



# G-Cloud 12 Call-Off Contract

This Call-Off Contract for the G-Cloud 12 Framework Agreement (RM1557.12) includes:

Part A: Order Form .....	2
Schedule 1: Services .....	12
Schedule 2: Call-Off Contract charges .....	12
Part B: Terms and conditions .....	13
Schedule 3: Collaboration agreement.....	32
Schedule 4: Alternative clauses.....	44
Schedule 5: Guarantee.....	49
Schedule 6: Glossary and interpretations .....	57
Schedule 7: GDPR Information.....	68

This form has been provided by Amazon Web Services EMEA SARL, UK Branch (“Supplier” or “AWS”) to accommodate the procurement process for G-Cloud Framework 12. Supplier has prepopulated the form for the benefit of the Buyer with terms found in **green**. Fields marked highlighted in yellow are to be completed by the Buyer, and fields in grey are to be completed by the Supplier.

This is a legally binding document and therefore the Buyer should seek its own independent legal advice if there is any doubt in respect to the terms set out in this document.  
If there are any questions about completing this form, please contact:

[aws-gcloud@amazon.com](mailto:aws-gcloud@amazon.com)



## Part A: Order Form

Buyers must use this template order form as the basis for all call-off contracts and must refrain from accepting a supplier's prepopulated version unless it has been carefully checked against template drafting.

<b>Digital Marketplace service ID number</b>	As listed in Schedule 1
<b>Call-Off Contract reference</b>	K280021246
<b>Call-Off Contract title</b>	OGVA Hosting, Software & Support Services
<b>Call-Off Contract description</b>	Supply of AWS Hosting, Software Support and Associated Cloud products/service through CCS OGVA MOU
<b>Start date</b>	01 February 2021
<b>Expiry date</b>	31 January 2024
<b>Call-Off Contract value</b>	<p>The value of the Buyer's estimated spend under this Call-Off Contract is <b>100%</b> of the Spend Commitment (as defined below), being <b>8,356,179 \$USD</b>.</p> <p>The Buyer shall pay the following:</p> <ul style="list-style-type: none"> <li>• Year 1 value <b>2,785,383 \$USD</b>;</li> <li>• Year 2 value <b>2,785,383 \$USD</b>; and</li> <li>• Year 3 value <b>2,785,383 \$USD</b>,</li> </ul> <p>together, the "<b>Spend Commitment</b>". The Spend Commitment shall be the minimum spend in this Call-Contract.</p> <p>To the extent that the Buyer's use of the Services exceeds the value for any Year, the Buyer shall be liable to the Supplier for such additional sums, in accordance with the processes set out in Part B Clause 7.</p>
<b>Charging method</b>	Invoice
<b>Purchase order number</b>	TBC

This Order Form is issued under the G-Cloud 12 Framework Agreement (RM1557.12).

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



Order.

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

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

<b>From the Buyer</b>	Buyer's name: Driver Vehicle Standards Agency DVSA Buyer's phone: 0115 9366 476 Buyer's main address: The Axis Building, 112 Upper Parliament Street, Nottingham, NG1 6LP
<b>To the Supplier</b>	Supplier's name: Amazon Web Services EMEA SARL, UK Branch Supplier's phone: N/A Supplier's address: 1 Principal Place Worship Street London EC2A 2FA Company number: FC034225  UK establishment number: BR019315 Luxembourg registration number: B 186284
<b>Together the 'Parties'</b>	

## Principal contact details

### For the Buyer:

Title: Head of Service Management

Name: Yacine Zerdazi

Email: yacine.zerdazi@dvsa.gov.uk

Phone: 01159 366750

**For the Supplier:**

Title: Account Manager

Name: Steven Bird

Email: stevbird@amazon.com

Phone: +44 7900 558623

**Call-Off Contract term**

<b>Start date</b>	<p>This Call-Off Contract Starts on <b>01 February 2021</b> and is valid for <b>36</b> months</p> <p>[The date and number of days or months is subject to clause 1.2 in Part B below.]</p>
<b>Ending (termination)</b>	<p>The notice period for the Supplier needed for Ending the Call-Off Contract is at least <b>90</b> Working Days from the date of written notice for undisputed sums (as per clause 18.6).</p> <p>The notice period for the Buyer is a maximum of <b>30</b> days from the date of written notice for Ending without cause (as per clause 18.1).</p>
<b>Extension period</b>	<p><b>N/A</b></p> <p>This Call-off Contract can be extended by the Buyer for <b>zero</b> period(s) of <b>zero</b> months each, by giving the Supplier no written notice before its expiry. The extension periods are subject to clauses 1.3 and 1.4 in Part B below.</p> <p>Extensions which extend the Term beyond 24 months are only permitted if the Supplier complies with the additional exit plan requirements at clauses 21.3 to 21.8.</p> <p><b>Exit is addressed within the offboarding section of this document</b></p>

## Buyer contractual details

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

<b>G-Cloud lot</b>	<p>This Call-Off Contract is for the provision of Services under:</p> <ul style="list-style-type: none"> <li>• Lot 1: Cloud hosting</li> <li>• Lot 2: Cloud software</li> <li>• Lot 3: Cloud support</li> </ul>
<b>G-Cloud services required</b>	<p>The Services to be provided by the Supplier under the above Lots are listed in Framework Section 2 and outlined below:</p> <ul style="list-style-type: none"> <li>• Lot 1: Cloud compute infrastructure</li> <li>• Lot 2: BYOL Service</li> <li>• Lot 3: AWS Support, Managed Service, ProServe and Training</li> </ul> <p>The Buyer will receive a discount on the service charges in accordance with the mechanism set out in the OGVA Addendum for use of the Supplier's Services specified in Schedule 1.</p> <p>It is acknowledged that Supplier is unable to and has no responsibility in terms of limiting Buyer to a maximum quantity or value of Services purchased under this Call-Off Contract.</p> <p>Supplier Services will not include any Projects Specific IPRs or Background IPR that could be embedded in any potential Projects Specific IPRs.</p>
<b>Additional Services</b>	No additional services
<b>Location</b>	<p>The Services will be delivered to from the Supplier region(s) selected by Buyer upon each account creation.</p> <ul style="list-style-type: none"> <li>• Buyer is responsible for selecting the appropriate Supplier region. Supplier will not alter Buyer's selection.</li> <li>• Buyer will specify the Supplier region(s) where Buyer Data will be processed. Supplier will not move Buyer Personal Data unless described in the AWS Data Protection Addendum attached hereto in Appendix 3 to the Supplier Terms (the "GDPR DPA").</li> </ul>

