligence

6. Business continuity and disaster recovery

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their Service Descriptions.
- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.

- 6.3 If requested by the Buyer prior to entering into this Call-Off Contract, the Supplier must ensure that its business continuity and disaster recovery plan is consistent with the Buyer's own plans.

7. Payment, VAT and Call-Off Contract charges

- 7.1 The Buyer must pay the Charges following clauses 7.2 to 7.11 for the Supplier's delivery of the Services.
- 7.2 The Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice.
- 7.3 The Call-Off Contract Charges include all Charges for payment processing. All invoices submitted to the Buyer for the Services will be exclusive of any Management Charge.
- 7.4 If specified in the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and must not recover this charge from the Buyer.
- 7.5 The Supplier must ensure that each invoice contains a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.
- 7.6 If the Supplier enters into a Subcontract it must ensure that a provision is included in each Subcontract which specifies that payment must be made to the Subcontractor within 30 days of receipt of a valid invoice.
- 7.7 All Charges payable by the Buyer to the Supplier will include VAT at the appropriate Rate.
- 7.8 The Supplier must add VAT to the Charges at the appropriate rate with visibility of the amount as a separate line item.
- 7.9 The Supplier will indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier must pay all sums to the Buyer at least 5 Working Days before the date on which the tax or other liability is payable by the Buyer.
- 7.10 The Supplier must not suspend the supply of the G-Cloud Services unless the Supplier is entitled to End this Call-Off Contract under clause 18.6 for Buyer's failure to pay undisputed sums of money. Interest will be payable by the Buyer on the late payment of any undisputed sums of money properly invoices under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.11 If there's an invoice dispute, the Buyer must pay the undisputed portion of the amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.12 Due to the nature of G-Cloud Services it isn't possible in a static Order Form to exactly define the consumption of services over the duration of the Call-Off Contract. The Supplier agrees that the Buyer's volumes indicated in the Order Form are indicative only.

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

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

9. Insurance

- 9.1 The Supplier will maintain the insurances required by the Buyer including those in this clause.

- 9.2 The Supplier will ensure that:

9.2.1 during this Call-Off Contract, Subcontractors hold third party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000

9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit

9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

- 9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.

- 9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:

9.4.1 a broker's verification of insurance

9.4.2 receipts for the insurance premium

9.4.3 evidence of payment of the latest premiums due

- 9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:

9.5.1 take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers

9.5.2 promptly notify the insurers in writing of any relevant material fact under any Insurances

9.5.3 hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance

9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.

9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.

9.8 The Supplier will be liable for the payment of any:

9.8.1 premiums, which it will pay promptly

9.8.2 excess or deductibles and will not be entitled to recover this from the Buyer

10. Confidentiality

10.1 The Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under incorporated Framework Agreement clause 34. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

11. Intellectual Property Rights

11.1 Save for the licences expressly granted pursuant to Clauses 11.3 and 11.4, neither Party shall acquire any right, title or interest in or to the Intellectual Property Rights ("IPR"s) (whether pre-existing or created during the Call-Off Contract Term) of the other Party or its licensors unless stated otherwise in the Order Form.

11.2 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.

11.3 The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call-Off Contract Term to use the Buyer's or its relevant licensor's Buyer Data and related IPR solely to the extent necessary for providing the Services in accordance with this Contract, including the right to grant sub-licences to Subcontractors provided that:

11.3.1 any relevant Subcontractor has entered into a confidentiality undertaking with the Supplier on substantially the same terms as set out in Framework Agreement clause 34 (Confidentiality); and

11.3.2 the Supplier shall not and shall procure that any relevant Sub-Contractor shall not, without the Buyer's written consent, use the licensed materials for any other purpose or for the benefit of any person other than the Buyer.

11.4 The Supplier grants to the Buyer the licence taken from its Supplier Terms which licence shall, as a minimum, grant the Buyer a non-exclusive, non-transferable licence during the

Call-Off Contract Term to use the Supplier's or its relevant licensor's IPR solely to the extent necessary to access and use the Services in accordance with this Call-Off Contract.

11.5 Subject to the limitation in Clause 24.3, the Buyer shall:

11.5.1 defend the Supplier, its Affiliates and licensors from and against any third-party claim:
(a) alleging that any use of the Services by or on behalf of the Buyer and/or Buyer Users is in breach of applicable Law;
(b) alleging that the Buyer Data violates, infringes or misappropriates any rights of a third party;
(c) arising from the Supplier's use of the Buyer Data in accordance with this Call-Off Contract; and

11.5.2 in addition to defending in accordance with Clause 11.5.1, the Buyer will pay the amount of Losses awarded in final judgment against the Supplier or the amount of any settlement agreed by the Buyer, provided that the Buyer's obligations under this Clause 11.5 shall not apply where and to the extent such Losses or third-party claim is caused by the Supplier's breach of this Contract.

11.6 The Supplier will, on written demand, fully indemnify the Buyer for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:

11.6.1 rights granted to the Buyer under this Call-Off Contract

11.6.2 Supplier's performance of the Services

11.6.3 use by the Buyer of the Services

11.7 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:

11.7.1 modify the relevant part of the Services without reducing its functionality or performance

11.7.2 substitute Services of equivalent functionality and performance, to avoid the infringement or the alleged infringement, as long as there is no additional cost or burden to the Buyer

11.7.3 buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer

11.8 Clause 11.6 will not apply if the IPR Claim is from:

11.8.1 the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract

11.8.2 other material provided by the Buyer necessary for the Services

11.9 If the Supplier does not comply with this clause 11, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money paid for the affected Services.

12. Protection of information

12.1 The Supplier must:

12.1.1 comply with the Buyer's written instructions and this Call-Off Contract when Processing Buyer Personal Data

12.1.2 only Process the Buyer Personal Data as necessary for the provision of the G-Cloud Services or as required by Law or any Regulatory Body

12.1.3 take reasonable steps to ensure that any Supplier Staff who have access to Buyer Personal Data act in compliance with Supplier's security processes

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

12.2.1 providing the Buyer with full details of the complaint or request

12.2.2 complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions

12.2.3 providing the Buyer with any Buyer Personal Data it holds about a Data Subject (within the timescales required by the Buyer)

12.2.4 providing the Buyer with any information requested by the Data Subject

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

13. Buyer data

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

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

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

- 13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.
- 13.5 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.
- 13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:
 - 13.6.1 the principles in the Security Policy Framework:
<https://www.gov.uk/government/publications/security-policy-framework> and the Government Security - Classification policy:
<https://www.gov.uk/government/publications/government-security-classifications>
 - 13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management: <https://www.npsa.gov.uk/content/adopt-risk-management-approach> and Protection of Sensitive Information and Assets:
<https://www.npsa.gov.uk/sensitive-information-assets>
 - 13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance: <https://www.ncsc.gov.uk/collection/risk-management-collection>
 - 13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint:
<https://www.gov.uk/government/publications/technologycode-of-practice/technology-code-of-practice>
 - 13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance:
<https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>
 - 13.6.6 Buyer requirements in respect of AI ethical standards.
- 13.7 The Buyer will specify any security requirements for this project in the Order Form.
- 13.8 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.
- 13.9 The Supplier agrees to use the appropriate organisational, operational and technological processes to keep the Buyer Data safe from unauthorised use or access, loss, destruction, theft or disclosure.

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

14. Standards and quality

- 14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.
- 14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at:
<https://www.gov.uk/government/publications/technologycode-of-practice/technology-code-of-practice>
- 14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.
- 14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.
- 14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

15. Open source

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

16. Security

- 16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.
- 16.2 The Supplier will use all reasonable endeavours, software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.

- 16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.
- 16.4 Responsibility for costs will be at the:
- 16.4.1 Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided
- 16.4.2 Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control
- 16.5 The Supplier will immediately notify the Buyer of any breach of security of Buyer's Confidential Information. Where the breach occurred because of a Supplier Default, the Supplier will recover the Buyer's Confidential Information however it may be recorded.
- 16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance:
<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>
- 16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start date.

17. Guarantee

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

18. Ending the Call-Off Contract

- 18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.
- 18.2 The Parties agree that the:
- 18.2.1 Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided

18.2.2 Call-Off Contract Charges paid during the notice period are reasonable compensation and cover all the Supplier's avoidable costs or Losses

18.3 Subject to clause 24 (Liability), if the Buyer Ends this Call-Off Contract under clause 18.1, it will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate the Loss. If the Supplier has insurance, the Supplier will reduce its unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of the unavoidable Loss with supporting evidence.

18.4 The Buyer will have the right to End this Call-Off Contract at any time with immediate effect by written notice to the Supplier if either the Supplier commits:

18.4.1 a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied

18.4.2 any fraud

18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:

18.5.1 the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due) and, if that breach is remediable, fails to remedy it within 15 Working Days of being notified in writing to do so

18.5.2 an Insolvency Event of the other Party happens

18.5.3 the other Party ceases or threatens to cease to carry on the whole or any material part of its business

18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.

18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

19. Consequences of suspension, ending and expiry

19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.

19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the ordered G-Cloud Services until the dates set out in the notice.

19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date (whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.

19.4 Ending or expiry of this Call-Off Contract will not affect:

19.4.1 any rights, remedies or obligations accrued before its Ending or expiration

19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry

19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses

- 7 (Payment, VAT and Call-Off Contract charges)
- 8 (Recovery of sums due and right of set-off)
- 9 (Insurance)
- 10 (Confidentiality)
- 11 (Intellectual property rights)
- 12 (Protection of information)
- 13 (Buyer data)
- 19 (Consequences of suspension, ending and expiry)
- 24 (Liability); and incorporated Framework Agreement clauses: 4.1 to 4.6, (Liability), 24 (Conflicts of interest and ethical walls), 35 (Waiver and cumulative remedies)

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

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

19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it

19.5.2 return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer

19.5.3 stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer

19.5.4 destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law

19.5.5 work with the Buyer on any ongoing work

19.5.6 return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

- 19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.
- 19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

20. Notices

- 20.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being 'in writing'.
- Manner of delivery: email
 - Deemed time of delivery: 9am on the first Working Day after sending
 - Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message
- 20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

21. Exit plan

- 21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.
- 21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.
- 21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 36 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 30 month anniversary of the Start date.
- 21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.
- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.

21.6 The Supplier acknowledges that the Buyer's right to take the Term beyond 36 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:

21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the period on terms that are commercially reasonable and acceptable to the Buyer

21.6.2 there will be no adverse impact on service continuity

21.6.3 there is no vendor lock-in to the Supplier's Service at exit

21.6.4 it enables the Buyer to meet its obligations under the Technology Code of Practice

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

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

21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier

21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer

21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier

21.8.4 the testing and assurance strategy for exported Buyer Data

21.8.5 if relevant, TUPE-related activity to comply with the TUPE regulations

21.8.6 any other activities and information which is reasonably required to ensure continuity of Service during the exit period and an orderly transition

22. Handover to replacement supplier

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

22.1.1 data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control

22.1.2 other information reasonably requested by the Buyer

- 22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.
- 22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

23. Force majeure

- 23.1 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than 30 consecutive days, the other Party may End this Call-Off Contract with immediate effect by written notice.

