

FRAMEWORK SCHEDULE 4 – Annex 2

RM6111 CLOUD COMPUTE

TEMPLATE CALL-OFF TERMS

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1. DEFINITIONS

- 1.1 In this Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in these Call-Off Terms and in particular Schedule 1 (Definitions).
- 1.2 If no meaning is given to a capitalised expression in this Contract, it shall in the first instance be interpreted in accordance with the Order Form and related documents and otherwise in accordance with common interpretation within the technology services sector where appropriate.

2. INTERPRETATION

- 2.1 In this Contract, unless the context otherwise requires:
 - 2.1.1 the singular includes the plural and vice versa;
 - 2.1.2 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 2.1.3 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - 2.1.4 the words "including", "other", "in particular", "for example" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
 - 2.1.5 references to "writing" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form and expressions referring to writing shall be construed accordingly;
 - 2.1.6 references to "Clauses" and "Schedules" are, unless otherwise provided, references to the clauses and schedules of this Contract and references in any Schedule to paragraphs, parts, annexes and tables are, unless otherwise provided, references to the paragraphs, parts, annexes and tables of the Schedule or the part of the Schedule in which the references appear;
 - 2.1.7 the headings in this Contract are for ease of reference only and shall not affect the interpretation or construction of this Contract; and
 - 2.1.8 any reference which immediately before Exit Day was a reference to (as it has effect from time to time):
 - (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("EU References") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (b) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.
- 2.2 In the event and to the extent only of a conflict between the Order Form, these Call-Off Terms, the Applicable Supplier Terms and the applicable provisions of the Framework

Agreement, the conflict shall be resolved in accordance with the following descending order of precedence:

- 2.2.1 (subject always to Clauses 2.5 and 4.2.2) the Special Terms (if any);
 - 2.2.2 the Order Form (except any Applicable Supplier Terms or Special Terms);
 - 2.2.3 these Call-Off Terms;
 - 2.2.4 the Applicable Supplier Terms;
 - 2.2.5 the applicable provisions of the Framework Agreement, except (and subject always to Clause 2.4) Schedule 13 (Tender) of the Framework Agreement; and
 - 2.2.6 Schedule 13 (Tender) of the Framework Agreement.
- 2.3 As an aid to interpretation of this Contract, the Applicability Matrix set out in Annex 2 (Applicability Matrix) to the Order Form identifies:
- 2.3.1 each of the relevant documents which contain contractual provisions that apply to this Contract; and
 - 2.3.2 in respect of each such document the general nature of the provisions in that document which apply to this Contract.
- 2.4 Where Schedule 13 (Tender) of the Framework Agreement contains provisions which are more favourable to the Buyer in relation to this Contract such provisions of the Tender (as applicable) shall prevail. The Buyer shall in its absolute and sole discretion determine whether any provision in the Tender and/or this Contract is more favourable to it in this context.
- 2.5 Special Terms shall only apply to this Contract if they:
- 2.5.1 are set out in full in the section of the Order Form entitled “**Special Terms**”; and
 - 2.5.2 augment and supplement this Contract and in particular do not amend these Call-Off Terms to any material extent,
- and provided always that any attempt to incorporate by reference any Supplier Terms as Special Terms in this Contract shall be ineffective.
- 2.6 Alternative Clauses specified in an Order Form will take precedence over their corresponding clauses in this Contract.

3. **SUPPLIER TERMS**

Applicable Supplier Terms:

- 3.1 The Supplier Terms which shall apply to this Contract, and are therefore incorporated into this Contract subject to these Call-Off Terms, are restricted to those Supplier Terms which are set out or expressly referred to in the relevant Order Form or its Attachments (the “**Applicable Supplier Terms**”) and as may be modified strictly in accordance with the provisions of this Contract.

Supplier General Terms:

- 3.2 The Supplier General Terms comprise the Supplier’s Acceptable Use Policy (AUP) and the Supplier’s Data Processing Agreement (DPA) each in the agreed form as set out in Attachments 7 (Acceptable Use Policy) and 8 (Data Processing Agreement) respectively to the Order Form. The Supplier shall not include any hyperlinks in the Supplier General

Terms. If, notwithstanding the previous sentence, the Supplier General Terms, and subject to clauses 3.3 any agreed modifications to the Supplier General Terms, include any hyperlinks these shall be deemed ineffective in accordance with Clause 3.9.1.

Modifications to Supplier General Terms:

- 3.3 The Supplier General Terms forming part of the Applicable Supplier Terms pursuant to Clause 3.1 cannot be amended during the Contract Period without the Buyer's prior written consent.

Supplier Service Specific Terms:

- 3.4 The Supplier Service Specific Terms comprise:
- 3.4.1 the Product Terms; and
 - 3.4.2 the SLA(s).
- 3.5 Subject to Clause 3.9, in respect of this Contract:
- 3.5.1 the Product Terms (applicable to the Services the subject of this Contract) are as set out or referred to (including via hyperlinks directly to the relevant document(s) setting out the relevant terms and conditions applicable to the relevant Services) in Attachment 1 (Service Descriptions and Product Terms) to the Order Form; and
 - 3.5.2 the SLA(s) (applicable to the relevant Services the subject of this Contract) are as set out or referred to (including via hyperlinks directly to the relevant document(s) setting out the relevant service level terms and conditions applicable to the relevant Services) in Attachment 2 (Service Level Agreement(s)) to the Order Form.

Modifications to Supplier Service Specific Terms:

- 3.6 Subject to the Buyer's right to terminate under Clause 3.7, the Supplier may, from time to time during the Contract Period, propose a modification to the Supplier Service Specific Terms forming part of the Applicable Supplier Terms provided in each case the following conditions are satisfied:
- 3.6.1 the Supplier has given the Buyer Authorised Representative and CCS not less than thirty (30) days' prior written notice via email of any modifications to such Supplier Service Specific Terms, such notice to include a hyperlink directly to a URL setting out in full and in a clear and transparent manner the proposed modified Supplier Service Specific Terms;
 - 3.6.2 the proposed modified Supplier Service Specific Terms:
 - (a) apply on a uniform basis to all customers in respect of the relevant Services; and
 - (b) do not contain:
 - (i) any indemnities (or clauses of a similar nature to indemnities);
 - (ii) any clauses which would have any material impact on either (A) the potential liability of either Party under this Contract; or (B) the balance of risks under the Contract from the Buyer's perspective (including the creation of new or

increased potential liabilities and/or new or materially different operational responsibilities for the Buyer and/or any Buyer Users); and

3.6.3 any proposed modifications to such Supplier Service Specific Terms do not constitute a substantial modification to this Contract and/or the Framework Agreement to the extent that the Regulations require a new procurement procedure.

3.7 Where the Buyer reasonably believes a proposed modification of the Supplier Service Specific Terms has, or is likely to have, a materially adverse impact on:

3.7.1 the Buyer's use and enjoyment of the Services under the Contract;

3.7.2 the commercial benefits of the Contract to the Buyer (including in relation to pricing and performance of the Services); and/or

3.7.3 the balance of risks under the Contract from the Buyer's perspective (including the creation of new or increased potential liabilities and/or new or materially different operational responsibilities for the Buyer and/or any Buyer Users),

the Buyer may, acting reasonably, object to the Supplier's proposed modification to the Supplier Service Specific Terms by notifying the Supplier in writing within thirty (30) days' of the Buyer's receipt of the Supplier's notice of such modification pursuant to Clause 3.6.1. If the Parties (acting reasonably) are unable within the next ten (10) days to resolve the Buyer's objection to its reasonable satisfaction the Buyer may terminate this Contract with immediate effect and without any liability (including, for the avoidance of doubt, pursuant to Clause 17.4) by giving notice in writing to the Supplier.

3.8 Where the Buyer:

3.8.1 does not object to a proposed modification to the Supplier Service Specific Terms within the thirty (30) day period referred to in Clause 3.7; or

3.8.2 having objected the Buyer subsequently agrees to the proposed modification to the Supplier Service Specific Terms,

and subject to the conditions in Clause 3.6 being satisfied, the relevant Supplier Service Specific Terms are deemed modified, to reflect the modified Supplier Service Specific Terms notified to the Buyer in accordance with Clause 3.6.1, with effect from the effective date set out in the relevant email notice or where no effective date is specified thirty (30) days following the Buyer's receipt of the email notice of the proposed modification. Where any of the conditions in Clause 3.6 are not satisfied the proposed modification to the Supplier Service Specific Terms is deemed invalid and shall not modify the then current Supplier Service Specific Terms applying to this Contract save in the case of failure to satisfy only condition 3.6.2(a) in which event the relevant clause or clauses which fail this condition are deemed invalid and shall not modify the then current Supplier Service Specific Terms applying to this Contract but the remainder of the proposed modified Supplier Service Specific Terms are deemed modified in accordance with this Clause 3.8.

Hyperlinks:

3.9 Where in any:

3.9.1 Applicable Supplier Terms; and/or

3.9.2 Service Descriptions,

a standard, policy, list, terms and conditions or any other document ("**Additional Documents and/or Terms**") is incorporated into the relevant Applicable Supplier Terms and/or Service Descriptions by reference to a hyperlink, then such hyperlink shall be deemed ineffective and any Additional Documents and/or Terms shall be deemed unenforceable and shall not apply to this Contract and this Contract shall apply as if such hyperlink to the Additional Documents and/or Terms was not included.

3.10 Clause 3.9 is without prejudice to:

3.10.1 the inclusion as at the Commencement Date of hyperlinks to the Supplier's relevant online Service Descriptions and Product Terms under the relevant headings "Service Descriptions" and "Product Terms" in Attachment 1 (Service Descriptions and Product Terms) to the Order Form which hyperlinks shall be effective where and to the extent only they incorporate by reference the relevant Service Descriptions and Product Terms and no Additional Documents and/or Terms; and

3.10.2 the permitted use by the Supplier of email notices containing hyperlinks directly to a URL setting out in full the proposed modified relevant online:

- (a) Supplier Service Specific Terms strictly in accordance with the provisions of Clauses 3.6 to 3.8 (Modifications to Supplier Service Specific Terms); and/or
- (b) Service Descriptions strictly in accordance with the provisions of Clauses 5.10 to 5.14 (Modifications to the Services).