<b>Quality standards</b>	The quality standards required for this Call-Off Contract are included in Supplier's Service Description documents listed in Schedule 1 to this Call-Off Contract and available on the Digital Marketplace.
<b>Technical standards:</b>	<p>The technical standards used as a requirement for this Call- Off Contract are included in Supplier's Service Description documents listed in Schedule 1 to this Call-Off Contract and available on the Digital Marketplace.</p> <p>Supplier Staff Vetting Requirements: No Supplier Staff Vetting Requirement</p>
<b>Service level agreement:</b>	The service level and availability criteria required for this Call-Off Contract are included in Supplier's Service Description documents listed in Schedule 1 to this Call-Off Contract and available on the Digital Marketplace.
<b>Onboarding</b>	<p>The onboarding plan for this Call-Off Contract is</p> <p>The Call-Off order will be tracked by a Supplier Account Manager. Buyer shall create an account and inform the Supplier Account Manager of the following;</p> <ul style="list-style-type: none"> <li>• Buyer's Name and Address</li> <li>• AWS Account ID</li> <li>• Buyer PO Number ( where applicable)</li> </ul> <p>Buyer must provide all necessary information requested in the first two bullets above so that the Supplier Account Manager can accept the Buyer's allocated PO Number. No Buyer PO Number will be accepted otherwise.</p> <p>For Professional Services and/or Training Services only, Buyer and Supplier will agree on one or more Statements of Work, which shall more specifically detail the scope of a particular requirement. Supplier will execute against this Call-Off Contract and the detailed requirements within the Statement of Work.</p> <p>For VMware Cloud on AWS, Buyer will complete and submit an order addendum to the Call off Contract in the form of a VMware Cloud on AWS Order request form (VMware Order Form) as provided by the Supplier. Information provided to the Supplier in the VMware Order Form will be shared with VMware. Upon receipt of the VMware Order Form, VMware will send the Buyer an e-mail with VMware on boarding instructions to the e-mail address listed on the VMware Order Form. Once the Buyer has completed the on boarding process with VMware, the Buyer may begin to provision VMware Cloud on AWS. All purchases of VMware Cloud on AWS will be made directly through a console provided by</p>

	VMware.
<b>Offboarding</b>	<p>The offboarding plan for this Call-Off Contract is Buyer may terminate the relationship with Supplier for any reason by (i) providing Supplier with notice; and (ii) closing Buyer's account for all Services for which Supplier provides an account closing mechanism.</p> <p>The Buyer agrees and acknowledges that the for the purpose of the exit plan requirements at clauses 21.3 to 21.8, the following provisions in this Offboarding section shall constitute the additional exit plan requirements and shall be the Buyer's sole exit plan.</p> <p>Following termination or expiry of this Call-Off Contract and a written request from the Buyer to the Supplier, the Supplier is able to provide the following services to support the Buyer in transitioning from the Supplier's cloud service:</p> <ul style="list-style-type: none"> <li>• Amazon Elastic Container Registry (ECR);</li> <li>• Amazon Elastic Container Service for Kubernetes (Amazon EKS);</li> <li>• AWS Direct Connect;</li> <li>• AWS Snowball;</li> <li>• AWS Storage Gateway;</li> <li>• VM Import/Export; and/or</li> <li>• Support from a Technical Account Management during the exit process.</li> </ul> <p>The Buyer is required, in the written notice to the Supplier, to explicitly identify which of the services listed above it will require. The service level agreements, technical standards and quality standards for the services listed above are set out in the documents listed in Schedule 1 to this Call-Off Contract and available on the Digital Marketplace.</p> <p>Following termination or expiry of this Call-Off Contract, if requested by the Buyer, the Supplier shall also provide the following support to the Buyer:</p> <ul style="list-style-type: none"> <li>• information setting out the processes that the Buyer can use to export data and images from standardized services that will enable a Buyer to initiate exiting a cloud environment in a self-service manner;</li> <li>• provide portability tools and services to help migrate to and from the Supplier's cloud infrastructure;</li> <li>• a broad set of standardized features and services,</li> </ul>



	<p>which Buyers can use as building-blocks to create their bespoke exit plans, together with readily available documentation as to how to use these services;</p> <ul style="list-style-type: none"> <li>• information to enable Buyer virtual machine images to be downloaded and ported to an alternative cloud provider or to a different environment; and/or</li> <li>• instructions on how to retrieve content from a particular Supplier service to enable Buyer to delete any content and terminate all Supplier services in their account.</li> </ul>
<b>Collaboration agreement</b>	Buyer does not require Supplier to enter into a Collaboration Agreement.
<b>Limit on Parties' liability</b>	<p>The annual total liability of either Party for all Property Defaults will not exceed the actual amount paid under this Call-Off Contract for the Service(s) that gave rise to the claim during the 12 months preceding the claim. Notwithstanding the foregoing, for the first 12 months following the Start Date, the annual aggregate liability under this Call-Off Contract of either Party will not be less than £1,000,000 (one million pounds sterling).</p> <p>The annual total liability for Buyer Data Defaults will not exceed the actual amount paid under this Call-Off Contract for the Service(s) that gave rise to the claim during the 12 months preceding the claim. Notwithstanding the foregoing, for the first 12 months following the Start Date, if the actual amount paid under this Call-off Contract is less than the amount payable in the first 12 months from the Start Date, the annual aggregate liability for Buyer Data defaults under this Call-Off Contract of either Party will not be less than the amount payable in the first 12 months from the Start Date.</p> <p>The annual total liability for all other Defaults will not exceed the greater of the actual amount paid under this Call-Off Contract for the Service(s) that gave rise to the claim during the 12 months preceding the claim. Notwithstanding the foregoing, for the first 12 months following the Start Date, the annual aggregate liability under this Call-Off Contract of either Party will not be less than £1,000,000 (one million pounds sterling).</p> <p>Supplier will have obligations and liability under Clause 11.5 for an IPR Claim (where a final award has been made by a competent court of law) caused solely by the infringement of an unaffiliated third party's intellectual property rights solely by the Services (i.e. no obligations or liability for infringement by combinations of the Services with any other product, service, software, data or method not supplied by Supplier). Further,</p>