24. Liability

- 24.1 Subject to incorporated Framework Agreement clauses 4.1 to 4.6, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract shall not exceed the greater of five hundred thousand pounds (£500,000) or one hundred and twenty-five per cent (125%) of the Charges paid and/or committed to be paid in that Year (or such greater sum (if any) as may be specified in the Order Form).
- 24.2 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Supplier's liability:
- 24.2.1 pursuant to the indemnities in Clauses 7, 10, 11 and 29 shall be unlimited; and
- 24.2.2 in respect of Losses arising from breach of the Data Protection Legislation shall be as set out in Framework Agreement clause 28.
- 24.3 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Buyer's liability pursuant to Clause 11.5.2 shall in no event exceed in aggregate five million pounds (£5,000,000).
- 24.4 When calculating the Supplier's liability under Clause 24.1 any items specified in Clause 24.2 will not be taken into consideration.

25. Premises

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

- 25.2 The Supplier will use the Buyer's premises solely for the performance of its obligations under this Call-Off Contract.
- 25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.
- 25.4 This clause does not create a tenancy or exclusive right of occupation.
- 25.5 While on the Buyer's premises, the Supplier will:
- 25.5.1 comply with any security requirements at the premises and not do anything to weaken the security of the premises
 - 25.5.2 comply with Buyer requirements for the conduct of personnel
 - 25.5.3 comply with any health and safety measures implemented by the Buyer
 - 25.5.4 immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury
- 25.6 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Buyer on request.

26. Equipment

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

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

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

28. Environmental requirements

- 28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.

- 28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

29. The Employment Regulations (TUPE)

- 29.1 The Supplier agrees that if the Employment Regulations apply to this Call-Off Contract on the Start date then it must comply with its obligations under the Employment Regulations and (if applicable) New Fair Deal (including entering into an Admission Agreement) and will indemnify the Buyer or any Former Supplier for any loss arising from any failure to comply.

- 29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:

- 29.2.1 the activities they perform
- 29.2.2 age
- 29.2.3 start date
- 29.2.4 place of work
- 29.2.5 notice period
- 29.2.6 redundancy payment entitlement
- 29.2.7 salary, benefits and pension entitlements
- 29.2.8 employment status
- 29.2.9 identity of employer
- 29.2.10 working arrangements
- 29.2.11 outstanding liabilities
- 29.2.12 sickness absence
- 29.2.13 copies of all relevant employment contracts and related documents
- 29.2.14 all information required under regulation 11 of TUPE or as reasonably requested by the Buyer

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

- 29.3 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.
- 29.4 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 29.5 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:

29.5.1 its failure to comply with the provisions of this clause

29.5.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer

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

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

30. Additional G-Cloud services

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

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

31. Collaboration

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

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

31.2.1 work proactively and in good faith with each of the Buyer's contractors

31.2.2 co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and G-Cloud Services

32. Variation process

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

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

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

33. Data Protection Legislation (GDPR)

- 33.1 Pursuant to clause 2.1 and for the avoidance of doubt, clause 28 of the Framework Agreement is incorporated into this Call-Off Contract. For reference, the appropriate UK GDPR templates which are required to be completed in accordance with clause 28 are reproduced in this Call-Off Contract document at Schedule 7.

Schedule 1: Services

The Services to be provided by the Supplier for the Buyer are outlined in Part A of this Call-Off Order Form.

Annex 1 to Schedule 1: Statement of Requirement

STATEMENT OF REQUIREMENT

PLUTUS 3

1. Introduction.

- 1.1. This Statement of Requirement (SOR) sets out the outcomes forecast for the period bounded by the PLUTUS 3 activity. The work captured in this SOR is logically separated into licencing and services.
- 1.2. **Licencing.** The PLUTUS activity procures a 1-year licence (following individual core activation dates) for MOD use of the KX platform [REDACTED] across the AIX cloud environments (OS & S) or stand-alone MOD workstations to a total of [REDACTED].
- 1.3. **The Additional Services fee includes Enterprise Plus Support (24/7 availability) in respect of the Application. Application means the configuration, scripts and code authored by the Supplier to facilitate the interfacing of the Licensed Software provided under Lot 2 with MOD systems, as further detailed in this Annex.**
- 1.4. This licence agreement is intended to cover legacy activities under [REDACTED] and TITIAN (RCO AIX) through a single umbrella agreement.

Services. The PLUTUS activity includes support for solution architecture, deployment support, configuration support, programme management, dashboard development, analytic development, documentation creation, and developer coaching as described in Functional Outcomes section.

2. General Conditions.

- 2.1. **SECRET Working.** Note that any SECRET support functions must occur on-site in an accredited List X facility by UK SC-cleared individuals. Access will be provided via government furnished equipment (GFE).
- 2.2. **Software Delivery.** All delivery of software must conform to the RCO AIX pipeline process and will be sheep-dipped via the RCO AIX Support team and maintained as part of the RCO-internal repositories. The RCO AIX Support team will be responsible for any platform deployments to the provided CIS hardened virtual machine(s). For attribution purposes, use of any non-KX open-source information, software, or algorithms shall be logged in the provided documentation repository.
- 2.3. **Testing.** Formal delivery of KX products shall undergo development testing (executed by KX) to demonstrate to the customer that dashboards, analytics, information ingest, or information dissemination function as designed.
- 2.4. **Release of Work.** PLUTUS is expected to be delivered through a set of agile delivery sprints that will be queued by written direction from the customer once initial conditions (GFE, etc) are met for the activity. This is expected to be a collaborative discussion between the customer and KX leadership as to when preparation activities (e.g., architecture or design work) should start given activity blockers or customer readiness to support.
- 2.5. **Period of Performance.** Authority to proceed (ATP) to Feb 25.

3. Functional Outcomes.

- 3.1. Provide support to [REDACTED]
- 3.1.1. Support from KX to DSTL to ensure the DSTL solutions can be “bolted” into the KX framework.
- 3.1.2. Develop code updates to existing [REDACTED] solution to minimise to the greatest extent any proprietary Q language in the host application (preference is Python, C#, etc) to ensure through-life support options.
- 3.1.3. Provide means for [REDACTED] to share products with the NEXUS KX platform.
- 3.1.4. Provide means for [REDACTED] to share products with another NEXUS node and/or NEXUS customer [dependent 3.6.4, 3.6.2].
- 3.2. Support the deployment to an RCO-provided SECRET cloud environment. This activity may include further security remediation of the KX platform, integration onto higher levels of CIS hardened virtual machines,

transition of any external-calling services (e.g., mapping) to RCO provided alternatives or other secure internal services, etcetera.

3.2.1. Provide, at a minimum, a simple country outline map that distinguishes key geographical and political boundaries, and a satellite view map that provides additional visual cues to further enrich the supplied information.

3.3. Integrate new NEXUS time varying information sources. Including, but not limited to:

██████████

3.3.2. Growth of the Open-Source Intelligence (OSINT) Article service to include additional sources at OS.

3.3.3. Growth of the ██████████

3.3.4. Addition of new ██████████

3.3.5. Addition of aircraft ██████████

3.3.6. Addition of Advertiser Technology (ADTEC) Article service at OS.

3.4. Transition to a database & VM architecture that allows transfer of databases between VM instances (e.g., to persist databases through VM-reprovisioning).

3.5. Integrate KX as a NEXUS node:

3.5.1. Implement a direct ingest of time varying information source(s). Including, but not limited to:

3.5.1.1. Create a daily ingest of space track information (as available via <https://space-track.org>).

3.5.2. Develop external interface(s) to enable pure web-application development external to the KX platform & VM. This interface shall abide by any AIX-directed design principles to ensure compliance with platform Zero trust and security requirements.

3.5.3. Integrate external interface(s) with the NEXUS API gateway.

3.5.4. Develop a capability to create NEXUS Articles from unique KX product and distribute via ██████████

3.5.5. Support the implementation of a NEXUS-compliant federation with NEXUS nodes within the platform.

3.5.6. Investigate options to implement data-base level security in line with the NEXUS SAT data handling restrictions.

3.6. Implement means to protect the database from inappropriate queries within and external to the KX platform (e.g., load balance, rate limiting, etc).

3.7. Support creation of advanced analytics. Including, but not limited to:

██████████

3.7.2. Two-line ██████████

3.7.3. Correlation and search for ██████████

3.8. Support the creation of user-defined dashboards.

3.9. Provide KX UI/UX support to enhance usability of dashboards.

3.10. Documentation. Documentation shall be delivered to provide procedures and examples for how to support the KX platform as well as make use of any unique functions delivered as part of the platform. Documentation should be written to the lowest common denominator and shall presume no prior knowledge of any KX-unique services.

3.10.1. Platform Support. Documentation shall be delivered to capture any necessary platform actions to include, but not limited to, deployment of the platform, addition of new analytics, addition of new dashboards, configuration of APIs, etc.

3.10.2. Analytics. Unique analytics shall be delivered along with documentation for how those analytics can be used within the KX platform. Analytics and augmented dashboard functions shall be delivered as

a service within the KX platform, assuming any developer (including government developers) shall be able to make use of them. Documentation should be delivered along with an example template showing how the analytic can be employed.

3.10.3. Onboarding new information feeds. Documentation shall be delivered to describe MQTT ingest patterns and be sufficient for AIX to construct additional feed ingests and creation of new tables within the RDB and HDB.

3.11. Provide development coaching to government-provided developers creating dashboards or leveraging KX-provided services.

4. Timeline

4.1. Work scope in Section 3.1 (MD4IA), 3.6 (database protection), 3.7.3 (complex shapes), 3.9 (UI support), 3.10 (HMG developer support) may start at beginning of the period of performance.

4.2. Joint architecture work in support of work scope in Section 3.4 (persistent database) and 3.5 (KX as a NEXUS node) may start at beginning of the period of performance.

4.3. Work scope in Section 3.7.2 (TLE computations) is dependent on architecture work necessary in Section 3.5.1 (direct data ingest).

4.4. Section 3.6.3 (API gateway integration) is dependent Section 3.6.2 (API) and on NEXUS external gateway and API strategy which is currently being refined to support LLD and implementation. Anticipated in service date Q1CY23. Anticipate solution for Section 3.6.2 to be implementable on Dev to support early concept refinement.

4.5. Section 3.3 (new NEXUS feeds) is dependent on the government making available those information feeds. Feeds are anticipated to be delivered throughout the period of performance.

4.6. Section 3.8 (dashboard creation) should start following the delivery of a government identified use case.

5. Government Furnished Equipment / Information / Services (GFX)

5.1. Sponsor for SC clearances.

5.2. Provisions for SECRET development accounts.

5.3. Access to SECRET development terminal(s) on a non-interference basis.

5.4. CIS hardened GOLD image to support KX deployments on OS and SECRET.

5.5. AIX infrastructure, support, architecture, and platform resources on a non-interference basis.



Schedule 2: Call-Off Contract charges

For each individual Service, the applicable Call-Off Contract Charges (in accordance with the Supplier's Platform pricing document) can't be amended during the term of the Call-Off Contract. The detailed Charges breakdown for the provision of Services during the Term will include:

The Call-Off Contract Charges can be found in Part A of this Call-Off Contract.

