

Date: FEB 7th 2023

**NPCC Counter Drones National Array Upgrade / Replacement  
Programme**

**Framework Agreement**

Terms and Conditions

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**THIS FRAMEWORK AGREEMENT** is made on

202[x]

BETWEEN:

- (1) The **SECRETARY OF STATE FOR THE HOME DEPARTMENT** whose principal place of business is at 2 Marsham Street, London, SW1P 4DF (the “**Authority**”); and
- (2) [ A&H Security Enterprises LLC DBA Aerial Armor ] (Company Number: [ 80520456 ] ) whose registered address is at [ 4960 S Gilbert Road STE 1-500 Chandler, Arizona, 85249 ] (the “**Supplier**”).

## Introduction

- (A) The Home office on behalf of the NPCC is seeking to create a Framework Agreement for the NPCC Counter Drones National Array Upgrade/Replacement Programme. This Framework Agreement seeks to support delivery of this programme through the provision of specialist goods and services as detailed within Schedule 2. This Framework Agreement will allow UK Police Forces, Police Crime Commissioners Central Government Departments and their Arm's Length Bodies and Agencies as well as the National Crime Agency to call off from this Framework Agreement.
- (B) On Authority placed a contract notice 2022/S 000-031517number] (the “**find a Tender Notice**”) in the Official Journal of the European Union and issued an Invitation to Tender (the “**Framework ITT**”) seeking tenders from service providers interested in joining a framework which enables the call off of goods or services to NPCC Counter Drones National Array Upgrade/Replacement Programme.
- (C) The NPCC Counter Drones National Array Upgrade/Replacement Programme Framework Consists of 1 Lot

Lot	Lot Name
Lot 1	National Array replacement Programme equipment and Services

- (D) Following receipt of a successful tender, the Authority has awarded the Supplier a place on the NPCC Counter Drones National Array Upgrade / Replacement Programme Framework.
- (E) This Framework Agreement sets out the award and Call Off ordering procedure for purchasing the Goods/Services which may be required by the Authority, the template terms and conditions for any Call Off Contract which the Authority may enter into and the obligations placed on the Supplier during and after the Framework Period.
- (F) The Authority is under no obligation to award any Call Off Contracts under this Framework Agreement during the Framework Period.

## 1. Definitions and Interpretation

- 1.1 In this Framework Agreement, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) or the meaning set out in the relevant Schedule in which that capitalised expression appears.

1.2 The interpretation and construction of this Framework Agreement shall be subject to the following provisions:

- (a) Clause headings shall not affect the interpretation of this Framework Agreement;
- (b) 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";
- (c) words in the singular shall include the plural and vice versa;
- (d) reference to a gender includes the other gender and the neuter;
- (e) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- (f) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (g) references to Clauses are to Clauses in this Framework Agreement and references to Sections are the sections of this Framework Agreement.

1.3 In the event and to the extent only of a conflict between any of the provisions of this Framework Agreement, the conflict shall be resolved, in accordance with the following steps, in descending order of precedence:

- (a) the Clauses and Framework Schedule 1 (Definitions); and
- (b) Framework Schedules 2 to 11.

## **2. Supplier's Appointment**

2.1 The Authority hereby appoints the Supplier as a potential provider of the Goods and Services and the Supplier shall be eligible to be considered for the award of Call Off Contracts [by the Authority] during the Framework Period.

2.2 In consideration of the Supplier agreeing to enter into this Framework Agreement and to perform its obligations under it, the Authority agrees to pay and the Supplier agrees to accept, on the signing of this Framework Agreement, the sum of one pound (£1.00) sterling (receipt of which is hereby acknowledged by the Supplier).

## **3. Scope of Framework Agreement**

3.1 This Framework Agreement governs the relationship between the Authority and the Supplier in respect of the provision of the Goods and Services by the Supplier.

### **3.2 The Supplier recognises that:**

- (a) there is no obligation whatsoever on the Authority or on any other Contracting Body to invite or select the Supplier to provide any Services and/or to purchase any Services under this Framework Agreement; and
- (b) in entering into this Framework Agreement no form of exclusivity has been conferred on the Supplier nor volume or value guarantee granted by the Authority in relation to the provision of the Goods and Services by the Supplier. The Authority is at all times entitled to enter into other contracts and agreements with other suppliers for the

provision of any or all of the Goods and Services which are the same as or similar to the Goods and Services.

#### **4. Call Off Procedure**

4.1 If the Authority decides to source any of the Goods or Services through this Framework Agreement, then it shall be entitled at any time in its absolute and sole discretion during the Framework Period to award Call Off Contracts for the Goods and Services from the Supplier by following Framework Schedule 5 (Call Off Procedure).

4.2 The Supplier shall comply with the relevant provisions in Framework Schedule 5 (Call Off Procedure).

#### **5. Representations and Warranties**

5.1 The Supplier represents and warrants that:

- (a) it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
- (b) it has full capacity and authority to enter into and to perform this Framework Agreement and/or any Call Off Contract;
- (c) this Framework Agreement and/or any Call Off Contract is executed by its duly authorised representative;
- (d) it has all necessary consents (including, where its procedures so require, the consent of its Parent Company) and regulatory approvals to enter into this Framework Agreement and/or any Call Off Contract;
- (e) there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Framework Agreement and/or any Call Off Contract;
- (f) its execution, delivery and performance of its obligations under this Framework Agreement and/or any Call Off Contract will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;
- (g) its obligations under this Framework Agreement and/or any Call Off Contract constitute its legal, valid and binding obligations, These are enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);
- (h) all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including its response to the SQ and ITT (if applicable), its tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Framework Agreement and/or any Call Off Contract or to the extent that

the Supplier has otherwise disclosed to the Authority in writing prior to the date of this Framework Agreement and/or any Call Off Contract;

- (i) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;
- (j) it has all necessary rights in and to the Project Specific IPR, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and / or any Sub-contractor) to the Authority or any Authority which are necessary for the performance of the Supplier's obligations under this Framework Agreement and or any Call Off Contract and/or the receipt of the Goods or Services by the Authority or any Authority Calling of from the Framework;
- (k) it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or trojan, spyware or other malware) into systems, data, software or the Authority's Confidential Information (held in electronic form) owned by, under the control of, or used by, the Authority;
- (l) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Framework Agreement and/or any Call Off Contract;
- (m) it is not affected by an Insolvency Event and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue;
- (n) in the three (3) years prior to the Commencement Date:
  - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
  - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
  - (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under this Framework Agreement; and
- (o) for the Term and for a period of 12months after the termination or expiry of this Framework Agreement, the Supplier shall not employ or offer employment to any staff of the Authority which have been associated with the provision of the Goods or Services without Approval or the prior written consent of the Authority which shall not be unreasonably withheld.

5.2 Each of the representations and warranties set out in this Clause 5 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference



to, or inference from, the terms of any other representation, warranty or any other undertaking in this Framework Agreement and any Call Off Contract.

- 5.3 If at any time the Supplier becomes aware that a representation or warranty given by it under Clause 5.1 has been breached, is untrue or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.
- 5.4 For the avoidance of doubt, the fact that any provision within this Framework Agreement Contract is expressed as a warranty, shall not preclude any right of termination which the Authority may have in respect of breach of that provision by the Supplier.
- 5.5 Except as expressly stated in this Framework Agreement, all representations and warranties whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

## **6. Framework Period**

- 6.1 This Framework Agreement shall take effect on the Commencement Date and shall expire either:
  - (a) at midnight on the third anniversary of the Commencement Date (the "**Initial Term**"); or
  - (b) where the Authority elects to extend the Term in accordance with Clause 6.2, at the end of the relevant Extension Period, in each case, unless it is terminated earlier in accordance with the terms of this Framework Agreement or otherwise by operation of Law.
- 6.2 The Authority may extend the duration of this Framework Agreement from the expiry of the Initial Term for a maximum of [one (1) consecutive further term] up to twelve (12) months duration (an "**Extension Period**") by giving the Supplier no less than one (1) month written notice prior to the end of the Initial Term].
- 6.3 Termination or expiry of this Framework Agreement shall not cause any Call Off Contracts to terminate automatically. For the avoidance of doubt, all Call Off Contracts shall remain in force unless and until they are terminated or expire in accordance with the provisions of the Call Off Contract.

## **7. Framework Performance**

7.1 The Supplier shall perform all its obligations under this Framework Agreement and each Call Off Contract in accordance with:

- (a) the requirements of this Framework Agreement, including Framework Schedule 6(Framework Management);
- (b) Good Industry Practice;
- (c) the Authority Policies; and
- (d) all applicable Standards.

- 7.2 The Supplier shall perform all of its obligations under this Framework Agreement and each Call off Contract in compliance with Law.

- 7.3 The Supplier shall perform all its obligations under this Framework Agreement and each Call Off Contract with all necessary skill, diligence, efficiency and economy to satisfy generally accepted professional standards expected from experts;
- 7.4 The Supplier shall bring to the attention of the Authority any conflict between any of the requirements of Clause 7.1 and shall comply with the Authority's decision on the resolution of any such conflict.
- 7.5 The Supplier shall comply with its obligations under each Call Off Contract.
- 7.6 The Supplier shall ensure that neither it, nor any of its Affiliates, embarrasses the Authority or otherwise brings the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Supplier's obligations under this Framework Agreement or any Call Off Contract.

## **8. Framework KPIs and Service Levels**

8.1 The Supplier shall at all times during the Framework Period comply with the KPI and achieve the KPI Targets set out in Framework Schedule 3 , as well as any Service Levels included by the Authority in a Call Off Contract.

8.2 Without prejudice to any other rights or remedies arising under this Framework Agreement, if the Supplier fails to achieve a KPI Target or Service Level on two or more occasions within any twelve (12) Month rolling period, the Supplier acknowledges and agrees that the Authority shall have the right to exercise (in its absolute and sole discretion) all or any of the following remedial actions:

- (a) the Authority shall be entitled to require the Supplier, and the Supplier agrees to prepare and provide to the Authority, an Improvement Plan within ten (10) Working Days of a written request by the Authority for such Improvement Plan. Such Improvement Plan shall be subject to Approval and the Supplier will be required to implement any approved Improvement Plan, as soon as reasonably practicable;
- (b) the Authority shall be entitled to require the Supplier, and the Supplier agrees to attend, within a reasonable time, one (1) or more meetings at the request of the Authority in order to resolve the issues raised by the Authority in its notice to the Supplier requesting such meetings;
- (c) the Authority shall be entitled to serve an Improvement Notice on the Supplier and the Supplier shall implement such requirements for improvement as set out in the Improvement Notice; and
- (d) in the event that the Authority has, in its absolute and sole discretion, invoked one or more of the remedies set out above and the Supplier either:
  - (i) fails to implement such requirements for improvement as set out in the Improvement Notice; and/or
  - (ii) fails to implement an Approved Improvement Plan,

then (without prejudice to any other rights and remedies of termination provided for in this Framework Agreement), the Authority shall be entitled to terminate this Framework Agreement.

## **9. Continuous Improvement**

9.1 The Supplier shall have an ongoing obligation throughout the Framework Period to identify new or potential improvements to the provision of the Goods or Services in accordance with this Clause 9 with a view to reducing the costs to the Authority and/or improving the quality and efficiency of the Goods or Services and their supply to the Authority.

## **10. Supplier's Personnel**

10.1 The Supplier shall ensure that all Supplier's Personnel are appropriately skilled, trained and experienced to perform the Supplier's obligations under this Framework Agreement and each Call Off Contract.

10.2 The Supplier owes a duty of care to the Supplier's Personnel and is responsible for the health, safety, security of life and property and general wellbeing of such persons and their property and this includes where the Supplier's Personnel carry out the Services.

10.3 The Supplier warrants that it has:

- (a) carried out the appropriate risk assessment with regard to its delivery of the Goods or Services;
- (b) provided the Supplier's Personnel with adequate information, instruction, training and supervision; and
- (c) had appropriate emergency procedures in place to enable its provision of the Goods or Services so as to prevent damage to the Supplier's Personnel's health, safety, security of life and property and general wellbeing and undertakes that it will continue to do so throughout the Framework Period.

10.4 The provision of information of any kind whatsoever by the Authority to the Supplier shall not in any respect relieve the Supplier from responsibility for its obligations under this Clause 10. The positive evaluation of the Supplier's proposal for the provision of the Goods or Services and the award of this Framework Agreement or any Call Off Contract is not an endorsement by the Authority of any arrangements which the Supplier has made for the health, safety, security of life and property and wellbeing of the Supplier's Personnel in relation to the provision of the Goods or Services.

10.5 The Supplier acknowledges that the Authority accepts no responsibility for the health, safety, security of life and property and general wellbeing of the Supplier's Personnel with regard to the Supplier's Personnel carrying out the Services.

10.6 The Supplier shall indemnify and keep indemnified the Authority in respect of:

- (a) any loss, damage or claim, howsoever arising out of, or relating to any negligent act or omission by the Supplier or the Supplier's Personnel in connection with the performance of this Framework Agreement or any Call Off Contract; or

- (b) any claim, howsoever arising, by the Supplier's Personnel or any person employed or otherwise engaged by the Supplier, in connection with the performance of this Framework Agreement or any Call Off Contract.

10.7 The Supplier will ensure that such insurance arrangements as are made to cover the Supplier's Personnel, or any person employed or otherwise engaged by the Supplier, and pursuant to the Supplier's duty of care as referred to in this Clause 10 are reasonable and prudent in all circumstances, including in respect of death, injury or disablement, and emergency medical expenses.

10.8 The Supplier shall provide training on a continuing basis for all of the Supplier's Personnel, in compliance with the Security Policy.

## **11. Records**

11.1 The Supplier shall keep and maintain, until the later of:

- (a) 7 years after the date of termination or expiry of this Framework Agreement;
- (b) 7 years after the date of termination or expiry of the last Call Off Contract to expire or terminate; or
- (c) such other date as may be agreed between the Parties,

full and accurate records and accounts of the operation of this Framework Agreement, including the Call-Off Contracts entered into with the Authority, Information, the goods or Services provided pursuant to the Call-Off Contracts and the amounts paid by each Authority under the Call-Off Contracts and those supporting tests and evidence that underpin the provision of the annual Self Audit Certificate and supporting Audit Report (the "**Records**").

11.2 The Supplier shall keep the Records in accordance with Good Industry Practice and Law.

11.3 The Supplier shall provide the Authority with access to or copies of the Records as may be requested by the Authority on reasonable notice.

## **12. Supplier Self Audit Review**

12.1 The Supplier shall provide the Authority with a completed and signed annual Self Audit Certificate in the form shown at Framework Schedule 7 (Annual Self Audit Certificate) in respect of each Contract Year. Each Self Audit Certificate shall be completed and signed by an authorised senior member of the Supplier's management team or by the Supplier's external auditor and the signatory must be professionally qualified in a relevant audit or financial discipline.

12.2 Each Self Audit Certificate should be based on tests completed against a representative, random sample of ten percent (10%) of transactions carried out during the period of being audited (unless the Authority specifies transactions to be tested) and should provide assurance that:

- (a) Call Off Contract invoices are clearly identified as such in the order processing and invoicing systems and, where required, are correctly reported in the MI Reports;

- (b) all Charges to the Authority comply with any requirements under this Framework Agreement on maximum mark-ups, discounts, charge rates, fixed quotes (as applicable); and
- (c) the transactions have been accounted for in such a manner that:
- (i) all relevant, related taxes have been or will be paid; and all relevant, related taxes that are recoverable have been clearly identified as such and have been or will be recovered at the earliest opportunity and the Authority or any Authority Calling of from the Framework have not been charged or will not be charged for this recoverable tax.

12.3 Each Self Audit Certificate should be supported by an Audit Report that provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.

12.4 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 12.

### **13. Authority's Audit**

13.1 For the purposes of the examination and certification of the Authority's accounts, or any examination under section 6(1) of the National Audit Act 1983 or annual re-enactment thereof as to the economy, efficiency and effectiveness with which the Authority has used its resources, the Comptroller (as defined in the National Audit Act) and Audit or General may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to provide such oral or written explanations as they may reasonably require for those purposes. The Supplier shall give all reasonable assistance to the Comptroller and Auditor General for those purposes.

13.2 Clause 13.1 applies only in respect of documents relating to the Framework Agreement and/or any Call Off Contract and only for the purpose of the auditing of the Authority. It does not constitute an agreement under section 6(3)(d) of the National Audit Act 1983 such as to make the Supplier the subject of auditing under that Act.

13.3 In addition to where an audit is imposed on the Authority by a Regulatory Body (in which case the Authority may carry out the audit required without prejudice to its other rights) the Authority may conduct an audit:

- (a) to review the integrity, confidentiality and security of the Authority Data; and/or
- (b) to review the Supplier's compliance with the Data Protection Legislation, FOIA and any other legislation applicable to the Services and Clauses 19 (Confidentiality), 20 (Freedom of Information), 21 (Authority Data) and 22 (Protection of Personal Data).

13.4 Subject to the Authority's obligations of confidentiality under this Framework Agreement, the Supplier shall on demand provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit including:

- (a) all information requested by the Authority within the permitted scope of the audit;
- (b) reasonable access to any sites controlled by the Supplier which are used to provide the Goods or Services and to any equipment used (whether exclusively or non-exclusively)

in the performance by the Supplier of its obligations under this Framework Agreement and/or any Call Off Contract;

- (c) access to the Supplier System; and
- (d) access to the Supplier's Personnel.

#### **14. Maximum Rates and Charging**

14.1 Framework Schedule 4 (Maximum Rates and Charging) sets out the Pricing and charging structure for Call Off Contracts.

#### **15. Intellectual Property Rights**

15.1 Save as granted under this Framework Agreement, neither Party shall acquire any right, title or interest in or to the Intellectual Property Rights of the other Party.

15.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 15.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

15.3 Neither Party shall have any right to use any of the other Party's names, logos or trademarks on any of its products or Services without the other Party's prior written consent.

#### **16. Publicity and Branding**

16.1 The Supplier shall not:

- (a) make any press announcements or publicise this Framework Agreement in any way; or
- (b) use the Authority's name or brand in any promotion or marketing or announcement of Call Off Contracts, in each case without seeking the Authority's prior Approval.

16.2 Each Party acknowledges to the other that nothing in this Framework Agreement either expressly or impliedly constitutes an approval and/or endorsement of any products or services of the other Party (including the or Services) and each Party agrees not to conduct itself in such a way as to imply or express any such approval and/or endorsement.

16.3 The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation upon the Authority, including any examination of this Framework Agreement by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

#### **17. Transparency**

17.1 The Parties acknowledge that, nothing in the agreements is automatically exempt from disclosure and therefore may be subject to disclosure under FOIA (Clause 19 (Freedom of Information)). The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Framework Agreement and / or any Call Off Contract is exempt from disclosure in accordance with the provisions of the FOIA.

17.2 The Authority may consult with the Supplier to inform its decision regarding any exemptions with regard to FOIA but the Authority shall have the final decision in its absolute discretion.

17.3 Notwithstanding any other term of this Framework Agreement and/or any Call Off Contract, the Supplier hereby gives their consent for the Authority to publish the Framework Agreement and/or any Call Off Contract in its entirety, including from time to time agreed changes to the Framework Agreement and/or any Call Off Contract, to the general public.

17.4 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Framework Agreement and or any Call Off Contract.

17.5 The Supplier acknowledges that publication of this Framework Agreement will include the publication of the name and contact details of the Supplier Representative. Such details will not be redacted, By executing this Framework Agreement, the Supplier confirms that it has ensured that the Suppliers Representative has given their consent to the publication of their name and contact details or otherwise taken steps to ensure that publication will not breach the Data Protection Legislation. The name and contact details of any subsequent Supplier Representative details will also be published and in every such case the Supplier will ensure that consent is obtained or otherwise takes steps to ensure that publication of those details will not amount to a breach of the Data Protection Legislation.