	<p>Supplier will have no obligations or liability under Section 11.5 for an IPR Claim arising from:</p> <ul style="list-style-type: none"><li>(i) Buyer's use of the Services after Supplier has notified Buyer to discontinue such use;</li><li>(ii) any unauthorized use or modification of the Services;</li><li>(iii) any use of the Services, or any other act, by Buyer that is in breach of this Agreement;</li><li>(iv) any claim of inducement or contributory infringement;</li></ul> <p>or</p> <ul style="list-style-type: none"><li>(v) any claim of wilful infringement directed at anyone other than Supplier.</li></ul>
<b>Insurance</b>	<p>The insurance(s) required will be:</p> <ul style="list-style-type: none"><li>• a minimum insurance period of 2 years following the expiration or Ending of this Call-Off Contract.</li><li>• professional indemnity insurance cover to be held by Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £1,000,000 for each individual claim or any higher limit the Buyer requires (and as required by Law).</li><li>• employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law.</li></ul>

<b>Force majeure</b>	A Party may End this Call-Off Contract if the Other Party is affected by a Force Majeure Event that lasts for more than <b>15</b> consecutive days.
<b>Audit</b>	<p>The following Framework Agreement audit provisions will be incorporated under clause 2.1 of this Call-Off Contract to enable the Buyer to carry out audits.</p> <p>Buyer acknowledges that the Audit and inspection referenced in Section 7.4 to 7.13 of the Framework Agreement is limited to the information and documentation relating to this Call-Off Contract and the Buyer does not have a right to audit or inspect of the Supplier's physical infrastructure (i.e. datacenter). Buyer can request (where applicable under NDA) an independent audit report in respect of the operations of the Supplier's physical infrastructure.</p>
<b>Buyer's responsibilities</b>	<p>The Buyer is responsible for:</p> <p>The Buyer is responsible for:</p> <ul style="list-style-type: none"> <li>• Selecting the appropriate Supplier region.</li> <li>• Reporting any Account IDs that will be governed by the terms of this Call-Off Contract and Framework Agreement to <a href="mailto:aws-gcloud@amazon.com">aws-gcloud@amazon.com</a>.</li> <li>• Properly configure and use the Service Offerings in a manner that provides security and redundancy of its Buyer Data</li> <li>• Adhere to Supplier's acceptable use policy (<a href="https://aws.amazon.com/aup/">https://aws.amazon.com/aup/</a>). In the event Buyer does not adhere to the acceptable use policy then, to the extent practicable, Supplier will: (i) only suspend Buyer's right to access or use those instances, data, or portions of the Service Offerings that caused the suspension; and (ii) limit the suspension to those Buyer accounts that caused the suspension.</li> <li>• Satisfy itself that Supplier's environmental policy (<a href="https://www.aboutamazon.com/sustainability">https://www.aboutamazon.com/sustainability</a>) meets its requirements prior to entering into the Call-Off Contract</li> </ul> <p>Additional Buyer Dependencies:</p> <ul style="list-style-type: none"> <li>• If Buyer Data contains Buyer Personal Data, Buyer: <ul style="list-style-type: none"> <li>(i) agrees that the GDPR DPA, set out in the Supplier Terms, shall apply in addition to Clause 33 of this Call Off Contract;</li> <li>(ii) shall implement the minimum architecture requirements referenced in Annex 3 of the</li> </ul> </li> </ul>

	<p>GDPR DPA; and</p> <p>(iii) shall refer to the provisions set out in clause 10.4 of the GDPR DPA regarding the information that Supplier makes available to Buyer for the purposes of assisting Buyer's Data Protection Impact Assessment.</p> <ul style="list-style-type: none"> <li>• Buyer agrees that an indemnity claim under clause 10.1 of this Call-Off Contract is only valid if and to the extent that: (i) the Losses that are subject to the claim are reasonably foreseeable at the Start Date; and (ii) Buyer has taken all reasonable steps to mitigate such Losses in accordance with clause 4.3 of the Framework Agreement.</li> <li>• Buyer retains control and ownership of its data. Buyer can retrieve Buyer Data from Supplier Services up to 90 days post-termination. Buyer shall continue to pay any applicable Charges for any post-termination use of the Service Offerings and all other amounts due.</li> <li>• During the Term, the Buyer grants to the Supplier a non-exclusive, worldwide, royalty-free right and licence to use the Buyer's name to identify the Buyer as a Supplier customer.</li> <li>• During the Term, the Supplier may also request the Buyer to grant to the Supplier a non-exclusive, worldwide, royalty-free right and licence to use the Buyer's logo (provided promptly by the Buyer to the Supplier, upon the Supplier's request) to identify the Buyer as a Supplier customer on the Supplier's website and on public sector related marketing collateral. The Buyer's consent to such a request will not be unreasonably withheld or delayed. The Buyer may, acting reasonably, terminate the licence to the Buyer's logo provided as described above, by giving the Supplier at least 30 days' written notice.</li> <li>• Upon expiry or termination of the licences, the Supplier will use reasonable endeavours to remove the Buyer's name and logos from the Supplier's website and, where it is reasonably practicable for the Supplier to do so, from other public sector related marketing collateral that is within the control of the Supplier and is still intended for active future use by the Supplier. The Supplier's licence to use the Buyer's name and logos will continue to exist, and the Supplier may continue to use the Buyer's name and logos, in any other items produced before termination of the relevant licence where the Supplier is not reasonably able to remove the Buyer's name or logos from such material.</li> <li>• The Supplier will seek consent to use the Buyer's name and logo in a case study relating to Buyer's use of the Services supplied under this Call-Off Contract. The Supplier and the Buyer shall collaborate on the production of a case study and the Supplier will issue such case study to the Buyer to obtain Buyer's written consent for its publication, such consent shall not be unreasonably</li> </ul>
--	--

	<p>withheld or delayed.</p> <ul style="list-style-type: none"> <li>Neither Party shall disclose the terms of this Call-Off Contract or publish this Call-Off Contract without the express prior written consent of the other Party.</li> <li>In the event of a Supplier Default the Buyer may only End this Call-Off Contract where the Supplier Default remains uncured for a period of thirty (30) days from receipt of a notice from the Buyer.</li> <li>Buyer shall be enrolled in AWS Support (as further described in the OGVA Addendum) during the Term.</li> </ul>
<b>Buyer's equipment</b>	<p>The Buyer's equipment to be used with this Call-Off Contract includes <b>No Buyer's Equipment</b></p> <p>Reason <b>Not Applicable</b>.</p>

## Supplier's information

<b>Subcontractors or partners</b>	<p>The following is a list of the Supplier's Subcontractors or Partners <b>None</b></p>
-----------------------------------	---