Schedule 3: Collaboration agreement

NOT APPLICABLE.

Collaboration Agreement Schedule 2

NOT APPLICABLE.

Schedule 4: Alternative clauses

1. Introduction

1.1 This Schedule specifies the alternative clauses that may be requested in the Order Form and, if requested in the Order Form, will apply to this Call-Off Contract.

2. Clauses selected

2.1 The Customer may, in the Order Form, request the following alternative Clauses:

2.1.1 Scots Law and Jurisdiction

2.1.2 References to England and Wales in incorporated Framework Agreement clause 15.1 (Law and Jurisdiction) of this Call-Off Contract will be replaced with Scotland and the wording of the Framework Agreement and Call-Off Contract will be interpreted as closely as possible to the original English and Welsh Law intention despite Scots Law applying.

2.1.3 Reference to England and Wales in Working Days definition within the Glossary and interpretations section will be replaced with Scotland.

2.1.4 References to the Contracts (Rights of Third Parties) Act 1999 will be removed in clause 27.1. Reference to the Freedom of Information Act 2000 within the defined terms for 'FoIA/Freedom of Information Act' to be replaced with Freedom of Information (Scotland) Act 2002.

2.1.5 Reference to the Supply of Goods and Services Act 1982 will be removed in incorporated Framework Agreement clause 4.1.

2.1.6 References to "tort" will be replaced with "delict" throughout

2.2 The Customer may, in the Order Form, request the following Alternative Clauses:

2.2.1 Northern Ireland Law (see paragraph 2.3, 2.4, 2.5, 2.6 and 2.7 of this Schedule)

2.3 Discrimination

2.3.1 The Supplier will comply with all applicable fair employment, equality of treatment and anti-discrimination legislation, including, in particular the:

- Employment (Northern Ireland) Order 2002
- Fair Employment and Treatment (Northern Ireland) Order 1998
- Sex Discrimination (Northern Ireland) Order 1976 and 1988
- Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003
- Equal Pay Act (Northern Ireland) 1970
- Disability Discrimination Act 1995
- Race Relations (Northern Ireland) Order 1997
- Employment Relations (Northern Ireland) Order 1999 and Employment Rights (Northern Ireland) Order 1996
- Employment Equality (Age) Regulations (Northern Ireland) 2006

- Part-time Workers (Prevention of less Favourable Treatment) Regulation 2000
- Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- The Disability Discrimination (Northern Ireland) Order 2006
- The Employment Relations (Northern Ireland) Order 2004
- Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006
- Employment Relations (Northern Ireland) Order 2004 ● Work and Families (Northern Ireland) Order 2006

and will use his best endeavours to ensure that in his employment policies and practices and in the delivery of the services required of the Supplier under this Call-Off Contract he promotes equality of treatment and opportunity between:

- a. persons of different religious beliefs or political opinions
- b. men and women or married and unmarried persons
- c. persons with and without dependants (including women who are pregnant or on maternity leave and men on paternity leave)
- d. persons of different racial groups (within the meaning of the Race Relations (Northern Ireland) Order 1997)
- e. persons with and without a disability (within the meaning of the Disability Discrimination Act 1995)
- f. persons of different ages
- g. persons of differing sexual orientation

2.3.2 The Supplier will take all reasonable steps to secure the observance of clause 2.3.1 of this Schedule by all Supplier Staff.

2.4 Equality policies and practices

2.4.1 The Supplier will introduce and will procure that any Subcontractor will also introduce and implement an equal opportunities policy in accordance with guidance from and to the satisfaction of the Equality Commission. The Supplier will review these policies on a regular basis (and will procure that its Subcontractors do likewise) and the Customer will be entitled to receive upon request a copy of the policy.

2.4.2 The Supplier will take all reasonable steps to ensure that all of the Supplier Staff comply with its equal opportunities policies (referred to in clause 2.3 above). These steps will include:

- a. the issue of written instructions to staff and other relevant persons
- b. the appointment or designation of a senior manager with responsibility for equal opportunities
- c. training of all staff and other relevant persons in equal opportunities and harassment matters
- d. the inclusion of the topic of equality as an agenda item at team, management and staff meetings

The Supplier will procure that its Subcontractors do likewise with their equal opportunities policies.

2.4.3 The Supplier will inform the Customer as soon as possible in the event of:

- A. the Equality Commission notifying the Supplier of an alleged breach by it or any Subcontractor (or any of their shareholders or directors) of the Fair Employment and Treatment (Northern Ireland) Order 1998 or
- B. any finding of unlawful discrimination (or any offence under the Legislation mentioned in clause 2.3 above) being made against the Supplier or its Subcontractors during the Call-Off Contract Period by any Industrial or Fair Employment Tribunal or court,

The Supplier will take any necessary steps (including the dismissal or replacement of any relevant staff or Subcontractor(s)) as the Customer directs and will seek the advice of the Equality Commission in order to prevent any offence or repetition of the unlawful discrimination as the case may be.

2.4.4 The Supplier will monitor (in accordance with guidance issued by the Equality Commission) the composition of its workforce and applicants for employment and will provide an annual report on the composition of the workforce and applicants to the Customer. If the monitoring reveals under-representation or lack of fair participation of particular groups, the Supplier will review the operation of its relevant policies and take positive action if appropriate. The Supplier will impose on its Subcontractors obligations similar to those undertaken by it in this clause 2.4 and will procure that those Subcontractors comply with their obligations.

2.4.5 The Supplier will provide any information the Customer requests (including Information requested to be provided by any Subcontractors) for the purpose of assessing the Supplier's compliance with its obligations under clauses 2.4.1 to 2.4.5 of this Schedule.

2.5 Equality

2.5.1 The Supplier will, and will procure that each Subcontractor will, in performing its/their obligations under this Call-Off Contract (and other relevant agreements), comply with the provisions of Section 75 of the Northern Ireland Act 1998, as if they were a public authority within the meaning of that section.

2.5.2 The Supplier acknowledges that the Customer must, in carrying out its functions, have due regard to the need to promote equality of opportunity as contemplated by the Northern Ireland Act 1998 and the Supplier will use all reasonable endeavours to assist (and to ensure that relevant Subcontractor helps) the Customer in relation to same.

2.6 Health and safety

2.6.1 The Supplier will promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Call-Off Contract. The Customer will promptly notify the Supplier of any health and safety

hazards which may exist or arise at the Customer premises and which may affect the Supplier in the performance of its obligations under the Call-Off Contract.

2.6.2 While on the Customer premises, the Supplier will comply with any health and safety measures implemented by the Customer in respect of Supplier Staff and other persons working there.

2.6.3 The Supplier will notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Call-Off Contract on the Customer premises if that incident causes any personal injury or damage to property which could give rise to personal injury.

2.6.4 The Supplier will comply with the requirements of the Health and Safety at Work (Northern Ireland) Order 1978 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Supplier Staff and other persons working on the Customer premises in the performance of its obligations under the Call-Off Contract.

2.6.5 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work (Northern Ireland) Order 1978) is made available to the Customer on request.

2.7 Criminal damage

2.7.1 The Supplier will maintain standards of vigilance and will take all precautions as advised by the Criminal Damage (Compensation) (Northern Ireland) Order 1977 or as may be recommended by the police or the Northern Ireland Office (or, if replaced, their successors) and will compensate the Customer for any loss arising directly from a breach of this obligation (including any diminution of monies received by the Customer under any insurance policy).

2.7.2 If during the Call-Off Contract Period any assets (or any part thereof) is or are damaged or destroyed by any circumstance giving rise to a claim for compensation under the provisions of the Compensation Order the following provisions of this clause 2.7 will apply.

2.7.3 The Supplier will make (or will procure that the appropriate organisation make) all appropriate claims under the Compensation Order as soon as possible after the CDO Event and will pursue any claim diligently and at its cost. If appropriate, the Customer will also make and pursue a claim diligently under the Compensation Order. Any appeal against a refusal to meet any claim or against the amount of the award will be at the Customer's cost and the Supplier will (at no additional cost to the Customer) provide any help the Customer reasonably requires with the appeal.

2.7.4 The Supplier will apply any compensation paid under the Compensation Order in respect of damage to the relevant assets towards the repair, reinstatement or replacement of the assets affected.

Schedule 5: Guarantee

NOT APPLICABLE.

Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
Additional Services	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Clause 2 (Services) which a Buyer may request.
Admission Agreement	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
Application	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Platform).
Audit	An audit carried out under the incorporated Framework Agreement clauses.
Background IPRs	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes created by the Party independently of this Call-Off Contract, or <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>

Buyer	The contracting authority ordering services as set out in the Order Form.
Buyer Data	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
Buyer Personal Data	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
Buyer Representative	The representative appointed by the Buyer under this Call-Off Contract.

Buyer Software	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.
Call-Off Contract	This call-off contract entered into following the provisions of the Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.

Charges	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
Collaboration Agreement	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
Commercially Sensitive Information	Information, which the Buyer has been notified about by the Supplier in writing before the Start date with full details of why the Information is deemed to be commercially sensitive.
Confidential Information	<p>Data, Personal Data and any information, which may include (but isn't limited to) any:</p> <ul style="list-style-type: none"> information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').
Control	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.

Controller	Takes the meaning given in the UK GDPR.
Crown	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.

Data Loss Event	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Call-Off Contract and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
Data Protection Impact Assessment (DPIA)	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
Data Protection Legislation (DPL)	(i) the UK GDPR as amended from time to time; (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy; (iii) all applicable Law about the Processing of Personal Data and privacy.
Data Subject	Takes the meaning given in the UK GDPR

Default	<p>Default is any:</p> <ul style="list-style-type: none"> • breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) • other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
DPA 2018	Data Protection Act 2018.
Employment Regulations	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') .
End	Means to terminate; and Ended and Ending are construed accordingly.
Environmental Information Regulations or EIR	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department about the regulations.
Equipment	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.

ESI Reference Number	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
Employment Status Indicator test tool or ESI tool	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here: https://www.gov.uk/guidance/check-employment-status-fortax
Expiry Date	The expiry date of this Call-Off Contract in the Order Form.

Force Majeure	<p>A force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none"> • acts, events or omissions beyond the reasonable control of the affected Party • riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare • acts of government, local government or Regulatory Bodies • fire, flood or disaster and any failure or shortage of power or fuel • industrial dispute affecting a third party for which a substitute third party isn't reasonably available <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> • any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain • any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure • the event was foreseeable by the Party seeking to rely on Force <p>Majeure at the time this Call-Off Contract was entered into</p> <ul style="list-style-type: none"> • any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans
Former Supplier	<p>A supplier supplying services to the Buyer before the Start date that are the same as or substantially similar to the Services. This also includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).</p>
Framework Agreement	<p>The clauses of framework agreement RM1557.13 together with the Framework Schedules.</p>

Fraud	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or
	defrauding or attempting to defraud or conspiring to defraud the Crown.
Freedom of Information Act or FoIA	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to the legislation.
G-Cloud Services	The cloud services described in Framework Agreement Clause 2 (Services) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
UK GDPR	The retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679).
Good Industry Practice	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances.