## 18. Confidentiality

18.1 For the purposes of this Clause 18, 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.

18.2 Except to the extent set out in this Clause 18 or where disclosure is expressly permitted elsewhere in this Framework Agreement, the Recipient shall:

- (a) 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);
- (b) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Framework Agreement or without obtaining the owner's prior written consent;
- (c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Framework Agreement; and
- (d) immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

18.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

- (a) the Recipient is required to disclose the Confidential Information by Law or by order of a court or other body of competent jurisdiction, provided that Clause 19 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;

- (b) the need for such disclosure arises out of or in connection with:
  - (i) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Framework Agreement;
  - (ii) the examination and certification of the Authority'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 Authority is making use of any Goods or Services provided under this Framework Agreement and / or any Call Off Contract; or
  - (iii) the conduct of a Central Government Body review in respect of this Framework Agreement and/or any Call Off Contract; or
- (c) 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.

18.4 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.

18.5 Subject to Clauses 18.3 and 18.7, the Supplier may only disclose the Confidential Information of the Authority on a confidential basis to:

- (a) Supplier's Personnel who are directly involved in the provision of the Goods or Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Framework Agreement; and
- (b) its professional advisers for the purposes of obtaining advice in relation to this Framework Agreement.

18.6 Where the Supplier discloses Confidential Information of the Authority pursuant to this Clause 18, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Framework Agreement by the persons to whom disclosure has been made.

18.7 The Authority may disclose the Confidential Information of the Supplier:

- (a) to any Central Government Body on the basis that the information may only be further disclosed to Central Government Bodies;
- (b) to Parliament and any committees of the Parliament or if required by any Parliamentary reporting requirement;
- (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by the Authority or any of the entities described in Clauses 18.7(a) and 18.7(b)



(including any benchmarking organisation) for any purpose relating to or connected with this Framework Agreement;

- (e) on a confidential basis for the purpose of the exercise of its rights under this Framework Agreement; or
- (f) to a proposed transferee, assignee or novatee of, or successor in title to the Authority, for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or an arrangement containing terms no less stringent than those placed on the Authority under this Clause 18.

18.8 Nothing in this Clause 18 shall prevent a Recipient from using any techniques, ideas or KnowHow gained during the performance of this Framework Agreement and/or any Call Off Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

18.9 In the event that the Supplier fails to comply with Clauses 18.2 to 18.5, the Authority reserves the right to terminate this Framework Agreement for material Default.

## **19. Freedom of Information**

19.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA, the EIRs and associated codes of practice and shall assist and cooperate with the Authority to enable the Authority to comply with its Information disclosure obligations.

19.2 The Supplier shall and shall ensure that its Sub-Contractors shall:

- (a) transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
- (b) provide the Authority with a copy of all Information in its possession, or power in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority's request; and
- (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

19.3 The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Framework Agreement and/or any Call Off Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA, the EIRs and associated codes of practice.

19.4 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Authority.

19.5 The Supplier acknowledges that (notwithstanding the provisions of Clause 18) the Authority may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the

Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (the “**Code**”), be obliged under the FOIA, or the EIRs to disclose information concerning the Supplier or the Goods and Services:

- (a) in certain circumstances without consulting the Supplier; and
- (b) following consultation with the Supplier and having taken their views into account,

provided always that where Clause 19.5 (a) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier’s attention after any such disclosure.

19.6 The Supplier shall ensure that all Information is retained for disclosure in accordance with clauses 19.7 and shall permit the Authority to inspect such records as requested by the Authority from time to time.

19.7 Wherever practical, original Information shall be retained and maintained in hard copy form.

## **20. Authority Data**

20.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Authority Data.

20.2 The Supplier shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under this Framework Agreement or as otherwise expressly authorised in writing by the Authority.

20.3 To the extent that the Authority Data is held and/or processed by the Supplier, the Supplier shall supply the Authority Data to the Authority as requested and in the format(s) specified by the Authority.

20.4 Upon receipt or creation by the Supplier of any Authority Data and during any collection, processing, storage and transmission by the Supplier of any Authority Data, the Supplier shall take responsibility for preserving the integrity of the Authority Data and preventing the corruption or loss of the Authority Data.

20.5 The Supplier shall perform secure back-ups of all the Authority Data and shall ensure that up-to date back-ups are stored off-site in accordance with the Security Policy. The Supplier shall ensure that such back-ups are available to the Authority at all times upon request, with delivery times as specified by the Authority.

20.6 The Supplier shall ensure that the system on which the Supplier holds any the Authority Data, including back-up data, is a secure system that complies with the Security Policy.

20.7 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier’s Default so as to be unusable, the Authority may:

- (a) require the Supplier (at the Supplier’s expense) to restore or procure the restoration of the Authority Data to the extent and in accordance with the Business Continuity and Disaster Recovery Provisions specified in the Security Policy and the Supplier shall do

so as soon as practicable but not later than three (3) days following a written request from the Authority; and/or

- (b) itself restore or procure the restoration of the Authority Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in the Business Continuity and Disaster Recovery provisions specified in the Security Policy.

20.8 If at any time the Supplier suspects or has reason to believe that the Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take.

20.9 The Supplier shall (and shall procure that its Sub-Contractors shall) ensure that from the Commencement Date and during the Term it has and maintains certification under the HM Government Cyber Essentials Scheme at the level set out in the tender documentation issued by the Authority.

## 21. Protection of Personal Data

21.1 Where any Personal Data is Processed in connection with the exercise of the Parties' rights and obligations under this Framework Agreement, the Parties acknowledge that the Authority is the Data Controller and that the Supplier is the Data Processor.

21.2 The Supplier shall:

- (a) Process the Personal Data as necessary to perform its obligations under this Framework Agreement and only in accordance with the documented instructions from the Authority to perform its obligations under this Framework Agreement including with regard to transfers of Personal Data to a third country or an international organisation (the "**Permitted Purpose**"), unless otherwise required to do so by European Union law or the member state laws (which shall include the laws of England and Wales even if the United Kingdom leaves the European Union) to which the Supplier is subject; in such a case, the Supplier shall inform the Authority of that legal requirement before processing, unless that law prohibits such disclosure on important grounds of public interest. In no event shall the Supplier Process the Personal Data for its own purposes or those of any third party;
- (b) ensure that at all times it has in place appropriate technical and organisational measures to protect the Personal Data against (i) accidental or unlawful destruction, (ii) accidental loss, alteration, unauthorised disclosure or access, and (iii) any other breach of security (each a "**DP Security Incident**");
- (c) not disclose or transfer the Personal Data to or permit the Processing by any of the Supplier's Personnel unless necessary for the provision of the Goods or Services and, for any disclosure or transfer of Personal Data to any third party or the Processing by such third party of any Personal Data, obtain the Approval of the Authority;
- (d) if it believes or becomes aware that its Processing of the Personal Data is likely to result in a high risk to the data protection rights and freedoms of Data Subjects, promptly inform the Authority and provide the Authority with all such reasonable and timely assistance as the Authority may require in order to conduct a data protection impact assessment and, if necessary, consult with its relevant data protection authority;

- (e) upon becoming aware of a DP Security Incident, notify the Authority without undue delay and shall provide all such timely information and cooperation as the Authority may require including in order for the Authority to fulfil its data breach reporting obligations under (and in accordance with the timescales required by) Data Protection Legislation. The Supplier shall further take all such measures and actions as are necessary to remedy or mitigate the effects of the DP Security Incident and shall keep the Authority up-to-date about all developments in connection with the DP Security Incident;
- (f) take 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 the Supplier's Personnel:
  - (i) are aware of and comply with the Supplier's duties under this Clause 21.2 and Clause 18 (Confidentiality);
  - (ii) 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 Authority or as otherwise permitted by this Framework Agreement; and
  - (iii) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (g) notify the Authority within two (2) Working Days if it receives:
  - (i) any request from a Data Subject (or third party on their behalf) to exercise any of its rights under Data Protection Legislation (including its rights of access, correction, objection, erasure and data portability, as applicable);
  - (ii) any other correspondence, enquiry or complaint from a Data Subject, regulator or other third party in connection with the Processing of the Personal Data; or
  - (iii) 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;
- (h) provide the Authority with full cooperation and assistance (within the timescales reasonably required by the Authority) in relation to any request, correspondence, enquiry or complaint, described in Clauses 21.2(g)(i) to 21.2(g)(iii) whether or not such complaint, communication or request is received by the Authority or the Supplier, including by promptly providing:
  - (i) the Authority with full details and copies of the complaint, communication or request;
  - (ii) where applicable, such assistance as is reasonably requested by the Authority to enable the Authority to comply with the Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation; and
  - (iii) the Authority, on request by the Authority, with any Personal Data it holds in relation to a Data Subject; and
  - (j) if requested by the Authority, provide a written description of the measures that the Supplier has taken and technical and organisational security

measures in place, for the purpose of compliance with its obligations pursuant to this Clause 21.2 and provide to the Authority copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals.

21.3 The Supplier shall not Process or otherwise transfer any Personal Data (nor permit any Personal Data to be Processed or otherwise transferred) in or to any Restricted Country. If, after the Commencement Date, the Supplier or any Sub-Contractor wishes to Process and/or transfer any Personal Data in or to any Restricted Country, the following provisions shall apply:

- (a) the Supplier shall submit a request for a Variation to the Authority which, if the Authority agrees to such request, shall be dealt with in accordance with Clauses 21.3(b) to 21.3(e) and Clause 29;
- (b) the Supplier shall set out in its request for a Variation and/or impact assessment details of the following:
  - (i) the Personal Data which will be transferred to and/or Processed in any Restricted Countries;
  - (ii) the Restricted Countries which the Personal Data will be transferred to and/or Processed in;
  - (iii) any Sub-Contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries; and
  - (iv) how the Supplier will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Authority's compliance with the Data Protection Legislation;
- (c) in providing and evaluating the request for a Variation and impact assessment, the Parties shall ensure that they have regard to and comply with the Authority, Central Government Bodies and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing in and/or transfers of Personal Data to any Restricted Countries;
- (d) the Supplier shall take all measures as are necessary to ensure that such Processing and/or transfer of Personal Data is in compliance with the Data Protection Legislation; and
- (e) the Supplier shall comply with such other instructions and shall carry out such other actions as the Authority may notify in writing, including:
  - (i) incorporating standard and/or model contract clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Framework Agreement or a separate data processing agreement between the Parties; and
  - (ii) procuring that any Sub-Contractor or other third party who will be Processing and/or receiving or accessing the Personal Data in any Restricted Countries either enters into:

- (A) a direct data processing agreement with the Authority on such terms as may be required by the Authority; or
- (B) a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Authority and the Supplier relating to the relevant Personal Data transfer,

and the Supplier acknowledges that in each case, this may include the incorporation of model contract clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) and technical and organisational measures which the Authority deems necessary for the purpose of protecting Personal Data.

21.4 The Supplier shall assist the Authority in complying with any obligations under the Data Protection Legislation and shall not perform its obligations under this Framework Agreement in such a way as to cause the Authority to breach any of the Authority's obligations under the Data Protection Legislation to the extent the Supplier is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

## **22. Tax Compliance**

22.1 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

- (a) notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
- (b) promptly provide to the Authority:
  - (i) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
  - (ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

## **23. Re-Tendering and Handover**

23.1 Within twenty-one (21) days of being so requested by the Authority's Representative the Supplier shall provide a draft Exit Plan to be agreed with the Authority that shall set out each Party's obligations in detail in order to ensure a smooth and efficient transfer of the Services to the Authority for a Successor Supplier (the "**Exit Plan**"). The Parties shall review and update the Exit Plan annually and as soon as reasonably practicable in the event of a material change in any aspect of the Services which could reasonably be expected to impact upon the Exit Plan in order to ensure that the Exit Plan remains relevant.

## **24. Termination and Suspension**

24.1 The Authority may, without prejudice to its other rights, immediately terminate this Framework Agreement (in whole or in part) by issuing a Termination Notice to the Supplier:

- (a) where the Supplier commits any material Default which is either not, in the reasonable opinion of the Authority, capable of remedy or is remediable but has not remedied such

Default to the satisfaction of the Authority within twenty (20) Working Days, or such other period as may be specified by the Authority, after issue of a written notice from the Authority to the Supplier specifying the remediable Default and requesting it to be remedied in accordance with any instructions of the Authority;

- (b) where an Insolvency Event affecting the Supplier occurs;
- (c) where in the reasonable opinion of the Authority there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:
  - (i) adversely impacts the Supplier's ability to supply the Goods or Services under any Call Off Contract; or
  - (ii) could reasonably be expected to have an adverse impact on the Supplier's ability to supply the Goods or Services under any Call Off Contract;
- (d) where two (2) Call Off Contracts are terminated (other than by the Authority for convenience or by the Supplier for default) within two (2) years;
- (e) where the Supplier commits a Default of any of the following Clauses: Clause 7.2 (Compliance with Law), Clause 38 (Prevention of Fraud and Bribery); Clause 34 (AntiTerrorism Regulations); Clause 41 (Conflict of Interest); or Clause 18 (Confidentiality); or
- (f) the Supplier undergoes a Change of Control which is not preapproved by the Authority.

24.2 If the Authority has the right to terminate this Framework Agreement, it may instead suspend this Framework Agreement for the period set out in the Authority's notice. During such period, the Supplier shall not be permitted to participate in the Call Off Procedure or enter into any Call Off Contracts.

## **25. Consequences of Expiry or Termination**

25.1 Termination, suspension or expiry of this Framework Agreement shall not cause any Call Off Contracts to terminate automatically.

25.2 On termination or expiry of this Framework Agreement, the Supplier shall implement the Exit Plan.

25.3 Within ten 10 Working Days of completion of the Exit Plan (or earlier where possible), the Supplier shall return to the Authority any and all of the Authority's Confidential Information in the Supplier's possession, power or control, either in its then current format or in a format nominated by the Authority, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information to the extent reasonably necessary to comply with its obligations under this Framework Agreement or under any Law, for a period of up to twelve 12 Months (or such other period as agreed in writing by the Authority and is reasonably necessary for such compliance).

25.4 Termination or expiry of this Framework Agreement shall be without prejudice to the survival of any provision of this Framework Agreement, which expressly (or by implication) is to be performed or observed notwithstanding termination or expiry of this Framework Agreement.

25.5 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement prior to termination or expiry.

## **26. Limit of Liability**

26.1 Neither Party excludes or limits its liability for:

- (a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
- (b) bribery, fraud or fraudulent misrepresentation by it or its employees;
- (c) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (d) breach of Clause 18 (Confidentiality); or
- (e) any liability to the extent it cannot be limited or excluded by Law.

26.2 The Supplier does not exclude or limit its liability in respect of breach of Clause 19 (Freedom of Information) or Clause 21 (Protection of Personal Data).

26.3 Subject to Clauses 26.1 and 26.2 and without prejudice to the Supplier's liability under any Call Off Contract, the Supplier's total aggregate liability under or in connection with this Framework Agreement, whether arising from contract, tort (including negligence) or otherwise in respect of all Defaults by the Supplier shall not exceed £2,000,000 in each Contract Year.

26.4 Subject to Clauses 26.1 and 26.2, the Authority's total aggregate liability under or in connection with this Framework Agreement, whether arising from contract, tort (including negligence) or otherwise in respect of all Defaults by the Authority shall not exceed £1,000,000 in each Contract Year.

26.5 Subject always to Clauses 26.1 and 26.2, neither Party shall be liable to the other Party for any:

- (a) indirect, special or consequential loss; or
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

## **27. Force Majeure**

27.1 Neither Party shall be liable for any default in performing its obligations under this Framework Agreement if such default is due to a Force Majeure Event.

27.2 Either Party may terminate this Framework Agreement with immediate effect, if the Force Majeure continues for a period of more than three (3) Months.

## **28. Insurance**

28.1 The Supplier shall effect and maintain, and shall procure that their Sub-Contractors (to the extent that the same are commercially available) effect and maintain, with a reputable insurance company a policy or policies of insurance providing an adequate level of



cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's and/or their Sub-Contractors performance of their obligations under this Framework Agreement or any Call Off Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Supplier. Such insurance shall be maintained from the Commencement Date until a minimum of 6 (six) years following the expiration or termination of the final Call Off Contract.

28.2 Without limitation to Clause 28.1, the Supplier shall effect and maintain and shall procure that all agents, professional consultants and Sub-Contractors effect and maintain:

- (a) employer's liability insurance in respect of the Supplier's Personnel in accordance with any legal requirement from time to time in force; and
- (b) appropriate professional indemnity insurance cover from the Commencement Date until a minimum of 6 (six) years following the expiration or termination of the final Call Off Contract.

28.3 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities arising under this Framework Agreement or any Call Off Contracts. It shall be the responsibility of the Supplier to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability in relation to the performance of its obligations under this Framework Agreement or any Call Off Contract.

28.4 The Supplier shall give the Authority, immediately on request, copies of all insurance policies referred to in this Clause 28 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

28.5 If, for whatever reason, the Supplier fails to give effect to and maintain the insurances required by the provisions of this Framework Agreement the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.

## **29. Variations**

29.1 No variation to the terms or scope of this Framework Agreement shall be effective without the Authority's Representative's prior written consent and recorded in writing in a formal Variation Form which is executed by a representative of each Party who has authority to bind that Party.

29.2 The Supplier may request a Variation provided that:

- (a) the Supplier shall notify the Authority's Representative in writing of any additional or changed requirement which it considers should give rise to a Variation;
- (b) any proposed Variation shall be fully supported by a formal, technical and commercial justification; and
- (c) the Authority shall, having the sole and absolute right to do so, either approve or reject any Variation proposed by the Supplier.

29.3 Legislative Change

29.4 The Supplier shall neither be relieved of its obligations under this Call Off Contract nor be entitled to an increase in the Call Off Contract Charges as the result of a:

- (a) General Change in Law; or
- (b) Specific Change in Law where the effect of that Specific Change in Law on the Goods or Services is reasonably foreseeable at the Call Off Commencement Date.

29.5 If a Specific Change in Law occurs or will occur during the Call Off Contract Period (other than as referred to in Clause 18.2(a)(ii) above, the Supplier shall:

- (a) notify the Customer as soon as reasonably practicable of the likely effects of that change including:
  - i whether any Variation is required to the provision of the Goods or Services, the Call Off Contract Charges or this Call Off Contract; and
  - ii whether any relief from compliance with the Supplier's obligations is required,
- (b) provide to the Customer with evidence:
  - i. that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors;
  - ii. as to how the Specific Change in Law has affected the cost of providing the Goods or Services; and
- (c) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 13 (Continuous Improvement), has been taken into account in amending the Call Off Contract Charges.
- (d) Any change in the Call Off Contract Charges or relief from the Supplier's obligations resulting from a Specific Change in Law shall be implemented in accordance with the Variation Procedure.

**30. Health and Safety**

30.1 The Supplier shall perform its obligations under this Framework Agreement and/or any Call Off Contract (including those in relation to the Services) in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Authority's health and safety policy (as provided to the Supplier from time to time) whilst at the Authority Premises.

30.2 Each Party shall promptly notify the other as soon as possible of any health and safety incidents or material health and safety hazards at the Authority Premises of which it becomes aware and which relate to or arise in connection with the performance of this Framework Agreement and/or any Call Off Contract.

30.3 Whilst on the Authority Premises, the Supplier shall comply with any health and safety measures implemented by the Authority in respect of Supplier's Personnel and other persons working there and any instructions from the Authority on any necessary associated safety measures.

### **31. Equality and Diversity**

31.1 The Supplier shall not unlawfully discriminate either directly or indirectly against protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of all relevant legislation including the Equality Act 2010, the International Development (Gender Equality) Act 2014 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof ("**Equality Laws**").

31.2 The Supplier shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission or any successor organisation. The Supplier shall take all reasonable steps to secure the observance of these provisions and codes of conduct by all suppliers, employees or agents of the Supplier and all suppliers and Sub-Contractors employed in the execution of this Framework Agreement.

31.3 The Supplier will comply with any request by the Authority to assist the Authority in meeting its obligations under the Equality Laws and to allow the Authority to assess the Supplier's compliance with its obligations under the Equality Laws.

31.4 Where any investigation is concluded or proceedings are brought under the Equality Laws which arise directly or indirectly out of any act or omission of the Supplier, its agents or Sub-Contractors, or Supplier's Personnel, and/or where there is a finding against the Supplier in such investigation or proceedings, the Supplier will indemnify the Authority with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Authority may have been ordered or required to pay to a third party.