3.11 Where any hyperlinks to any online:

3.11.1 Supplier Service Specific Terms; or

3.11.2 Service Descriptions,

are set out in the Order Form or notified to the Buyer Authorised Representative in accordance with this Contract and such hyperlinks either:

- (a) no longer provide access directly to the relevant Supplier Service Specific Terms and/or Service Descriptions in full and in a clear and transparent manner; or
- (b) provide a hyperlink to another source,

(in either case a "broken hyperlink") then the Supplier shall notify the Buyer Authorised Representative and the Parties shall update this Contract with a variation in writing with a reference to the relevant replacement hyperlink (if any) to replace the broken hyperlink or failing which as otherwise agreed by the Parties.

Inapplicable Additional Terms:

3.12 Save for the Applicable Supplier Terms (including, for the avoidance of doubt, any subsequent modifications to Supplier Service Specific Terms permitted pursuant to Clause 3.6), where the Buyer and/or any Buyer User in the course of submitting Service Requests via the Supplier Portal (or otherwise makes requests for Services) and/or in accessing and

using the Services supplied under this Contract, accepts or is deemed to have accepted (whether intentionally or otherwise):

3.12.1 any other terms and conditions including any other Supplier Terms (whether in addition to or in replacement of the Applicable Supplier Terms) and/or any third party software licence terms (including whether purported to have been accepted online via clicking on the Supplier Portal or otherwise); and/or

3.12.2 the terms of any business forms (such as purchase orders and invoices),

(together the “**Inapplicable Additional Terms**”), the Parties agree that any such Inapplicable Additional Terms of the Supplier and/or any of its Affiliates are deemed invalid and shall be without legal effect in transactions under this Contract.

4. **CONTRACT PERIOD**

4.1 This Contract shall take effect on the Commencement Date specified in the Order Form, and unless terminated earlier under the terms of this Contract, shall expire upon the first to occur of the following:

4.1.1 at the end of the Initial Term (as specified in the Order Form);

4.1.2 if the Buyer elects to extend the Initial Term by giving the Supplier at least thirty (30) days’ notice before the end of the Initial Term, at the end of the notified Extension Period; or

4.1.3 in any event, at the end of the Maximum Contract Period.

4.2 The automatic renewal of the Initial Term, Extension Period and/or any other period:

4.2.1 will only be effective where expressly specified as a Special Term in the Order Form; and

4.2.2 notwithstanding anything to the contrary in the Order Form, will not in any circumstances apply beyond the Maximum Contract Period.

5. **PROVISION AND RECEIPT OF THE SERVICES**

5.1 Where the Buyer and/or Buyer Users submit Service Requests via the Supplier Portal, the Buyer shall be committed to purchase and pay for such Services and the Supplier shall be obliged to provide such Services under the terms of this Contract subject to the following conditions:

5.1.1 Service Requests must be submitted in accordance with the agreed process for requesting Services set out or referred to in the Order Form under the heading “Service Request Process” (including any restrictions on who is authorised to submit Service Requests as specified in the Order Form);

5.1.2 in accordance with Clause 3.12, Inapplicable Additional Terms are deemed invalid and shall be without legal effect in transactions under this Contract.

5.1.3 the aggregate value of all Service Requests submitted may not exceed the “Contract anticipated potential value” set out in the Order Form as at the Commencement Date without the prior written approval of the Buyer Authorised Representative;

5.1.4 the Supplier is not permitted under this Contract to provide any professional or managed services beyond the scope of enabling a Buyer to access and use the Services for example specific configuration or design peculiar only to a

Buyer which could reasonably be expected to result in the creation of new Intellectual Property Rights ("**Out of Scope Services**") and any professional or managed services beyond the scope of assisting a Buyer with any off-boarding support when the relevant Call-Off Contract expires or is otherwise terminated.; and

- 5.1.5 notwithstanding the Buyer and/or any Buyer User submitting Service Requests via the Supplier Portal or otherwise making requests to purchase Out of Scope Services, any such requests are deemed invalid and shall be without legal effect in transactions under this Contract. Accordingly, the Buyer shall not be liable for any charges, costs or expenses incurred by the Supplier and/or any other third party in providing any Out of Scope Services.
- 5.2 The Supplier shall ensure the Services comply at all times with the Service Descriptions.
- 5.3 The Supplier shall perform its obligations under this Contract:
 - 5.3.1 in accordance with all applicable Laws; and
 - 5.3.2 using reasonable skill and care.
- 5.4 In its performance of its obligations under this Contract (including provision of the Services) the Supplier shall at all times comply with this Contract including the Schedules and the applicable provisions of the Framework Agreement.
- 5.5 In its receipt and use of the Services the Buyer shall at all times comply with the provisions of this Contract.
- 5.6 Where the Buyer uploads third party software to cloud environments provided via the Services the Buyer will comply with the relevant license(s) applicable to such software.
- 5.7 In their dealings under this Contract the Parties shall at all times behave and act reasonably and in good faith towards each other.
- 5.8 The Buyer will not attempt to access or manipulate in any way the source code of any software used by or on behalf of the Supplier to provide the Services.

Applicable Service Descriptions:

- 5.9 The Service Descriptions which shall apply to this Contract and are therefore incorporated into this Contract are the Service Descriptions set out or referred to in Attachment 1 (Service Descriptions and Product Terms) to the Order Form as at the Commencement Date and as may be modified strictly in accordance with the provisions of Clauses 5.10 to 5.14 (Modifications to the Services).

Modifications to the Services:

- 5.10 The Buyer acknowledges that the Services are provided by the Supplier using hardware and software systems made available to customers on a multi-tenant basis and accordingly the Supplier may need to modify the Services during the Contract Period, for example to introduce new and improved functionality and may also include discontinuing and replacing some elements of the Services.
- 5.11 Subject to the Buyer's right to terminate under Clause 5.13, the Supplier may, from time to time during the Contract Period, propose a modification to the Services ("**Service Modification**") provided in each case the following conditions are satisfied:
 - 5.11.1 subject to Clause 5.12, the Supplier has given the Buyer Authorised Representative and CCS no less than thirty (30) days' prior written notice via

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- email of the proposed Service Modification, such notice to include a hyperlink directly to a URL setting out in full and in a clear and transparent manner the relevant modified Service Descriptions for the proposed Service Modification;
- 5.11.2 the proposed Service Modification applies on a uniform basis to all customers in respect of the affected Services; and
- 5.11.3 the proposed Service Modification does not constitute a substantial modification to the Framework Agreement or this Contract (including the Service Descriptions set out or referred to in the Order Form as at the Commencement Date) to the extent that the Regulations require a new procurement procedure.
- 5.12 The Supplier is not required to provide prior written notice of Service Modifications under Clause 5.11.1 where and to the extent a Service Modification is reasonably necessary to enable the Supplier:
- 5.12.1 to comply with Law and such requirement to comply is imminent and was reasonably unforeseen by the Supplier in the circumstances; or
- 5.12.2 to maintain the security of the Supplier's technology infrastructure,
(in each case an "**Urgent Service Modification**") provided that as soon as is reasonably possible following completion of any Urgent Service Modification the Supplier gives the Buyer Authorised Representative and CCS written notice via email of the date on which such Urgent Service Modification was made and includes in such notice brief summary details of the Urgent Service Modification together with a hyperlink directly to a URL setting out in full and in a clear and transparent manner the relevant modified Service Descriptions for that Urgent Service Modification.
- 5.13 Where the Buyer reasonably believes a Service Modification or Urgent Service Modification) has, or is likely to have, a materially adverse impact on:
- 5.13.1 the Buyer's use and enjoyment of the Services under the Contract;
- 5.13.2 the commercial benefits of the Contract to the Buyer (including in relation to pricing and performance of the Services); and/or
- 5.13.3 the balance of risks under the Contract from the Buyer's perspective (including the creation of new or increased potential liabilities and/or new or materially different operational responsibilities for the Buyer and/or any Buyer Users),
- the Buyer may, acting reasonably, object to the Supplier's proposed and/or actual modifications to the Services notified under Clause 5.11.1 (Service Modification) or Clause 5.12 (Urgent Service Modification) (as applicable) by notifying the Supplier in writing within 30 (thirty) days' of the Buyer's receipt of the Supplier's notice of such Service Modification or Urgent Service Modification (as applicable). If the Parties (acting reasonably) are unable within the next ten (10) days to resolve the Buyer's objection to its reasonable satisfaction the Buyer may terminate this Contract with immediate effect and without any liability (including, for the avoidance of doubt, pursuant to Clause 17.4) by giving notice in writing to the Supplier.
- 5.14 Where the Buyer:
- 5.14.1 does not object to a Service Modification or Urgent Service Modification within the thirty (30) day period referred to in Clause 5.13 or

5.14.2 having objected the Buyer subsequently agrees to the relevant Service Modification or Urgent Service Modification,

and subject to the conditions in Clause 5.11 being satisfied, the relevant Service Descriptions are deemed modified to reflect the relevant modified Service Descriptions notified to the Buyer under either (as applicable):

- (a) Clause 5.11.1 (Service Modifications), with effect from the effective date set out in the relevant email notice or where no effective date is specified thirty (30) days following the Buyer's receipt of the email notice; or
- (b) Clause 5.12 (Urgent Service Modifications), with effect from the effective date set out in the relevant email notice or where no effective date is specified immediately upon the Buyer's receipt of the email notice,

save where any of the conditions in Clause 5.11 are not satisfied, in which case the relevant Service Modification or Urgent Service Modification is deemed invalid and shall not modify the then current relevant Service Descriptions applying to this Contract.