Government Procurement Card	The government's preferred method of purchasing and payment for low value goods or services.
Guarantee	The guarantee described in Schedule 5.
Guidance	Any current UK government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK government guidance and the Crown Commercial Service guidance, current UK government guidance will take precedence.
Implementation Plan	The plan with an outline of processes (including data standards for migration), costs (for example) of implementing the services which may be required as part of Onboarding.
Indicative test	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
Information	Has the meaning given under section 84 of the Freedom of Information Act 2000.
Information security management system	The information security management system and process developed by the Supplier in accordance with clause 16.1.

Inside IR35	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
Insolvency event	<p>Can be:</p> <ul style="list-style-type: none"> • a voluntary arrangement • a winding-up petition • the appointment of a receiver or administrator • an unresolved statutory demand • a Schedule A1 moratorium • a Dun & Bradstreet rating of 10 or less
Intellectual Property Rights or IPR	<p>Intellectual Property Rights are:</p> <ul style="list-style-type: none"> • copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information • 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 • all other rights having equivalent or similar effect in any country or jurisdiction
Intermediary	<p>For the purposes of the IR35 rules an intermediary can be:</p> <ul style="list-style-type: none"> • the supplier's own limited company • a service or a personal service company • a partnership <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>

IPR claim	As set out in clause 11.5.
IR35	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.
IR35 assessment	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.

Know-How	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or Buyer's possession before the Start date.
Law	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply.
Loss	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.
Lot	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.

Malicious Software	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.
Management Charge	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
Management Information	The management information specified in Framework Agreement Schedule 6.
Material Breach	Those breaches which have been expressly set out as a Material Breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.
Ministry of Justice Code	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.
New Fair Deal	The revised Fair Deal position in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 as amended.

Order	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
Order Form	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
Ordered G-Cloud Services	G-Cloud Services which are the subject of an order by the Buyer.
Outside IR35	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
Party	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
Personal Data	Takes the meaning given in the UK GDPR.

Personal Data Breach	Takes the meaning given in the UK GDPR.
Platform	The government marketplace where Services are available for Buyers to buy.
Processing	Takes the meaning given in the UK GDPR.
Processor	Takes the meaning given in the UK GDPR.
Prohibited act	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> • induce that person to perform improperly a relevant function or activity • reward that person for improper performance of a relevant function or activity • commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud

Project Specific IPRs	Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.
Property	Assets and property including technical infrastructure, IPRs and equipment.
Protective Measures	Appropriate technical and organisational measures which may include: pseudonymisation 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.
PSN or Public Services Network	The Public Services Network (PSN) is the government's high performance network which helps public sector organisations work together, reduce duplication and share resources.
Regulatory body or bodies	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.

Relevant person	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
Relevant Transfer	A transfer of employment to which the employment regulations applies.
Replacement Services	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.
Replacement supplier	Any third-party service provider of replacement services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).
Security management plan	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.
Services	The services ordered by the Buyer as set out in the Order Form.

Service data	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
Service definition(s)	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Clause 2 (Services) of the Framework Agreement.
Service description	The description of the Supplier service offering as published on the Platform.
Service Personal Data	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.
Spend controls	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see https://www.gov.uk/service-manual/agile-delivery/spend-controlscheck-if-you-need-approval-to-spend-money-on-a-service
Start date	The Start date of this Call-Off Contract as set out in the Order Form.

Subcontract	Any contract or agreement or proposed agreement between the Supplier and a subcontractor in which the subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
Subcontractor	Any third party engaged by the Supplier under a subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
Subprocessor	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
Supplier	The person, firm or company identified in the Order Form.
Supplier Representative	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.

Supplier staff	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Call-Off Contract.
Supplier Terms	The relevant G-Cloud Service terms and conditions as set out in the Terms and Conditions document supplied as part of the Supplier's Application.
Term	The term of this Call-Off Contract as set out in the Order Form.
Variation	This has the meaning given to it in clause 32 (Variation process).
Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.
Year	A contract year.

Schedule 7: UK GDPR Information

This schedule reproduces the annexes to the UK GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract and clause and schedule references are to those in the Framework Agreement but references to CCS have been amended.

Annex 1: Processing Personal Data

NOT APPLICABLE

Annex 2: Joint Controller Agreement

NOT APPLICABLE

Schedule 8: Security Aspects Letter

Date of Issue: 28/02/2024

For the attention of:

FD Technologies Plc
Brian Conlon House
Newry, Co.Down
BT35 6BP
N.Ireland

ITT/CONTRACT NUMBER & TITLE: Provision of PLUTUS 3 - 710949452

1. On behalf of the Secretary of State for Defence, I hereby give you notice of the information or assets connected with, or arising from, the referenced Contract that constitute classified material.
2. Aspects that constitute 'SECRET Matter' for the purpose of the DEFCON 659A Security Clause and OFFICIAL-SENSITIVE for the purpose of DEFCON 660 are specified below. These aspects must be fully safeguarded. The enclosed Security Condition outlines the minimum measures required to safeguard OFFICIAL-SENSITIVE assets and information.

ASPECTS	CLASSIFICATION
Information about the management of the AIX including the supporting commercial contracts and financial position, licence numbers, value and expiry dates	OFFICIAL SENSITIVE - COMMERCIAL
Other information provided by the Authority in connection with and including all Deliverables contained within the Statement of Requirement.	OFFICIAL SENSITIVE
<div></div>	<div></div>
All aspects in <div></div>	OFFICIAL SENSITIVE
<div></div>	<div></div>

(Note: Add more rows as required)

3. Your attention is drawn to the provisions of the Official Secrets Act 1911-1989 in general, and specifically to the provisions of Section 2 of the Official Secrets Act 1911 (as amended by the

Act of 1989). In particular you should take all reasonable steps to make sure that all individuals employed on any work in connection with this Contract have notice of the above specified aspects and that the aforementioned statutory provisions apply to them and will continue to apply after completion or earlier termination of the contract

4. Will you please confirm that:

a. This definition of the classified aspects of the referenced Contract has been brought to the attention of the person directly responsible for security of classified material.

b. The definition is fully understood.

c. Measures can, and will, be taken to safeguard the classified aspects identified herein in accordance with applicable national laws and regulations. [The requirement and obligations set out above and in any contractual document can and will be met and that the classified information shall be protected in accordance with applicable national laws and regulations.]

d. All employees of the company who will have access to classified information have either signed the OSA Declaration Form in duplicate and one copy is retained by the Company Security Officer or have otherwise been informed that the provisions of the OSA apply to all classified information and assets associated with this contract.

5. If you have any difficulty either in interpreting this definition of the classified aspects or in safeguarding them, will you please let me know immediately.

6. Classified Information associated with this Contract must not be published or communicated to anyone without the approval of the MOD Contracting Authority.

7. Any access to classified information or assets on MOD premises that may be needed will be subject to MOD security regulations under the direction of the MOD Project Officer in accordance with DEFCON 76.

8. Contact details for the MOD Project Security Officer (PSyO) (responsible for the co-ordination of effective security measures throughout the Project/Programme) are included below:

Yours faithfully

Copy via email to:

[ISAC-Group \(MULTIUSER\)](#)

[COO-DSR-IIPCSy \(MULTIUSER\)](#)

[UKStratComDD-CyDR-CySAAS-021](#)

UK OFFICIAL AND UK OFFICIAL-SENSITIVE CONTRACTUAL SECURITY CONDITIONS

Purpose

1. This document provides guidance for Contractors where classified material provided to or generated by the Contractor is graded UK OFFICIAL or UK OFFICIAL-SENSITIVE. Where the measures requested below cannot be achieved or are not fully understood, further advice should be sought from the UK Designated Security Authority (Email: COO-DSR-IIPCSy@mod.gov.uk).

Definitions

2. The term "Authority" for the purposes of this Annex means the HMG Contracting Authority.

3. The term "Classified Material" for the purposes of this Annex means classified information and assets.

Security Grading

4. The SENSITIVE marking is used to denote UK OFFICIAL material that is of a particular sensitivity and where there is a need to reinforce the 'need to know'. The Security Aspects Letter, issued by the Authority shall define the UK OFFICIAL-SENSITIVE material that is provided to the Contractor, or which is to be developed by it, under this Contract. The Contractor shall mark all UK OFFICIAL-SENSITIVE documents which it originates or copies during the Contract with the applicable security grading. The Contractor is not required to mark documents graded UK OFFICIAL unless they are transmitted overseas or generated by a Contractor based outside the UK in a third-party country.

Security Conditions

5. The Contractor shall take all reasonable steps to adhere to the provisions specified in the Contract or listed in this Annex. The Contractor shall make sure that all individuals employed on any work in connection with the Contract have notice that these provisions apply to them and shall continue so to apply after the completion or earlier termination of the Contract. The Authority must state the data retention periods to allow the Contractor to produce a data management policy. If you are a Contractor located in the UK your attention is also drawn to the provisions of the Official Secrets Act 1989 and the National Security Act 2023.

Protection of UK OFFICIAL and UK OFFICIAL-SENSITIVE Classified Material

6. The Contractor shall protect UK OFFICIAL and UK OFFICIAL-SENSITIVE material provided to or generated by it in accordance with the requirements detailed in this Security Condition and any other conditions that may be specified by the Authority. The Contractor shall take all reasonable steps to prevent the loss or compromise of classified material whether accidentally or from deliberate or opportunist attack.

7. Once the Contract has been awarded, where Contractors are required to store or process UK MOD classified information electronically, they are required to comply with the requirements specified in ISNs, Defence Condition 658 and Defence Standard 05-138. Details can be found at the links below:

<https://www.gov.uk/government/publications/industry-security-notice-isns>.

<https://www.dstan.mod.uk/toolset/05/138/000003000.pdf> <https://www.gov.uk/government/publications/defence-condition-658-cyber-flow-down>

8. All UK classified material including documents, media and other assets must be physically secured to prevent unauthorised access. When not in use UK classified material shall be handled with care to prevent loss or inappropriate access. As a minimum UK OFFICIAL-SENSITIVE material shall be stored under lock and key and shall be placed in a lockable room, cabinets, drawers or safe and the keys/combinations shall be controlled.

9. Disclosure of UK classified material must be strictly controlled in accordance with the "need to know" principle. Except with the written consent of the Authority, the Contractor shall not disclose the Contract or any provision thereof to any person other than to a person directly employed by the Contractor or sub-Contractor.

10. Except with the consent in writing of the Authority the Contractor shall not make use of the Contract or any classified material issued or provided by or on behalf of the Authority otherwise than for the purpose of the Contract, and, same as provided for in paragraph 8 above, the Contractor shall not make use of any article or part thereof similar to the articles for any other purpose.

11. Subject to any intellectual property rights of third parties, nothing in this Security Condition shall restrict the Contractor from using any specifications, plans, drawings and other documents generated outside of this Contract.

12. Any samples, patterns, specifications, plans, drawings or any other documents issued by or on behalf of the Authority for the purposes of the Contract remain the property of the Authority and must be returned on completion of the Contract or, if directed by the Authority, destroyed in accordance with paragraph 34.