## Call-Off Contract charges and payment

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

<b>Payment method</b>	<p>The payment method for this Call-Off Contract is <b>BACS</b>.</p>
<b>Payment profile</b>	<p>The payment profile for this Call-Off Contract is <b>monthly</b> in arrears.</p>
<b>Invoice details</b>	<p>The Supplier will issue electronic invoices monthly in arrears. The Buyer will pay the Supplier within <b>30</b> days of receipt of a valid invoice.</p> <p>Amazon Web Services EMEA SARL administers</p>

	<p>invoicing on behalf of its UK branch office; Amazon Web Services EMEA SARL, UK Branch. Please see: <a href="https://aws.amazon.com/legal/aws-emea/">https://aws.amazon.com/legal/aws-emea/</a> for details</p> <p>For invoice details and process concerning the Cloud Endure DR Service please refer to the applicable Service Description document listed in Schedule 1.</p>
<b>Who and where to send invoices to</b>	<p>Invoices will be sent to <b>Accounts Payable, Shared Services Arvato, 5 Sandringham Park, Swansea Vale, Swansea SA7 0EA</b></p>
<b>Invoice information required</b>	<p>All invoices must include Purchase Order (PO) Number</p>
<b>Invoice frequency</b>	<p>Invoice will be sent to the Buyer monthly.</p>
<b>Call-Off Contract value</b>	<p>The total value of this Call-Off Contract is</p> <p>The value of the Buyer's estimated spend under this Call-Off Contract is <b>100%</b> of the Spend Commitment (as defined below), being <b>8,356,149 \$USD</b>.</p> <p>The Buyer shall pay the following:</p> <ul style="list-style-type: none"> <li>• Year 1 value <b>2,785,383 \$USD</b>;</li> <li>• Year 2 value <b>2,785,383 \$USD</b>; and</li> <li>• Year 3 value <b>2,785,383 \$USD</b>,</li> </ul> <p>and together, the "<b>Spend Commitment</b>". The Spend Commitment shall be the minimum spend in this Call-Contract.</p> <p>To the extent that the Buyer's use of the Services exceeds the value for any Year, the Buyer shall be liable to the Supplier for such additional sums, in accordance with the processes set out in Part B Clause 7.</p>
<b>Call-Off Contract charges</b>	<p>The breakdown of the Charges is found in the Suppliers pricing documents on the Digital Marketplace.</p> <p>The Parties agree that the Pegged Exchange Rate Addendum (as set out in Schedule 2: Call-Off Contract charges attached below) (the "PEG Addendum") shall apply to the Call-Off Contract charges in so far as the Charges payable to the Supplier by the Buyer shall be pursuant to the exchange rate as set out in the PEG Addendum.</p>

## Additional Buyer terms

<b>Performance of the Service and Deliverables</b>	<p>This Call-Off Contract will include the following Implementation Plan, exit and offboarding plans and milestones:</p> <p>As detailed in the Service Description documents on the Digital Marketplace for the Services as listed in Schedule 1</p>
<b>Guarantee</b>	Not used
<b>Warranties, representations</b>	<p>In addition to the incorporated Framework Agreement clause 4.1, the Supplier warrants and represents to the Buyer that</p> <p>No additional warranties or representations</p>
<b>Supplemental requirements in addition to the Call-Off terms</b>	<p>Within the scope of the Call-Off Contract, the Supplier will</p> <ul style="list-style-type: none"> <li>Implement reasonable and appropriate measures designed to help Buyer secure their Service Data against accidental or unlawful loss, access or disclosure.</li> <li>Supplier or any of its affiliates will make available in connection with the Services or on the AWS Site documentation; sample code; software libraries; command line tools; and other related technology which is Supplier's Background IPR and also known as AWS Content. For the avoidance of doubt, AWS Content does not include the Services.</li> <li>Supplier is not in a position to determine whether Buyer's instructions infringe the Data Protection Legislation given the automated nature of the Supplier's Services. However, in the unlikely event that Supplier does form an opinion that such instructions infringe the GDPR, it shall immediately inform Buyer of such an opinion, in which case Buyer is entitled to withdraw or modify its processing instructions and may terminate this Call-Off Contract.</li> <li>Supplier can provide Protective Measures which are detailed at clause 5 of the GDPR DPA.</li> <li>Supplier's security breach notification process is set out in Clause 9 of the GDPR DPA for Buyer.</li> <li>Supplier will provide prior information to Buyer if Supplier authorizes and permits any new subcontractor to access any Buyer Personal Data. Buyer can find information on subprocessors at: <a href="https://aws.amazon.com/compliance/sub-processors">https://aws.amazon.com/compliance/sub-processors</a>.</li> </ul> <p>Supplier will not (a) disclose Buyer Data to any government or third party or (b) subject to Section 3.3 of the Supplier Terms,</p>



	<p>move Buyer Data from the AWS regions selected by Buyer; except in each case as necessary to comply with the law or a binding order of a governmental body. Unless it would violate the law or a binding order of a governmental body, Supplier will give you notice of any legal requirement or order referred to in this section.</p> <p>OGVA Addendum provisions in Schedule 2 apply.</p>
<b>Alternative clauses</b>	<p>These Alternative Clauses, which have been selected from Schedule 4, will apply:</p> <p>No alternative clauses are required</p>
<b>Buyer specific amendments to/refinements of the Call-Off Contract terms</b>	<p>Within the scope of the Call-Off Contract, the Supplier will</p> <p>No Buyer specific amendments are required</p>
<b>Public Services Network (PSN)</b>	<p>The Public Services Network (PSN) is the government's secure network.</p> <p>If the G-Cloud Services are to be delivered over PSN this should be detailed here: <b>Not applicable</b></p>
<b>Personal Data and Data Subjects</b>	<p>Confirm whether Annex 1 (and Annex 2, if applicable) of Schedule 7 is being used:</p> <p><b>Schedule 7, Annex 1 will apply</b> Supplier's GDPR DPA can be found at Appendix 3 to the Supplier Terms.</p>

## 1. Formation of contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.
- 1.4 In cases of any ambiguity or conflict, the terms and conditions of the Call-Off Contract (Part



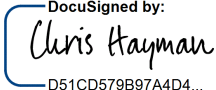



B) and Order Form (Part A) will supersede those of the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

## 2. Background to the agreement

2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.12.