6. WARRANTIES AND STANDARDS

6.1 The Supplier warrants and represents that:

- 6.1.1 it has full capacity and authority to enter into and to perform this Contract and this Contract is executed by its authorised representative;
- 6.1.2 it is a legally valid and existing organisation incorporated in the place it was formed;
- 6.1.3 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might reasonably be anticipated to affect its ability to perform this Contract;
- 6.1.4 it maintains all necessary rights, authorisations, licences and consents to perform its obligations under this Contract;
- 6.1.5 it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Contract;
- 6.1.6 it is not impacted by an Insolvency Event; and
- 6.1.7 all statements made and documents submitted by the Supplier as part of the procurement of the Services under this Contract are true and accurate.

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

7. CHARGES, PAYMENT AND INVOICING

- 7.1 In consideration of the Supplier carrying out its obligations under this Contract, including the provision of the Services, the Buyer shall pay the undisputed Charges.
- 7.2 The Charges for Services consumed or to be consumed by the Buyer during the Contract Period shall be calculated using the relevant pricing information (including applicable currency), charging model, payment profile, invoicing procedure and payment method

set out or referred to in the Order Form (including Attachment 3 (Charges and Payment Profile) and Schedule 3 (Framework Prices and Charging Structure) to the Framework Agreement as these apply to the relevant Services. Where specifically referred to in the Charges section of the Order Form, the parties may agree that specifically identified charging and payment provisions from the Applicable Supplier Terms shall apply to the calculation of the Charges.

- 7.3 The Supplier warrants that it will calculate Charges due under this Contract accurately in compliance with Schedule 3 (Framework Prices and Charging Structure) of the Framework Agreement and this Contract. Where the Buyer is eligible to benefit from any preferential pricing as agreed between the Supplier and the Government the Supplier shall apply this as a discount on the Framework Prices to calculate the Charges due under this Contract.
- 7.4 The Supplier shall invoice the Charges to the Buyer in accordance with this Clause 7 and the Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice. All Supplier invoices shall be expressed and paid in pounds sterling by electronic transfer of funds to the bank account that the Supplier has specified on its invoice. The Buyer must accept and process for payment an undisputed Electronic Invoice received from the Supplier.
- 7.5 Where applicable, the Supplier will ensure that:
- 7.5.1 invoiced amounts are calculated in accordance with the currency conversion mechanism selected by the Buyer in the Order Form based on one of the available options (if any) as set out in Schedule 3 (Framework Prices and Charging Structure) of the Framework Agreement or such other exchange rate conversion mechanism as agreed in writing by the Parties; and
 - 7.5.2 each invoice clearly sets out how such currency conversion provisions have been used to calculate the invoiced amounts including the actual exchange rate(s) applied.
- 7.6 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate (with visibility of the amount as a separate line item) as applicable and paid by the Buyer following delivery of a valid invoice.
- 7.7 The Buyer may retain or set off any amount owed to it by the Supplier (including any Buyer's Existing Entitlement) against any amount due to the Supplier under this Contract or under any other agreement between the Supplier and the Buyer.
- 7.8 If the Buyer wishes to exercise its right pursuant to Clause 7.7 it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out the Buyer's reasons for retaining or setting off the relevant Charges.
- 7.9 If there's an invoice dispute, the Buyer must pay any undisputed amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.10 Subject to Clause 7.11, due to the nature of the Services it is not practicable in a static Order Form to agree in detail exactly the quantity and rate of consumption of the Services during the Contract Period. Accordingly, the Charges due under this Contract are calculated (in accordance with the process set out in the Order Form) by reference to the Buyer's actual consumption of Services as a result of the Buyer and/or Buyer Users

submitting Service Requests via the self-service Supplier Portal during the Contract Period. Accordingly, the Supplier agrees that the Buyer's anticipated quantities and rates of consumption of Services stated in the Order Form (if any) are indicative only to the extent that this does not include Minimum Commitments.

7.11 The Buyer may commit under this Contract to purchase relevant Services for a minimum period or other agreed commitment (for example in respect of a Reserved Instance) in order to secure a commitment related discount to the Charges (a "**Minimum Commitment**"). The Buyer may agree to do this by either:

7.11.1 expressly specifying the relevant details of the Minimum Commitment in the Order Form (under the heading "Minimum Commitments"); or

7.11.2 subject to Clause 7.12, submitting a Service Request via the self-service Supplier Portal (by a person appropriately authorised (on the Supplier Portal) to do so on behalf of the Buyer or Buyer User) and such Service Request sets out a clear and unambiguous statement that the Buyer is agreeing to be bound by a Minimum Commitment together with details of the relevant Minimum Commitment.

7.12 It is a condition of this Contract that:

7.12.1 Service Requests submitted by or on behalf of the Buyer containing a Minimum Commitment are only valid and binding under this Contract where and to the extent the relevant Minimum Commitment and/or the process for entering into such Minimum commitment complies with any limits, settlement options or other requirements expressly set out in the Order Form under the heading "Minimum Commitments"; and

7.12.2 where the aggregate total of:

(a) all valid and undisputed Charges actually incurred by or on behalf of the Buyer; and

(b) any Charges which the Buyer has committed to pay, as a result of the Buyer validly entering into Minimum Commitments during the Contract Period,

(together the "**Committed Charges**") exceeds the anticipated contract value set out in the Order Form, the Supplier may not invoice for and the Buyer shall not pay for that portion of any Committed Charges in excess of the anticipated contract value set out in the Order Form (without the Buyer's prior written consent).

8. LIABILITIES

8.1 Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) shall not exceed the greater of five hundred thousand pounds (£500,000) (or such greater sum (if any) as may be specified in the Order Form) or one hundred and twenty-five per cent (125%) of the Charges paid and/or committed to be paid in that Contract Year.

8.2 Neither Party is liable to the other for:

8.2.1 any indirect Losses; or

-
- 8.2.2 loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 8.3 Notwithstanding Clauses 8.1 and 8.2, neither Party limits or excludes:
- 8.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
- 8.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; or
- 8.3.3 any liability that cannot be excluded or limited by Law.
- 8.4 Notwithstanding Clause 8.1 but subject to Clause 8.3, the Supplier's liability:
- 8.4.1 pursuant to the indemnity in Clause 9.7 shall be unlimited; and
- 8.4.2 in respect of Losses arising from breach of the Data Protection Legislation that are caused by the Supplier's Default(s) occurring in each and any Contract Year, shall in no event exceed in aggregate ten million pounds (£10,000,000) or such greater sum (if any) as may be specified in the Order Form.
- 8.5 Notwithstanding Clauses 8.1 but subject to Clause 8.3, the Buyer's liability pursuant to Clause 9.5.2 shall in no event exceed in aggregate five million pounds (£5,000,000).
- 8.6 Each Party must use all reasonable endeavours to mitigate any Losses which it suffers under or in connection with this Contract, including any indemnities.
- 8.7 When calculating the Supplier's liability under Clause 8.1 any items specified in Clause 8.4 will not be taken into consideration.
- Notice and conduct of Claims:**
- 8.8 If a Beneficiary is notified of a Claim then it must notify the Provider as soon as reasonably practical and no later than 10 Working Days.
- 8.9 At the Provider's cost and expense the Beneficiary must both:
- 8.9.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
- 8.9.2 give the Provider reasonable assistance with the Claim if requested.
- 8.10 The Beneficiary must not make admissions about the Claim without the prior written consent of the Provider which cannot be unreasonably withheld or delayed.
- 8.11 The Provider must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.
- 8.12 The Provider must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 8.13 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.
- 8.14 If the Provider pays the Beneficiary money under an indemnity or under Clause 9.5.2 (as applicable) and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Provider the lesser of either:
- 8.14.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or

8.14.2 the amount the Provider paid the Beneficiary for the Claim.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 Save for the licences expressly granted pursuant to Clauses 9.3 and 9.4, neither Party shall acquire any right, title or interest in or to the IPR (whether pre-existing or created during the Contract Period) of the other Party or its licensors.
- 9.2 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.
- 9.3 The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer's or its relevant licensor's Buyer Content 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 Sub-Contractors provided that:
- 9.3.1 any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on substantially the same terms as set out in Clause 19 (Confidentiality); and
- 9.3.2 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.
- 9.4 The Supplier grants to:
- 9.4.1 the Buyer; and
- 9.4.2 the Buyer Users (if any) identified in the Order Form,
- the licence taken from its Applicable Supplier Terms as set out or expressly referred to in Attachment 1 (Service Descriptions and Product Terms) to the Order Form under the heading 'Licence Terms' which licence shall, as a minimum, grant the Buyer and any Buyer Users a non-exclusive, non-transferable licence during the Contract Period 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 Contract.
- 9.5 Subject to the limitation in Clause 8.5, the Buyer shall:
- 9.5.1 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 Content violates, infringes or misappropriates any rights of a third party;
- (c) alleging that the Buyer's and/or Buyer User's use of the Services is in material breach of the AUP;
- (d) arising from the Supplier's use of the Buyer Content in accordance with this Contract; and

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- 9.5.2 in addition to defending in accordance with Clause 9.5.1, 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 9.5 shall not apply where and to the extent such Losses or third-party claim is caused by the Supplier's breach of this Contract.

IPR Indemnity:

- 9.6 The Supplier shall ensure and procure that the availability, provision and use of the Services and the performance of the Supplier's responsibilities and obligations hereunder shall not infringe any Intellectual Property Rights of any third party.
- 9.7 The Supplier will during and after the Contract Period, on written demand, defend and indemnify and keep the Buyer and/or any Buyer Users indemnified from and against all Losses incurred by, awarded against or agreed to be paid by the Buyer and/or any Buyer Users (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.