### **32. Official Secrets Act and Finance Act**

32.1 The Supplier shall comply  
with the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) Section 182 of the Finance Act 1989.

### **33. Environmental Requirements**

33.1 The Supplier shall provide the Services and Equipment required under this Framework Agreement and/or any Call Off Contract in accordance with applicable national and international laws, including those of the country or countries in which the Services and Equipment are to be provided, and the Authority's environmental operations policy, which is to conserve energy, water and other resources, reduce waste, phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

33.2 The UK Government is committed to promoting a low carbon, high growth, global economy. The Supplier shall work with the Authority and the populations that are potentially affected by its operations under this Framework Agreement and/or any Call Off Contract regarding any environmental issues that could affect the sustainable development provisions of the International Development Act (2002) and carry out any reasonable additional request to ensure the protection of the environment, society and the economy throughout the Term.

33.3 The Supplier shall ensure it has the requisite expertise and controls to identify and mitigate all factors that may affect compliance with the conditions outlined in Clauses 33.1 and 33.2 as a result of its own operations or those of Sub-Contractors working on its behalf.

33.4 The Supplier shall promptly notify the Authority of any changes in potential material adverse effects from its operations under this Framework Agreement and or any Call Off Contract and of the occurrence of any incident or accident related to the Project that has or is likely to have a significant adverse effect on the environment.

33.5 Nothing in Clauses 33.1 to 33.2 shall relieve the obligations of the Supplier to comply with its statutory duties and Good Industry Practice.

#### **34. Anti-Terrorism Regulations**

34.1 In accordance to the Terrorism Act 2000, the Counter-Terrorism and Border Security Act 2019 and all subsequent regulations pursuant to these Acts, the Supplier will assure itself to the best of its knowledge that UK funding, including financial assets or economic resources is not made available, either directly or indirectly to, or for the benefit of persons, groups or entities listed in accordance with European Council Regulation EC/2580/2001 (as amended) and/or the Terrorism (United Nations Measures) Orders 2009 of the United Kingdom, or contravene the provisions of those and any subsequent applicable terrorism legislation.

34.2 The Supplier represents and warrants that neither it, nor to the best of its knowledge, any Supplier's Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf, have at any time prior to the Commencement Date and/or during the term of this Framework Agreement and /or any Call Off Contract appeared on the Home Office Proscribed Terrorist Organisations List as published on gov.uk and updated from time to time.

34.3 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 34.1 and/or 34.2, or has reason to believe that it has or any Supplier's Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf have:

- (a) been subject to an investigation or prosecution which relates to an alleged infringement of these Clauses 34.1 and/or 34.2; and/or
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts.

34.4 Where the Supplier or any of its employees, servants, agents or Sub-Contractors, or any person acting on their behalf, breaches any of the acts mentioned in Clauses 34.1 or 34.2 commits any offence under the Terrorism Act 2000, with or without the knowledge of the Supplier, in relation to this Framework Agreement or any other contract with the Crown, the Authority shall be entitled:

- (a) to terminate the Framework Agreement with immediate effect by written notice to the Supplier and recover from the Supplier the amount of any loss resulting from the termination; and
- (b) to recover from the Supplier any other loss sustained as a result of any breach of this Clause 34, whether or not the Framework Agreement has been terminated.

### **35. Assignment and Novation**

35.1 The Supplier shall not assign, novate, or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Framework Agreement or any part of it without Approval.

35.2 The Authority may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Framework Agreement to:

- (a) any Contracting Body; or
- (b) any Central Government Body or other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- (c) any private sector body which substantially performs the functions of the Authority,

and the Supplier shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 35.2.

35.3 A change in the legal status of the Authority such that it ceases to be a Contracting Body shall not, subject to Clause 35.4 affect the validity of this Framework Agreement and this Framework Agreement shall be binding on any successor body to the Authority.

35.4 If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Framework Agreement to a body which is not a Contracting Body or if a body which is not a Contracting Body succeeds the Authority, (both "**Transferee**" in the rest of this Clause) the right of termination of the Authority in Clause 24.1(b) (Termination and Suspension) shall be available to the Supplier in the event of the insolvency of the Transferee (as if the references to Supplier in Clause 24.1(b) (Termination and Suspension) in the definition of Insolvency Event were references to the Transferee).

### **36. Waiver and Cumulative Remedies**

36.1 The rights and remedies under this Framework Agreement may be waived only by notice in accordance with Clause 45 (Notices) and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Framework Agreement or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of it.

36.2 Unless otherwise provided in this Framework Agreement, rights and remedies under this Framework Agreement are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

### **37. Relationship of the Parties**

Except as expressly provided otherwise in this Framework Agreement, nothing in this Framework Agreement, nor any actions taken by the Parties pursuant to this Framework Agreement, 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.

### **38. Prevention of Fraud and Bribery**

38.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier's Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf, have at any time prior to the Commencement Date:

- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and / or
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

38.2 The Supplier, their servants, agents or Sub-Contractors, or any person acting on their behalf shall not during the term of this Framework Agreement and/or any Call Off Contract:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, suppliers, Sub-Contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

38.3 The Supplier shall during the term of this Framework Agreement and/or any Call Off Contract:

- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
- (b) keep appropriate records of its compliance with its obligations under Clause 38.3(a) and make such records available to the Authority on request;
- (c) if so required by the Authority, within twenty 20 Working Days of the Commencement Date, and annually thereafter, certify in writing to the Authority, the compliance with this Clause 38.3 of all persons associated with the Supplier or its Sub-Contractors who are responsible for supplying the Goods or Services in connection with this Framework Agreement. The Supplier shall provide such supporting evidence of compliance as the Authority may reasonably request; and
- (d) have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent it and any Supplier's Personnel or any person acting on the Supplier's behalf from committing a Prohibited Act.

38.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of, or has reason to suspect, any breach of Clause 38.1 and/or 38.2, or has reason to believe that it has or any Supplier's Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and / or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Framework Agreement and / or any Call Off Contract or otherwise suspects that any person or party directly or indirectly connected with this Framework Agreement and/or any Call Off Contract has committed or attempted to commit a Prohibited Act.

38.5 If the Supplier makes a notification to the Authority pursuant to Clause 38.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with Clause 11 (Records).

38.6 If the Supplier breaches Clause 38.2 the Authority may by notice:

- (a) require the Supplier to remove from performance of this Framework Agreement any of the Supplier's Personnel whose acts or omissions have caused the Supplier's breach; or
- (b) immediately terminate this Framework Agreement for material Default.

38.7 Any notice served by the Authority under Clause 38.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Framework Authority believes has committed the Prohibited Act and the action that the Framework Authority has elected to take (including, where relevant, the date on which this Framework Agreement shall terminate).

## **39. Severance**

39.1 If any provision of this Framework Agreement (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Framework Agreement are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this shall not be affected.

39.1 In the event that any deemed deletion under Clause 39.1 is so fundamental as to prevent the accomplishment of the purpose of this Framework Agreement or materially alters the balance of risks and rewards in this Framework Agreement, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Framework Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Framework Agreement and, to the extent that is reasonably practicable, achieves the Parties' original commercial intention.

39.3 If the Parties are unable to resolve any Dispute arising under this Clause 39 within twenty(20 Working Days of the date of the notice given pursuant to Clause 39.2, this Framework Agreement shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Framework Agreement is terminated pursuant to this Clause 39.

#### **40. Further Assurances**

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents, which may be necessary to give effect to the meaning of this Framework Agreement.

#### **41. Conflict of Interest**

41.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor the Supplier's Personnel are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or the Supplier's Personnel and the duties owed to the Authority under the provisions of this Framework Agreement.

41.2 The Supplier shall establish and maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between its obligations to the Authority and its obligations for other clients. The Supplier shall avoid knowingly committing any acts which are likely to result in any allegation of impropriety against the Authority, including conflicts of interest which are likely to prejudice their independence and objectivity in performing this Framework Agreement, howsoever arising.

41.3 The Supplier shall notify the Authority immediately of any circumstances of which it becomes aware which give rise or potentially give rise to a conflict with its obligations to the Authority and shall advise the Authority of how they intend to avoid such a conflict arising or remedy such situation. The Supplier shall, subject to any obligations of confidentiality it may have to third parties provide all information and assistance reasonably necessary (at the Supplier's cost) that the Authority may request of the Supplier in order to avoid or resolve a conflict of interest and shall ensure that at all times they work together with the Authority with the aim of avoiding a conflict or remedy a conflict.

41.4 The Authority shall have the right to require that the Supplier puts in place **"Ethical Walls"** and will ensure and satisfy the Authority that all information relating to this Framework Agreement are not shared or made available to other employees, suppliers or agents of the Supplier and that such matters are not discussed by the relevant staff with other employees, suppliers or agents of the Supplier.

41.5 In the event of a failure to maintain the Ethical Walls as described in Clause 41.4 arising during the course of this Framework Agreement, the Authority reserves the right to immediately terminate this Framework Agreement on giving written notice to the Supplier.

41.6 The Authority reserves the right to terminate this Framework Agreement immediately by giving notice in writing to the Supplier and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Framework Agreement. The action of the Authority pursuant to this Clause 41 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.



## **42. Entire Agreement**

42.1 This Framework Agreement and the documents referred to in it constitutes the entire agreement between the Parties relating in respect of the subject matter of this Framework Agreement and supersedes all prior negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

42.2 Neither Party has been given, nor entered into this Framework Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Framework Agreement.

42.3 Nothing in this Clause 42 shall exclude any liability in respect of misrepresentations made fraudulently.

## **43. Not Used**

## **44. Third Party Rights**

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

## **45. Notices**

45.1 Any notice to be given under this Framework Agreement must be in writing and may be given by email, post or personal delivery. Notices to the Authority shall be sent to the Deputy Director for the Public Safety Group Commercial [REDACTED] at The Home Office, 2 Marsham Street, London SW1 4DF and notices to the Supplier shall be sent to [REDACTED], or to such other place as the relevant party shall have notified to the other pursuant to this Clause 45.

45.2 Any notice to be given shall be deemed effective (a) when actually received (if by email) or (b) when left at the address mentioned above (if delivered personally) or (c) two (2) Working Days after posting by first class post addressed as required above (if given by post).

## **46. Complaints Handling**

46.1 Either Party shall notify the other Party of any Complaints made by any Contracting Bodies, which are not resolved by operation of the Supplier's usual complaints handling procedure within five (5) Working Days of becoming aware of that Complaint and, if the Supplier is the Party providing the notice, such notice shall contain full details of the Supplier's plans to resolve such Complaint.

46.2 Without prejudice to any rights and remedies that a complainant may have at Law (including under this Framework Agreement), and without prejudice to any obligation of the Supplier to take remedial action under the provisions of this Framework Agreement, the Supplier shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

46.3 Within two (2) Working Days of a request by the Authority, the Supplier shall provide full details of a Complaint to the Authority, including details of steps taken to achieve its resolution.

## **47. Dispute Resolution**

47.1 The Parties will attempt in good faith to negotiate a settlement to any claim or dispute between them arising out of or in connection with this Framework Agreement and in accordance with the procedure laid down by the Authority in the Framework Contract Management Plan. If the matter is not resolved by negotiation within forty-five (45) days of when either Party first made contact in respect of the same, either Party may refer the dispute to mediation in accordance with CEDR (Centre for Effective Dispute Resolution in London, UK) procedures. If the Parties fail to agree terms of settlement within ninety (90) days of the initiation of the procedure, the dispute may be referred to Court.

48.2 The decision of the court shall be final and binding on the Parties.

## **48. Governing Law and Jurisdiction**

48.1 This Framework Agreement and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

48.2 Subject to Clause 47 (Dispute Resolution) (including the Authority's right to refer the Dispute to arbitration), the Parties agree that the courts of England and Wales shall have jurisdiction to settle any Dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Framework Agreement or its subject matter or formation. The submission to such jurisdiction will not (and will not be construed so as to) limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction, nor will the taking of proceedings by the Authority in any one or more jurisdictions preclude the taking of proceedings by the Authority in any other jurisdiction, whether concurrently or not.

## **49 Supply Chain Rights and Protection**

### **49.1 Appointment of Sub-Contractors**

- (a) The Customer has consented to the appointment of the Sub-Contractors set out in Schedule 14 (Approved Sub-Contractors).
- (b) The Supplier shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Supplier is able to:
  - i. manage any Sub-Contractors in accordance with Good Industry Practice;
  - ii. comply with its obligations under this Call Off Contract in the delivery of the Goods or Services; and
  - iii. assign, novate or otherwise transfer to the Customer or any Replacement Supplier any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Call Off Contract.
- (c) The Supplier shall put in place and maintain throughout the Call Off Contract Period robust systems and procedures for the management of Sub-Contractors, to ensure that the work carried out by such Sub-Contractors is delivered in the manner and to the

standard required by this Call Off Contract. Such management systems shall include effective monitoring of service delivery and price management approaches.

- (d) Prior to sub-contracting any of its obligations under this Call Off Contract, the Supplier shall provide the Customer with:
  - i. the proposed Sub-Contractor's name, registered office and company registration number;
  - ii. the scope of any Goods or Services to be provided by the proposed Sub-Contractor; and
  - iii. where the proposed Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Customer that the proposed Sub-Contract has been agreed on "arm's-length" terms.
- (e) If requested by the Customer within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 25.1(d), the Supplier shall also provide:
  - i a copy of the proposed Sub-Contract; and
  - ii any further information reasonably requested by the Customer.
- (f) The Customer may, within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 25.1(d) (or, if later, receipt of any further information requested pursuant to Clause 25.1(e)), object to the appointment of the relevant Sub-Contractor they consider that:
  - i the appointment of a proposed Sub-Contractor may prejudice the provision of the Goods or Services or may be contrary to the interests respectively of the Customer under this Call Off Contract;
  - ii the proposed Sub-Contractor is unreliable and/or has not provided reasonable Goods or Services to its other customers;
  - iii and/or the proposed Sub-Contractor employs unfit persons, in which case, the Supplier shall not proceed with the proposed appointment.
- (g) The Supplier shall ensure that all Sub-Contracts contain provisions equivalent to those set out in Clauses 23.8(a), 23.8(b) and 23.8(c), and shall further ensure that:
  - i. the Supplier has all appropriate rights to be able to onwards report Misconduct on the part of the Sub-Contractor's own employees, agents or contractors to the Relevant Authorities; and
  - ii. written confirmation is sought and obtained from its Sub-Contractors that they accept the standards set out in Clauses 23.8(a) and 23.8(b).

#### 49.2 Not Used

#### 49.3 The Supplier shall:

- (a) maintain records of small and medium sized organisations' activity in the supply chain used by the Supplier in the delivery of the Goods or Services including the value of

relevant payments made to them. The Supplier shall provide a report on such activity within fifteen (15) Working Days of a request from the Customer in a format acceptable to the Customer; and

- (b) maintain an up-to-date and accurate record of named downstream Sub-Contractors in receipt of Customer funds and/or Customer funded inventory or assets. This record should demonstrate how funds flow from initial source to end beneficiaries. This record should be made available to the Customer upon written request and within the time set out in the request. This record should be updated by the Supplier:
  - i. as required in Schedule 2 (Goods or Services and Reporting);
  - ii. annually;
  - iii. when there are material changes in the delivery chain; and
  - iv. as part of the project completion process.

#### 49.4 The Supplier shall:

- (a) pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days from the receipt of a valid invoice;
- (b) not include in any Sub-Contract any provision the effect of which would be to limit or restrict the ability of the Sub-Contractor to contract directly with the Customer, a Replacement Supplier, or with any other organisation and Sub-Contractors shall be free to assert their rights independently regarding contractual exclusivity.

#### 49.5 Termination of Sub-Contracts

- (a) The Customer may require the Supplier to terminate:
  - i a Sub-Contract where:
    - A. the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Customer's right of termination pursuant any of the termination events in Clause 41 (Customer Termination Rights) except Clause 41.6 (Termination Without Cause); and/or
    - B. the relevant Sub-Contractor or its Affiliates has embarrassed the Customer or otherwise brought the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Goods or Services or otherwise; and/or
  - ii a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:
    - A. the Customer has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
    - B. the Customer has not served its notice of objection within six (6) months of the later of the date the Change of Control took place or the date on which the Customer was given notice of the Change of Control.

#### 49.6 Competitive Terms

- (b) If the Customer is able to obtain from any Sub-Contractor or any other third party more favourable commercial terms with respect to the supply of any materials, equipment, software, goods or Goods or Services used by the Supplier or the Supplier Personnel in the supply of the Goods or Services, then the Customer may:
- (c) require the Supplier to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Customer in respect of the relevant item; or
- (d) subject to Clause 25.4 (Termination of Sub-Contracts), enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.
- (e) Notwithstanding the Supplier's right to sub-contract pursuant to this Clause 25 (Supply Chain Rights and Protection), the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.

#### 50 Call Off Guarantee

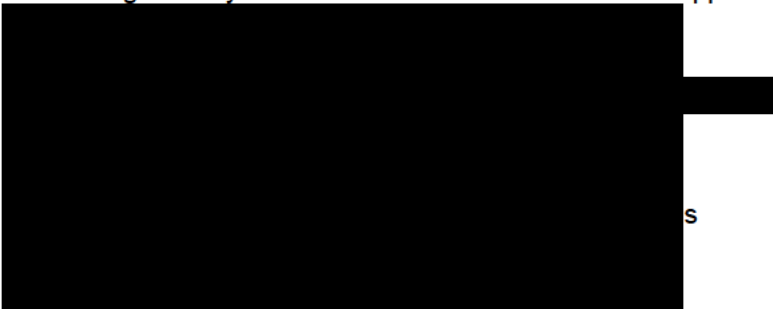
50.1 Where the Customer has stipulated in the Order Form or elsewhere in this Call Off Contract that this Call Off Contract shall be conditional upon receipt of a Call Off Guarantee, then, on or prior to the Call Off Commencement Date or on any other date specified by the Customer, the Supplier shall deliver to the Customer:

- (a) an executed Call Off Guarantee from a Call Off Guarantor; and
- (b) a certified copy extract of the board minutes and/or resolution of the Call Off Guarantor approving the execution of the Call Off Guarantee.

50.2 The Customer may in its sole discretion at any time agree to waive compliance with the requirement in Clause 50.1 by giving the Supplier notice in writing.

**IN WITNESS** of which this Framework Agreement has been duly executed by the Parties.

Signed duly authorised for and on behalf of the Supplier

A large black rectangular redaction box covering the signature area of the Supplier. A small portion of the signature, appearing to be the letter 'S', is visible at the bottom right of the redacted area.

Signed for and on behalf of the Authority

Signature:

Name:

Position:

Date

.....