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

<b>Signed</b>	Supplier - Amazon Web Services EMEA SARL, UK Branch	Buyer – Driver Vehicle Standards Agency ( DVSA)
<b>Name</b>	Chris Hayman	Loveday Ryder
<b>Title</b>	Authorised Representative	Chief Executive
<b>Signature</b>	 D51CD579B97A4D4...	
<b>Date</b>	January 6, 2021	06/01/2021

## Schedule 1: Services

The Services to be provided by the Supplier under this Call-Off are outlined below:

G-Cloud 12 – AWS EMEA SARL, UK Branch Service	DM Service ID
Amazon API Gateway	632820083930960
Amazon AppStream 2.0	824125587816943
Amazon Athena	565215744241353
Amazon Augmented AI (A2I)	377817024297663
Amazon Aurora	525963457027316
Amazon Cloud Directory	607459957133847
Amazon CloudFront	911595742440757
Amazon CloudSearch	441728087112805
Amazon CloudWatch	525720136564440
Amazon CodeGuru	338677652297837
Amazon Cognito	420829941716189

Amazon Comprehend	392316611814385
Amazon Comprehend Medical	558055461209008
Amazon Detective	282484910096092
Amazon DocumentDB (with MongoDB compatibility)	960765097266582
Amazon DynamoDB	443410373780455
Amazon ElastiCache	637882381824921
Amazon Elastic Block Store (Amazon EBS)	530652822823835
Amazon Elastic Compute Cloud (Amazon EC2)	872289059276702
Amazon Elastic Container Registry (Amazon ECR)	884865817831270
Amazon Elastic Container Service (Amazon ECS)	949805146257434
Amazon Elastic Container Service for Kubernetes (Amazon EKS)	208157100126934
Amazon Elastic File System (Amazon EFS)	384755189154631
Amazon Elastic Graphics	795824341370913
Amazon Elastic Inference	757788042749604
Amazon Elasticsearch	137542218556747
Amazon Elastic Transcoder	781972480884399
Amazon EMR	141184032748932
Amazon EventBridge	959012717910244
Amazon Forecast	869362537418891
Amazon Fraud Detector	629037069067387
Amazon FreeRTOS	195273980824458
Amazon FSx for Lustre	887731071127741
Amazon FSx for Windows File Server	393058793048420
Amazon GameLift	914583233724818
Amazon Glacier	299237560076501
Amazon GuardDuty	470935329474699
Amazon Inspector	872069308606941
Amazon Kendra	239820681520645
Amazon Keyspaces (for Apache Cassandra)	762608804457662
Amazon Kinesis	557557954180566
Amazon Lex	235859035571224
Amazon Lightsail	135542758674898
Amazon Machine Learning	547025631135750
Amazon Macie	944815614923516
Amazon Managed Blockchain	340374281370729
Amazon Managed Streaming for Apache Kafka	310296704374169
Amazon MQ	207366245765280
Amazon Neptune	412628507548092
Amazon Personalize	776450536459543
Amazon Pinpoint	852706471872199
Amazon Polly	231209122514604
Amazon Quantum Ledger Database (QLDB)	933331066125479

Amazon QuickSight	768438846854223
Amazon Redshift	371498653650033
Amazon Rekognition	193610759779128
Amazon Relational Database Service (Amazon RDS)	336589700347867
Amazon Route 53	624965514779013
Amazon SageMaker	357080561833649
Amazon Simple Email Service (Amazon SES)	346439039470588
Amazon Simple Notification Service (Amazon SNS)	777377954226771
Amazon Simple Queue Service (Amazon SQS)	769623588127849
Amazon Simple Storage Service (Amazon S3)	133238515384052
Amazon Simple Workflow Service (Amazon SWF)	171261559079071
Amazon Sumerian	844267264172259
Amazon Textract	202655099071076
Amazon Transcribe	615816916590364
Amazon Transcribe Medical	228074301479316
Amazon Translate	161694265278353
Amazon Virtual Private Cloud (Amazon VPC)	978848117828311
Amazon WorkLink	204172164860750
AWS Amplify Console	671583163901632
AWS Application Discovery Service	883683125929451
AWS App Mesh	932305402524624
AWS AppSync	203535675398029
AWS AppSync	360111819662581
AWS Artifact	264870784820741
AWS Auto Scaling	668832799709710
AWS Backup	860844684466681
AWS Batch	842423010671655
AWS Certificate Manager	781148207135149
AWS Chatbot	506561320433086
AWS Cloud9	312692352339014
AWS CloudFormation	367597902972978
AWS CloudHSM	874039520517232
AWS Cloud Map	941407504544151
AWS CloudTrail	520623789274406
AWS Codebuild	809146216379052
AWS CodeCommit	664168246041602
AWS CodeDeploy	179118055682503
AWS CodePipeline	673149763927052
AWS CodeStar	595550534748834
AWS Config	543848368748013
AWS Database Migration Service	867328993492071
AWS Data Pipeline	834378430942376

AWS DataSync	328589421835292
AWS Data Exchange (BYOS)	214763882715332
AWS DeepRacer	266641988384101
AWS Device Farm	451673911453839
AWS Direct Connect	960450908310348
AWS Directory Service	272435801700475
AWS Elastic Beanstalk	736283301501024
AWS Elemental MediaConnect	387847916887684
AWS Elemental MediaConvert	469559030815661
AWS Elemental MediaLive	800599889369857
AWS Elemental MediaPackage	152425949506755
AWS Elemental MediaStore	137888129015586
AWS Elemental MediaTailor	449585869665577
AWS Fargate	373721804865026
AWS Firewall Manager	469667373308658
AWS Global Accelerator	473159320382312
AWS Glue	452288516416282
AWS Greengrass	264838235466609
AWS Identity and Access Management (IAM)	820812409281524
AWS IoT	915544832875685
AWS Key Management Service (AWS KMS)	914214388383313
AWS Lake Formation	249103686018872
AWS Lambda	547779087801821
AWS License Manager	328597805363723
AWS Marketplace - BYOL	144720776271891
AWS Migration Hub	477488359994735
AWS Mobile Hub	170357417071972
AWS OpsWorks	599434874063716
AWS Organizations	714442623140965
AWS Resource Access Manager (RAM)	949007127455873
AWS RoboMaker	432216692313971
AWS Secrets Manager	118559613500449
AWS Security Hub	156524506415069
AWS Serverless Application Repository	761512070431128
AWS Server Migration Service (SMS)	984236633867769
AWS Service Catalog	187617242150932
AWS Shield	737202731958353
AWS Single Sign-On	640648146192035
AWS Snowball Edge	501186585355398
AWS Snowmobile	935963221560026
AWS Step Functions	922567536898767
AWS Storage Gateway	440140710222706