Access

13. Access to UK classified material shall be confined to those individuals who have a “need-to-know”, have been made aware of the requirement to protect the material and whose access is essential for the purpose of their duties.

14. The Contractor shall ensure that all individuals requiring access to UK OFFICIAL-SENSITIVE material have undergone basic recruitment checks. This should include establishing proof of identity; confirming that they satisfy all legal requirements for employment by the Contractor; and verification of their employment record. Criminal record checks should also be undertaken where permissible under national/local laws and regulations. This is in keeping with the core principles set out in the UK Government (HMG) Baseline Personnel Security Standard (BPSS) which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/714002/HMG_Baseline_Personnel_Security_Standard_-_May_2018.pdf

Hard Copy Distribution

15. UK OFFICIAL and UK OFFICIAL-SENSITIVE documents may be distributed internally and externally of Contractor premises. To maintain confidentiality, integrity and availability, distribution is to be controlled such that access to documents is only by authorised personnel. They may be sent by ordinary post in a single envelope. The words UK OFFICIAL or UK OFFICIAL-SENSITIVE must not appear on the envelope. The envelope

must bear a stamp or marking that clearly indicates the full address of the office from which it was sent. Commercial Couriers may be used.

16. Advice on the distribution of UK OFFICIAL-SENSITIVE documents abroad or any other general advice including the distribution of UK OFFICIAL-SENSITIVE shall be sought from the Authority.

Electronic Communication and Telephony and Facsimile Services

17. UK OFFICIAL information may be emailed unencrypted over the internet. UK OFFICIAL-SENSITIVE information shall normally only be transmitted over the internet encrypted using either a National Cyber Security Centre (NCSC) Commercial Product Assurance (CPA) cryptographic product or a UK MOD approved cryptographic technique such as Transmission Layer Security (TLS). In the case of TLS both the sender and recipient organisations must have TLS enabled. Details of the required TLS implementation are available at:

<https://www.ncsc.gov.uk/guidance/tls-external-facing-services>

Details of the CPA scheme are available at: <https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa>

18. Exceptionally, in urgent cases UK OFFICIAL-SENSITIVE information may be emailed unencrypted over the internet where there is a strong business need to do so, but only with the prior approval of the Authority. However, it shall only be sent when it is known that the recipient has been made aware of and can comply with the requirements of these Security Conditions and subject to any explicit limitations that the Authority require. Such limitations including any regarding publication, further circulation or other handling instructions shall be clearly identified in the email sent with the information.

19. UK OFFICIAL information may be discussed on fixed and mobile telephones with persons located both within the country of the Contractor and overseas. UK OFFICIAL-SENSITIVE information may be discussed on fixed and mobile telephones only where there is a strong business need to do so.

20. UK OFFICIAL information may be faxed to recipients located both within the country of the Contractor and overseas, however UK OFFICIAL-SENSITIVE information may be transmitted only where there is a strong business case to do so and only with the prior approval of the Authority.

Use of Information Systems

21. The detailed functions that must be provided by an IT system to satisfy the minimum requirements cannot all be described here in specific detail; it is for the implementers to identify possible means of attack and ensure proportionate security mitigations are applied to prevent a successful attack.

22. The Contractor should ensure 10 Steps to Cyber Security (Link below) is applied in a proportionate manner for each IT and communications system storing, processing or generating UK OFFICIAL or UK OFFICIAL-SENSITIVE information. The Contractor should ensure competent personnel apply 10 Steps to Cyber Security.

<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>.

23. As a general rule, any communication path between an unauthorised user and the data can be used to carry out an attack on the system or be used to compromise or ex-filtrate data.

24. Within the framework of the 10 Steps to Cyber Security, the following describes the minimum security requirements for processing and accessing UK OFFICIAL-SENSITIVE information on IT systems.

a. Access. Physical access to all hardware elements of the IT system is to be strictly controlled. The principle of “least privilege” will be applied to System Administrators. Users of the IT System (Administrators) should not conduct ‘standard’ User functions using their privileged accounts.

b. Identification and Authentication (ID&A). All systems are to have the following functionality:

(1). Up-to-date lists of authorised users.

(2). Positive identification of all users at the start of each processing session.

c. Passwords. Passwords are part of most ID&A security measures. Passwords are to be “strong” using an appropriate method to achieve this, e.g. including numeric and “special” characters (if permitted by the system) as well as alphabetic characters.

d. Internal Access Control. All systems are to have internal Access Controls to prevent unauthorised users from accessing or modifying the data.

e. Data Transmission. Unless the Authority authorises otherwise, UK OFFICIAL-SENSITIVE information may only be transmitted or accessed electronically (e.g. point to point computer links) via a public network like the Internet, using a CPA product or equivalent as described in paragraph 17 above.

f. Security Accounting and Audit. Security relevant events fall into two categories, namely legitimate events and violations.

(1). The following events shall always be recorded:

(a) All log on attempts whether successful or failed,

(b) Log off (including time out where applicable),

(c) The creation, deletion or alteration of access rights and privileges,

(d) The creation, deletion or alteration of passwords.

(2). For each of the events listed above, the following information is to be recorded:

(a) Type of event,

(b) User ID,

(c) Date & Time,

(d) Device ID.

The accounting records are to have a facility to provide the System Manager with a hard copy of all or selected activity. There also must be a facility for the records to be printed in an easily readable form. All security records are to be inaccessible to users without a need to know. If the operating system is unable to provide this then the equipment must be protected by physical means when not in use i.e. locked away or the hard drive removed and locked away.

g. Integrity & Availability. The following supporting measures are to be implemented:

- (1). Provide general protection against normally foreseeable accidents/mishaps and known recurrent problems (e.g. viruses and power supply variations),
- (2). Defined Business Contingency Plan,
- (3). Data backup with local storage,
- (4). Anti-Virus Software (Implementation, with updates, of an acceptable industry standard Anti-virus software),
- (5). Operating systems, applications and firmware should be supported,
- (6). Patching of Operating Systems and Applications used are to be in line with the manufacturers recommended schedule. If patches cannot be applied an understanding of the resulting risk will be documented.

h. Logon Banners. Wherever possible, a “Logon Banner” will be provided to summarise the requirements for access to a system which may be needed to institute legal action in case of any breach occurring. A suggested format for the text (depending on national legal requirements) could be:

“Unauthorised access to this computer system may constitute a criminal offence”

i. Unattended Terminals. Users are to be automatically logged off the system if their terminals have been inactive for some predetermined period of time, or systems must activate a password protected screen saver after 15 minutes of inactivity, to prevent an attacker making use of an unattended terminal.

j. Internet Connections. Computer systems must not be connected direct to the Internet or “un-trusted” systems unless protected by a firewall (a software based personal firewall is the minimum but risk assessment and management must be used to identify whether this is sufficient).

k. Disposal. Before IT storage media (e.g. disks) are disposed of, an erasure product must be used to overwrite the data. This is a more thorough process than deletion of files, which does not remove the data.

Laptops

25. Laptops holding any UK OFFICIAL-SENSITIVE information shall be encrypted using a CPA product or equivalent as described in paragraph 17 above.

26. Unencrypted laptops and drives containing personal data are not to be taken outside of secure sites¹. For the avoidance of doubt the term “drives” includes all removable, recordable media e.g. memory sticks, compact flash, recordable optical media (CDs and DVDs), floppy discs and external hard drives.

27. Any token, touch memory device or password(s) associated with the encryption package is to be kept separate from the machine whenever the machine is not in use, left unattended or in transit.

28. Portable CIS devices holding the Authorities’ data are not to be left unattended in any public location. They are not to be left unattended in any motor vehicles either in view or in the boot or luggage compartment at any time. When the vehicle is being driven the CIS is

to be secured out of sight in the glove compartment, boot or luggage compartment as appropriate to deter opportunist theft.

Loss and Incident Reporting

29. The Contractor shall immediately report any loss or otherwise compromise of any Defence Related Classified Material to the Authority. The term Defence Related Classified Material includes MOD Identifiable Information (MODDII) (as defined in ISN2016/05) and any information or asset that has been given a security classification by the UK MOD. The term also includes classified information and assets held by UK Defence Contractors which are owned by a third party e.g. NATO or a another country for which the UK MOD is responsible.

30. In addition any loss or otherwise compromise of Defence Related Classified Material is to be immediately reported to the UK MOD Defence Industry Warning, Advice and Reporting Point (WARP). This will assist the UK MOD in formulating a formal information security reporting process and the management of any associated risks, impact analysis and upward reporting to the UK MOD’s Chief Information Officer (CIO) and, as appropriate, the Contractor concerned. The UK MOD Defence Industry WARP will also advise the Contractor what further action is required to be undertaken.

UK MOD Defence Industry WARP Contact Details Email: Defence-WARP@mod.gov.uk (OFFICIAL with no NTK restrictions) RLI Email: defence-warp@modnet.r.mil.uk (MULTIUSER)

Telephone (Office hours): +44 (0) 3001 583 640

Mail: Defence Industry WARP, DE&S PSyA Office

MOD Abbey Wood, NH2 Poplar-1 #2004, Bristol, BS34 8JH

31. Reporting instructions for any security incidents involving Defence Related Classified Material can be found in the Incident Reporting Industry Security Notice at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>

Sub-Contracts

32. Where the Contractor wishes to sub-contract any elements of a Contract to sub-Contractors within its own country or to Contractors located in the UK such sub-contracts will be notified to the Contracting Authority. The Contractor shall ensure that these Security Conditions are incorporated within the sub-contract document.

33. The prior approval of the Authority shall be obtained should the Contractor wish to sub-contract any UK OFFICIAL-SENSITIVE elements of the Contract to a sub-Contractor facility located in another (third party) country. The first page of Annex A (MOD Form 1686 (F1686) of ISN 2023/06 is to be used for seeking such approval. The MOD Form 1686 can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162250/ISN_2023-06_Subcontracting_or_Collaborating_on_Classified_MOD_Programmes.pdf

If the sub-contract is approved, the Contractor shall flow down the Security Conditions in line with paragraph 32 above to the sub-Contractor. Contractors located overseas may seek further advice and/or assistance from the Authority with regards the completion of F1686.

Physical Destruction

34. As soon as no longer required, UK OFFICIAL and UK OFFICIAL-SENSITIVE material shall be destroyed in such a way as to make reconstitution very difficult or impossible, for example, by burning, shredding or tearing into small pieces. Advice shall be sought from the Authority when the classified material cannot be destroyed or, un-

less already authorised by the Authority, when its retention is considered by the Contractor to be necessary or desirable. Unwanted UK OFFICIAL-SENSITIVE classified material which cannot be destroyed in such a way shall be returned to the Authority.