## SCHEDULE 1 DEFINITIONS

Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below:

**"Affiliate"** 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 with, that body corporate from time to time;

**"Approval"** means the prior written consent of the Authority and **"Approve"** and **"Approved"** shall be construed accordingly;

**"Audit"** means an audit carried out pursuant to Clause 13 (Supplier Self Audit Review);

**"Audit Report"** means a report summarising the testing completed and the actions arising following an Audit;

**"Authority Cause"** means any breach of the obligations of the Authority (including any fundamental breach or breach of a fundamental term) or any other default, act, omission, misrepresentation, negligence or negligent statement of the Authority in connection with or in relation to this Framework Agreement or the subject matter of this Framework Agreement and in respect of which the Authority is liable to the Supplier;

**"Authority Data"** means:

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Authority's Confidential Information, and which:
  - (i) are supplied to the Supplier by or on behalf of the Authority; or
  - (ii) the Supplier is required to generate, process, store or transmit pursuant to this Framework Agreement; or
- (b) any Personal Data for which the Authority is the Data Controller;

**"Authority Policies"** means the policies notified to the Supplier by the Authority from time to time;

**"Authority Premises"** means premises owned, controlled or occupied by the Authority and/or any Central Government Body which are made available for use by the Supplier or its Sub-contractors for provision of the Services (or any of them);

**"Authority Representative"** means the representative appointed by the Authority from time to time in relation to this Framework Agreement;

**"BCDR Plan"** means the plan prepared pursuant to paragraph 2.1 of Call Off Schedule 12 (Business Continuity and Disaster Recovery) as may be amended from time to time

**"Call Off Contract"** means the contract between the Authority and the Supplier which is entered into pursuant to this Framework Agreement and which comprises a signed Order Form substantially in the form of the form in Framework Schedule 8 and the Call Off Terms and Conditions in Framework Schedule 8.2 which together details the services to be delivered by the Supplier to the Authority;

**"Charges"** means the charges for the provision of the Services set out in the relevant Call Off Contract;

**"Change of Control"** means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;

**"Charging Structure"** means the structure to be used in the establishment of the charging model which is applicable to each Call Off Contract, as set out in paragraph 2 of Framework Schedule 4 (Maximum Pricing and Charging);

**"Code"** has the meaning set out in Clause 19.5 of the Framework Agreement;

**"Commencement Date"** means the date set out at the start of this Framework Agreement;

**"Commercially Sensitive Information"** means the information listed in Framework Schedule 10 (Commercially Sensitive Information) comprising the information of a commercially sensitive nature relating to the Supplier, its IPR or its business of which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss;

**"Complaint"** means any formal written complaint raised by a Contracting Body in relation to the performance of this Framework Agreement or any Call Off Agreement in accordance with Clause 46 (Complaints Handling);

**"Confidential Information"** means all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of either party, including all Intellectual Property Rights, together with all information derived from any of the above, and any other information clearly being designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;

**"Conflict of Interest"** means there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority and Customer under the provisions of this Framework Agreement or any Call Off Agreement;

**"Contract Year"** means each successive twelve (12) month period commencing on January 1;

**"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;

**"Crown"** means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and



particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

**"Crown Body"** means any department, office or agency of the Crown;

**"CRTPA"** means the Contracts (Rights of Third Parties) Act 1999;

**"Customer"** means the Authority who has entered into a Call Off Contract with the Supplier;

**"Data Controller"** has the meaning given to it in the Data Protection Act 1998, as amended from time to time;

**"Data Processor"** has the meaning given to it in the Data Protection Act 1998, as amended from time to time;

**"Data Protection Legislation"** means:

- (a) prior to 25 May 2018, Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the Data Protection Act 1998; and
- (b) on and after 25 May 2018, Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation),

together with any replacement legislation or any equivalent legislation and all other applicable laws and regulations in any relevant jurisdiction relating to the processing of personal data and privacy;

**"Data Subject"** shall have the same meaning as set out in the Data Protection Legislation;

**"Data Subject Access Request"** means a request made by a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access his or her Personal Data;

**"Default"** means any breach of the obligations of the relevant Party (including abandonment of this Framework Agreement in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement:

- (a) in the case of the Authority, of its employees, servants, agents; or
- (b) in the case of the Supplier, of its Sub-contractors or any Supplier Personnel, in connection with or in relation to the subject matter of this Agreement and in respect of which such Party is liable to the other;

**"Disaster"** means the occurrence of one or more events which, either separately or cumulatively, mean that the Goods or Services, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);

**"Disclosing Party"** has the meaning given to it in Clause 18.1 (Confidentiality);

**"Dispute"** means any dispute, difference or question of interpretation arising out of or in connection with this Framework Agreement, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Agreement directs the Parties to resolve an issue by reference to the Clause 47 (Dispute Resolution);

**"DOTAS"** means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of

- (a) any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004; and/or
- (b) any secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;

**"DP Security Incident"** has the meaning set out in clause 22.2(b) of the Framework Agreement;

**"End User"** means the recipient of the Services if different from the Customer;

**"Environmental Information Regulations"** or **"EIRs"** means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations, including any written environmental policy of the Authority;

**"Equality Laws"** has the meaning given to it in Clause 31;

**"Equivalent Services"** means services which the Supplier can supply which are the same or similar to the Services;

**"Ethical Walls"** means a process for avoiding conflicts of interest by limiting disclosure of information to certain individuals within an organisation, thereby building a metaphorical wall between the holders of information and colleagues who represent interests or hold opinions which conflict;

**"Equipment"** means any equipment, computer hardware or software, materials, goods and vehicles and associated services necessarily required for the implementation of the Services;

**"Exit Plan"** means the plan produced and updated by the Supplier during the Term in accordance with Clause 23.1 (Re-Tendering and Handover);

**"Extension Period"** shall have the meaning given to it in Clause 6.2 (Framework Period);

**"Financial Limit"** means the amount specified in each Call Off Contract and is the maximum amount payable by the Authority under this Framework Agreement for the receipt of the Services;

**"FOIA"** means the Freedom of Information Act 2000 and any subordinate legislation made under this 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 Event"** means any event outside the reasonable control of either Party affecting its performance of its obligations under this Framework Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel, servants, agents or subcontractors, or any person acting on their behalf or any other failure in the Supplier's or a Subcontractor's supply chain;

**"Framework ITT"** has the meaning given to it in the Introduction to the Framework Agreement;

**"Framework Agreement"** means this agreement and Framework Schedules attached hereto, the terms of which shall apply to all Contracts unless otherwise agreed;

**"Framework Expiry Date"** means the conclusion of the Term of this Framework Agreement;

**"Framework Period"** means the period from the Commencement Date until the expiry or earlier termination of this Framework Agreement;

**"Framework Suppliers"** means the suppliers (including the Supplier) appointed to the ICT Framework;

**"General Anti-Abuse Rule"** means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.

**"Good Industry Practice"** means at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of services similar to the Services to a customer like the Authority, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws;

**"Goods"** means goods made available by the Supplier as specified in Framework Schedule 2 (Specification) and in relation to a Call-Off Contract as specified in the Order Form

**"Government Department"** means a specialised division that is the governing authority over a political unit;

**"Guidance"** shall have the meaning given to in in Framework Schedule 5 (Call off Procedure);

**"Halifax Abuse Principle"** means the principle explained in the CJEU Case C-255/02 Halifax and others;

**"Home Office Proscribed Terrorist Organisations List"** means the list found at <https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2> as amended from time to time;

**"HM Government Cyber Essentials Scheme"** means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview> as amended from time to time;

**"IATI"** means the International Aid Transparency Initiative standard and is a technical publishing framework allowing data to be compared. It is designed to report forward-looking aggregate budget information for the reported organisations, and planned future budgets to recipient institutions or countries;

**"Improvement Notice"** means the notice issued by the Authority to the Supplier pursuant to Clause 8.2(c) (Framework KPIs) which will detail how the Supplier shall improve the provision of the Services;

**"Improvement Plan"** means the plan required by the Authority from the Supplier which shall detail how the Supplier will improve the provision of the Services pursuant to Clause 8.2(a) (Framework KPIs);

**"Information"** has the meaning given under Section 84 of the Freedom of Information Act 2000; including all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);

**"Initial Term"** has the meaning given to it in Clause 6.1(a) (Framework Period);

**"Insolvency Event"** means, in respect of the Supplier:

- (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 order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or

- (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 Supplier 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 "IPRs"** means:

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;
- (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;

**"ITT"** means the invitation to tender submitted by the Authority to the Framework Suppliers to request the provision of the Services;

**"Key Performance Indicators" or "KPI"** means a set of quantifiable measures that the Authority and Supplier will use to measure the Supplier's performance under the Framework Agreement (as defined in Framework Schedule 3 (Key Performance Indicators));

**"Know-How"** means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know-how already in the other Party's possession before the Commencement Date of the Contract;

**"KPI Targets"** means the acceptable performance level for a KPI as set out in relation to each individual KPI;

**"Law"** means any applicable law in England and Wales, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

**"Management Information"** means the information set out in Framework Schedule 6 (Framework Management);

**"Maximum Pricing Rates"** means the maximum pricing applicable to the provision of the Services set out in Framework Schedule 4 (Maximum Pricing and Charging);

**"MREL Providers"** has the meaning given to it in paragraph 11.3 of the Framework Agreement;

**"Management Information"** or **"MI"** means the information to be provided by the Supplier in accordance with Part B of Framework Schedule 6 (Framework Management);

**"MI Failure"** means when an MI report:

- (a) contains any material errors or material omissions or a missing mandatory field; or
- (b) is submitted using an incorrect MI reporting Template; or
- (c) is not submitted by the reporting date(including where a Nil Return should have been filed);

**"MI Report"** means a report containing Management Information submitted to the Authority in accordance with Framework Schedule 6 (Framework Management);

**"MI Reporting Template"** means the form of report as notified to the Supplier by the Authority from time to time setting out the information the Supplier is required to supply to the Authority;

**"Month"** means a calendar month and **"Monthly"** shall be interpreted accordingly;

**"Nil Return"** shall have the meaning given to it in Part B Paragraph 3.3 of the Framework Schedule 6 (Framework Management);

**"Occasion of Tax Non-Compliance"** means:

- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
  - (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; and/or
  - (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and / or
- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud evasion;

**"OJEU Notice"** has the meaning given to it in Recital A of the Framework Agreement;

**“Open Book”** has the meaning given to it in paragraph 6.1 of Framework Schedule 4 (Maximum Pricing and Charging);

**“Order Form”** means an order form from the Authority substantially in the form of the form in Framework Schedule 8 (Order Form);

**“Parent Company”** means the company that owns a controlling stake in the Supplier company;

**“Party”** means the Authority or the Supplier and **“Parties”** shall mean both of them;

**“Permitted Purpose”** has the meaning set out in clause 21.2(a) of the Framework Agreement;

**“Personal Data”** has the meaning given to it in the Data Protection Legislation;

**“Process”** has the meaning given to it under the Data Protection Legislation but, for the purposes of this Framework Agreement, it shall include both manual and automatic processing;

**“Prohibited Act”** means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
  - (i) induce that person to perform improperly a relevant function or activity; or
  - (ii) reward that person for improper performance of a relevant function or activity;
- (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 Framework Agreement;
- (c) an offence:
  - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
  - (ii) under legislation or common law concerning fraudulent acts; or
  - (iii) defrauding, attempting to defraud or conspiring to defraud the Authority; or
- (d) 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;

**“Project”** means a set of co-ordinated activities, with definite starting and finishing points, undertaken by an individual or team to meet specific objectives within defined time, cost and performance parameters;

**“Project Specific IPR”** means:

- (a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of a Call Off Contract and updates and amendments of these Rights including any database scheme; and/or

- (b) IPR in or arising as a result of the performance of the Supplier's obligations under a Call Off Contract and all updates and amendments to the same,

but shall not include the Supplier Background IPR;

**"Recipient"** has the meaning given to it in Clause 18 (Confidentiality);

**"Records"** has the meaning given to it in Clause 11 (Records);

**"Regulatory Bodies"** means those government departments, regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Authority and "Regulatory Body" shall be construed accordingly;

**"Relevant Person"** means any employee, agent, servant, or representative of the Authority, or of any Contracting Body or other public body;

**"Relevant Requirements"** means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;

**"Relevant Tax Authority"** means HM Revenue & Customs, or, if applicable, a Tax Authority in the jurisdiction in which the Supplier is established;

**"Reporting Date"** means the 7th day of each Month following the Month to which the relevant Management Information relates, or such other date as may be agreed between the Parties;

**"Request for Information"** means a request for information or an apparent request under the FOIA, the Environmental Information Regulations and associated codes of practice;

**"Restricted Countries"** means any country outside the European Economic Area or any country not deemed adequate by Data Protection Legislation;

**"Self-Audit Certificate"** means the certificate in the form shown at Framework Schedule 7 (Annual Self Audit Certificate);

**"Security Policy"** means the Authority's security policy in force as at the Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;

**"Services"** means the services applicable to this Framework as set out in Framework Schedule 2 and in the relevant Call Off Contract;

**"SQ"** means the selection questionnaire issued by the Authority;

**"Standards"** means:

- (a) any standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and



experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;

- (b) any standards detailed by the Customer in the Call Off Contract or agreed between the Parties from time to time; and
- (c) any relevant Government codes of practice and guidance applicable from time to time;

**“Sub-contract”** means any contract or agreement (or proposed contract or agreement) between the Supplier (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Supplier (or the Sub-contractor) all or any part of the Services or facilities or services which are material for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof;

**“Sub-Contractor”** means any third party employed by the Supplier in the provision of Services;

**“Successor Body”** means a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds the Authority;

**“Successor Supplier”** means a supplier which is not the Supplier which succeeds the Supplier;

**“Supplier Background IPRs”** means:

- (a) Intellectual Property Rights owned by the Supplier before the Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and / or
- (b) Intellectual Property Rights created by the Supplier independently of this Framework Agreement or any Call Off Contract, which in each case is or will be used before or during the Term for designing, testing implementing or providing the Services;

**“Supplier Framework Manager”** has the meaning given to it in paragraph 2.2(a) of Framework Schedule 6 (Framework Management);

**“Supplier's Personnel”** means any person instructed pursuant to this Framework Agreement to undertake any of the Supplier's obligations under this Framework Agreement, including the Supplier's employees, agents and Sub-contractors;

**“Supplier Representative”** means the representative appointed by the Supplier from time to time in relation to this Framework Agreement;

**“Supplier Review Meetings”** has the meaning given to it in paragraph 2.3(a) of Framework Schedule 6 (Framework Management);

**“Supplier System”** means the information and communications technology system used by the Supplier in implementing and performing the Services including the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Authority System);

**“Supporting Documentation”** means sufficient information in writing to enable the Customer reasonably to assess whether the Charges, Reimbursable Expenses (as referred to in paragraph 5 to Framework Schedule 4 (Maximum Pricing and Charging) and other sums due from the

Customer under a Call Off Contract detailed in the information are properly payable;

**“Suspension Period”** has the meaning given to in in Clause 27.3 (Force Majeure);

**“Call Off Terms”** means the terms and conditions in Framework Schedule 8 (Call Off terms), which together with a completed Order Form will constitute a Call Off Contract between the Authority and Supplier;

**“Term”** means the period commencing on the Commencement Date and ending on the expiry of the Initial Term or any Extension Period or on earlier termination of this Framework Agreement;

**“Termination Notice”** means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Framework Agreement on a specified date and setting out the grounds for termination;

**“Third Party IPRs”** means Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Services;

**“Transferee”** has the meaning given to it in Clause 35.4 (Assignment and Novation);

**“Unincorporated Consortium”** means groups of economic operators, including temporary associations, may participate in procurement procedures and shall not be required by contracting authorities to have a specific legal form in order to submit a tender or request to participate ([The Public Contracts Regulations 2015](#) – *Economic Operators* 19.3);

**“Variation”** means a properly executed variation to the Framework Agreement in compliance with Clause 29 (Variations);

**“Variation Form”** means the form set out in Framework Schedule 9 (Variation Form); and

**“Working Day”** any day other than a Saturday, Sunday or public holiday in England and Wales.

## SCHEDULE 2 SPECIFICATION

### **1. Specification**

1.1 The purpose of this Framework Schedule 2 (Specification) is to lay down the characteristics of the Goods or Services that the Supplier will be required to make available to the Authority under this Framework Agreement (including, if applicable, in each Lot) together with any specific Standards applicable to the Services.

1.2 The Services and any Standards set out in Annex 1 to this Schedule 2 may be refined (to the extent permitted and set out in Framework Schedule 5 (Call Off Procedure)) by a Customer during a Further Competition Procedure to reflect its Service Requirements for entering a particular Call Off Contract.

## Annex 1

Refer to (Statement of Requirements) of the ICT Future Services Framework Agreement

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## **1. PURPOSE**

The Home office on behalf of the NPPC is seeking to create a Framework Agreement for the NPPC Counter Drones National Array Upgrade / Replacement Programme. This Framework Agreement seeks to support delivery of this programmes through the provision of specialist goods and services to include Aeroscope based detection systems that can solely detect DJI drones, that can be deployed semi-permanently.

This Framework Agreement will allow UK Police Forces, Police Crime Commissioners Central Government Departments and their Arm's Length Bodies and Agencies and the National Crime Agency to call off from this Framework Agreement. This Framework shall cover a period of Three (3) years, with an option to extend the Framework at the HO's option for a further period of up twelve (12) months.

It is the Home Office intention to call off immediately once the Framework is live.

Increased use of drones presents risks and challenges for policing, with some areas subject to a significantly higher threat, harm and risk. This procurement relates to new equipment for the National Police Chiefs Council (NPCC) counter drones national array upgrade / replacement programme.

The NPCC Counter Drones team want to enhance the current police national counter-drones detection capability, whilst meeting the associated financial challenges going forward.

Following a recent Request for Information (RFI) process, the intention is to use the existing 'Aeroscope' based hardware to ensure the solution is cost effective and achieves value for money.

The first procurement process will be for an upgrade or replacement to the current capability, followed by a second (separate) process which will provide an additional sensor to provide an enhanced capability.

## **2. BACKGROUND TO THE CONTRACTING AUTHORITY**

The National Police Chiefs Council (NPCC) Counter Drones team is responsible for the governance and coordination of police counter-drones activity. Since the events at Gatwick Airport in December 2018, the team have set out to provide policing with a national capability.

The NPCC Counter Drones national lead is Chief Constable Lucy D'Orsi from the British Transport Police. The team mandate is to advise police forces so that they can adopt a nationally coordinated approach when responding to drone related activity across the UK. The operating model adopted is to provide National governance, Regional coordination and Local delivery, with the focus on ensuring the safe and responsible use of the airspace

Regional Leads coordinate counter-drones activity across their regions and in many cases incorporate existing expertise from well-established force or regional drone teams.

The NPCC Counter Drones remit covers the careless, inconsiderate and criminal use of drones across all policing disciplines; Counter Terrorism, Serious and Organised Crime, Public Order and Frontline Policing. National governance will cover policy, legislation, testing and evaluation through recognised government bodies and to agreed standards, science and technology development, procurement of new technologies and wider engagement with industry on behalf of policing. NPCC Counter Drones design and deliver national training and guidance in conjunction with service providers and stakeholders. In addition, officers will plan and manage pro-active operations and act as tactical advisors at any incidents or spontaneous events, with an established network of subject matter experts (providing both investigative and forensic advice).

The NPCC Counter Drones team work to deliver against the objectives outlined in the Home Office UK Counter Unmanned Aircraft Strategy (published October 2019).

Overseeing the cross government work is the Home Office chaired Counter Drones Board. There are then 4 working groups; Operational Response, Science and Technology, Industry Engagement and Risk. Chief Constable D'Orsi chairs the Operational Response Working Group which is mostly comprised of regional coordinators and representation from other law enforcement agencies (senior police officers or equivalent), along with other relevant stakeholders.

### **3. BACKGROUND TO REQUIREMENT/OVERVIEW OF REQUIREMENT**

Following the events at Gatwick in 2018, NPCC Counter Drones have provided a national capability to detect, track and identify drones. This technology was developed jointly with government partners and was able to provide a good capability at a relatively low cost. There has been no guaranteed capital for resourcing this capability, and as such separate funding or underspends have been utilised. Equipment was procured through Metropolitan Police Service (MPS) Commercial as an Urgent Operational requirement, as no capability existed - the NPCC Counter Drones team are a part of CT Policing and as such the MPS provide this service.

The current detection equipment has been in-situ since 2019 and provides a good capability for policing. The data from all the sensors can be viewed and managed centrally through a single 'back-end' system, which is currently done at a national level, with some regional access as well.

As a principal stakeholder in the established Home Office Counter Drones working groups, and from working across government departments, the NPCC Counter Drones team have been able to identify strengths and weaknesses of the police capability, and evaluate what technologies could enhance this

further. Technologies are rapidly changing and through life cost is an important consideration, given resourcing is not guaranteed.

Therefore this procurement has been initiated for 2 reasons:

- To enhance the current national detection capability for policing
- To provide resilience in meeting financial challenges associated with maintaining the capability

A key change has been the adoption of the MOD 'SAPIENT' systems architecture, which has also been recently adopted by NATO. This allows technologies to 'plug and play' into a common systems architecture that means the aspiration to have a network of sensors across the UK as a 'National Array' is now technically possible.

The intention is to now upgrade / replace the existing 'Aeroscope' based technology in the first procurement process. This will utilise the existing hardware and capability and ensure value for money. The capability will be supplemented through a second process with an RF Sensor to enhance the capability further.