Supplier options:

- 9.8 If an IPR Claim is made, or the Supplier anticipates that an IPR Claim might be made, the Supplier may, at its own expense and sole option, either:
- 9.8.1 procure for the Buyer the right to continue using the relevant item which is subject to the IPR Claim; or
- 9.8.2 replace or modify the relevant item with non-infringing substitutes provided that:
- (a) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
 - (b) the replaced or modified item does not have an adverse effect on any other Services;
 - (c) there is no additional cost to the Buyer and/or any Buyer User; and
 - (d) the terms and conditions of this Contract shall apply to the replaced or modified Services.
- 9.9 The indemnity in Clause 9.7 shall not apply where and to the extent an IPR Claim and/or any Losses arising from such an IPR Claim, arise directly from and would not have arisen in the absence of:
- 9.9.1 the use of any Buyer Content provided by the Buyer and/or any Buyer User; and/or
- 9.9.2 the Buyer's and/or any Buyer User's breach of this Contract.
- 9.10 If the Supplier elects to procure a licence in accordance with Clause 9.8.1 or to modify or replace an item pursuant to Clause 9.8.2, but this has not avoided or resolved the IPR Claim, then:
- 9.10.1 the Buyer may terminate this Contract by written notice with immediate effect; and

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- 9.10.2 without prejudice to the indemnity set out in Clause 9.7, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute items and/or services including the additional costs of procuring, implementing and maintaining the substitute items.

10. PUBLICITY AND BRANDING

- 10.1 The Supplier shall not, and shall take all reasonable steps to ensure the Supplier staff do not, make any press announcements or publicise this Contract or any part of it in any way nor use the Buyer's name or brand in any promotion or marketing or announcement of orders, without the Buyer's prior written approval (the decision of the Buyer to approve or not shall not be unreasonably withheld or delayed).
- 10.2 Each Party acknowledges to the other that nothing in this Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Services) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

11. BUYER CONTENT AND SECURITY REQUIREMENTS

- 11.1 The Supplier shall not access, store, copy, disclose or use any of the Buyer Content uploaded to the relevant cloud platform(s) other than for the sole purpose and to the extent necessary to provide the Services or as otherwise approved in advance and in writing by the Buyer, unless the Supplier is required to do so by Law. If it is so required the Supplier shall promptly notify the Buyer before doing so unless prohibited by Law.
- 11.2 If the Supplier suspects that the Buyer Content has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer without undue delay and within 72 hours of becoming aware and will (at its own cost if corruption, loss, breach or degradation of the Buyer Content was caused by the act or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.
- 11.3 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.
- 11.4 If Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Content, the Supplier will assist and support the Buyer to mitigate any Losses and restore the Services to operating efficiency as soon as possible.
- 11.5 Responsibility for costs will be at the:
- 11.5.1 Supplier's expense if the Malicious Software originates from the Supplier's technology infrastructure or the Buyer Content where and to the extent that the Buyer Content 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; or
- 11.5.2 Buyer's expense if the Malicious Software originates from the Buyer's technology infrastructure or the Buyer Content, while the Buyer Content was under the Buyer's control.
- 11.6 The Supplier shall comply with the security requirements set out or referred to in the Order Form including:

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- 11.6.1 any special security or compliance requirements described in Section B of the Order Form under the heading “Special Security or compliance requirements”;
 - 11.6.2 those Standards relating to security referred to in Attachment 4 (Schedule of Standards) to the Order Form; and
 - 11.6.3 those protective measures set out or referred to (but not via hyperlinks) in the Supplier’s DPA set out in Attachment 8 (Data Processing Agreement).
- 11.7 The Buyer acknowledges it has responsibilities in relation to security where and to the extent described in the relevant Applicable Supplier Terms and applicable Service Descriptions.

12. RECORDS AND AUDIT

- 12.1 The Supplier will maintain full and accurate records and accounts, using good industry practice and generally accepted accounting principles, of the:
- 12.1.1 operation of this Contract and the Services provided under it (including any Sub-Contracts); and
 - 12.1.2 amounts paid by the Buyer under this Contract.
- 12.2 The Supplier’s records and accounts will be kept until the latest of the following dates:
- 12.2.1 7 years after the date of termination or expiry of this Contract; or
 - 12.2.2 another date agreed between the Parties.
- 12.3 During the timeframes highlighted in Clause 12.2, the Supplier will maintain:
- 12.3.1 commercial records of the Charges and costs (including Sub-Contractors’ costs) and any variations to them, including proposed variations;
 - 12.3.2 books of account for this Contract;
 - 12.3.3 access to its published accounts and trading entity information;
 - 12.3.4 proof of its compliance with its obligations under the Data Protection Legislation and the transparency and data protection provisions under this Contract; and
 - 12.3.5 records of its delivery performance under this Contract, including that of its Sub-Contractors.
- 12.4 The Supplier will allow representatives of the Buyer, the Comptroller and Auditor General and their staff, any appointed representatives of the National Audit Office, HM Treasury, the Cabinet Office and any successors or assigns of any of the above, access to the records, documents, and account information referred to in Clause 12.3 (including access to online records (including any Security Assessment Documents) via the Supplier Portal) as may be required by them and subject to reasonable and appropriate confidentiality undertakings, to verify and review:
- 12.4.1 the accuracy of the Charges (and proposed or actual variations to them under this Contract);
 - 12.4.2 any books of accounts kept by the Supplier in connection with the provision of the Services only for the purposes of auditing the Charges under this Contract;
 - 12.4.3 the integrity, confidentiality and security of the Buyer Content held or used by the Supplier;

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- 12.4.4 any other aspect of the delivery of the Services including to review compliance with any Law; and
 - 12.4.5 any records about the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records.
 - 12.5 The Buyer acknowledges that the rights of audit or inspection under this Clause 12 shall not include the right to audit or inspect the Supplier's physical infrastructure.
 - 12.6 Notwithstanding any provisions of the DPA and/or any other Applicable Supplier Terms, throughout the Contract Period the Supplier shall appoint external auditors to inspect and verify the continued adequacy and effectiveness of its Protective Measures in respect of the Services (including the security of the physical data centres from which the Supplier provides the Services) ("**Security Audit**"). The Supplier shall ensure:
 - 12.6.1 Security Audits are undertaken at least annually by external auditors appointed by the Supplier and at the Supplier's sole cost and expense;
 - 12.6.2 external auditors appointed to undertake Security Audits are suitably qualified and experienced independent third party organisations, whose identity the Supplier shall disclose to the Buyer upon request;
 - 12.6.3 are undertaken in accordance with ISO 27001 (or other substantially equivalent alternative standard(s)); and
 - 12.6.4 any Security Audit results in the independent external auditors providing written summary reports, certifications and/or attestations of compliance (as applicable) in accordance with good industry practice ("**Security Assessment Documents**") capable of being used by the Buyer so that it can reasonably assess and assure itself as to the continued adequacy and effectiveness of the Supplier's Protective Measures, the Supplier's compliance with those Protective Measures and its obligations under the Data Protection Legislation in respect of its provision of the Services in accordance with this Contract.
 - 12.7 Upon the Buyer's request, and subject to the confidentiality undertakings of this Contract, the Supplier shall at the Buyer's option either provide a copy or make available to the Buyer for review (including via the Supplier Portal) the Security Assessment Documents. The Security Assessment Documents will be treated as the Supplier's Confidential Information.
 - 12.8 Subject to any confidentiality obligations, the Supplier will use reasonable endeavours to provide all audit information within scope and give auditors access to Supplier Personnel and in each case without undue delay.
 - 12.9 The Buyer will use reasonable endeavours to ensure that any audit does not unreasonably disrupt the Supplier, but the Supplier accepts that control over the conduct of audits carried out by the auditors is outside of the Buyer's control.
 - 12.10 Each Party is responsible for its own costs incurred in respect of its compliance with the audit obligations in this Clause 12, save that the Supplier will reimburse the Buyer its reasonable Audit costs if the Audit reveals a material Default.

13. **INSURANCE**

The Supplier shall effect and maintain insurances in relation to the performance of this Contract in accordance with Schedule 11 (Insurance Requirements) of the Framework Agreement.

14. SUSPENSION

- 14.1 The Buyer shall, and shall procure that Buyer User's shall, comply with the AUP when accessing and using the Services.
- 14.2 Subject to Clause 14.3 and notwithstanding any provisions of the AUP and/or any other Applicable Supplier Terms, the Supplier may only suspend the Buyer's access and use of all or the affected part of the Services as follows:
 - 14.2.1 in relation to any provisions of the AUP and/or any other Applicable Supplier Terms which allow for suspension and/or termination due to Buyer Content and/or use of the Services these shall only apply to the extent such Buyer Content and/or use of the Services either results in the commission of a criminal offence under Law or represents a genuine risk to the security of the Supplier's technology infrastructure;
 - 14.2.2 where the Supplier is entitled to terminate this Contract under Clause 16.5, the Supplier may suspend the Buyer's access and use of all or the affected part of the Services subject to giving the Buyer not less than 20 Working Days' prior written notice of suspension and provided such notice includes a reference to late payment under Clause 16.5 as the reason for such suspension;
 - 14.2.3 where the Supplier becomes aware that the Buyer and/or any Buyer User is in material breach of the AUP, the Supplier will give the Buyer written notice of the material breach and requiring its remedy. Except where for reasons of maintaining security of the Supplier's technology infrastructure it is necessary to suspend immediately, the Buyer shall have a reasonable opportunity (in any event not less than 5 (five) days of being notified in writing to do so) to remedy the material breach and avoid suspension and failing which the Supplier may suspend with immediate effect the Buyer's access and use of all or the affected part of the Services;
 - 14.2.4 immediately and without prior written notice where the Supplier reasonably believes:
 - (a) it is required to suspend immediately the Buyer's access and use of all or the affected part of the Services to comply with Law;
 - (b) the Buyer's and/or any Buyer User's access and use of all or the affected part of the Services is likely to have an imminent and material adverse impact on the Supplier's other customers use of the same cloud services and/or the Supplier's technology infrastructure used to provide such cloud services; or
 - (c) an unauthorised third party is accessing and/or using the Services.
- 14.3 Where pursuant to Clause 14.2 the Supplier exercises any right to suspend the Buyer's access and use of all or the affected part of the Services the Supplier will, acting reasonably:
 - 14.3.1 restrict, as far as reasonably practicable, the extent and duration of any suspension to that part of the access and use of the Services and for such temporary period as is reasonably necessary and appropriate in the circumstances; and
 - 14.3.2 lift any suspension promptly when the circumstances giving rise to the suspension have been resolved to the reasonable satisfaction of the Supplier.