Private Venture Activities

35. Private Venture (PV) funded (i.e., non-MOD funded) defence related projects and technology fall within one of the following three categories:

- Variants. Variants of standard defence equipment under research, development or in production, e.g., aircraft, military vehicles or ships, etc. with non-standard equipment or fitments, offered to meet special customer requirements or to avoid security or commercial difficulties associated with the sale of an item in-Service with UK Armed Forces;
- Derivatives. Equipment for military or civil use that is not based on standard Service designs but is dependent upon expertise or technology acquired in the course of defence contracts;
- Freelance. Equipment of defence importance that is in no way based on information gained from defence contracts;

36. UK Contractors shall ensure that any PV activity that falls into one of the above categories has been formally security graded by the MOD Directorate of Security and Resilience. Please see PV guidance on the following website further information:

<https://www.gov.uk/government/publications/private-venture-pv-grading-and-exhibition-clearance-information-sheets>

Publicity Material

37. Contractors wishing to release any publicity material or display assets that arises from a Contract to which these Security Conditions apply must seek the prior approval of the Authority. Publicity material includes open publication in the Contractor's publicity literature or website or through the media; displays at exhibitions in any country; lectures or symposia; scientific or technical papers, or any other occasion where members of the general public may have access to the information even if organised or sponsored by the UK Government.

38. For UK Contractors where the exhibition assets relate to multiple Delivery Teams or for Private Venture defence related material where there is no defined Delivery Team, the Contractor shall request clearance for exhibition from the Directorate of Security and Resilience when it concerns Defence Related Material. See the MOD Exhibition Guidance on the following website for further information:

<https://www.gov.uk/government/publications/private-venture-pv-grading-and-exhibition-clearance-information-sheets>

Export sales/promotion

39. The MOD Form 680 (F680) security procedure enables HMG to control when, how, and if defence related classified material is released by UK Contractors to foreign entities for the purposes of promotion or sales of equipment or services. Before undertaking any targeted promotion or demonstration or entering into any contractual commitments involving the sale or release of defence equipment, information or technology classified UK OFFICIAL-SENSITIVE or above to a foreign entity, a UK Contractor shall obtain F680 approval from the Export Control Joint Unit (ECJU) MOD Team. This includes assets classified UK OFFICIAL-SENSITIVE or above either developed to meet a UK MOD requirement or Private Venture (PV) equipment, as formally advised in a Security Aspects Letter (SAL) issued by the relevant Contracting Authority, or PV Security Grading issued by the MOD Directorate of Security and Resilience. Guidance regarding the F680 procedure issued by ECJU can be found at:

<https://www.gov.uk/government/publications/ministry-of-defence-form-680-procedure-guidance>

40. If a Contractor has received an approval to sub-contract, under an MOD Form 1686 (F1686), for development/production of parts of an equipment, that approval also permits the production of additional quantities for supply to an export customer, when the Contractor has MOD Form 680 approval for supply of the complete equipment, as long as:

- a) they are identical, except for component obsolescence, to items produced under the UK programme that the approval to subcontract relates to; and
- b) no additional OFFICIAL-SENSITIVE or above material is required to be released to the overseas subcontractor.

Interpretation/Guidance

41. Advice regarding the interpretation of the above requirements should be sought from the Authority.

42. Further requirements, advice and guidance for the protection of UK classified material at the level of UK OFFICIAL and UK OFFICIAL-SENSITIVE may be found in Industry Security Notices at:

<https://www.gov.uk/government/publications/industry-security-notices-isns>

Audit

43. Where considered necessary by the Authority the Contractor shall provide evidence of compliance with this Security Condition and/or permit the inspection of the Contractor's processes and facilities by representatives of the Contractor's National/Designated Security Authorities or the Authority to ensure compliance with these requirements.

Schedule 9: License Terms

Within this document, the terms “we”, “us”, “our” and “ourselves” refers to the Supplier defined in the order form into which these licence terms (**License Terms**) are incorporated (**Order Form**) and “you”, “your” and “yourselves” refers to the Buyer defined in the Order Form.

Save where provided otherwise in these License Terms, capitalised terms used herein shall have the meaning given in the call-off contract of which the Order Form comprises Part A (**Call-Off Contract**).

1) SCOPE OF AGREEMENT AND DEFINITIONS

These License Terms, together with the Order Form and the documents referred to therein, set forth the terms on which we will license the Licensed Software to you.

Definitions Applicable to the Software Support Terms

- a) **“Copyleft”** means materials subject to any license that requires as a condition of use, modification, or distribution thereof, that such materials, or materials combined or distributed with such materials, be (1) disclosed or distributed in source code or similar form, (2) licensed for the purpose of making derivative works, or (3) redistributable at no charge.
- b) **“Cloud Provider”** means a third party that: (a) sells or leases use or partial use of computers that are under its control; and (b) meets the Cloud Provider Requirements.
- c) **“Cloud Provider Requirements”** means (1) the Licensed Software being installed on the Cloud Provider’s computers, and access controlled, in such a manner as to ensure that only Employees and contractors are able to access and use the Licensed Software; and (2) the Cloud Provider being a publicly held company incorporated in (and using data centres to host the Licensed Software in) the United States, United Kingdom or a European Union country member; and (3) you have entered into a written contract with the Cloud Provider in their own name in respect of the cloud services provided.
- d) **“Confidential Information”** means, in relation to a Party, any and all information (including without limitation information that relates to the business, affairs, developments, trade secrets, know-how, personnel of such Party, together with all Intellectual Property Rights and all information derived from any of the above) which is clearly designated by the disclosing Party as being confidential or which should reasonably be considered to be confidential (whether or not it is marked 'confidential').
- e) **“Customer Computer”** means the: (i) designated non-mobile standalone or shared file servers at the Location; and (ii) any mobile laptop computers, that are either under your exclusive operational control or under the control of a Cloud Provider with access controlled to ensure that only your employees or authorised representatives are able to access and use the Licensed Software. A Customer Computer, if not under the control of a Cloud Provider, must be located on your premises or on the premises of a Hardware Hosting Services provider or, in the case of mobile laptop computers, in the Location country or such other location as may be notified to us in writing (subject always to the provisions of, and your compliance with, clause 2.2 (l) of these Licence Terms).
- f) **“Documentation”** means our then-current technical and/or functional documentation for the applicable Licensed Software which is either made available at [Documentation for KX products - Product documentation](#) or delivered or made available to you in eye-readable form with the Licensed Software to assist in the use of the Licensed Software and as may be updated from time to time.
- g) **“Employee”** means any of your regular employees or workers who has entered into a written employment or other agreement with you.

- h) **"Feedback"** means bug reports, input, comments or suggestions from you, provided on a voluntary basis, regarding our business and technology and/or the possible creation, modification, correction, improvement or enhancement of our software, products and/or services whether or not marked or designated by you as confidential, exclusive of your Confidential Information.
- i) **"Hardware Hosting Services"** means operation of the Customer Computers on which the Licensed Software is installed by a third party, which third party operates and maintains the computers on your behalf but does not control the operation of, and cannot access the functionality of, the Licensed Software.
- j) **"Intellectual Property Rights"** means patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software and preparatory design materials, moral rights, database rights, and any other intellectual property rights, whether registerable or not, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
- k) **"Licensed Software"** means the software identified as such in the agreement-Cloud Services required section of the Order Form.
- l) **"License Key"** means a confidential security code or electronic file provided by us that enables the Licensed Software to be used by you on the Customer Computer.
- m) **"Location"** means the location of the Customer Computers as specified in the Order Form or such other Location as is agreed in writing between the Parties.
- n) **"Party"** means either of us or you.
- o) **"Permitted Use"** means, in respect of any Licensed Software, the definition provided in the Order Form.
- p) **"Person"** means a natural person, partnership (whether general or limited), limited liability company, trust, estate, association, corporation, custodian, nominee or any other individual or entity in its own or any representative capacity or any governmental authority.
- q) **"Software Support Services"** means the software related support services to be provided by us as set out in the Service level agreement section of the Order Form, and subject to the provisions of the Software Support Terms.
- r) **"Software Support Terms"** means the software support terms detailed in the Service level agreement section of the Order Form and found here: [Software Support Terms](#).
- s) **"Supplier Intellectual Property Rights"** means the: (i) the Licensed Software and Documentation; (ii) Supplier Materials which were developed or obtained by us or our Authorised Affiliates prior to or independently of the Call-Off Contract; and (iii) Supplier Materials developed or obtained by us or our Authorised Affiliates in the performance of the Software Support Services.
- t) **"Supplier Materials"** means all software (in object and source code form), programs, tools, materials, information, concepts, designs, utilities, Ancillary Tools, processes, methodologies, database schema, APIs, dashboards, user interfaces, or any work product in generic format, or methodologies, that are our or our Affiliates' property.
- u) **"Third Party Software"** means third party software or open source software or components which are included with the Licensed Software and identified in the Documentation.
- v) **"Usage Metrics"** means means the standard of measurement for calculating the fees due for the applicable Licensed Software as set forth in the Order Form.

w) **“Usage Metrics Limitations”** means the limitations specified in the Order Form.

2) ACCESS AND USAGE

2.1 Licensed Software Internal Use License Grant.

(a) Grant of Rights. Subject to and conditional upon your compliance with the terms of the Call-Off Contract and payment of all Charges owed, we hereby grant to you a limited, non-transferable, non-exclusive licence, without right of sublicense, for the applicable Subscription Term to install and execute the Licensed Software on Customer Computers in executable code form for internal use by you solely for the Permitted Use (and no other purpose) and in accordance with the Call-Off Contract and the other limitations specified in the Order Form.

(b) Usage Metrics. The licence granted under clause 2.1(a) is subject to the Usage Metric Limitations as detailed in the Order Form. Usage of the Licensed Software is calculated in accordance with the Usage Metrics and you must not exceed the Usage Metric Limitations. You will control access to and use of the Licensed Software by your end users and are responsible for any use of the Licensed Software by them that does not comply with the Call-Off Contract.

(c) Your Responsibility. You will : (i) before commencing use of the Licensed Software in production operations test the Licensed Software for freedom from defects; (ii) retain the Licensed Software and all copies thereof under your effective operational control; (iii) ensure you take appropriate precautions against the possibility that the Licensed Software or any part thereof does not function properly (including, without limitation, by performing data back-ups, error diagnosis and regular monitoring); (iv) be responsible for, and have the right to enter, the data and content into the Licensed Software; and (v) where applicable, be responsible for renewing your license entitlement at the required frequency as notified to you by us.

2.2 Restrictions on Licensed Software Use. The following restrictions apply to the licence granted under clause 2.1(a) above:

(a) Your Use Only. You will not, and will not permit any third party to, display, sell, rent, lease, license, sublicense, loan, lend, assign, publish, transfer, distribute or otherwise make available to any third party all or any portion of the Licensed Software or any features or functionality of the Licensed Software and/or Documentation (as applicable) in any form or media or by any means or for any reason, whether or not over a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), time-sharing, service bureau, software as a service, cloud, or other technology or service. You will not allow installation of the Licensed Software on any computer other than a Customer Computer except as allowed under clause 2.2(c) below. You will notify us without undue delay if you reasonably suspect or become aware of any unauthorized use or disclosure of the whole or part of the Licensed Software or Documentation by any Person. In addition, you will give prompt written notice to us as soon as you become aware that your use of the Licensed Software has exceeded the Permitted Use. Upon our reasonable request and no more than annually, you will certify in writing that your use of the Licensed Software is in full compliance with the terms of the Call-Off Contract.