Police forces and Chief Constables are charged to manage their own threat and risk within their force areas. The NPCC Counter Drones mandate is to provide policing with this capability. Initially the Home Office funded procurement of equipment that was distributed to forces or managed centrally as part of that capability, as the associated costs for some technologies were unaffordable for many forces. A model of national governance, regional coordination and local delivery has been adopted to ensure the capability is national.

Going forward, the NPCC Counter Drones team as part of that governance role are working to provide forces with access to the right capability to meet an evolving threat and risk; interoperability of equipment across forces and regions, national training, consistency to testing and procurement. A framework contract will enable forces to procure equipment in a way that achieves value for money and that meets the same set of requirements for policing.

In addition, the 'SAPIENT' architecture now adopted provides the ability to manage detection nationally, whilst providing access to regions / forces individually as required.

Without this model, forces would need to determine their own operational requirements, run separate tender processes, test against standards they would need to define, and negotiate contracts accordingly. The equipment procured may not be interoperable and independent training would be required. Operationally, this then presents challenges supporting police operations elsewhere through 'mutual aid' (deploying to another force area would mean that Chief Constable taking on the 'risk' associated with using new technology they have not tested or are not familiar with).

## 4. DEFINITIONS

Expression or Acronym	Definition
DTI	means Detect, Track, Identify and used to refer to counter drones detection equipment
Aeroscope	means proprietary detection system sold by Chinese manufacturer Da-Jiang Innovations (DJI) solely for the detection of DJI drones
SAPIENT	means the system architecture adopted by MOD and police that allows sensors to ‘plug and play’
CPNI	means the Centre for the Protection of National Infrastructure

## 5. SCOPE OF REQUIREMENT

The Home Office intends to appoint one supplier to the Framework Agreement therefore the expectation is that the supplier will manage the supply of any components and also ensure there is resilience in the supply chain to mitigate any risk of supply shortages.

If a Contracting Authority wishes to award a call off contract through the NPCC Counter Drones National Array Upgrade / Replacement Programme Framework, it shall develop a statement of requirements setting out its requirements for the goods / services. The Home Office’s immediate requirement is to call off from the Framework as soon as it has been awarded. This specific Home Office requirement will be shared immediately once the Framework Agreement has been awarded.

The Framework is to include Aeroscope based detection systems that can solely detect DJI drones that can be deployed semi-permanently.

Excluded from the Framework are systems that do not use an Aeroscope based system as a key component, systems that are not SAPIENT compliant, systems that have not been tested by CPNI or to an equivalent standard (test data and test parameters would need to be available); and manufacturers that cannot be included into a framework contract.

The Framework also requires there to be an option of different payment methods such as upfront payment and lease options over a variety of years.

Options will be considered that combine an Aeroscope based system with an RF sensor.

## 6. THE REQUIREMENT

The Supplier will be required to ensure any products that are included on the Framework Agreement meet the operational requirements that are detailed at



Appendix I – Operational Requirements. These operational requirements are based on a long range, wide area, detect, track, ID 'Aeroscope' based system.

All mandatory requirements within the Operational Requirements must be met and evidence to support this must be included.

The system must have been tested by CPNI or has been subject to similar performance testing by an independent organisation. If available, please also provide evidence of any operational testing not specifically relating to system performance. Please note that any test data, scenarios and test parameters referenced must be made available as part of the assessment'.

The supplier must provide evidence of CPNI testing or equivalent within their submission. Test data and test parameters must be made available as part of the submission.

The delivery of the goods is the responsibility of the Supplier. The Contracting Authority shall advise the Supplier of delivery location(s) and volumes required. Deliveries must be carried out between the following times Mon – Fri 0800 – 1600 the Contracting Authority shall exercise reasonable endeavours to order in line with the estimated delivery schedule.

Therefore the Authority is also looking for pricing based on delivery to a central location to which is to be advised by the Contracting Authority.

## 7. KEY MILESTONES AND DELIVERABLES

The following Framework milestones/deliverables shall apply:

Milestone/Deliverable	Description	Timeframe or Delivery Date
1	Framework to Go live for Contracting Authorities to use	01/03/2023 or earlier if possible but must be in place by this time
2	Home Office call off to be signed and completed	01/03/2023 earlier if possible but must be in place by this time
3	Home Office order placed	01/03/2023 earlier if possible but must be in place by this time
4	Delivery of Home Office order	As per suppliers delivery timelines

## **8. MANAGEMENT INFORMATION/REPORTING**

The Supplier shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver timely and accurate Management Information to the Authority in accordance with the provisions of this Framework.

The Supplier shall also supply such Management Information as may be required by a Contracting Authority in accordance with the terms of a Call Off Contract.

### **Management Information and Format**

The Supplier agrees to provide timely, full, accurate and complete MI Reports to the Authority which incorporates the data, in the correct format, required by the MI Reporting Template which shall be provided to the Supplier on award of the Framework Agreement but which shall include, for example:

- a) Call Off Contracts awarded (with date, value, Contracting Authority, location, thematic etc);
- b) the number of invitation to tenders for Call Off Contracts which the Supplier did not respond to;
- c) Call Off Contracts completed;
- d) number/value of invoices submitted
- e) complaints;
- f) Milestones missed; and / or
- g) use of SMEs in supply chain.

The Authority shall have the right from time to time (on reasonable written notice) to amend the nature of the Management Information which the Supplier is required to supply to the Authority.

The Authority shall have the right from time to time (on reasonable written notice) to amend the nature of the Management Information which the Supplier is required to supply to the Authority.

All MI Reports must be completed by the Supplier using the MI Reporting Template and returned to the Authority on or prior to the Reporting Date (as and when requested by the Authority) during the Framework Period and thereafter, until all transactions relating to Call Off Contracts have permanently ceased.

The Supplier must return the MI Report when requested by the Authority even where there are no transactions to report in the relevant period (a "**Nil Return**").

The Supplier must inform the Authority of any errors or corrections to the Management Information:

- a) in the next MI Report due immediately following discovery of the error by the Supplier; or
- b) as a result of the Authority querying any data contained in MI Report.

The completed MI Report shall be completed electronically and returned to the Authority by email to the Authority's Representative.

Following an MI Failure the Authority may issue reminders to the Supplier or require the Supplier to rectify defects in the MI Report provided to the Authority. The Supplier shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.

The Supplier agrees to attend meetings between the Parties in person to discuss the circumstances of any MI Failure(s) at the request of the Authority (without prejudice to any other rights the Authority may have). If the Authority requests such a meeting the Supplier shall propose measures to ensure that the MI Failures are rectified and do not occur in the future. The Parties shall document these measures and continue to monitor the Supplier's performance.

## **9. VOLUMES**

There are a number of systems that need upgrading and also a number of systems to build however due to operational security reasons we are unable to include the exact details of these.

The Authority is under no obligation to award any Call Off Contracts under this Framework Agreement during the Framework Period.

The Framework has been set up to allow for a maximum of £8,000,000 of spend to go through the Framework.

## **10. CONTINUOUS IMPROVEMENT**

The Supplier will be expected to continually improve the way in which the required Services are to be delivered throughout the Framework duration.

The Supplier should present new ways of working to the Authority during Framework review meetings.

Changes to the way in which the Goods and Services are to be delivered must be brought to the Authority's attention and agreed prior to any changes being implemented.

## **11. SOCIAL VALUE**

The Public Services (Social Value) Act 2012 places a legal requirement on all public bodies to consider the additional social, economic, and environmental benefits that can be realised for individuals and communities through commissioning and procurement activity, to deliver them. These benefits are over and above the core deliverables of Contracts. This Framework provides a means of embedding social value through enabling improvements such as community engagement, economic value, and sustainable development.

The Home Office practises social value procurement to help communities. Suppliers must provide evidence of their commitment to social value and demonstrate an ability and willingness to work with the Home Office to identify and help further their social value requirements. To satisfy this requirement, Suppliers must agree to provide or deliver reasonable and proportionate social value benefits within the Framework. Suppliers should consider the following policy themes, as a minimum:

- recover from the impacts of coronavirus (COVID-19)
- tackle economic inequality
- fight climate change
- promote equal opportunity and wellbeing

The Supplier shall deliver measurable benefits in respect of the Social Value priorities throughout the life of the Framework.

The Supplier shall be responsible for ensuring that social value priorities are cascaded throughout the supply chain.

The Supplier shall record and report performance against the social value requirements.

## **12. QUALITY**

NOT USED

## **13. PRICE**

Prices are to be submitted via the e-Sourcing Suite via uploading a completed version of Appendix E – Pricing Schedule excluding VAT and including all other expenses relating to delivery as per the Framework Agreement.

Pricing is to be fixed for the initial three (3) year period of the Framework Agreement and there shall be no adjustment to all other costs, expenses, fees and

charges to take account of any: inflation; change to exchange rate; change to interest rate; or any other factor or element which might otherwise increase the cost to the Supplier.

Pricing must include all delivery costs including import taxes.

Price will be evaluated based on outright payment for the goods and services. However the Authority is seeking other payment options to be included in the Framework. This could be but is not limited to lease agreements.

## **14. STAFF AND CUSTOMER SERVICE**

The Supplier shall provide a sufficient level of resource throughout the duration of the Framework in order to consistently deliver a quality service.

The Supplier's staff assigned to the Framework shall have the relevant qualifications and experience to deliver the Framework to the required standard.

The Supplier shall ensure that staff understand the Authority's vision and objectives and will provide excellent customer service to the Authority throughout the duration of the Framework.

## **15. SERVICE LEVELS AND PERFORMANCE**

The Authority will measure the quality of the Supplier's delivery by:

KPI/SLA	Service Area	KPI/SLA description	Target
1	Delivery timescales	Delivery to be within timescales as per delivery timescales provided by the supplier	100%
2	Response to emails	Respond within 2 working days	100%
3	Returns	Supplier to rectify or provide a replacement as per the supplier's timescales	98%
5	Complaints	Respond to complaints within 5 working days	100%

## **16. SECURITY AND CONFIDENTIALITY REQUIREMENTS**

NOT USED.

## 17. PAYMENT AND INVOICING

Payment can only be made following satisfactory delivery of pre-agreed products and deliverables.

Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.

Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.

Contracting Authorities calling off from the Framework Agreement will provide invoicing address at the point of call off within the order form.

## 18. FRAMEWORK MANAGEMENT

The successful delivery of this Framework Agreement will rely on the ability of the Supplier and the Authority in developing a strategic relationship immediately following the conclusion of this Framework Agreement with the Supplier and maintaining this relationship throughout the Framework Period.

To achieve this strategic relationship, there will be a requirement to adopt proactive framework management activities which will be informed by quality Management Information, and the sharing of information between the Supplier and the Authority.

The Supplier shall provide a suitably qualified nominated contact (the “**Supplier Framework Manager**”) who will take overall responsibility for delivering the Services required within this Framework Agreement, as well as a suitably qualified deputy to act in their absence.

Following the Commencement Date, the Authority will issue Framework Contract Management Plan detailing governance arrangements in order to manage the Framework. The Supplier shall comply with such arrangements (including ensuring that the relevant personnel attend and participate in all meetings required by the Authority).

Regular performance review meetings will take place remotely via video/audio conferencing or at the Authority’s Premises throughout the Framework Period and thereafter until the Framework Expiry Date (“**Supplier Review Meetings**”).

The exact timings and frequencies of such Supplier Review Meetings will be determined by the Authority following the Commencement Date. It is anticipated that the frequency of the Supplier Review Meetings will be once every 3 months or less. The Parties shall be flexible about the timings of these meetings.

The purpose of the Supplier Review Meetings will be to review the Supplier's performance under this Framework Agreement. The agenda for each Supplier Review Meeting shall be set by the Authority and communicated to the Supplier in advance of that meeting.

The Supplier Review Meetings shall be attended, as a minimum, by the Authority Representative(s) and the Supplier Framework Manager.

The Supplier shall cooperate in good faith with the Authority to develop efficiency tracking performance measures for this Framework Agreement. This shall include:

- a) Tracking reductions in product volumes and product costs, in order to demonstrate that Contracting Bodies are consuming less and buying more smartly; and
- b) Developing additional KPIs to ensure that the Framework Agreement supports the emerging target operating model across central government (particularly in line with centralised sourcing and category management, procurement delivery centres and payment processing systems and shared service centres).

The metrics that are to be implemented to measure efficiency shall be developed and agreed between the Authority and the Supplier. Such metrics shall be incorporated into the list of KPIs set out in Framework Schedule 3 (Key Performance Indicators).

The ongoing progress and development of the efficiency tracking performance measures shall be reported through framework management activities as outlined in this Framework Schedule 7.

In the event that the Authority and the Supplier are unable to agree the performance score for any KPI during a Supplier Review Meeting, the disputed score shall be recorded and the matter shall be referred to the Authority Representative and the Supplier Representative in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).

Attendance at Framework Review meetings shall be at the Supplier's own expense.

## **19. LOCATION**

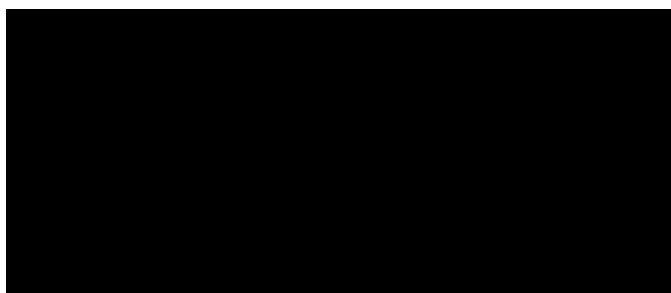
This Framework Agreement will allow UK Police Forces, Police Crime Commissioners Central Government Departments and their Arm's Length Bodies and Agencies and the National Crime Agency to call off from this Framework Agreement. Therefore delivery locations will be within the UK.

Procurement timelines

Stage	Date
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Issue ITT <ul style="list-style-type: none"> <li>• Contracts finder notice</li> <li>• Find a tender notice</li> </ul>	08/11/2022
Deadline for clarification questions from suppliers	25/11/2022
ITT submission deadline	08/12/2022
Evaluation period	09/12/2022 -16/12/2022
Moderation meeting	16/12/2022 – 21/12/2022
Intention to award	04/01/2023
Standstill start (10 days)	04/01/2023
Standstill end	13/01/2023
Framework drafting	16/01/2023 – 31/01/2023
Contract start	01/03/2023 or earlier if possible

#### **SUPPLIERS TENDER SUBMISSION**





## SCHEDULE 3 KEY PERFORMANCE INDICATORS

### 1. General

- 1.1 The purpose of this Framework Schedule 3 (Key Performance Indicators) is to set out the KPIs by which the Supplier's overall performance under this Framework Agreement shall be monitored and managed. The Authority reserves the right to adjust, introduce new, or remove KPIs throughout the Framework Period, however any significant changes to KPIs shall be agreed between the Authority and the Supplier in accordance with Framework Clause 29 (Variations).
- 1.2 The Supplier shall use all reasonable endeavours to meet the KPI Targets identified in the table below.
- 1.3 The Supplier shall establish processes to monitor its performance against the agreed KPIs. The Supplier shall at all times ensure compliance with the standards set by the KPIs.
- 1.4 The Authority shall review progress against these KPIs to evaluate the effectiveness and efficiency with which the Supplier performs its obligations to fulfil this Framework Agreement.
- 1.5 The Suppliers achievement of KPIs shall be reviewed during supplier review meetings and the review and ongoing monitoring of KPIs will form a key part of the framework management process.
- 1.6 The Authority reserves the right to use and publish the performance of the Supplier against the KPIs without restriction.
- 1.7 The KPIs from which performance by the Supplier of this Framework Agreement will be reported against are set out below:

Key Performance Indicator (KPI)	KPI Target	Measured by
<b>1. FRAMEWORK MANAGEMENT</b>		
1.1 MI returns: All MI returns to be returned to the Authority by the requested date	<b>100%</b>	Confirmation of receipt and time of receipt by the Authority
1.2 Supplier Self-Audit Certificate to be issued to the Authority in accordance with the Framework Agreement	<b>100%</b>	Confirmation of receipt and time of receipt by the Authority
1.3 Actions identified in an Audit Report to be delivered by the dates set out in the Audit Report	<b>100%</b>	Confirmation by the Authority of completion of the actions by the dates identified in the Audit Report



## SCHEDULE 4 MAXIMUM PRICING AND CHARGING

### **1. General Provisions**

- 1.1 The Maximum Pricing Rates set out in Annex 1 to this Framework Schedule 4 are the maximum Price that the Supplier may charge pursuant to any Call Off Contract.
- 1.2 The Supplier acknowledges and agrees that any prices submitted in relation to a direct award held in accordance with Framework Schedule 5 (Call Off Procedure) shall be equal to or lower than the Maximum pricing.
- 1.3 The Supplier acknowledges and agrees that, subject to paragraph 5 of this Framework Schedule 4 (Maximum Pricing and Charging), the Maximum Pricing cannot be increased during the Framework Period.
- 1.4 The Supplier acknowledges that the Maximum Pricing at Annex 1 shall not be increased in light of exchange rate fluctuations.

### **20. Costs and Expenses**

- 2.1 Save for ad hoc costs and expenses incurred by the Supplier in the provision of the Services and expressly specified in a Call Off Contract, the Maximum Pricing shall include the cost of salary, overseas inducements, leave allowances, bonuses, profit, taxes, insurances, superannuation, non-working days and all other costs including clothing, passports, visas and vaccinations, overheads and expenses of whatsoever nature that may be incurred by the Supplier.

### **21. Maximum Pricing Rates**

- 4.1 Subject to paragraph 5 of this Framework Schedule, the Maximum Pricing Rates will remain fixed for the Framework Period.

### **22. Supplier Periodic Assessment of Maximum Pricing Rates**

- 5.2 Every six (6) months during the Framework Period, the Supplier shall assess the level of the Maximum Pricing Rates to consider whether it is able to reduce them.
- 5.3 Such assessments by the Supplier under paragraph 5.2 shall be carried out on 1st March and 1<sup>st</sup> September in each Contract Year (or in the event that such dates do not, in any Contract Year, fall on a Working Day, on the next Working Day following such dates). To the extent that the Supplier is able to decrease all or part of the Maximum Pricing Rates it shall promptly notify the Authority in writing and such reduction shall be implemented in accordance with paragraph 5.4.
- 5.4 Variations in accordance with paragraphs 5.2 and 5.3 to all or part of the Maximum Pricing Rates (as the case may be) shall be made by the Authority to take effect on 1 April for assessments made on 1 March and on 1 August for assessments made on 1 September. The Parties shall amend the Maximum Pricing Rates shown in Annex 1 to this Framework Schedule 4 to reflect such variations.