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- 14.4 Where the Supplier suspends the Buyer's access and use of all or the affected part of the Services pursuant to Clause 14.2.4, the Supplier will to the extent permitted by Law notify the Buyer, as soon as is reasonably possible following such immediate suspension, of the grounds relied on to suspend the Buyer's access and use of all or the affected part of the Services immediately and without prior written notice.

15. PROTECTION OF PERSONAL DATA

- 15.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor unless otherwise specified in the Schedule of Processing, Personal Data and Data Subjects. The only processing that the Supplier is authorised to do is listed in the Schedule of Processing, Personal Data and Data Subjects by the Buyer and may not be determined by the Supplier.
- 15.2 The Supplier shall notify the Buyer immediately if it considers that any of the Buyer's documented instructions infringe the Data Protection Legislation.
- 15.3 The Supplier shall provide all reasonable assistance to the Buyer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance will include:
- 15.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 15.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - 15.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 15.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 15.4 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- 15.4.1 process that Personal Data only in accordance with the Schedule of Processing, Personal Data and Data Subjects, unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Buyer before processing the Personal Data unless prohibited by Law;
 - 15.4.2 ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, having taken account of the:
 - (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures;
 - 15.4.3 ensure that:
 - (a) the Supplier's personnel do not process Personal Data except in accordance with this Contract (and in particular the Schedule of Processing, Personal Data and Data Subjects);
 - (b) it takes all reasonable steps to ensure the reliability and integrity of any of the Supplier's personnel who have access to the Personal Data and ensure that they:

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- (i) are aware of and comply with the Supplier's duties under this Clause 15;
 - (ii) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Buyer or as otherwise permitted by this Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - 15.4.4 not transfer Personal Data to a Restricted Country unless the prior written consent of the Buyer has been obtained or the Supplier is required to do so by Law. If it is so required the Supplier shall promptly notify the Buyer before doing so unless prohibited by Law. Where written consent has been obtained, the following conditions must also be fulfilled before transfer:
 - (a) the Buyer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37 as relevant) as determined by the Buyer;
 - (b) the Data Subject has enforceable rights and effective legal remedies;
 - (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Buyer in meeting its obligations); and
 - (d) the Supplier complies with any reasonable instructions notified to it in advance by the Buyer with respect to the processing of the Personal Data; and
 - (e) in respect of any processing in, or transfer of Personal Data to, any Restricted Country permitted in accordance with this Clause 15.4.4, the Supplier shall, when requested by the Buyer, promptly enter into an agreement with the Buyer including or on such provisions as the Standard Contractual Clauses and/or such variation as a regulator or the Buyer might require which terms shall, in the event of any conflict, take precedence over those in this Clause 15, and the Supplier shall comply with any reasonable instructions notified to it in advance by the Buyer with respect to the transfer of the Personal Data; and
 - 15.4.5 at the written direction of the Buyer, delete or return Personal Data (and any copies of it) to the Buyer on termination of this Contract unless the Supplier is required by Law to retain the Personal Data.
 - 15.5 Subject to Clause 15.6, the Supplier shall notify the Buyer without undue delay:
 - 15.5.1 and in any event within five (5) Working Days of receipt of the request if it:
 - (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;

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- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation; or
 - (d) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
 - 15.5.2 and, where feasible, not later than 72 hours of:
 - (a) becoming aware of a Data Loss Event; or
 - (b) receiving any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract.
 - 15.6 The Supplier's obligation to notify under Clause 15.5 shall include the provision of further information to the Buyer in phases, as details become available.
 - 15.7 Taking into account the nature of the processing, the Supplier shall provide the Buyer with reasonable assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 15.5 (and insofar as possible within the timescales reasonably required by the Buyer) including by promptly providing:
 - 15.7.1 the Buyer with full details and copies of the complaint, communication or request;
 - 15.7.2 such assistance as is reasonably requested by the Buyer to enable the Buyer to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - 15.7.3 the Buyer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 15.7.4 assistance as requested by the Buyer following any Data Loss Event;
 - 15.7.5 assistance as requested by the Buyer with respect to any request from the Information Commissioner's Office, or any consultation by the Buyer with the Information Commissioner's Office.
 - 15.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 15.
 - 15.9 Not used
 - 15.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
 - 15.11 The Supplier shall not provide any third party with access to Personal Data without prior written notice to the Buyer and an opportunity for the Buyer to object pursuant to Clause 15.12, unless the Supplier is required to provide access by Law. If it is so required the Supplier shall promptly notify the Buyer before providing access unless prohibited by Law. The Buyer provides general written consent to the Supplier to engage those Sub-processors (including relevant details of such Sub-processor's processing of Personal Data) as recorded in the Supplier's Register of Key Sub-Contractors and Sub-processors as

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- at the Commencement Date provided that before allowing any Sub-processor to process any Personal Data related to this Contract, the Supplier must:
- 15.11.1 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause 15 such that they apply to the Sub-processor; and
 - 15.11.2 provide the Buyer with such information regarding the Sub-processor as the Buyer may reasonably require.
- 15.12 Where the Supplier intends to appoint a Sub-processor not identified as a Sub-processor in the Supplier's Register of Key Sub-Contractors and Sub-processors as at the Commencement Date, the Supplier shall provide not less than 30 (thirty) days' prior written notice via email to the Buyer Authorised Representative and CCS. Where the Buyer reasonably believes such proposed Sub-processor has, or is likely to have a materially adverse impact on:
- 15.12.1 the Buyer's use and enjoyment of the Services under the Contract;
 - 15.12.2 the commercial benefits of the Contract to the Buyer (including in relation to pricing and performance of the Services); and/or
 - 15.12.3 the balance of risks under the Contract from the Buyer's perspective (including the creation of new or increased potential liabilities and/or new or materially different operational responsibilities for the Buyer and/or any Buyer Users),
- the Buyer may, acting reasonably, object to such proposed appointment by notifying the Supplier in writing within 30 (thirty) days' of the Buyer's receipt of the Supplier's email notice of proposed appointment. If the Parties (acting reasonably) are unable within the next 10 (ten) days to resolve the Buyer's objection to its reasonable satisfaction the Buyer may terminate this Contract with immediate effect and without any liability (including, for the avoidance of doubt, pursuant to Clause 17.4) by giving notice in writing to the Supplier.
- 15.13 The Supplier shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 15.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. Subject to the Supplier's prior written consent (such consent not to be unreasonably withheld or delayed) the Buyer may, at any time on not less than thirty (30) Working Days' notice to the Supplier:
- 15.14.1 revise this Clause 15 (Protection of Personal Data) by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by Attachment to this Contract); and/or
 - 15.14.2 amend this Contract to ensure that it complies with any guidance, codes of practice, codes of conduct, regulatory guidance, standard clauses or any other related laws arising from the GDPR.
- 15.15 Without prejudice to the foregoing, the Parties acknowledge that in performing its obligations under this Contract, the Supplier will from time to time collect and Process on an incidental basis limited amounts of Personal Data of the Buyer and/or Buyer Users (for example names and business contact details of points of contact at the Buyer and/or Buyer Users) ("**CRM Personal Data**") for the purpose of performing its obligations under this Contract (including providing the Services). The Supplier shall, when Processing such

CRM Personal Data, do so as a Data Controller and shall ensure that it fully complies with its obligations under the Data Protection Legislation.

15.16 In respect of such CRM Personal Data, the Supplier shall:

- 15.16.1 ensure that it has all necessary notices and consents in place to enable it to Process the CRM Personal Data;
- 15.16.2 provide full information, in the form of a suitable privacy policy, to any Data Subject whose CRM Personal Data may be processed by the Supplier under this Contract, concerning the nature such processing;
- 15.16.3 not, by its acts or omissions, place the Buyer and/or any Buyer User in breach of the Data Protection Legislation; and
- 15.16.4 ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, the CRM Personal Data.

15.17 The Supplier shall not Process CRM Personal Data for any purposes other than those set out in this Contract.

16. **TERMINATION AND EXPIRY**

16.1 The Buyer may terminate this Contract without reason (and, subject to Clause 17.4, without any liability whatsoever or howsoever arising from the Buyer's termination under this Clause 16.1) at any time by issuing a written notice to the Supplier giving at least thirty (30) days' written notice unless a shorter period is specified in the Order Form.

16.2 The Buyer may terminate this Contract at any time with immediate effect for material Default by issuing a written notice to the Supplier where:

- 16.2.1 the Supplier commits any material Default of this Contract which is not, in the reasonable opinion of the Buyer, capable of remedy; and/or
- 16.2.2 the Supplier commits a Default, including a material Default, which in the opinion of the Buyer is remediable but has not remedied such Default to the satisfaction of the Buyer within fifteen (15) Working Days of being notified in writing to do so.

16.3 For the purpose of Clause 16.2, a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default.

16.4 The Buyer may terminate this Contract by issuing a written notice to the Supplier where an Insolvency Event affecting the Supplier occurs.

16.5 The Supplier may, by issuing a written notice to the Buyer, terminate this Contract if the Buyer fails to pay an undisputed sum due to the Supplier under this Contract and such sum remains outstanding forty (40) Working Days after the receipt by the Buyer of a written notice of non-payment from the Supplier specifying:

- 16.5.1 the Buyer's failure to pay;
- 16.5.2 the correct overdue and undisputed sum;
- 16.5.3 the reasons why the undisputed sum is due; and
- 16.5.4 the requirement on the Buyer to remedy the failure to pay,

and this Contract shall then terminate on the date specified in the Supplier's written notice (which shall not be less than twenty (20) Working Days from the date of the issue of that notice).