(b) Requirements for Use of Cloud Provider. Without prejudice to any other term of the Call-Off Contract, you will be permitted to use a third party Cloud Provider to host the Licensed Software on your behalf for your use as authorized under the Call-Off Contract provided that such provider meets the Cloud Provider Requirements. If the Cloud Provider does not meet the Cloud Provider Requirements, your use of the Cloud Provider must be approved by us in writing and in advance. You will remain responsible to us for all of the acts and omissions of Cloud Providers (and other third parties) you appoint.

(c) Hardware Hosting Services. Without prejudice to any other term of the Call-Off Contract, you will be permitted to have a third party provide Hardware Hosting Services for the Customer Computers on which the Licensed Software is installed in accordance with clause 2.1(a). For the avoidance of doubt, you will remain responsible to us for all of the acts and omissions of third parties that you appoint to provide Hardware Hosting Services.

(d) Modifications of Licensed Software. In respect of the Licensed Software, you will not, and will not permit any third party to: (i) alter or modify, frame or mirror the whole or any part of the Licensed Software

in any way whatsoever; (ii) save to the extent permitted by applicable law, disassemble, decompile, reverse engineer, or reduce any part of the same to human-readable form; (iii) combine or link the Licensed Software with Copyleft Materials; (iv) other than as expressly permitted by these License Terms, attempt to gain access to, discover or recreate the source code (from the object code or via any other means) including (without limitation) in order to (1) copy ideas, features, functions or graphics, (2) develop competing products or services, or (3) perform competitive analyses; (v) create any derivative works of the Licensed Software (in whole or in part); (vi) send or store Malicious Code; (vii) use or permit others to use the Licensed Software in violation of applicable law; (viii) transmit or generate any content or data that is unlawful or infringes any Intellectual Property Rights or use the Licensed Software for any unlawful purpose; (ix) work around any technical limitations in the Licensed Software or restrictions in the Documentation; (x) use Third Party Software other than in accordance with the use rights that it has to the Licensed Software; or (xi) during the Call-Off Contract and for five years thereafter, use the Licensed Software (or any part of it) or any Supplier Intellectual Property Rights in order to build or offer a product or service (either for internal use or otherwise) which competes with, or provides the same or similar features, functionality or graphics of, the Licensed Software or otherwise use or copy any features, functions or graphics of the Licensed Software (or any part of it) or any Supplier Intellectual Property Rights.

(e) Copyright and Other Ownership Notices. You will not remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other Intellectual Property Rights or proprietary rights notices provided on or with the Licensed Software or Documentation.

(f) Use of Virtualization Software. You may run the Licensed Software on a virtualization platform subject to any Usage Metric limitations as detailed

(g) Verification. Upon reasonable request and no more than once in a 12 month period, you shall certify in writing that your use of the Licensed Software is in compliance with the terms of this Agreement.

(h) Benchmark Test Results. You agree not to disclose benchmark, test or performance information or any report which contains a competitive analysis regarding the Licensed Software or Support Services to any third party except as explicitly authorized by us in writing.

(i) Trade Control. You acknowledge that any Licensed Software (including its related technical data and services) may be deemed dual use and is subject to, without limitation, the export control laws and regulations of the United Kingdom, European Union, and United States of America ("Trade Control Laws"). You agree to fully comply with those Trade Control Laws in connection with the Licensed Software including where applicable assisting in obtaining any necessary governmental approvals, licenses and undertakings. You will not, and will not allow any third party, to use, export, re-export or transfer, directly or indirectly, of any part of the Licensed Software in violation of any Trade Control Laws or to a destination subject to US, UN, EU, UK or Organisation for Security and Cooperation in Europe (OSCE) embargo, or to any individual or entity listed on the denied parties' lists. A statement on the Export Controls applicable to the Licensed Software, is available at the following website: [Export Statement - KX](#). Any dispute in relation to this clause (i) shall be governed in accordance with clause [] (Governing law) unless Trade Control Laws determine otherwise. You acknowledge that we may not be permitted (and, in such an event, shall be excused from any requirement) to deliver or grant access to the Licensed Software, or perform support or services, due to an embargo, trade sanction or other comparable restrictive measure.

(j) You will deploy the Licensed Software into your own Operating Platform for the purposes of facilitating the processing of your data. As between the parties, you are solely responsible for: (a) all technical and organizational measures related to the security and integrity of the Operating Platform; and (b) securing and backing up your data which is processed by the Licensed Software.

3) LICENSE KEYS

(a) Upon execution of the Call-Off Contract, and upon the commencement of each annual period of the Initial Subscription Term and any Renewal Subscription Term, we will send you interim License Keys. The interim License Keys allow you to operate the Licensed Software for one hundred and twenty (120) days, after which time the Licensed Software will no longer operate. Upon our receipt of the Charges for the license of the Licensed Software ("**License Fee**") for the relevant year of the Initial Subscription Term, you will receive a key file (in place of the interim License Keys) which will operate until the next License Fee payment is due.

(b) You undertake not to do any of the following without our prior written consent:

- i) disclose and/or transfer any License Key to a third party; or
- ii) modify, tamper or use any License Key except as permitted in the Call-Off Contract.

(c) Any breach of clause 3(b) above by you will be deemed a material breach that is not capable of being remedied, permitting us to terminate the Call-Off Contract immediately and without penalty or requirement for refund by us.

(d) The process for the issuance of Licence Keys may be subject to change during the Call-Off Contract and we will provide you with reasonable notice and information on the changes before they are introduced.

4) OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS

(a) Our Intellectual Property Rights. We are the owner (or in relation to Third Party Software, an authorised licensee) of all right, title and interest in, the Supplier Intellectual Property Rights. The Licensed Software and Documentation consist of original works of authorship originally treated and developed as trade secrets at our expense. Any Feedback, inventions, customizations, enhancements, improvements, updates, derivative works and other modifications of the Licensed Software and all related Intellectual Property Rights shall automatically vest in us immediately upon creation. Any rights not expressly granted herein are reserved to us.

(b) Assignment. Where any Intellectual Property Rights do not vest automatically in us under clause 4(a), you hereby assign free of charge, all of your right, title and interest in such Feedback and other items described in clause 4(a) upon their creation to us.

(c) Disclaimer. For the avoidance of doubt, you disclaim all right, title, and interest in the Supplier Intellectual Property Rights and Feedback (whether in whole or in part). You irrevocably waive, to the extent permitted by applicable law, any and all claims you or your Authorised Affiliates, Employees and contractors (and their employees) may now or hereafter have in any jurisdiction to so-called "moral rights" (or equivalent in any jurisdiction). You will not register any trademark, patent or copyright which uses or references any Supplier Intellectual Property Rights.

5) WARRANTY AND LIABILITY

A) Licensed Software Warranty. We warrant to you only, and not to any third party that (i) the Licensed Software will perform substantially in accordance with the Documentation for a period of ninety (90) days from the Start Date ("**Warranty Period**"); and (ii) we will provide the Licensed Software and Services to you in compliance with any laws applicable to us, without regard to your specific use of the Licensed Software and Services. We do not warrant and we disclaim any implied warranty that the operation of any Licensed Software will be error free or uninterrupted or that such Licensed Software will achieve any intended result or that it will be compatible, work with or continue to work with third party software or hardware. You warrant that you will use the Licensed Software and Services in compliance with all applicable laws. Other than the warranties expressly stated above or documented elsewhere in the Call-Off Contract, no express or implied warranties shall apply to any Licensed Software, Documentation or Services covered by the Call-Off Contract which shall be provided on an "as is" basis. We expressly disclaim any implied warranties that may apply, including (without limitation) in relation to merchantability, fitness for a particular purpose, satisfactory quality and non-infringement. You accept responsibility for the selection of the Licensed Software and acknowledge that the Licensed Software has not been developed to meet your individual requirements. You will be solely responsible for any opinions, recommendations, forecasts or other conclusions made or actions taken based (wholly or in part) on the results obtained from the use or receipt of the Licensed Software or Services.

b) Remedy. If during the Warranty Period the Licensed Software does not perform as warranted in clause 5(a)(i) above, we will undertake to correct or replace the Licensed Software or, if correction or replacement of the Licensed Software is not reasonably possible, we may terminate the Call-Off Contract and refund to you a pro-rata amount for the License Fees paid hereunder for the applicable Licensed Software for any remaining period of the Subscription Term. The foregoing are your sole and exclusive remedies for breach of this warranty.

c) **Unlimited Liability.** Neither Party will exclude or limit its liability resulting from: (a) its indemnification obligations set out in these License Terms; (b) fraud or fraudulent misrepresentation by that Party; (c) death or personal injury arising from that Party's negligence or wilful misconduct; or (d) any other liability to the extent that the same may not be excluded or limited as a matter of applicable law. Any other liability of us under the Call-Off Contract is subject to the limitations detailed in these License Terms. You will not exclude or limit your liability resulting from: (x) any failure by you to pay any fees due under the Call-Off Contract (or as would have become due, but for its earlier termination); or (y) any breach by you of clause 2.1(b), 2.2(a), 2.2(d), 2.2(e) or 3(b) of the License Terms.

d) **Exclusion of Damages.** Subject to clause 6 (c), in no event will either Party be liable for loss of use, corruption of software, loss or damage to or corruption of data or failure to store any data, system incompatibility, failure to accurately transfer, read, or transmit information, loss of or damage to goodwill, interruption of business, loss of profits, loss of sales or revenue, loss of anticipated savings, loss associated with any transaction using the Licensed Software, wasted expenditure (including procurement costs and management time) or any consequential, special, exemplary, punitive, incidental, or indirect damages of any kind under any cause or action whether in contract or tort (including negligence), whether or not the Party has been advised of the possibility of such damages. These limitations shall apply notwithstanding the failure of the essential purpose of any limited remedy.

e) **Limitation on our indemnity in clause 11.6 of the Call-Off Contract.** The indemnity provided for in Clause 11.6 of the Call-Off Contract shall not apply to the following: (a) infringements which would not have arisen without the combination by you of the Licensed Software with any third party software or hardware products not approved by us or stated as compatible with the Licensed Software in the Documentation; (b) connections or integrations of the Licensed Software with any of your products or any of your components, whether enabled through APIs, third party software or otherwise; (c) modifications to the Licensed Software made by any party other than us or which are not made under our direction; (d) use of an unsupported release or version of the Licensed Software pursuant to the Software Support Terms or the failure to install any Error Correction or release to the extent such infringement would have been avoided by the use of the current version or installation of the Error Correction or release (as applicable); (e) trademark infringements involving any marking or branding not applied by us or involving any marking or branding applied at your request and not approved by us; or (f) infringements arising from your negligence or wilful infringement.

f) **Indemnification by you.** You agree to indemnify and hold us harmless against any loss, liability, claim, damage, fine, cost or expense (including reasonable attorneys' fees) arising out of: (i) use of the Licensed Software or Services in violation of the Call-Off Contract; (ii) any decision made or action taken by you or any other Person on the basis of the Licensed Software or product or works produced using the Licensed Software and not caused by any fault or error with the Licensed Software; and (iii) the combination of the Licensed Software with other software, systems, applications or hardware which infringes or misappropriates any third party's Intellectual Property Rights except for any software, systems or hardware approved by us or which are stated as compatible with the Licensed Software in the Documentation. The limitations on liability in the Call-Off Contract shall not apply to the indemnity provided for in this clause 5(e).