## **6. Open Book Accounting**

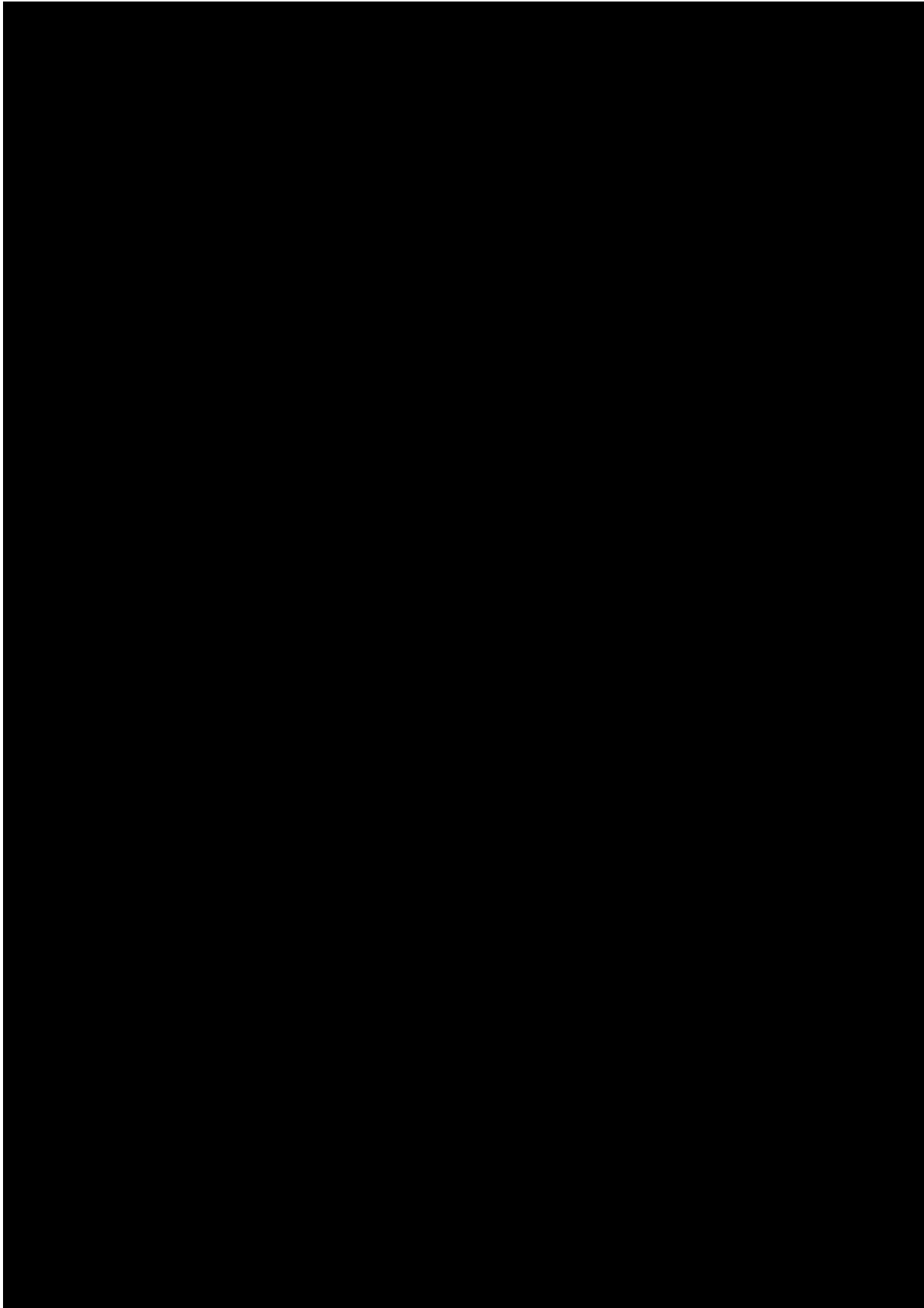
- 6.1 All prices and rates shall be dealt with on an 'open book' basis. 'Open book' means the transparent sharing of all accounting information including actual costs in order to aid financial governance and to enable structured cost reduction initiatives.
- 6.2 Upon the request of the Authority or a Customer, the Supplier shall promptly provide the following information in relation to the costs and expenses to be incurred by the Supplier, and, if requested by the Authority or a Customer, also incurred by any of its Sub-contractors:
- (a) the Supplier's total price for the Services;
  - (b) the margin included in that total price;
  - (c) a list of the costs underpinning the Charges;
  - (d) a summary of the costs broken down against each of the Services and/or deliverables;
  - (e) details of any other costs, not already included in these rates, for all activities to be undertaken;
  - (f) an explanation of any underlying assumptions regarding:
    - (i) overtime rates;
    - (ii) standard hours;
    - (iii) accommodation charges; and
    - (iv) discounts applied;
  - (g) a detailed resource model to provide a breakdown of manpower resources by the number and type of Supplier staff required for each Service and free of any contingency together with their day rates, and any travel and subsistence expenses incurred outside the UK. This shall also apply to third party costs;
  - (h) the total price broken down by volume, unit cost and margin;
  - (i) any additional activities, costs and risks that may impact the Authority and which are not already covered by the Charges;
  - (j) an explanation of the type and value of risk associated with the provision of the Services, including the amount of money attributable to each risk;
  - (k) an explanation and supporting details of any financing costs applicable to this Framework Agreement and any Call Off Contract;
  - (l) a statement of the Supplier's anticipated cash flow for the Framework Period or period of any Call Off Contract; and
  - (m) any additional information as the Authority reasonably requires.

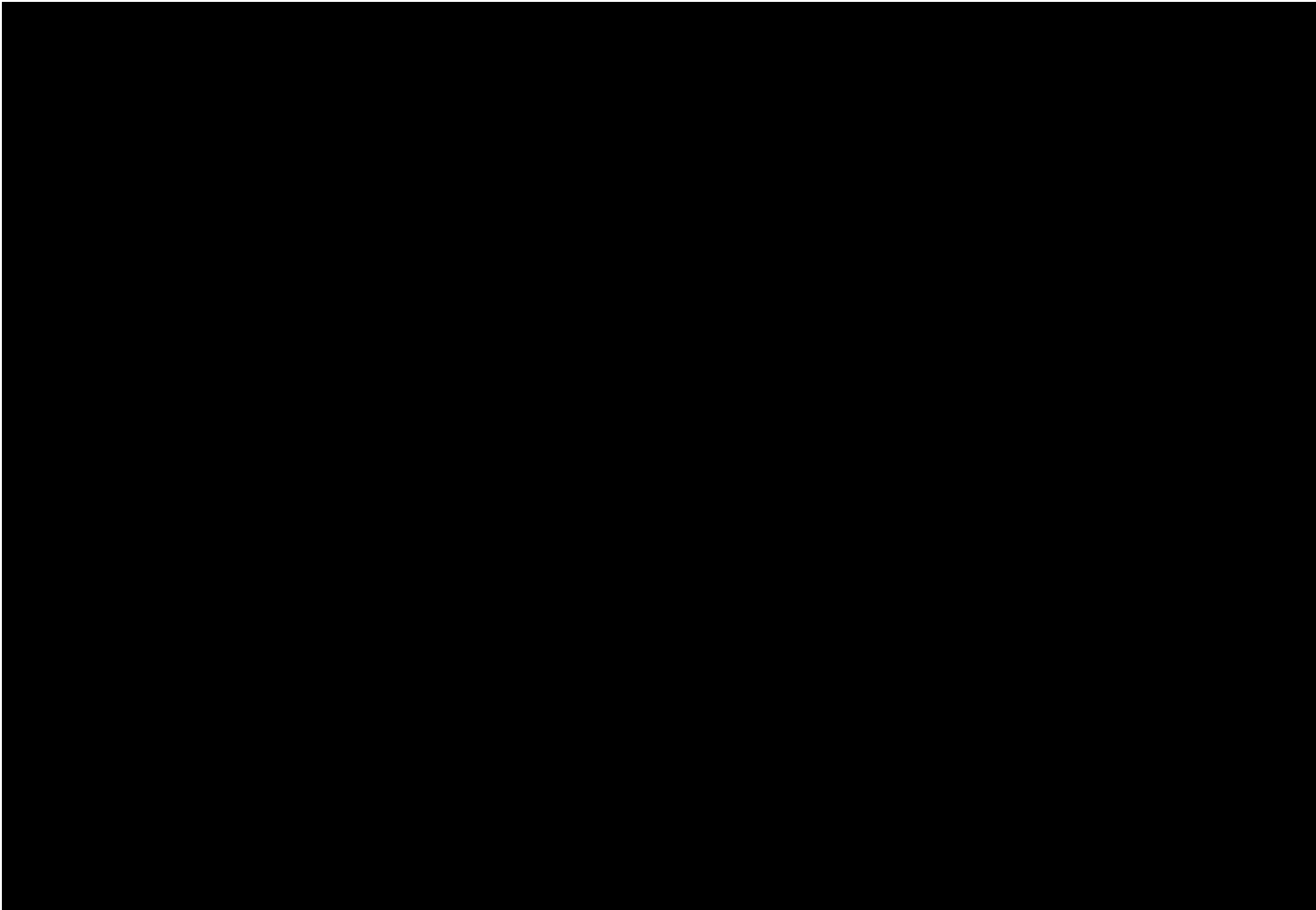
If the Authority disputes any aspect of the Supplier's information provided in relation to the costs or expenses, the matter shall be referred for determination to the Clause 47 (Dispute Resolution).

**7. Open Book Statement**

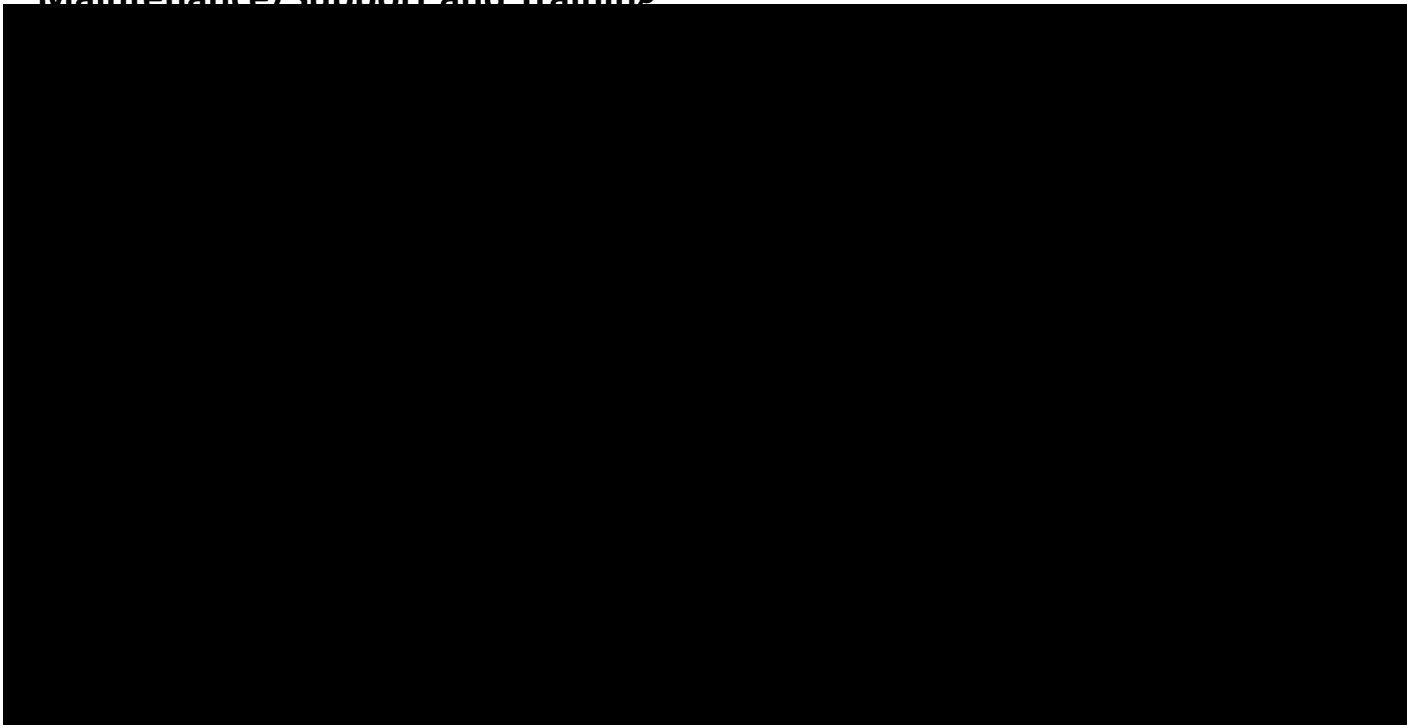
The Supplier shall provide an annual open book statement, confirming the level of return it has achieved. The Supplier will also be required to maintain open book accounts for six (6) years following expiry of this Framework Agreement.

**Annex 1 to Framework Schedule 4: Maximum Pricing Rates**





#### **Maintenance/Support and Training**



## SCHEDULE 5 CALL OFF PROCEDURE

### 1. Award Procedure

If the Authority decides to source services through the NPCC Counter Drones National Array Upgrade / Replacement Programme Framework then it will award its service requirements in accordance with the procedure in this Framework Schedule 5 (Call Off Procedure) and the requirements of the Regulations and the Guidance. For the purposes of this Framework Schedule 5, “**Guidance**” shall mean any guidance issued or updated by the UK Government from time to time in relation to the Regulations.

### 2. Direct Award without Further competition

#### **Authority’s Obligations**

- 2.1 If the Authority wishes to award a call off contract through NPCC Counter Drones National Array Upgrade / Replacement Programme Framework, it shall:

- a) develop a statement of requirements setting out its requirements for the Goods/services

#### **The Suppliers Obligations**

- 2.2 The Supplier shall in writing, by the time and date specified by the Authority following an invitation to tender pursuant to paragraph 2.1(f), provide the Authority with either:

- a) the full details of its proposal made in respect of the relevant statement of requirements.

- 2.3 The Supplier shall ensure that any prices submitted in relation to the further competition shall be based on the Charging Structure and shall not exceed the Maximum Pricing

- 2.4 The Supplier agrees that:

- a) all proposals submitted by the Supplier shall remain open for acceptance by the Authority for ninety (90) Working Days; and
- b) all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
  - i. communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and
  - ii. enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.



### **3. Call off award procedure**

- a) Subject to paragraph 2 above, a Contracting Authority may award a Call Off Contract to the Supplier by sending (including electronically) a signed Call Off Contract order form substantially in the form (as may be amended or refined by the Contracting Authority)
- b) The Parties agree that any document or communication (including any document or communication in the apparent form of a Call Off Contract) which is not as described in this paragraph shall not constitute a Call Off Contract under this Framework Agreement.
- c) On receipt of the Call Off Contract as from a Contracting Authority the Supplier shall accept the Call Off Contract by promptly signing and returning (including by electronic means) a copy of the completed Template Order Form to the Contracting Authority concerned
- d) On receipt of the signed order form from the Supplier, the Contracting Authority shall send (including by electronic means) a written notice of receipt to the Supplier within two (2) Working Days and a Call Off Contract shall be formed.

### **4. Responsibility for Awards**

- a) The Supplier acknowledges that each Contracting Authority is independently responsible for the conduct of its award of Call Off Contracts under this Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
  - i. the conduct of Other Contracting Authorities in relation to this Framework Agreement; or
  - ii. the performance or non-performance of any Call Off Contracts between the Supplier and Other Contracting Authorities entered into pursuant to this Framework Agreement

## SCHEDULE 6 FRAMEWORK MANAGEMENT

### Part A: Framework Management

#### 1. Introduction

- 1.1 The successful delivery of this Framework Agreement will rely on the ability of the Supplier and the Authority in developing a strategic relationship immediately following the conclusion of this Framework Agreement with the Supplier and maintaining this relationship throughout the Framework Period.
- 1.2 To achieve this strategic relationship, there will be a requirement to adopt proactive framework management activities which will be informed by quality Management Information, and the sharing of information between the Supplier and the Authority.

#### 2. Framework Management

- 2.1 This Framework Schedule 6 outlines the general structures and management activities that the Parties shall follow during the Framework Period.
- 2.2 Framework Management Structure:
  - a) The Supplier shall provide a suitably qualified nominated contact (the “**Supplier Framework Manager**”) who will take overall responsibility for delivering the Services required within this Framework Agreement, as well as a suitably qualified deputy to act in their absence.
  - b) Following the Commencement Date, the Authority will issue Framework Contract Management Plan detailing governance arrangements in order to manage the Framework. The Supplier shall comply with such arrangements (including ensuring that the relevant personnel attend and participate in all meetings required by the Authority).
- 2.3 Supplier Review Meetings
  - a) Regular performance review meetings will take place remotely via video/audio conferencing or at the Authority’s Premises throughout the Framework Period and thereafter until the Framework Expiry Date (“**Supplier Review Meetings**”).
  - b) The exact timings and frequencies of such Supplier Review Meetings will be determined by the Authority following the Commencement Date. It is anticipated that the frequency of the Supplier Review Meetings will be once every 3 months or less. The Parties shall be flexible about the timings of these meetings.
  - c) The purpose of the Supplier Review Meetings will be to review the Supplier’s performance under this Framework Agreement. The agenda for each Supplier Review Meeting shall be set by the Authority and communicated to the Supplier in advance of that meeting.
  - d) The Supplier Review Meetings shall be attended, as a minimum, by the Authority Representative(s) and the Supplier Framework Manager.

### **3. Efficiency Tracking Performance Measures**

- 3.1 The Supplier shall cooperate in good faith with the Authority to develop efficiency tracking performance measures for this Framework Agreement. This shall include:
- a) tracking reductions in product volumes and product costs, in order to demonstrate that Contracting Bodies are consuming less and buying more smartly; and
  - b) developing additional KPIs to ensure that the Framework Agreement supports the emerging target operating model across central government (particularly in line with centralised sourcing and category management, procurement delivery centres and payment processing systems and shared service centres).
- 3.2 The list in paragraph 3.1 is not exhaustive and may be developed during the Framework Period.
- 3.3 The metrics that are to be implemented to measure efficiency shall be developed and agreed between the Authority and the Supplier. Such metrics shall be incorporated into the list of KPIs set out in Framework Schedule 3 (Key Performance Indicators).
- 3.4 The ongoing progress and development of the efficiency tracking performance measures shall be reported through framework management activities as outlined in this Framework Schedule 6.

### **4. Escalation Procedure**

- 4.1 In the event that the Authority and the Supplier are unable to agree the performance score for any KPI during a Supplier Review Meeting, the disputed score shall be recorded and the matter shall be referred to the Authority Representative and the Supplier Representative in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).
- 4.2 In cases where the Authority Representative and the Supplier Representative fail to reach a solution within a reasonable period of time, the matter shall be dealt with in accordance with the procedure set out in Clause 47 (Dispute Resolution).

## **Part B: Management Information**

### **1. General Requirements**

- 1.1 The Supplier shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver timely and accurate Management Information to the Authority in accordance with the provisions of this Framework Schedule 6.
- 1.2 The Supplier shall also supply such Management Information as may be required by a Contracting Body in accordance with the terms of a Call Off Contract.

### **2. Management Information and Format**

- 2.1 The Supplier agrees to provide timely, full, accurate and complete MI Reports to the Authority, which incorporates the data, in the correct format, required by the MI Reporting

Template which shall be provided to the Supplier on award of the Framework Agreement but which shall include, for example:

- h) Call Off Contracts awarded (with date, value, Contracting Body, location, thematic etc);
- i) the number of invitation to tenders for Call Off Contracts which the Supplier did not respond to;
- j) Call Off Contracts completed;
- k) number/value of invoices submitted
- l) complaints;
- m) milestones missed; and/or
- n) use of SMEs in supply chain.

2.2 The Authority shall have the right from time to time (on reasonable written notice) to amend the nature of the Management Information which the Supplier is required to supply to the Authority.

2.3 All MI Reports must be completed by the Supplier using the MI Reporting Template and returned to the Authority on or prior to the Reporting Date (as and when requested by the Authority) during the Framework Period and thereafter, until all transactions relating to Call Off Contracts have permanently ceased.

2.4 The Supplier must return the MI Report when requested by the Authority even where there are no transactions to report in the relevant period (a "**Nil Return**").

2.5 The Supplier must inform the Authority of any errors or corrections to the Management Information:

- a) in the next MI Report due immediately following discovery of the error by the Supplier; or
- b) as a result of the Authority querying any data contained in an MI Report.

2.6 The completed MI Report shall be completed electronically and returned to the Authority by email to the Authority's Representative.

2.7 Following an MI Failure the Authority may issue reminders to the Supplier or require the Supplier to rectify defects in the MI Report provided to the Authority. The Supplier shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.

### **3. Meetings**

3.1 The Supplier agrees to attend meetings between the Parties in person to discuss the circumstances of any MI Failure(s) at the request of the Authority (without prejudice to any

other rights the Authority may have). If the Authority requests such a meeting the Supplier shall propose measures to ensure that the MI Failures are rectified and do not occur in the future. The Parties shall document these measures and continue to monitor the Supplier's performance.

## SCHEDULE 7 ANNUAL SELF AUDIT CERTIFICATE

**[To be signed by Head of Internal Audit, Finance Director or company's external auditor]**

**[Guidance Note: see Framework Clause 13.1 for details of what is required]**

Dear Sirs

In accordance with the Framework Agreement entered into on [insert Commencement Date dd/mm/yyyy] between [insert name of Supplier] and the Authority, we confirm the following:

1. In our opinion based on the testing undertaken [name of Supplier] has in place suitable systems for identifying and recording the transactions taking place under the provisions of the above Framework Agreement.
2. We have tested the systems for identifying and reporting on framework activity and found them to be operating satisfactorily.
3. We have tested a sample of [ ] [insert number of sample transactions tested] Orders and related invoices during our audit for the financial year ended [insert financial year] and we confirm that they are correct and in accordance with the terms and conditions of the Framework Agreement.
4. We have also attached an Audit Report which provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.