17. CONSEQUENCES OF TERMINATION AND EXPIRY

17.1 Even if a notice has been served to terminate this Contract, the Supplier must continue to provide ordered Services until the dates set out in the notice and as necessary to comply with this Clause 17.

17.2 Expiry or termination of this Contract will not affect:

17.2.1 any rights, remedies or obligations accrued before its termination or expiry (as applicable); and

17.2.2 the right of either Party to recover any amount outstanding at the time of termination or expiry (as applicable).

17.3 Upon termination or expiry of this Contract and subject always to Clause 17.5:

17.3.1 the rights and obligations of the Parties under this Contract will cease immediately (including the Buyer's payment obligations under the Contract save where and to the extent any payments are expressly stated in these Call-Off Terms to be payable by the Buyer following termination or expiry of this Contract), except for those continuing provisions identified in Clause 17.6;

17.3.2 the Buyer will:

- (a) pay any outstanding Charges properly due to the Supplier;
- (b) using the Supplier Portal, extract and/or destroy all copies of the Buyer Content for which it had been using the Services. The Supplier shall retain the Buyer Content and allow the Buyer to extract the Buyer Content for a period of 60 (sixty) days following expiry or termination or such other period as may be specified in the Order Form and the Supplier shall be entitled to a reasonable charge for continuing to provide the Buyer with access to the Services for this purpose during the relevant period;

17.3.3 the Supplier will:

- (a) comply with any exit related obligations as specified in the Order Form under the heading 'Off-boarding' (including where set out or referred to the provision of exit related services);
- (b) within 10 Working Days of the termination or expiry date, return to the Buyer on a pro rata basis any sums paid in advance for Services due to be provided by the Supplier under this Contract for any period post the termination or expiry date (as applicable);
- (c) following the expiry of the period referred to in Clause 17.3.2(b), promptly destroy all copies of the Buyer Content when it receives the Buyer's written instructions to do so or within 12 calendar months after the termination or expiry date; and
- (d) provide the Buyer with written confirmation that the Buyer Content has been securely destroyed pursuant to Clause 17.3.3(c), except if the retention of any of Buyer Content is required by Law; and

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- 17.3.4 each Party will promptly either:
- (a) return all copies of the other's Confidential Information in such Party's custody, possession or control unless there is a legal requirement to keep it or this Contract states otherwise; or
 - (b) (where the other Party has given its prior written consent to its destruction) destroy the other Party's Confidential Information and confirm its destruction to the reasonable satisfaction of the other Party.
- 17.4 If:
- 17.4.1 the Buyer terminates this Contract for convenience pursuant to Clause 16.1 (but not, for the avoidance of any doubt, termination pursuant to any other right of termination); and
- 17.4.2 as a result of such termination for convenience the Buyer fails to satisfy a Minimum Commitment entered into in accordance with Clause 7.11,
- the Buyer shall, in addition to paying any Charges due in respect of Services consumed prior to such termination, pay the Supplier according to one of the following settlement options, whichever is identified and agreed to between the Buyer and the Supplier in the Order Form (under the heading "**Minimum Commitments**"):
- (a) pay an amount equal to the amount of Charges necessary to satisfy the remainder of any outstanding Minimum Commitments at the effective date of termination;
 - (b) pay the commitment related discount applied to the Charges solely in return for such Minimum Commitment, and which commitment related discount the Buyer had benefited from as a discount to the Charges due under this Contract up until the date of termination of this Contract; or
 - (c) pay any such pay such settlement amount set out in the Order Form under the heading "Minimum Commitment" which may be less than either options (a) or (b) immediately above in this Clause 17.4.2.,
- provided in all cases after any settlement has been reached under one of the settlement options above, the Supplier shall refund any remaining credit that may have been accrued under any prepayments that may have related to a Minimum Commitment.
- 17.5 Save where expressly agreed as a Special Term and set out in the Order Form and subject to reimbursement of reasonable charges in accordance with Clause 17.3.2(b) above where the Buyer terminates the contract for material Default, the Supplier may not charge the Buyer any fees, costs or expenses relating to:
- 17.5.1 the Buyer's extraction, transfer and/or destruction of Buyer Content whenever and howsoever after such termination; or
- 17.5.2 the Supplier complying with its exit related obligations under this Contract.
- 17.6 The following Clauses survive the termination or expiry of this Contract: Clauses 1 (Definitions), 2 (Interpretation), 3 (Supplier Terms), 8 (Liabilities), 9 (Intellectual Property)

Rights), 10 (Publicity and Branding), 12 (Records and Audit), 15 (Protection of Personal Data), 16 (Termination and Expiry), 17 Consequences of Termination and Expiry), 19 (Confidentiality), 20 (Transparency and FOIA), 29 (Entire Agreement and Third Party Rights) and 31 Governing Law, Jurisdiction and Dispute Resolution) and Schedule 1 (Definitions) and without limitation to the foregoing any other provisions of this Contract which are expressly or by implication intended to continue.

18. SUB-CONTRACTING

- 18.1 The Supplier may sub-contract its obligations under this Contract from time to time provided that where any proposed Sub-Contractor would also constitute a Key Sub-Contractor, and the proposed Sub-Contractor is not currently listed in the Supplier's Register of Key Sub-Contractors and Sub-processors as updated by the Supplier from time to time in accordance with Clause 15.1 (Register of Key-Subcontractors and Sub-processors) of the Framework Agreement, the Supplier shall, prior to sub-contracting, notify the Buyer and CCS in writing of the Key Sub-Contractor including relevant details required in accordance with the requirements of Clause 15.1 of the Framework Agreement and ensure the Key Sub-Contractor has been duly registered.
- 18.2 Where the Supplier enters into a Sub-Contract wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract the Supplier shall pay any undisputed sums which are due from the Supplier to the relevant Sub-Contractor (as identified in the Order Form), under that Sub-Contract within thirty (30) days from the receipt of a valid invoice.
- 18.3 The Supplier shall remain responsible for all acts and omissions of its sub-contractors (including all Sub-Contractors) and the acts and omissions of those employed or engaged by the sub-contractors (including all Sub-Contractors) as if they were its own.

19. CONFIDENTIALITY

- 19.1 For the purposes of this Clause 19, the term "**Disclosing Party**" shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and "**Recipient**" shall mean the Party which receives or obtains directly or indirectly Confidential Information.
- 19.2 Except to the extent set out in this Clause 19 or where disclosure is expressly permitted elsewhere in this Contract, the Recipient shall:
- 19.2.1 treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials); and
- 19.2.2 not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Contract or without obtaining the owner's prior written consent;
- 19.2.3 not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Contract; and
- 19.2.4 without undue delay and within 72 hours of becoming aware notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

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- 19.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
- 19.3.1 the Recipient is required to disclose the Confidential Information by Law;
- 19.3.2 the need for such disclosure arises out of or in connection with:
- (a) any legal challenge or potential legal challenge against the Buyer arising out of or in connection with this Contract;
 - (b) the purpose of the examination and certification of the Buyer's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer is making use of any Services provided under this Contract; or
 - (c) the conduct of a relevant Government Body review in respect of this Contract;
- 19.3.3 the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.
- 19.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 19.5 Subject to Clauses 19.2 and 19.3, the Supplier may only disclose the Buyer's Confidential Information on a confidential basis to:
- 19.5.1 Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable the performance of the Supplier's obligations under this Contract; and
- 19.5.2 its professional advisers for the purposes of obtaining advice in relation to this Contract.
- 19.6 Where the Supplier discloses Confidential Information of the Buyer pursuant to this Clause 19, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.
- 19.7 The Buyer may disclose the Confidential Information of the Supplier:
- 19.7.1 to any Government Body for any proper purpose of the Buyer or of the relevant Government Body on the basis that the information may only be further disclosed to Government Bodies and other Contracting Bodies to the extent reasonably necessary;
- 19.7.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- 19.7.3 to the extent that the Buyer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- 19.7.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by the Buyer for any purpose relating to or connected with this Contract;

19.7.5 on a confidential basis for the purpose of the exercise of its rights under this Contract; or

19.7.6 to a proposed transferee, assignee or novatee of, or successor in title to the Buyer

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Buyer under this Clause 19.

19.8 For the avoidance of doubt the Framework Discount, Framework Prices, Charges and any preferential pricing as agreed between the Supplier and the Government are Commercially Sensitive and categorised as the Supplier's Confidential Information.

19.9 In the event of a breach by the Supplier of any of the applicable provisions of this Clause 19, the Buyer reserves the right to terminate this Contract for material Default.

19.10 Transparency Information is not Confidential Information.

20. TRANSPARENCY AND FOIA

20.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.

20.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

20.2.1 publish the Transparency Information;

20.2.2 comply with any Freedom of Information Act (FOIA) request; and

20.2.3 comply with any Environmental Information Regulations (EIR) request.

20.3 The Buyer may talk to the Supplier to help it decide whether to publish information under this Clause 20. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

21. FORCE MAJEURE

21.1 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under this Contract to the extent that such delay or failure is a result of a Force Majeure event.

21.2 A Party will promptly (on becoming aware of the same) notify the other Party of a Force Majeure event or potential Force Majeure event which could affect its ability to perform its obligations under this Contract.

21.3 Each Party will use all reasonable endeavours to continue to perform its obligations under this Contract and to mitigate the effects of Force Majeure.

21.4 If a Force Majeure event prevents a Party from performing its obligations under this Contract for more than twenty (20) Working Days or such shorter period as may be specified in the Order Form, the other Party may terminate this Contract with immediate effect by written notice.