AWS Systems Manager	508278572539054
AWS Transfer for SFTP	749755488464547
AWS Transit Gateway	687999769386597
AWS Trusted Advisor	826903993310593
AWS Web Application Firewall (AWS WAF)	982259272412284
AWS Well-Architected Tool	502421379112380
AWS X-Ray	373849910420349
Elastic Load Balancing (ELB)	294484674808787
Service Quotas	341508500024776
VMWare Cloud on AWS	835058600217417

## Lot 2:

<b>G-Cloud 12 – AWS EMEA SARL, UK Branch Service</b>	<b>DM Service ID</b>
Alexa for Business	467642496560864
Amazon AppStream 2.0	853396334353462
Amazon Chime	677479230208689
Amazon Connect	607496186436084
Amazon Route 53	385984292971681
Amazon WorkDocs	754727736789621
Amazon WorkMail	709232849499559
Amazon WorkSpaces	451508133935256
AWS Marketplace - BYOL	510212267409362
CloudEndure Disaster Recovery (DR)	784887146146435
CloudEndure Migration	851423050681419

## Lot 3:

<b>G-Cloud 12 – AWS EMEA SARL, UK Branch Service</b>	<b>DM Service ID</b>
AWS Cloud Services (AWS ProServe)	521404645039678
AWS Managed Services (AMS)	551710030341130
AWS Support - Basic	268854918153445
AWS Support - Business	937623782654274
AWS Support - Developer	613774191328167
AWS Support - Enterprise	524841344704085
Big Data and Data Science Cloud Services (AWS ProServe)	288705742084246
Building GxP Compliance On AWS (AWS ProServe)	510394378629117
Business Transformation and Cloud Adoption Services (AWS ProServe)	971771392485820
Cloud Application Modernisation (AWS ProServe)	745549158240304
Cloud Contact Centre Services (AWS ProServe)	446040165631225
Cloud Database Services (AWS ProServe)	843465157634646

Cloud End User Computing (AWS ProServe)	704050639458939
Cloud Enterprise Architecture (AWS ProServe)	559103671445647
Cloud Innovation Services (AWS ProServe)	472281801048175
Cloud Kickstarter for AWS (AWS ProServe)	498794724022841
Cloud Migration Services (AWS ProServe)	308498616729731
Cloud Operations Services (AWS ProServe)	209014681173653
Cloud Security Services (AWS ProServe)	433084200625527
DevOps, Continuous Integration (CI) and Continuous Delivery (CD) Cloud Services (AWS ProServe)	766331903837775
Genomics on AWS (AWS ProServe)	812410986983809
IOT Cloud Services (AWS ProServe)	877452019358662
Machine Learning (ML) and Artificial Intelligence (AI) Cloud Services (AWS ProServe)	675754178716742
Rapid GxP Compliant Apps on AWS (AWS ProServe)	270145405242985
Real World Evidence (RWE) (AWS ProServe)	841398371613182
SAP on AWS – Cloud Services (AWS ProServe)	440838057387254
ServiceNow on AWS Cloud (AWS ProServe)	231176680805615
Store Protect and Optimise (SPO) Your Healthcare Data (AWS ProServe)	424463874659392
Training: Advanced Architecting on AWS	576859223224550
Training: Advanced Developing on AWS	952072364047539
Training: Architecting on AWS	696318305367722
Training: Architecting on AWS - Accelerator	112711433517340
Training: AWS Business Essentials	565705196379512
Training: AWS Cloud Practitioner Essentials	436357865708109
Training: AWS Technical Essentials	788475988810943
Training: Big Data on AWS	908124842245954
Training: Building a Serverless Data Lake on AWS	140975389766286
Training: Cloud Financial Management for Builders	113809136825112
Training: Data Warehousing on AWS	275205811555307
Training: Deep Learning on AWS	683418495717027
Training: Developing on AWS	364368553723518
Training: DevOps Engineering on AWS	828819727440790
Training: Migrating to AWS	456710065202545
Training: Planning and Designing Databases on AWS	799719130382794
Training: Practical Data Science with Amazon SageMaker	939117600162284
Training: Running Container-Enabled Microservices on AWS	473922602505856
Training: Security Engineering on AWS	713074901998003
Training: Systems Operations on AWS	373078177022288

The detailed technical description is found in Suppliers Service Description documents on the Digital Marketplace:

Lot 1 Cloud Compute is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/872289059276702->





service-definition-document-2020-07-18-1221.pdf

Lot 1 Amazon CodeGuru, Amazon Detective, Amazon Fraud Detector, Amazon Kendra, Amazon Managed Streaming for Apache Kafka, AWS Chatbot, Amazon Keyspaces (for Apache Cassandra) is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/338677652297837-service-definition-document-2020-07-18-1147.pdf>

Lot 1 AWS Data Exchange (BYOS) is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/214763882715332-service-definition-document-2020-07-18-1153.pdf>

Lot 1 VMware Cloud on AWS:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/835058600217417-service-definition-document-2020-07-20-0947.pdf>

Lot 1 AWS Rekognition is available here

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/193610759779128-service-definition-document-2020-07-18-1145.pdf>

Lot 2 AWS Marketplace (BYOL) is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/144720776271891-service-definition-document-2020-07-18-1154.pdf>

Lot 2 CloudEndure Migration is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/851423050681419-service-definition-document-2020-07-18-1142.pdf>

Lot 2 CloudEndure DR is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/784887146146435-service-definition-document-2020-07-18-1143.pdf>

Lot 3 Professional Services is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/877452019358662-service-definition-document-2020-06-28-1613.pdf>

Lot 3 Support Services is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/524841344704085-service-definition-document-2020-07-18-1140.pdf>

Lot 3 Training Services is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/565705196379512-service-definition-document-2020-07-09-1328.pdf>

Lot 3 AWS Managed Services is available here:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/551710030341130-service-definition-document-2020-06-30-1153.pdf>



## Schedule 2: Call-Off Contract charges

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

The Charges for Lot 1 and 2 Services shall be calculated in accordance with Suppliers Pricing Document found on the Digital Marketplace at the below link.

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/872289059276702-pricing-document-2020-07-07-1309.ods>

Lot 1 VMware Cloud on AWS:

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/835058600217417-pricing-document-2020-11-09-0946.pdf>

The Charges for Lot 3 AWS Support Services shall be calculated in accordance with Suppliers Pricing Document found on the Digital Marketplace at the below link.