6) MISCELLANEOUS

a) **Surviving Provisions of Call-Off Contract.** Termination of the Call-Off Contract by either Party shall in no way prejudice any existing right or claim or relieve you from your obligation to pay us any sums accrued or due prior to the date of such termination. Together with any other provision which is either expressed to or by implication is intended to survive termination, the provisions of clauses 2.1 (a), (d), (e), (j), (k), (l), clause 4, clause 5(d)-(f) and clause 6 shall survive the termination of the Call-Off Contract for any reason. All other rights and obligations of the Parties shall cease upon termination of the Call-Off Contract.

b) **Return of Licensed Software.** Upon termination of the Call-Off Contract (or expiry or termination of an applicable Subscription Term) all rights granted under the Call-Off Contract shall cease and you will make no further use of any Licensed Software or Documentation which has been the subject of termination. Within five (5) Business Days after such termination of the Call-Off Contract or termination or expiry of a Subscription Term for the applicable Licensed Software, you will either destroy or return to us the originals and all copies of the Licensed Software and Documentation in your possession or under your control and you will certify to us your compliance with these requirements. These obligations apply to

copies of the Licensed Software and Documentation in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or combined with other materials. In addition, you will immediately cease to use all of our trademarks, titles, copyright symbols and legends and, at our election, destroy or deliver to us all materials in your control or possession which bear such trademarks, titles, copyright symbols and legends.

c) Conflict. For the avoidance of doubt, and to the extent that any provision of these License Terms and/or the Software Support Terms conflict with any other provision of the Call-Off Contract, the terms of the License Terms and the Software Support Terms shall take precedence, as per the order of precedence set out in clause 8.3 of the Framework Agreement.

d) Equitable Relief. Each Party agrees that a breach or threatened breach by such Party of any of its obligations under these License Terms or, in the case of you only, any unauthorized use by you of the Licensed Software or any Supplier Intellectual Property Rights, may cause the other Party irreparable harm and significant damages for which there may be no adequate remedy under law and that, in the event of such breach or threatened breach, the other Party will have the right to seek immediate equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

Schedule 10
Ministry of Defence

DEFFORM 711 – NOTIFICATION OF INTELLECTUAL PROPERTY RIGHTS (IPR) RESTRICTIONS

DEFFORM 711 - PART A – Notification of IPR Restrictions

1. <u>ITT / Contract Number</u>				
2. <u>ID #</u>	3. <u>Unique Technical Data</u> <u>Reference Number / Label</u>	4. <u>Unique Article(s)</u> <u>Identification Number / Label</u>	5. <u>Statement</u> <u>Describing IPR Restriction</u>	6. <u>Ownership of the</u> <u>Intellectual Property Rights</u>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Please continue on additional sheets where necessary

DEFFORM 711 - PART B – System / Product Breakdown Structure (PBS)

The Contractor should insert their PBS here. For Software, please provide a Modular Breakdown Structure.

Completion Notes

Part A

If any information / technical data that is deliverable or delivered under the relevant Contract conditions is, or may be, subject to any IPR restrictions (or any other type of restriction which may include export restrictions) affecting the Authority's ability to use or disclose the information / technical data in accordance with the conditions of any resulting Contract, then the Contractor must identify this restricted information / technical data in this Part A. Otherwise, the Authority shall treat such information in accordance with the same rights under the Contract it would enjoy should no restrictions exist.

For example, any of the following must be disclosed:

- a) any restriction on the provision of information / technical data to the Authority; any restriction on disclosure or the use of information by, or on behalf of, the Authority; any obligations to make payments in respect of IPR, and any patent or registered design (or application for either) or other IPR (including unregistered design right) owned or controlled by you or a third party;
- b) any allegation made against the Contractor, whether by claim or otherwise, of an infringement of IPR (whether a patent, registered design, unregistered design right, copyright or otherwise) or of a breach of confidence, which relates to the performance of the Contract or subsequent use by or for the Authority of any Contract deliverables;
- c) the nature of any allegation referred to under sub-paragraph (b) above, including any request or obligation to make payments in respect of the IPR of any confidential information and / or;
- d) any action the Contractor needs to take, or the Authority is requested to take, to deal with the consequences of any allegation referred to under sub-paragraph (b) above.

Block 1	Enter the associated Invitation to Tender (ITT) or Contract number as appropriate.
Block 2	No action – This sequential numbering is to assist isolation and discussion of any line item
Block 3	Identify a unique reference number for the information / technical data (i.e. a Contractor's document or file reference number) including any dates and version numbers. Documents may only be grouped and listed as a single entry where they relate to the same Article and where the restrictions and IPR owner are the same.
Block 4	<p>Identify the Article(s) associated with the information / technical data by entering a unique identification number / label for the Article(s). This may range from platform level down to sub-system level. This is to enable the Authority to quickly identify the approximate technical boundary to any user rights limitation (e.g. The RADAR or Defensive Aid Sub-System etc). This identification shall be at the lowest level of replaceability of the Article(s) or part of it to which the restrictions apply (i.e. if the restrictions apply to a sub-system the parent system should not be used to identify the restriction boundary). <u>Any entry without a unique identifier shall be treated as a nil entry.</u></p> <p>NOTE: The Authority does not accept any IPR restrictions in respect of the physical Articles themselves. Block 4 is solely to provide an applied picture to any technical data stated under Block 3 as having IPR restrictions.</p>
Block 5	This is a freeform narrative field to allow a short explanation justifying why this information / technical data has limited rights applying to it.
Block 6	Identify who is the owner of the IPR in the information / technical data (i.e. copyright, design right etc). If it is a sub-contractor or supplier, please identify this also.

Part B

If neither hardware nor software is proposed to be designed, developed or delivered as part of the Contract, Part B should be marked "NIL RETURN".

Otherwise, the Contractor must include a System / Product Breakdown Structure (PBS) in a format which is consistent with ISO 21511 and / or the configuration requirements of DEFSTAN 05-057, unless an alternative format better represents your design configuration. For software, a modular breakdown structure must be provided. For reasons of clarity, it is acceptable to provide several levels of breakdown if this assists in organising the configuration of the Articles.

Details provided under Part B shall not imply any restriction of use over the Contract Articles, nor any restriction on associated technical data to be delivered under the Contract. Any restrictions of such technical data must be identified within Part A.

Against each unique item within the PBS / module breakdown, one of the following categories shall be recorded:

- a) (PVF) - Private Venture Funded - where the article existed prior to the proposed Contract and its design was created through funding otherwise than from His Majesty's Government (HMG).
- b) (PAF) - Previous Authority Funded (inc. HMG Funded) - where the article existed prior to the proposed Contract and its design was created through Previous Authority Funding.
- c) (CAF) - Contract Authority Funded (inc. HMG Funded) - where the article did not exist prior to the Contract and its design will be created through Contract Authority Funding under this Contract.
- d) (DNM) Design Not Mature - where the article / design configuration is not yet fixed.

In combination with one of categories (a) to (d) above, the Contractor shall further identify where an item has, or will have, foreign export control applying to it, through use of the further following category:

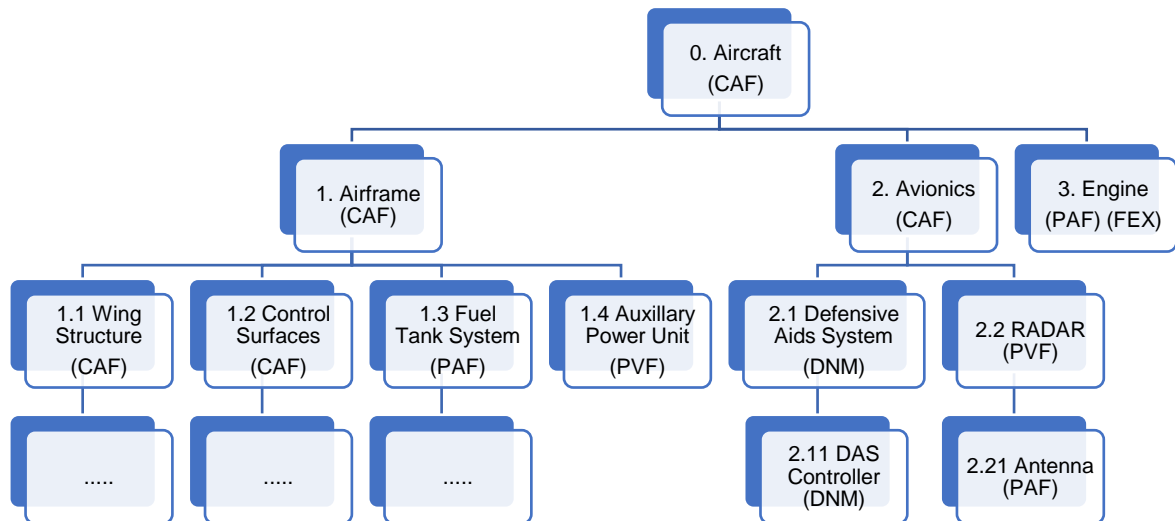
- e) (FEX) Foreign Export Controlled

Notes:

1. During the term of the Contract the Contractor may transition any items identified as category (d) above into category (b) or (c). Transitions from category (d) into category (a) may only be made with the express written agreement of the Authority's Senior Commercial Officer, and by following the amendment process set out in the Contract.
2. It is acceptable to specify the highest level of structure to which the category (a), (b) or (c) applies (i.e. there is no need to specify each sub-system / componentry if the entirety of the parent system was for example, Private Venture Funded). See guidance examples overleaf.
3. For the avoidance of doubt, where a parent system did not exist prior to the Contract yet makes use of Private Venture Funded Articles, it must be identified as (CAF). The Private Venture Funded sub-components / sub-systems can be identified as PVF.
4. Where items are identified as category (b), the Contractor should provide the number(s) of the previous Contract(s) under which the design was created and the Previous Authority Funding was applied.

Example PBS

A theoretical pictorial example is given below but it is to be noted that the configuration may equally be dealt with in a hierarchal tabularised format.



The diagram above indicates a highly simplified and hypothetical Contract scenario dealing with the procurement of a new air asset.

- i. The proposed new aircraft would be considered Contract Authority Funded (CAF) at its top level.
- ii. Items denoted as Private Venture Funded (PVF) would generally indicate that it and all of its sub-components have been funded by sources other than HMG. In this instance there is no need to proceed down the product breakdown structure any further (see 1.4), except unusually where a generally PVF regarded item has incorporated a Previous Authority Funded (PAF) item (see 2.21).
- iii. The proposed design is making use of a PAF engine.
- iv. This engine has Foreign Export Control (FEX) applying to items within it.
- v. The Defensive Aids System at 2.1 is covered as part of the Contract but the exact configuration and design has not yet been fixed "Design Not Mature" (DNM).
- vi. It is not feasible for a parent PVF system to make use of a CAF item; the parent system configuration would not have existed prior to the Contract.