22. WAIVER

22.1 A partial or full waiver or relaxation of the terms of this Contract is only valid if it is stated to be a waiver in writing to the other Party.

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- 22.2 Unless otherwise provided in this Contract, rights and remedies under this Contract are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

23. INVALIDITY AND RELATIONSHIP OF THE PARTIES

- 23.1 If any part of this Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from this Contract as much as required and rendered ineffective as far as possible without affecting the rest of this Contract, whether it's valid or enforceable.
- 23.2 Except as expressly provided otherwise in this Contract, nothing in this Contract, nor any actions taken by the Parties pursuant to this Contract, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

24. PREVENTING FRAUD BRIBERY AND CORRUPTION

- 24.1 The Supplier must not during any Contract Period:
- 24.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); nor
 - 24.1.2 do or allow anything which would cause the Buyer and/or Buyer Users, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.
- 24.2 The Supplier must during the Contract Period:
- 24.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
 - 24.2.2 keep full records to show it has complied with its obligations under this Clause 24 and give copies to the Buyer on request; and
 - 24.2.3 if required by the Buyer, within 20 Working Days of the Commencement Date, and then annually, certify in writing to the Buyer, that it has complied with this Clause 24, including compliance of Supplier staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.
- 24.3 The Supplier must immediately notify the Buyer if it becomes aware of any breach of Clauses 24.1 and 24.2 or has any reason to think that it, or any of the Supplier staff, has either:
- 24.3.1 been investigated or prosecuted for an alleged Prohibited Act;
 - 24.3.2 been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
 - 24.3.3 received a request or demand for any undue financial or other advantage of any kind related to the Framework Agreement or any contract entered into under the Framework Agreement; or

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- 24.3.4 suspected that any person or Party directly or indirectly related to the Framework Agreement or any contract entered into under the Framework Agreement has committed or attempted to commit a Prohibited Act.
- 24.4 If the Supplier notifies the Buyer as required by Clause 24.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the audit of any books, records and relevant documentation.
- 24.5 In any notice the Supplier gives under Clause 24.4 it must specify the:
- 24.5.1 Prohibited Act;
- 24.5.2 identity of the Party who it thinks has committed the Prohibited Act; and
- 24.5.3 action it has decided to take.
- 25. EQUALITY, DIVERSITY AND HUMAN RIGHTS**
- 25.1 The Supplier must follow all applicable equality Law when it performs its obligations under this Contract, including:
- 25.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- 25.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 25.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.
- 26. ASSIGNMENT**
- 26.1 The Supplier cannot assign this Contract without the Buyer's written consent.
- 26.2 The Buyer can assign, novate or transfer this Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 27. VARIATION**
- 27.1 Either Party may request a variation to this Contract provided that such variation does not amount to a material change of this Contract within the meaning of the Regulations and the Law. Subject to Clauses 3.8 and 5.14 (as applicable), such a change will only be effective if agreed in writing and signed by both Parties.
- 27.2 For 101(5) of the Regulations, if the Court declares any change to this Contract ineffective, the Parties agree that their mutual rights and obligations will be regulated by the terms of this Contract as they existed immediately prior to that change and as if the Parties had never entered into that change.
- 28. NOTICES**
- 28.1 All notices under this Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.

28.2 Notices to the Buyer must be sent to the Buyer Authorised Representative at the email address in the Order Form (the Buyer may, from time to time, change the name and email address of the Buyer Authorised Representative via the Supplier Portal).

28.3 The Supplier shall:

28.3.1 through the Supplier Portal, alert the Buyer and/or Buyer Users to the need to register and keep up to date on the Supplier Portal relevant details of the Buyer Authorised Representative (including his or her email address for notices under this Contract); and

28.3.2 provide all reasonable assistance to the Buyer and/or Buyer Users in first registering via the Supplier Portal and thereafter updating details of the Buyer Authorised Representative (including his or her email address for notices under this Contract) during the Contract Period.

28.4 This Clause 28 does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

29. ENTIRE AGREEMENT AND THIRD PARTY RIGHTS

29.1 This Contract constitutes the entire agreement between the Parties in respect of the matter and supersedes and extinguishes all prior negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral. Neither Party has been given, nor entered into this Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Contract. Nothing in this Clause 29.1 shall exclude any liability in respect of misrepresentations made fraudulently.

29.2 A person who is not a Party to this Contract has no right under the CRTPA to enforce any term of this Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

30. CONFLICTS OF INTEREST

30.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier's staff are placed in the position of an actual or potential Conflict of Interest.

30.2 The Supplier must promptly notify and provide details to the Buyer if a Conflict of Interest happens or is expected to happen.

30.3 The Buyer can terminate this Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

31. GOVERNING LAW, JURISDICTION AND DISPUTE RESOLUTION

31.1 This Contract and any Disputes shall be governed by and construed in accordance with the laws of England and Wales.

31.2 In the event of a Dispute arising out of or in connection with this Contract senior representatives of the Parties who have authority to settle the dispute shall, within twenty (20) Working Days of receipt of a written request from the Party raising the Dispute, meet in good faith to resolve the Dispute.

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- 31.3 If the Dispute is not resolved at the meeting described in Clause 31.2, the Parties shall escalate the matter to CCS who may (in its sole discretion) appoint an officer to work with the Parties in good faith negotiations to resolve the Dispute.
- 31.4 If after (20) Working Days of escalation to CCS the Dispute remains unresolved the Parties may decide to settle it by mediation using the CEDR Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved pursuant to Clause 31.5.
- 31.5 The Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 31.5.1 determine the Dispute;
 - 31.5.2 grant interim remedies; and
 - 31.5.3 grant any other provisional or protective relief.

SCHEDULE 1

DEFINITIONS

1. In accordance with Clause 1 (Definitions), in this Contract the following expressions shall have the meanings ascribed in the table below.

Acceptable Use Policy or AUP	means the Supplier's terms and conditions as set out in Attachment 7 (Supplier's Acceptable Use Policy) to the Order Form governing the Buyer's and Buyer User's access and use of the Services under this Contract;
Affiliate	means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
Alternative Clauses	means the alternative clauses which the Buyer can incorporate as set out in Attachment 6 (Alternative Clauses) to the Order Form;
Applicability Matrix	means the matrix set out in Annex 2 (Applicability Matrix) to the Order Form;
Applicable Supplier Terms	has the meaning given in Clause 3.1;
Attachment	means an attachment to the Order Form;
Beneficiary	means a Party having (or claiming to have) the benefit of an indemnity or a right to be defended (as applicable) under this Contract;
Buyer	means the organisation eligible to use the Framework Agreement as specified in the Order Form;
Buyer Authorised Representative	means the person identified as such in the Order Form as at the Commencement Date or as subsequently changed by the Buyer from time to time via the Supplier Portal;
Buyer Content	means the data (together with any databases) including any Personal Data, content, materials, information and software which are controlled, uploaded or otherwise transferred by or on behalf of the Buyer to the relevant environments hosted by or on behalf of the Supplier pursuant to the Services including any derivative data that is generated in the relevant environments but excluding metadata where and to the extent such metadata: a) is generated by the Supplier's Services under this Contract solely for administrative and/or service maintenance purposes; b) is not under the control of the Buyer; and c) does not contain any Personal Data;
Buyer Users	means any permitted users of the Services in addition to the Buyer as specified in the Order Form or as otherwise agreed in writing by the Parties from time to time during the Contract Period (such agreement not to be unreasonably withheld or delayed);
Buyer's Existing Entitlement	means Buyer's funds held on account by the Supplier in respect of another transaction(s) outside of this Contract and to be used as part or whole payment of the Charges;
Call-Off Terms	means these terms and conditions;
CCS	means Crown Commercial Service, the authority to the Framework Agreement;

Central Government Body	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;
Charges	means the charges payable to the Supplier by the Buyer under this Contract in respect of the Services, calculated in accordance with this Contract (including Schedule 3 (Framework Prices and Charging Structure) of the Framework Agreement) and as set out or referred to in the Order Form;
Claim	means any claim which it appears that a Beneficiary is, or may become, entitled to indemnification or a right to be defended (as applicable) under this Contract;
Commencement Date	means the date specified as such in the Order Form;
Commercially Sensitive Information	the Confidential Information listed in the Framework Award Form or Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
Confidential Information	means the Buyer's confidential information and/or the Supplier's confidential information, as the context requires;
Conflict of Interest	a conflict between the financial or personal duties of the Supplier or the Supplier's staff and the duties owed to the Buyer under this Contract, in the reasonable opinion of the Buyer;
Contract	means the contract between the Buyer and the Supplier (entered into pursuant to the terms of the Framework Agreement) consisting of: a) the Order Form (and all documents set out or expressly incorporated by reference in it); and b) these Call-Off Terms;
Contracting Body	means the Buyer and any other Government Body entitled to enter into a call-off contract under the Framework Agreement;
Contract Period	means the period commencing on the Commencement Date and ending on: a) expiry of the Initial Term or the Extension Period; or b) on the earlier of termination of this Contract;
Contract Year	means a consecutive period of twelve (12) Months commencing on the Commencement Date or each anniversary thereof;
Control	means control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " Controlled " shall be construed accordingly;
Controller	has the meaning given to it in the GDPR;
Crown Body	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and

	government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
CRTPA	means the Contracts (Rights of Third Parties) Act 1999;
Data Loss Event	means any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
Data Processing Agreement or DPA	means the Supplier's terms and conditions as set out in Attachment 8 (Data Processing Agreement) to the Order Form which, in addition to these Call-Off Terms, govern the Supplier's processing of Personal Data and related security measures and standards which the Supplier shall comply with under this Contract in respect of any Services;
Data Protection Impact Assessment	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
Data Protection Liability Cap	the amount specified in the Order Form;
Data Protection Legislation	means (i) the GDPR, the LED and any applicable national implementing Laws 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 Protection Officer	has the meaning given to it in the GDPR;
Data Subject	has the meaning given to it in the GDPR;
Data Subject Request	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
Default	means any breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) or any other default, act, omission, misrepresentation, negligence or negligent statement of the Supplier or its personnel in connection with or in relation to this Contract or the subject matter of this Contract and in respect of which the Supplier is liable to the Buyer;
Dispute	means any claim, dispute or difference arises out of or in connection with this Contract (whether contractual or non contractual) or in connection with the negotiation, existence, legal validity, enforceability or termination of this Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
DPA 2018	means the Data Protection Act 2018;
EIR	the Environmental Information Regulations 2004;
Electronic Invoice	an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
Exit Day	shall have the meaning in the European Union (Withdrawal) Act 2018;
Extension Period	means (where applicable) a period as specified in the Order Form of up to 24 months to take effect from the end of the Initial Term;