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/268854918153445-pricing-document-2020-07-17-1603.pdf>

The Charges for Lot 3 AWS Professional Services shall be calculated in accordance with Suppliers Pricing Document found on the Digital Marketplace at the below link.

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/231176680805615-pricing-document-2020-07-10-1451.pdf>

The Charges for Lot 3 AWS Training Services shall be calculated in accordance with Suppliers Pricing Document found on the Digital Marketplace at the below link.

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/113809136825112-pricing-document-2020-09-28-1139.pdf>

The Charges for Lot 3 AWS Managed Services shall be calculated in accordance with Suppliers Pricing Document found on the Digital Marketplace at the below link.

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/93253/551710030341130-pricing-document-2020-06-30-1624.pdf>



## Annex 1 – OGVA Addendum

### OGVA ADDENDUM

This OGVA Addendum supplements the Call-Off Contract entered into between the Parties.

#### 1. Pricing Terms.

Term	Meaning
<b>Discount Term</b>	<p>1<sup>st</sup> February 2021 – 31<sup>st</sup> January 2024</p> <p>The Discount Term will start on the 1st day of the month following the month in which the Call-Off Contract is executed, provided that the Buyer provides the executed Call-Off Contract to the Supplier no later than the 20th of the month. If the Buyer returns the executed contract to the Supplier after the 20th of the month, the Discount Term will start on the first day of the second month after execution (e.g. if an executed Call-Off Contract is returned to the Supplier by 20th May, the Discount Term will start on 1st June, but if an executed Call-Off Contract is returned to the Supplier on the 25th May, the Discount Term will start on 1st July).</p>
<b>Contract Year</b>	<p>Contract Year 1: 1<sup>st</sup> February 2021 – 31<sup>st</sup> January 2022</p> <p>Contract Year 2: 1<sup>st</sup> February 2022 – 31<sup>st</sup> January 2023</p> <p>Contract Year 3: 1<sup>st</sup> February 2023 – 31<sup>st</sup> January 2024</p>
<b>Spend Commitment</b>	<p>Contract Year 1: \$2,785,383</p> <p>Contract Year 2: \$2,785,383</p> <p>Contract Year 3: \$2,785,383</p>
<b>Eligible Payer Accounts</b>	917971552501
<b>VMware Cloud Account</b>	The Eligible Accounts that you identify in a VMC Order Form submitted to vmware_orders@amazon.com.
<b>VMware Cloud Spend Commitment</b>	\$0
<b>Baseline Discount</b>	18%
<b>Prevailing Discount</b>	<p>means the discount rate under the Enterprise Discount Tier Scheme that will apply during the applicable period in accordance with clause 3, such discount rate to be determined by the Supplier as follows:</p> <ol style="list-style-type: none"> <li>1) up to and including the date of the first Review Point, the discount tier will be determined by the Operational Commitment; and</li> <li>2) at each subsequent Review Point, the Supplier will calculate the total Operational Spend in the twelve (12) month period immediately prior to the relevant Review Point (or based an annualised calculation if there is less than twelve (12) months of actual spend data) to determine which discount tier will apply for the subsequent 3 month period and will notify the Buyer of the revised rate, if applicable.</li> </ol> <p>The higher of 1) or 2) will determine the Prevailing Discount rate. Changes in the Prevailing Discount rate will take effect from the first day of the month following the Review Point.</p>
<b>Review Point</b>	<p>Reviewed by the last day of the following months (taking into account spend up to the end of the prior month):</p> <ul style="list-style-type: none"> <li>• March 2021</li> <li>• June 2021</li> </ul>

Term	Meaning				
	<ul style="list-style-type: none"> <li>September 2021</li> <li>December 2021</li> <li>March 2022</li> <li>June 2022</li> <li>September 2022</li> <li>December 2022</li> <li>March 2023</li> <li>June 2023</li> <li>September 2023</li> <li>November 2023</li> </ul>				
<b>Upfront Payment</b>	Partial - at least 50%, but less than 100%, of the Spend Commitment for the relevant Contract Year; or Full - 100% of the Spend Commitment for the relevant Contract Year.				
<b>Upfront Payment Discount</b>	1% discount on fees for Eligible Services paid with Partial Upfront Payments 2% discount on fees for Eligible Services paid with Full Upfront Payments				
<b>AWS Professional Services Discount</b>	15% discount on the Total SOW Cost for use of AWS Professional Services for each Eligible SOW.				
<b>Operational Spend</b>	The sum of the aggregate Commitment-Eligible Fees under all participants in the Enterprise Tier Discount Scheme with active Call-Off Contracts under the OGVA during the applicable period.				
<b>Operational Commitment</b>	The sum of the aggregate Spend Commitments of all participants in the Enterprise Tier Discount Scheme with active Call-Off Contracts under the OGVA during the relevant period.				
<b>Commitment-Eligible Fees</b>	The following fees, which count towards the Spend Commitment: <ol style="list-style-type: none"> <li>Upfront Payments paid to AWS for each Contract Year (excluding amounts applied to taxes in accordance with clause 9);</li> <li>the following fees incurred under Eligible Accounts (excluding fees paid for by applying the Available Balance in accordance with clause 9, excluding taxes, and net of any applicable discounts and refunds):               <ol style="list-style-type: none"> <li>fees for use of Services (including fees for use of AWS Professional Services and AWS Training under a mutually-agreed statement of work or training order form) in Eligible Regions;</li> <li>50% of fees for purchases on AWS Marketplace; and</li> </ol> </li> <li>the VMware Cloud Fees (excluding taxes, and net of any applicable discount and refunds).</li> </ol>				
<b>Government Standard Support</b>	<p>A variant of the Supplier's Enterprise Support service with the following feature changes replacing those corresponding features of the Enterprise Support service:</p> <table border="1"> <thead> <tr> <th>Feature</th><th>Description</th></tr> </thead> <tbody> <tr> <td><b>Proactive Programs</b></td><td> <p>Limited to 1 per quarter:</p> <ul style="list-style-type: none"> <li>Infrastructure Event Management</li> <li>Well-Architected Reviews</li> <li>Operations Reviews</li> </ul> <p>Access to a shared Technical Account Manager (TAM), resourced from a pool, who will coordinate access to programs</p> </td></tr> </tbody> </table>	Feature	Description	<b>Proactive Programs</b>	<p>Limited to 1 per quarter:</p> <ul style="list-style-type: none"> <li>Infrastructure Event Management</li> <li>Well-Architected Reviews</li> <li>Operations Reviews</li> </ul> <p>Access to a shared Technical Account Manager (TAM), resourced from a pool, who will coordinate access to programs</p>
Feature	Description				
<b>Proactive Programs</b>	<p>Limited to 1 per quarter:</p> <ul style="list-style-type: none"> <li>Infrastructure Event Management</li> <li>Well-Architected Reviews</li> <li>Operations Reviews</li> </ul> <p>Access to a shared Technical Account Manager (TAM), resourced from a pool, who will coordinate access to programs</p>				