Name:.....

Signed:.....

Head of Internal Audit/ Finance Director/ External Audit firm (delete as applicable)

Date:.....

Professional Qualification held by Signatory:..... 58970992 v13

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SCHEDULE 8 CALL OFF TERMS AND CONDITIONS

Attached separately

**Annex 1 to Schedule 8**

Order Form



SCHEDULE 9 VARIATION FORM

Variation Form No:

.....

BETWEEN:

**[insert name of Customer]** ("the Authority") and

**[insert name of Supplier]** ("the Supplier")

1. This framework agreement between the Authority and the Supplier dated [x] ("**Framework Agreement**") is varied as follows and shall take effect on the date signed by both Parties:

**[Guidance Note: Insert details of the Variation]**

2. Words and expressions in this Variation shall have the meanings given to them in this Framework Agreement.
3. This Framework Agreement, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Authority

Signature

-----

Date

-----

Name (in Capitals)

-----

Address

-----

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

Signature

Date

Name (in Capitals)

Address

## OFFICIAL – SENSITIVE

### SCHEDULE 10 COMMERCIALLY SENSITIVE INFORMATION

#### 1. Introduction

- 1.1 In this Framework Schedule 10 (Commercially Sensitive Information) the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA.
- 1.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Framework Schedule 10 applies.
- 1.3 Without prejudice to the Authority's obligation to disclose Information in accordance with FOIA or Clause 17 (Transparency) and Clause 19 (Freedom of Information) of the Framework Agreement, the Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
	[insert date]	[details]	[duration]

to Tenderers: Any information provided in this Framework Schedule 10 should be information which would be exempt under the FOIA. If the information would not be exempt under FOIA the Authority may publish it under Clause 17 (Transparency) of this Framework Agreement.]

to Tenderers: where any information listed in this Framework Schedule 10 is considered to be Management Information for the purposes of Clause 17 Transparency of the Framework Agreement and is provided by the Supplier to the Authority, the Authority will not disclose the Management Information to other Contracting Authorities.]

## SCHEDULE 11 SOCIAL VALUE

### 1. DEFINITIONS

In this Schedule, the following definitions shall apply:

<b>“Authority’s Sustainability Requirements”</b>	means the ‘Authority’s Sustainable Development Policy Requirements and Standards’ set out in this Schedule and Annexes 1 to 3 to this Schedule 11 (Social value);
<b>“Contract Revenue “</b>	means the monetary value (Excluding VAT) received through a contract between the Supplier and a Central Government Department or its Arms Length Bodies (ALBs).
<b>“Plan for Growth”</b>	means the Plan for Growth policy paper published by HM Treasury on 20 March 2013 that can be accessed at: <a href="https://www.gov.uk/government/publications/plan-for-growth--5">https://www.gov.uk/government/publications/plan-for-growth--5</a> ;
<b>“Social Value”</b>	means to improve the environmental, social and economic outcomes to maximise benefits to the communities we serve.
<b>“Wider Sustainability Aims”</b>	means the wider sustainability aims that the Supplier is encouraged to support where possible as set out in Annex 1 to Schedule 11 (Social value);
<b>“Tier 2”</b>	Means contracts of medium risk, value and complexity that require more than a light touch management regime.

### 2. INTRODUCTION

- 2.1 This Schedule sets out the social value standards and principles that will apply to the Agreement.
- 2.2 In this Schedule, unless the contrary intention appears, each capitalised term shall have the meaning set out in the Definitions.

### 3. SOCIAL VALUE STANDARDS

- 3.1 The Public Services (Social Value) Act 2012 (“**the Social Value Act**”) requires the Authority to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes. Where services are contracted out the Authority will place similar obligations on its Suppliers. As an extension to this, the Authority is now required to explicitly evaluate and embed Social Value throughout the commissioning lifecycle. The Authority must also ensure that value for money is delivered for the taxpayer whilst contributing to the government’s Plan for Growth.
- 3.2 The Supplier shall deliver the Services to the Authority in accordance with the Social Value Act 2012. The Supplier shall take account of, and comply with, the Authority’s social value requirements and the Authority’s aims, objectives and targets in relation to the Authority’s social value Strategy set out in this Schedule and within Annexes 1

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to 3 including the framework for the [Greening Government Commitments 2016 to 2020](#) policy and any successor arrangements.

- 3.3 The Supplier shall take account of and comply with any future social value legislation, policies, strategies and codes of practice put in place by the Authority and any relevant Government body (in particular Cabinet Office, Department for Environment, Food and Rural Affairs, Department of Business, Energy and Industrial Strategy, Government Property Unit and the Environment Agency).
- 3.4 The Supplier shall advise the Authority on new technologies and approaches which may be beneficial to the Authority in the delivery of social value.
- 3.5 Changes to the Supplier's Solution and the Service Requirements which are necessary to meet changes occurring after the Effective Date to the Authority's Sustainability Requirements and social value Aims, Strategy and Model shall be agreed in accordance with Schedule 9 (Variation Form).

#### 4. PRINCIPLES OF ENVIRONMENTAL SOCIAL VALUE

- 4.1 The Supplier shall when delivering the Services, support the Authority to deliver environmental social value and the government's Plan for Growth by:
  - a) Avoiding any adverse impact upon the environment by setting targets to support the Authority to fulfil its [Greening Government Commitments 2016-2020](#) or any successor arrangements and demonstrate contribution towards the [25 Year Environment Plan](#) by:
    - I. recycling waste and reducing the amount of waste generated and going to landfill;
    - II. reducing the consumption of water and energy and enhance energy and water efficiency;
    - III. reducing the use of single use plastics and increase the use of durable and recyclable materials;
    - IV. taking measures to restore, maintain or enhance biodiversity
    - V. reducing carbon and other emissions including net zero by 2050;
    - VI. reducing or removing the use of hazardous materials;

#### 5. PRINCIPLES OF ECONOMIC SOCIAL VALUE

- 5.1 The Authority aims to ensure a diverse supply chain with improved skills and employment opportunities. To achieve this ambition the Supplier shall:
  - a) ensure their supply chain is accessible for all including, where appropriate, SMEs and VCSEs and those owned or led by protected characteristics (as described in the [Equality Act](#));
  - b) where applicable, has initiatives in place to improve the gender pay balance;

- c) embedded prompt payment reporting and practices by complying with all applicable legislation, regulations and other government requirements including the Prompt Payment Code <https://www.gov.uk/guidance/prompt-payment-policy>;
- d) where appropriate to the delivery of these Services, have initiatives in place to improve skills development by increasing the quantity and quality of apprenticeship opportunities.
- e) advertise all subcontracting opportunities above £25k, that are delivering against this contract, on [Contracts Finder in accordance with Clause 15.9](#).

## **6. SOCIAL SUPPLY CHAIN PRINCIPLES**

6.1 The Authority aims to improve employability and skills including staff mental health and wellbeing through the delivery of its contracts. To achieve this ambition the supplier shall:

- a) ensure equality and accessibility, without discrimination, to employment and other opportunities and promote them to be fully accessible;
- b) operate as an inclusive employer including an aim to increase representation of disabled people in the workforce and those from protected characteristic groups;
- c) have initiatives in place which aim to increase representation of people with disabilities, Black, Asian and Minority Ethnic (BAME) and Lesbian, Gay, Bisexual & Transgender (LGBTi+) representation in the workforce;
- d) have initiatives in place which aim to improve staff mental health and support regional community engagement.

## **7. SAFE & SECURE SUPPLY CHAIN PRINCIPLES**

7.1 The Authority aims to reduce Modern Slavery risk by building resilience and raising awareness. The Supplier shall comply with the [Modern Slavery Act 2015](#). Where a Supplier's turnover is £36m per annum or more, the Supplier shall publish an annual slavery and human trafficking statement setting out what actions have been taken to tackle modern slavery in their business and/or supply chains.

## **8. SUPPLIER'S SOCIAL VALUE POLICY & PLAN**

8.1 The Supplier shall provide to the Authority a copy of its social value policy or equivalent and shall develop, maintain and implement a social value plan in line with the Authority's social value model at Annex 3, the Authority's Wider social value Policy Aims in Annex 1, and the requirements of this Schedule. The Supplier shall ensure that any Key Sub-contractors comply with the social value Plan.

8.2 The Supplier shall submit its social value plan for the Authority's approval within three (3) months of the Effective Date. The social value plan shall ensure that all objectives, targets and aims contained therein are ambitious but achievable.

8.3 The Supplier shall ensure that the social value plan complies with [Government Buying Standards](#)

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- 8.4 The Supplier's social value plan shall include the Supplier's approach to delivering the Services which shall incorporate social value and the government's Plan for Growth as set out in paragraph 3.1 and shall set out how it will meet, monitor and measure its social value targets set out in Annex 3.
- 8.5 The social value plan should also include the following principles:
- a) value for money;
  - b) environmental and social benefits;
  - c) more efficient use of resources;
  - d) greater social inclusion;
  - e) support for innovation;
  - f) better risk management; and
  - g) improved supplier relationships.
- 8.6 The Supplier shall set out within its social value plan whether it contracts with SMEs and/or VSCEs to provide any supplies or services required to deliver the Services and will include any plans to increase the Supplier's contractual agreements with SMEs and/or VSCEs. The Authority's objective is to spend 28% of the value of its spend with suppliers under contracts or grants with SMEs by 2022 (comprised of direct and indirect SME spend). The cross-government aspiration is to spend £1 in every £3 with SMEs by the end of 2021/2.

The social value plan shall

- a) Confirm that the Supplier has systems in place to include (as a minimum) 30-day payment terms in all of its supply chain contracts and require that such terms are passed down through its supply chain in accordance with Clause 15 of the Services Agreement;
- b) Confirm that the Supplier has procedures for resolving disputed invoices with those in its supply chain promptly and effectively.

## 9 MANAGEMENT INFORMATION

- 9.1 In addition to any other management information requirements set out in this Agreement, the Supplier agrees and acknowledges that it shall, provide a quarterly report (the "**Social Value Report**"). The Social value Report shall document the Supplier's progress against its Social value Plan and any targets set and shall provide details of the actions taken and actions planned in the next quarter.

The social value report shall also include

- a) the total contract revenue received directly from this Agreement;
- b) the total value of sub-contracted revenues from this Agreement (including revenues for non-SMEs and/or non-VCSEs); and
- c) the number, type and value of sub-contracted revenues to SMEs and VCSEs.

## 10 MONITORING AND REVIEW

- 10.1 The Supplier will demonstrate its commitment to social value through annual review of its social value policy.
- 10.2 The Supplier and Authority will discuss the Supplier's social value plan and progress against it during Framework management meetings
- 10.3 The Authority may annually request the Supplier to complete a social value assessment (a "**SV Assessment**"), currently known as the Corporate Assessment of Environmental, Social and Economic Responsibility (**CAESER**) questionnaire, which will set out an action plan to improve performance against an agreed baseline. The parties shall review the progress of this action plan at Framework management meetings of the
- 10.4 Following the completion of the social value Assessment, the Supplier will report on any agreed actions, in a format to be agreed between the Parties.
- 10.5 In addition, the Authority shall periodically request the Supplier to complete its Carbon Emissions (CE) Assessment, currently undertaken by CARBON Smart data gathering exercise in an agreed format. This will measure against the previous years' score and the Supplier will be required to set out an action plan to improve performance for the following year. The parties shall review the progress of this action plan during Framework management meetings
- 10.6 Following the completion of the CE Assessment, the Supplier will report on any agreed actions, in a format to be agreed between the Parties.
- 10.7 Where the risk of modern slavery is high (as reflected within the [Modern Slavery Guidance](#)), the Supplier will provide to the Authority assurance on the processes in place to identify and address modern slavery risks in their supply chains. Detailed updates on how legislative including, where relevant, assurance of legal compliance with the Modern Slavery. An action plan would need to be put in place where there are suspected and confirmed instances of modern slavery to detail how these will be addressed. Additionally, any recommendations generated by MSAT would need to be included within the Action Plan.



Annex 1

**The Authority's wider Social Value aims:**

Suppliers are encouraged to support these wider social value aims where possible:

**Home Office specific aims are set out within the Diversity and Inclusion Strategy 2018 - 2025**

- [Diversity & Inclusion Strategy 2018 - 2025](#)

**Wider Aims:**

- **Workforce skills – Apprenticeship Places:** Creating apprenticeships or skills development programmes to support the government target to create 3 million apprenticeships by 2020. Further guidance is available at: <https://www.gov.uk/take-on-an-apprentice>
- **SMEs** – Including SMEs within your supply chain, to support the Government target to spend at least 33% with SMEs by the end of financial year 2021/2
- **Innovation** - consider innovative solutions which could lead to Social value efficiencies
- Support **Sustainable Development Goals** – Further guidance available at <https://www.un.org/sustainabledevelopment/>
- Support **the UK's Industrial Strategy** - to boost productivity by backing businesses to create good jobs and increase the earning power of people throughout the UK with investment in skills, industries and infrastructure. [The UKs Industrial Strategy](#)
- Support **the Civil Society Strategy** – this sets out how government will work with and for civil society in the long-term to create a country that works for everyone. [Civil Society Strategy](#)

## **Annex 2**

The following sets out the Authority (acting through the Home Office) strategy in relation to Social value which the Supplier must comply with.

### **Home Office Social Value Strategy - June 2020**

#### **Our Goal**

To enable Home Office Commercial to understand our legal obligations and policy requirements in order to achieve positive, sustainable outcomes, in line with best practice and with the highest overall value from our contracts.

This includes:

- Adhering to the [Social Value Act 2012](#);
- Adhering to the [Modern Slavery Act 2015](#);
- Compliance with the [Civil Society Strategy](#);
- Compliance with the [Public Sector Equality Duty](#);
- Reducing the environmental impact of our contracts through compliance with [Greening Government Commitments 2016 to 2020](#), [25 Year Environment Plan](#), [Sustainable Development Goals](#) and [Government Buying Standards](#);
- Supporting the [Plan for Growth](#);
- Adherence to the law generally, all relevant Government Guidance and Procurement Policy Notes.

We report to Ministry of Justice (Sustainable Cluster Lead for the Home Office), Cabinet Office and Stonewall.

In June 2018, the previous Cabinet Office Minister David Lidington announced measures to deliver better public services and use contracts as a “force for good”. In line with this announcement, we are required to consider social value in all of our procurement activities, therefore it is important to follow this Social value Strategy with immediate effect. The Strategy will be updated following any developments in Cabinet Office policy.

#### **The Services (Social) Value Act 2012**

The Services (Social value) Act 2012 requires the Home Office “to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes”. This means that we must consider where added benefit, in relation to social value aspects, can be delivered to the department, where relevant and proportionate, above those already delivered as part of the requirements of Schedule 2 (Specification).

#### **The Modern Slavery Act 2015**

The Modern Slavery Act 2015 (“The Act”) categorises offences of Slavery, Servitude and Forced or Compulsory Labour and Human Trafficking. These are all included in the term ‘modern slavery’. The Act requires businesses with a total turnover of £36m or above who carry out all or some of their business in the UK to publish an annual slavery and human trafficking statement. Businesses should set out what action they have taken to tackle modern slavery in their business or supply chains. This will allow consumers, investors and campaigners to hold them to account and call for them to do more.

#### **Civil Society Strategy**

This strategy has committed the Government to use its buying power to drive social change. Central Government will take account of social benefits in the award of its contracts. This will have the effect of levelling the playing field for all types of businesses including small businesses, voluntary and community sector organisations and social enterprises, encouraging employment opportunities, developing skills and improving environmental sustainability.

### **Greening Government Commitments (GGC)**

The GGC set out the actions UK government departments and their agencies will take to reduce their impacts on the environment in the period 2016 to 2020. They set out targets to reduce their greenhouse gas emissions, send less waste to landfill and reduce the overall amount of waste they produce and reduce water consumption. They also set out commitments for departments to improve sustainable procurement and report transparently on key sustainability issues. **The Home Office is reporting a 42% reduction in carbon emissions, based on 2009-10 levels.**

### **25 Year Environment Plan**

The environment plan sets out our goals for improving the environment, within a generation, and leaving it in a better state than we found it. It details how we in government will work with communities and businesses to do this and sets out what we will be doing over the next 25 years. Single-Use Plastics: Chapter 4 of the 25 Year Environment Plan discusses “Increasing resource efficiency and reducing pollution and waste”. Reduction in the use of Single-Use Plastics in the department’s activities and services it provides is an important part of this. There are an increasing number of multi-use plastics or plastic-free alternatives that we can use and encourage our suppliers to use in their supply chains. By reducing our use of Single-Use Plastics and asking our suppliers to reduce or eliminate their use of these in our supply chains, we can help to achieve the goals of the 25 Year Plan.

### **Sustainable Development Goals (SDGs)**

SDGs were adopted by all United Nations Member States in 2015 providing a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are 17 SDGs, which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognise that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

### **Government Buying Standards (GBS)**

All government departments and their related organisations must make sure that they meet the minimum mandatory GBS standards when buying goods and services and to specify the minimum mandatory standards within tenders. This forms part of sustainable procurement - the process whereby organisations meet their needs for goods, services, works and utilities in a way that benefits not only the organisation, but also society and the economy, while minimising damage to the environment.

### **Plan for Growth**

Announced a programme of structural reforms to remove barriers to growth for businesses and equip the UK to compete in the global race. These reforms span a range of policies including improving UK infrastructure, cutting red tape, root and branch reform of the planning system and boosting trade and inward investment, to achieve the government’s 4 ambitions for growth:

- creating the most competitive tax system in the G20;
- encouraging investment and exports as a route to a more balanced economy;
- making the UK the best place in Europe to start, finance and grow a business;
- creating a more educated workforce that is the most flexible in Europe.

### **The SME Agenda**

In 2015 Government achieved the 25% aspiration for spend with Small to Medium-sized Enterprises (SMEs). The Government’s target for spend with SMEs is 33% by March 2022. This metric is part of the Growth & Enterprise agenda which supports the Industrial Strategy

aim 'to improve living standards and economic growth by increasing productivity and driving growth across the UK'.

The Home Office aims to spend up to 28% with SMEs by 2022 as referred to in our [SME Action Plan](#). In 2018/19 the Home Office achieved 24.6% spend with SMEs and are now aiming to reach 28% as follows:

2019 / 20 – 26.5%	2020 / 21 – 27.5%	2021 / 22 – 28%
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### Annex 3 – Social Value Model

The model below details the Authority's objectives for social value, articulating it in terms of high-level themes and strategic policy priorities.

The Supplier shall incorporate the following social value model within its Social value Plan and Social value Report as described in paragraphs 8, 9 and 10 of this Schedule, where relevant and proportionate to the Services

The model below is not an exhaustive list but details the elements that the Supplier should include in its Social value Plan.

The Supplier shall set their own benchmarks and targets within their Social value Plan, for improvements or activities that support the delivery of the Authority's aims as set out within this Schedule.

Theme	Policy Outcome	Metric	Number or percentage
Environmental Benefits			
Environmental Sustainability in support of the 25 Year Environmental Plan	Environmental impacts are reduced	Number and type of initiatives to reduce environmental impacts in relation to the Agreement.	
		Annual percentage by which environmental impacts will be reduced in the delivery of the Agreement, from the baseline to be established in the first 12 months following the Operational Services Commencement Date (e.g. waste to landfill, water & energy consumption, greenhouse gas emissions).	
Economic and Social Benefits			
Diverse Supply Chains	Supply chain accessibility	Number of pre-market engagement activities to be carried out to create a diverse supply chain in relation to the Agreement	
		Number and type of supply chain development activities to be carried out to create a diverse supply chain in relation to the Agreement	
		Number, value and percentage of spend of prime and sub-contracting opportunities won by SMEs, VCSEs businesses owned or led by under-represented groups in the supply chain in relation to the Agreement.	