FOIA	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
Force Majeure	<p>means any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations arising from:</p> <ul style="list-style-type: none"> a) acts, events, omissions, happening or non-happenings beyond the reasonable control of the affected Party which prevent or materially delay the affected Party from performing its obligations under this Contract; b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; c) acts of government, local government or regulatory bodies; d) fire, flood or disaster and any failure or shortage of power or fuel; or e) industrial dispute affecting a third party for which a substitute third party is not reasonably available. <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> (i) any industrial dispute relating to the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain; (ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure; (iii) any failure of delay caused by a lack of funds; (iv) the event was foreseeable by the Party seeking to rely on Force Majeure at the time this Contract was entered into; or (v) 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;
Framework Agreement	means the framework agreement reference RM6111 between the Supplier and CCS;
Framework Discount	has the meaning specified in the Framework Agreement;
Framework Prices	has the meaning specified in the Framework Agreement;
GDPR	the General Data Protection Regulation (Regulation (EU) 2016/679);
Government	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
Government Body	means as applicable a Central Government Body or any other bodies listed or referred to in paragraph VI.3 of the OJEU notice referred to in Recital A to the Framework Agreement;
Initial Term	means a period of up to 36 months from the Commencement Date as specified in the Order Form;
Insolvency Event	means, in respect of the Supplier:

	<ul style="list-style-type: none"> a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or e) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or h) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;
Intellectual Property Rights or IPR	<p>means:</p> <ul style="list-style-type: none"> a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, trade secrets and other rights in Confidential Information; b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and c) all other rights having equivalent or similar effect in any country or jurisdiction;
IPR Claim	means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under this Contract;
Key Sub-Contractor	means a Sub-Contractor which performs a critical role in the provision of all or part of the Services;
Law	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment

	of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
LED	means the Law Enforcement Directive (Directive (EU) 2016/680);
Losses or Loss	means all losses, liabilities, damages, costs, fines, 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;
Malicious Software	means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
Maximum Contract Period	means a period of five (5) years from the Commencement Date;
Order	means the order placed by the Buyer with the Supplier for the provision of the Services in accordance with the Framework Agreement and under the terms of this Contract;
Order Form	means the form (based on the template included at Annex 1 to Schedule 4 (Template Order Form and Template Call-Off Terms) of the Framework Agreement) together with any Attachments, as completed and forming part of this Contract, which contains details of an Order together with other information in relation to such Order, including the description of the Services to be provided;
Pay As You Go (PAYG)	means a payment structure for calculating the Charges in which buyers pay in increments that reflect actual consumption of the Services rather than in regular, fixed payments;
Party	means a party to this Contract, namely either the Buyer or the Supplier (together the “ Parties ”);
Personal Data	Personal Data has the meaning given to it in the GDPR; for the purposes of this Framework Agreement it further means any Personal Data supplied for the purposes of or in connection with this Framework Agreement by the Buyer to the Supplier;
Personal Data Breach	has the meaning given to it in the GDPR;
Processing	has the meaning given to it in the GDPR and “ Process ” and “ Processed ” shall be interpreted accordingly;
Processor	has the meaning given to it in the GDPR;
Product Terms	means the relevant (as determined in accordance with the Applicability Matrix) Supplier terms and conditions, which apply to a particular cloud service product provided under this Contract, as set out or referred to in Attachment 1 (Service Descriptions and Product Terms) to the Order Form under the heading “Product Terms” (including any licence terms set out or referred to under the sub-heading “Product Terms - Licence Terms”) as may be amended from time to time strictly in accordance with the terms of this Contract;
Prohibited Acts	means:

	<p>a) to directly or indirectly offer, promise or give any person working for or engaged by a Buyer or any other public body a financial or other advantage to:</p> <p>i) induce that person to perform improperly a relevant function or activity; or</p> <p>ii) reward that person for improper performance of a relevant function or activity;</p> <p>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; or</p> <p>c) committing any offence:</p> <p>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</p> <p>ii) under legislation or common law concerning fraudulent acts; or</p> <p>d) defrauding, attempting to defraud or conspiring to defraud a Buyer or other public body; or</p> <p>e) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
Protective Measures	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by the Supplier including those set out or referred to in Attachment 8 (Data Processing Agreement) to the Order Form;
Provider	means a Party from whom an indemnity or a right to be defended (as applicable) is sought under this Contract;
Regulations	means the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
Relevant Requirements	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
Request for Information	means a request for information or an apparent request relating to this Contract or an apparent request for such information under the FOIA or the EIRs;
Reserved Instance	means a defined level of resource and capacity within the Supplier's compute platform which is reserved for the Buyer's sole use for the relevant period specified in the Charges section of the Order Form;
Restricted Country	<p>means any country other than those countries as expressly stated in the Order Form or where no countries are stated means any country other than:</p> <p>a) a member of the European Economic Area;</p> <p>b) the United Kingdom; or</p> <p>c) deemed adequate by the European Commission pursuant to article 25(6) of Directive 95/46/EC or article 45(3) of the GDPR;</p>

Schedule of Processing, Personal Data and Data Subjects	means the schedule of processing, personal data and data subjects set out in Attachment 5 (Schedule of Processing, Personal Data and Data Subjects) of the Order Form (to be completed by the Buyer) which sets out various details concerning the processing of Personal Data including: a) identity of the Controller and Processor; b) subject matter of processing; c) duration of the processing; d) nature and purposes of the processing; e) type of Personal Data being Processed; f) categories of Data Subject; and g) plan for return of the data once the processing is complete unless requirement under Data Protection Legislation to preserve that type of data;
Security Assessment Documents	has the meaning given in Clause 12.6.4;
Service Level Agreement or SLA	means the Supplier's relevant service level terms and conditions which apply to a particular cloud service product provided as part of the Services under this Contract, as set out or referred to in Attachment 2 (Service Level Agreement(s)) to the Order Form as may be modified from time to time strictly in accordance with the terms of this Contract;
Service Request	means a request for Services submitted by or on behalf of the Buyer and/or any Buyer User via the Supplier Portal in accordance with the procedure for requesting Services set out in the Order Form;
Services	means the services which the Supplier shall make available to the Buyer under this Contract as set out or referred to in the Order Form;
Service Descriptions	means the description of the Services as set out or referred to in Attachment 1 (Service Descriptions and Product Terms) to the Order Form under the heading "Service Descriptions" as may be modified from time to time strictly in accordance with the terms of this Contract;
Special Terms	means the specific supplementary contractual terms (if any) set out in the Order Form;
Standards	means any standards set out or referred to in these Call-Off Terms, the Order Form (including Attachment 4 (Schedule of Standards)) and the Framework Agreement;
Standard Contractual Clauses	means the standard contractual clauses for the transfer of Personal Data to processors established in third countries which do not ensure an adequate level of protection as set out in Commission Decision C (2010) 593 and reference to the standard contractual clauses shall be to the clauses as updated, amended, replaced or superseded from time to time by the European Commission;
Sub-Contract	means any contract or agreement or proposed agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier the Services (or any part thereof) or to provide facilities or services necessary for the provision of the Services (or any part thereof) or necessary for the management, direction or control of the provision of the Services or any part thereof;

Sub-Contractor	means any third party engaged by the Supplier from time to time under a Sub-Contract;
Sub-processor	means any third party appointed as at the Commencement Date (and any additional third party appointed strictly in accordance with Clause 15.12) to process Personal Data on behalf of the Supplier related to this Contract as recorded in the Supplier's Register of Key Sub-Contractors and Sub-Processors, including those Key Sub-Contractors identified as a sub-processor;
Supplier	means the entity identified as such in the Order Form;
Supplier General Terms	means the: a) the AUP; and b) the DPA;
Supplier Personnel	means all persons employed or engaged by the Supplier together with the Supplier's servants, agents, suppliers, consultants and Sub-Contractors (and all persons employed by any Sub-Contractor together with the Sub-Contractor's servants, consultants, agents, suppliers and sub-contractors) used in the performance of its obligations under this Contract;
Supplier Portal	means the online portal provided by the Supplier as part of the Services through which the Buyer may at any time: a) submit requests for Services in accordance with the Service Request procedure set out in the Order Form; b) monitor in real time consumption of Services and associated Charges incurred; c) configure the Services subject to any agreed parameters set out or referred to in the Order Form; d) extract and/or destroy copies of any Buyer Content; and e) inspect and review a complete and accurate history of all Services consumed and all associated Charges incurred under this Contract;
Supplier Service Specific Terms	means the following: a) the Product Terms; and b) the SLA(s);
Supplier Terms	means the: a) Supplier General Terms; and b) Supplier Service Specific Terms;
Supplier's Register of Key Sub-Contractors and Sub-Processors	has the meaning given in the Framework Agreement;
Transparency Information	means the transparency reports (including information relating to the Services and performance of this Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements specified in the Framework Agreement) and the content of this Contract, including any changes to this Contract agreed from time to time, except for: a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and

	b) Commercially Sensitive Information;
Working Day	means any day other than a Saturday, Sunday or public holiday in England and Wales; and
VAT	means value added tax in accordance with the provisions of the Value Added Tax Act 1994.