		Number of supply chain development activities to be carried out to create a diverse supply chain in relation to the Agreement.	
Skills and Employment	Improved employability and skills	- Number of full-time equivalent employment opportunities to be created, in relation to the Agreement, including for those who: * are apprentices * are disabled * have health conditions * are women * are mothers returning to work * are rehabilitating young offenders (18-24) or ex-offenders * were previously long term unemployed (unemployed for a year or longer, aged over 25) or who were not previously in employment, education or training (aged 18-24) * are from a BAME background * are LGBTi+ * are armed forces veterans * are care-leavers	
		Of those employment opportunities created, the number of full-time equivalent employment opportunities to be retained in relation to the Agreement * throughout the contract, and * beyond the contract end date	
		Number and type of training opportunities to be created, in relation to the Agreement, including those resulting in recognised qualifications (e.g. BTEC, City & Guilds, NVQ, HNC - Level 2, 3, or 4+) and apprenticeships (Level 2,3, and 4+)	
		Number of work placements, pre-employment courses, paid/unpaid student placements, or paid internships of 6 weeks or more to be created in relation to the Agreement	
Inclusion, staff mental health and wellbeing	Ensuring businesses in the supply chain encourage improved gender pay balance	Suppliers mean gender salary pay gap for staff in relation to the Agreement.	
		Number and type of initiatives to be put in place to reduce the gender pay gap for staff employed in relation to the Agreement.	
	Ensuring businesses in the supply chain encourage increased representation of people with	Percentage of people with disabilities to be employed in relation to the Agreement, as a proportion of the total workforce employed on the Agreement.	
		Percentage of people with disabilities to be on apprenticeship schemes in relation to the Agreement, as a proportion of total apprentices employed in relation to the Agreement.	

	disabilities in the workforce	Percentage of people with disabilities to be on other training schemes in relation to the Agreement, as a proportion of total apprentices employed in relation to the Agreement.	
	Ensuring businesses in the supply chain encourage increased Black, Asian and Minority Ethnic (BAME) representation in the workforce	Percentage of BAME people to be employed to deliver the Agreement, as a proportion of the total workforce employed in relation to the Agreement.	
		Percentage of BAME people to be on apprenticeship schemes to deliver the Agreement, as a proportion of total apprentices employed in relation to the Agreement.	
		Percentage of BAME people to be on other training schemes to deliver the Agreement, as a proportion of total apprentices employed in relation to the Agreement.	
	Ensuring businesses in the supply chain encourage inclusion and improved staff mental health and wellbeing	Percentage of suppliers to Tier 2 in the supply chain to deliver the Agreement (including the Supplier) that will implement the mental health core standards for all companies and also the mental health enhanced standards for companies with more than 500 employees, as set out in Thriving at Work: the Stevenson Farmer Review on Mental Health and Employers. <a href="https://www.gov.uk/government/publications/thriving-at-work-a-review-of-mental-health-and-employers">https://www.gov.uk/government/publications/thriving-at-work-a-review-of-mental-health-and-employers</a>	
		Percentage of suppliers to Tier 2 in the supply chain to deliver the Agreement (including the Supplier) that will implement the recommendation for reporting publicly on mental health and wellbeing contained in the Government's guidance, "Voluntary reporting on disability, mental health and wellbeing: A framework to support employers to voluntarily report on disability, mental health and wellbeing in the workplace". <a href="https://www.gov.uk/government/publications/voluntary-reporting-on-disability-mental-health-and-wellbeing">https://www.gov.uk/government/publications/voluntary-reporting-on-disability-mental-health-and-wellbeing</a>	
	Ensuring businesses in the supply chain encourage more cohesive communities	Initiatives to support community engagement in the design and/or delivery of the Agreement.	
<b>Safe and Secure Supply Chains</b>			
Safe and Secure Supply Chains	Cyber security risks are reduced	Number and type of initiatives in place, to Tier 2 in the supply chain, to protect against cyber security risks in the delivery of the Agreement.	
		Number of staff to receive training on identifying and managing cyber security risks in relation to the delivery of the Agreement.	
	Modern slavery risks are reduced	Number and type of initiatives throughout the supply chain to identify and manage the risks of modern slavery occurring (i.e. supply chain mapping, staff training, contract management) in relation to the Agreement.	

		Number of supply chain audits to be undertaken in the supply chain, to identify and manage the risk of modern slavery occurring in relation to the Agreement.	Supplier's target
		Number of people employed to Tier 2 in the supply chain to identify and manage the risk of modern slavery occurring in the supply chain, in relation to the Agreement.	Supplier's target

\*The benchmark is to be reset annually, based on the previous year's consumption.



## SCHEDULE 12 BUSINESS CONTINUITY AND DISASTER RECOVERY

### 1. Definitions

1.1 In this Call Off Schedule 12 , the following definitions shall apply:

**"Review Report"** has the meaning given to it in paragraph 3.2 of this Call Off Schedule;

**"Supplier's Proposals"** has the meaning given to it in paragraph 3.2(c) of this Call Off Schedule;

### 2. BCDR Plan

2.1 Within thirty (30) Working Days from the Call Off Commencement Date the Supplier shall prepare and deliver to the Customer for the Customer's written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

- (a) ensure continuity of the business processes and operations supported by the Goods or Services following any failure or disruption of any element of the Goods or Services; and
- (b) the recovery of the Goods or Services in the event of a Disaster.

2.2 Within twenty (20) Working Days of receipt of the draft BCDR Plan, the Customer shall notify the Supplier in writing whether it approves or rejects the draft BCDR Plan.

2.3 If the Customer rejects the draft BCDR Plan:

- (a) the Customer shall inform the Supplier in writing of its reasons for its rejection; and
- (b) the Supplier shall then revise the draft BCDR Plan (taking reasonable account of the Customer's comments) and shall re-submit a revised draft BCDR Plan to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 2.1(b) and 2.3 of this Call Off Schedule shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

### 3. Review and Amendment of the BCDR Plan

3.1 The Supplier shall review the BCDR Plan (and the risk analysis on which it is based):

- (a) on a regular basis and as a minimum once every six (6) months; and
- (b) within three (3) calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 4.

3.2 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Customer a report (a **"Review Report"**) setting out:

- (a) the findings of the review;
- (b) any changes in the risk profile associated with the provision of Goods or Services; and

- (c) the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any goods, Goods or Services or systems provided by a third party.
- 3.3 Within twenty (20) Working Days of receipt of the Review Report and the Supplier's Proposals, the Customer shall notify the Supplier in writing whether it approves or rejects the Review Report and the Supplier's Proposals.
- 3.4 If the Customer rejects the Review Report and/or the Supplier's Proposals:
  - (a) the Customer shall inform the Supplier in writing of its reasons for its rejection; and
  - (b) the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Customer's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 3.3 and 3.4 of this Call Off Schedule shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 3.5 The Supplier shall as soon as is reasonably practicable after receiving the Customer's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Goods or Services.
- 4. Testing of the BCDR Plan**
- 4.1 The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with the Customer and shall liaise with the Customer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Customer in this regard. Each test shall be carried out under the supervision of the Customer or its nominee.
- 4.2 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Customer a report setting out:
  - (a) the outcome of the test;
  - (b) any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - (c) the Supplier's proposals for remedying any such failures.
- 4.3 Following each test, the Supplier shall take all measures requested by the Customer, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no

additional cost to the Customer, by the date reasonably required by the Customer and set out in such notice.

**5. Invocation of the BCDR Plan**

In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Customer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Customer.

## SCHEDULE 13 CALL OFF GUARANTEE

THIS DEED OF GUARANTEE is made the                      day of                      20[ ]

### BETWEEN:

- (1) [Insert the name of the Guarantor] [a company incorporated in England and Wales with number [ ] whose registered office is at [insert details of the Guarantor's registered office here]] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details] ("Guarantor"); in favour of
- (2) [Insert the name of the Customer] whose principal office is at [ ] ("Beneficiary").

### WHEREAS:

- (A) It is a condition of the Beneficiary entering into the Guaranteed Agreement that the Guarantor executes and delivers this Deed of Guarantee to the Beneficiary.
- (B) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Supplier, to guarantee all of the Supplier's obligations under the Guaranteed Agreement.
- (C) It is the intention of the Parties that this document be executed and take effect as a deed.  
Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees with the Beneficiary as follows:

## 1. Definitions and Interpretation

In this Deed of Guarantee:

- 1.1 unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
- 1.2 the words and phrases below shall have the following meanings:
- (1) "Guaranteed Agreement" means the Call Off Contract made between the Beneficiary and the Supplier on [insert date]; and
- (2) "Guaranteed Obligations" means all obligations and liabilities of the Supplier to the Beneficiary under the Guaranteed Agreement together with all obligations owed by the Supplier to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to the Guaranteed Agreement;
- 1.3 references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
- 1.4 unless the context otherwise requires, words importing the singular are to include the plural and vice versa;

- 1.5 references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 1.6 the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
- 1.7 unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
- 1.8 unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- 1.9 unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- 1.10 references to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee; and
- 1.11 references to liability are to include any liability whether actual, contingent, present or future.

## **2. Guarantee and indemnity**

- 2.1 The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Supplier duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Supplier to the Beneficiary.
- 2.2 The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Supplier to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.
- 2.3 If at any time the Supplier shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:
  - (1) fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and
  - (2) as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Supplier to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Supplier under the Guaranteed Agreement.

- 2.4 As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

### **3. Obligation to enter into a new contract**

If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Supplier, or if the Guaranteed Agreement is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

### **4. Demands and Notices**

- 4.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:

(1) [Address of the Guarantor in England and Wales]

(2) [Facsimile Number]

(3) For the Attention of [insert details]

or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.

- 4.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:

- (1) if delivered by hand, at the time of delivery; or
- (2) if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or
- (3) if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.

- 4.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.

- 4.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

## **5. Beneficiary's protections**

- 5.1 The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Supplier and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.
- 5.2 This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:
- (1) it shall not be discharged, reduced or otherwise affected by any partial performance
  - (2) (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
  - (3) it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Beneficiary, the Guarantor or any other person;
  - (4) if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Supplier for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
- 5.3 the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.
- 5.4 The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach by the Supplier of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.
- 5.5 The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Supplier or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Supplier or any third party, or to take any action whatsoever against the Supplier or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.

- 5.6 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
- 5.7 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 5.8 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.

## **6. Guarantor intent**

Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

## **7. Rights of subrogation**

- 7.1 The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Supplier and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:

- (1) of subrogation and indemnity;
- (2) to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Supplier's obligations; and
- (3) to prove in the liquidation or insolvency of the Supplier,

only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights up to such amount as the Beneficiary determines in its sole discretion represents the amount of the Guarantor's liabilities under this Deed of Guarantee (the "**Guarantee Estimate Amount**") on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor may retain for its own account or otherwise deal with any such amounts recovered in excess of the Guarantee Estimate Amount as the Guarantor may determine in its sole discretion. The Guarantor hereby confirms that it has not taken any security from the Supplier (other than cross-indemnities or other security taken in the ordinary course of its financial arrangements with its Affiliates) and agrees not to do take any further security until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.



## **8. Deferral of rights**

8.1 Until all amounts which may be or become payable by the Supplier under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:

- (1) claim any contribution from any other guarantor of the Supplier's obligations under the Guaranteed Agreement; or
- (2) take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement.

8.2 Until all amounts which may be or become payable by the Supplier under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not following the occurrence of a termination event as set out in clause 41 of the Guaranteed Agreement (excluding termination for convenience):

- (1) exercise any rights it may have to be indemnified by the Supplier;
- (2) demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Supplier; or
- (3) claim any set-off or counterclaim against the Supplier.

8.3 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

## **9. Representations and warranties**

The Guarantor hereby represents and warrants to the Beneficiary that:

9.1 the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;

9.2 the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;

9.3 the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including, without limitation entry into and performance of a contract pursuant to Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:

- (1) the Guarantor's memorandum and articles of association or other equivalent constitutional documents;

- (2) any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
  - (3) the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
- 9.4 all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- 9.5 this Deed of Guarantee is the legal valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

#### **10. Payments and set-off**

- 10.1 All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any setoff, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 10.2 The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 10.3 The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.

#### **11. Guarantor's acknowledgement**

The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

#### **12. Assignment**

- 12.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.
- 12.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

#### **13. Severance**

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the

remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

**14. Third party rights**

A person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

**15. Governing Law**

15.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with the law of England and Wales.

15.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England and Wales shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

15.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).

15.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

15.5 **[Provision dealing with the appointment of English process agent by a non English incorporated Guarantor]** [The Guarantor hereby irrevocably designates, appoints and empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on facsimile number [insert email no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by:

[Insert name of the Guarantor] acting by [Insert/print names]

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

## SCHEDULE 14: BASELINE SECURITY REQUIREMENTS

### **1 Security Classification of Information**

- 1.1 If the provision of the Goods or Services requires the Supplier to Process Authority Data which is classified as:
- (a) OFFICIAL-SENSITIVE, the Supplier shall implement such additional measures as agreed with the Authority from time to time in order to ensure that such information is safeguarded in accordance with the applicable Standards; and/or
  - (b) SECRET or TOP SECRET, the Supplier shall only do so where it has notified the Authority prior to receipt of such Authority Data and the Supplier shall implement additional measures as agreed with the Authority from time to time in order to ensure that such information is safeguarded in accordance with the applicable Standards.

### **2 End User Devices**

- 2.1 The Supplier shall ensure that any Authority Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Authority except where the Authority has given its prior written consent to an alternative arrangement.
- 2.2 The Supplier shall ensure that any device which is used to Process Authority Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security>.

### **3 Networking**

- 3.1 The Supplier shall ensure that any Authority Data which it causes to be transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

### **4 Personnel Security**

- 4.1 All Supplier Staff shall be subject to a pre-employment check before they may participate in the provision and or management of the Goods or Services. Such pre-employment checks must include all pre-employment checks which are required by the HMG Baseline Personnel Security Standard including: verification of the individual's identity; verification of the individual's nationality and immigration status; and, verification of the individual's employment history; verification of the individual's criminal record.
- 4.2 The Authority and the Supplier shall review the roles and responsibilities of the Supplier Staff who will be involved in the management and/or provision of the Goods or Services in order to enable the Authority to determine which roles require additional vetting and a specific national security vetting clearance (e.g. a Counter Terrorist Check; a Security Check). Roles which are likely to require additional vetting and a specific national security vetting clearance include system administrators whose role would provide those individuals with privileged access to IT systems which Process Authority Data or data which, if it were Authority Data, would be classified as OFFICIAL-SENSITIVE.

- 4.3 The Supplier shall not permit Supplier Staff who fail the security checks required by Paragraphs 4.1 and 4.2 to be involved in the management and/or provision of the Goods or Services except where the Authority has expressly agreed in writing to the involvement of the named individual in the management and/or provision of the Goods or Services.
- 4.4 The Supplier shall ensure that Supplier Staff are only granted such access to Authority Data as is necessary to enable the Supplier Staff to perform their role and to fulfil their responsibilities.
- 4.5 The Supplier shall ensure that Supplier Staff who no longer require access to the Authority Data (e.g. they cease to be employed by the Supplier or any of its Sub-contractors), have their rights to access the Authority Data revoked within 1 Working Day.
- 4.6 The Supplier shall ensure that Supplier Staff that have access to the Sites, the IT Environment or the Authority Data receive regular training on security awareness that reflects the degree of access those individuals have to the Sites, the IT Environment or the Authority Data.
- 4.7 The Supplier shall ensure that the training provided to Supplier Staff under paragraph 4.6 includes training on the identification and reporting fraudulent communications intended to induce individuals to disclose Personal Data or any other information that could be used, including in combination with other Personal Data or information, or with other techniques, to facilitate unauthorised access to the Sites, the IT Environment or the Authority Data (“phishing”).

## **5 Identity, Authentication and Access Control**

- 5.1 The Supplier shall operate an access control regime to ensure:
  - (a) all users and administrators of the Supplier System are uniquely identified and authenticated when accessing or administering the Goods or Services; and
  - (b) all persons who access the Sites are identified and authenticated before they are allowed access to the Sites.
- 5.2 The Supplier shall apply the ‘principle of least privilege’ when allowing persons access to the Supplier System and Sites so that such persons are allowed access only to those parts of the Sites and the Supplier System they require.
- 5.3 The Supplier shall retain records of access to the Sites and to the Supplier System and shall make such record available to the Authority on request.

**1 Application of Annex**

5.4 This Annex applies to all Sub-contractors that Process Authority Data.

5.5 The Supplier must:

- (a) ensure that those Sub-contractors comply with the provisions of this Annex;
- (b) keep sufficient records to demonstrate that compliance to the Authority; and
- (c) ensure that its Detailed Implementation Plan includes Deliverables, Milestones and Milestone Dates that relate to the design, implementation and management of any systems used by Sub-contractors to Process Authority Data.

**6 Designing and managing secure solutions**

6.1 The Sub-contractor shall implement their solution(s) to mitigate the security risks in accordance with the NCSC's Cyber Security Design Principles <https://www.ncsc.gov.uk/collection/cyber-security-design-principles>.

6.2 The Sub-contractor must assess their systems against the NCSC Cloud Security Principles: <https://www.ncsc.gov.uk/collection/cloud-security?curPage=/collection/cloud-security/implementing-the-cloud-security-principles> as updated from time to time at their own cost and expense to demonstrate that the people, process, technical and physical controls have been delivered in an effective way. The Sub-contractor must document that assessment and make that documentation available to the Authority on the Authority's request.

**7 Data Processing, Storage, Management and Destruction**

7.1 The Sub-contractor must not Process any Authority Data outside the UK. The Authority may permit the Sub-contractor to Process Authority Data outside the UK and may impose conditions on that permission, with which the Sub-contractor must comply. Any permission must be in writing to be effective.

7.2 The Sub-contractor must securely erase any or all Authority Data held by the Sub-contractor when requested to do so by the Authority; and securely destroy all media that has held Authority Data at the end of life of that media in accordance with the NCSC Assured Service (CAS) Service Requirement Sanitisation Standard, or an alternative agreed in writing by the Authority.

**8 Personnel Security**

8.1 The Sub-contractor must perform appropriate checks on their staff before they may participate in the provision and or management of the Goods or Services. Those checks must include all pre-employment checks required by the HMG Baseline Personnel Security Standard including: verification of the individual's identity; verification of the individual's nationality and immigration status; verification of the individual's employment history; and verification of the individual's criminal record. The HMG Baseline Personnel Security Standard is at

<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard> as updated from time to time.

- 8.2 The Sub-contractor must, if the Authority requires, at any time, ensure that one or more of the Sub-contractor's staff obtains Security Check clearance in order to Process Authority Data containing Personal Data above certain volumes specified by the Authority, or containing Special Category Personal Data.
- 8.3 Any Sub-contractor staff who will, when performing the Goods or Services, have access to a person under the age of 18 years must undergo Disclosure and Barring Service checks.

## **9 End User Devices**

- 9.1 The Sub-contractor shall ensure that any Authority Data stored (for any period of time) on a mobile, removable or physically uncontrolled device is encrypted. The Sub-contractor must follow the Information Commissioner's Office guidance on implementing encryption, which can be found at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/encryption/> as updated from time to time.
- 9.2 The Supplier shall ensure that any device used to Process Authority Data meets all the security requirements set out in the NCSC End User Devices Platform Security Guidance, which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security> as update from time to time.

## **10 Networking**

- 10.1 The Supplier shall ensure that any Authority Data which it causes to be transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.

## **11 Patching and Vulnerability Scanning**

- 11.1 The Sub-contractor must proactively monitor supplier vulnerability websites and ensure all necessary patches and upgrades are applied to maintain security, integrity and availability in accordance with the NCSC Cloud Security Principles.

## **12 Third Party Sub-contractors**

- 12.1 The Sub-contractor must not transmit or disseminate the Authority Data to any other person unless specifically authorised by the Authority. Such authorisation must be in writing to be effective and may be subject to conditions.
- 12.2 The Sub-contractor must not, when performing any part of the Goods or Services, use any software to Process Authority Data where the licence terms of that software purport to grant the licensor rights to Process the Authority Data greater than those rights strictly necessary for the use of the software.