Term	Meaning		
			and other AWS experts as needed. TAM support is booked via a shared calendar.
		Technical Account Management	Support from the TAM pool to help proactively monitor your environment and assist with optimization
	Except as set out above, all other features of the Government Standard Support service are as defined in the Supplier's Services Definition Document on the Digital Marketplace.		
Government Standard Support Fee	A fee for use of Government Standard Support equal to the product of: (X) the Buyer's total fees for use of the Services under Eligible Accounts in the month, excluding (i) the application of any other discounts (including credits), (ii) fees for AWS Support, AWS Managed Services, AWS Marketplace, AWS Professional Services, and AWS Training and Certification, and (iii) taxes, multiplied by (Y) 0.1.		

**2. Support.** For the duration of the Discount Term, the Buyer agrees that the Buyer's Eligible Accounts will be enrolled in either Enterprise Support or Government Standard Support. For Government Standard Support, the Buyer will pay the Government Standard Support Fee each month. If the Buyer's Spend Commitment is equal to or greater than \$1,800,000 per Contract Year, the Buyer's Eligible Accounts will be enrolled in Enterprise Support. If the Buyer's Commitment-Eligible Fees incurred during a Contract Year exceed \$1,800,000, the Buyer's Eligible Accounts will be enrolled in Enterprise Support for the following Contract Year.

**3. Discount.** The Supplier will apply the Baseline Discount or the Prevailing Discount, whichever is the higher, to fees for use of Eligible Services under Eligible Accounts. The Supplier will apply any discount expressed as a percentage to pricing for the Eligible Services detailed in the Supplier's Pricing Document on the Digital Marketplace. The discounting under this Addendum may not be combined with any other discounts (including with any discounts on the Supplier's site). The Supplier will apply the relevant discount except where any component of an Eligible Service is entitled to discounting under another agreement. The Supplier will apply the discounting during the Discount Term so long as the Buyer complies with the terms of this Call-Off Contract. The Buyer acknowledges and agrees that:

- a. following the first Review Point, the Prevailing Discount may change (increase or decrease) during the Discount Term based on the Operational Spend;
- b. the Prevailing Discount may decrease in the event that one or more Enterprise Tier Discount Scheme participants' Call-Off Contract terminates or expires; and
- c. a change in the Prevailing Discount will not apply retrospectively and will not change the Baseline Discount.

**4. Optional Upfront Payments.** If the Buyer elects to make a full or partial Upfront Payment of the Spend Commitment for a Contract Year ("**Optional Upfront Payment**"), then the Buyer shall receive the Upfront Payment Discount (as applicable) in addition to the discount the Buyer receives under clause 3 on fees paid with an Optional Upfront Payment. Fees for Eligible Services above the sum covered by any Upfront Payment will be subject only to the discount the Buyer receives under clause 3. For each Contract Year, the Buyer may elect to make an Optional Upfront Payment by providing the Supplier a completed and signed notice in the form attached as Attachment 1 (each, an "**Optional Upfront Payment Election Notice**") at least 90 days prior to the first day of the relevant Contract Year. By submitting an Optional Upfront Payment Election Notice to [aws-ppco-contracts@amazon.com](mailto:aws-ppco-contracts@amazon.com), the Buyer agrees to make the Optional Upfront Payment. Once an Optional Upfront Payment Election Notice is signed and delivered to the Supplier for a Contract Year, the Optional Upfront Payment may not be modified. If you do not submit an Optional Upfront Payment Election Notice for any Contract Year, you will be deemed to have elected to make an Optional Upfront Payment of \$0 for that Contract Year. The Upfront Payment Discount will only apply once payment of the Optional Upfront Payment is received by the Supplier. The Buyer will pay the Supplier the Upfront Payment for Contract Year 1 by the later of: (i) the last day of the month in which the Start Date occurs; and (ii) seven days after the date of the request for such payment. The Buyer will pay the Supplier the Upfront Payment for each following Contract Year before the first day of the applicable Contract Year. Upfront Payments will not be applied to any fees or any taxes incurred before the Contract Year to which the Upfront Payment relates.

**5. AWS Professional Services Discount.** If applicable, the Supplier will apply the AWS Professional Services Discount for use of AWS Professional Services. For each Eligible SOW, the Buyer is responsible for all expenses incurred in connection with the delivery of AWS Professional Services, and the AWS Professional Services Discount will not apply to such expenses.

**6. VMware Cloud on AWS direct through the Supplier.**

a. **Order Form.** Prior to making the first purchase of VMware Offerings under a VMware Cloud Account, the Buyer will submit an order form as provided by the Supplier ("**VMC Order Form**"). Buyer will receive an e-mail requiring the completion of an onboarding process. Once the Buyer has



completed the onboarding process with AWS, the Buyer may begin to provision VMware Offerings under a VMware Cloud Account. All purchases of VMware Offerings will be made directly through a console provided by VMware.

b. **VMware Cloud Discount.** AWS will apply the Baseline Discount rate or the Prevailing Discount rate, whichever is the higher, to fees for use of Eligible VMware Cloud Subscriptions under the VMware Cloud Account in VMware Cloud Regions. The Supplier will apply any discount expressed as a percentage to standard prices in the Supplier's Pricing Document on the Digital Marketplace. The discounting under this Section 6 may not be combined with any other discounts (including G-Cloud discounts or with any discounts on the Supplier's site). The Supplier will apply the discounting during the Discount Term so long as the Buyer complies with the terms of this Call-Off Contract. Notwithstanding any agreements to the contrary, purchases of Amazon Elastic Block Store ("**Amazon EBS**") and/or Elastic vSAN that are associated with provisioning Eligible VMware Cloud Subscriptions will be charged at standard pricing. Purchases of Amazon EBS that are not associated with provisioning Eligible VMware Cloud Subscriptions will receive the discount under clause 3. Notwithstanding any other provision of this Addendum, Upfront Payment Discounts do not apply to VMware Offerings.

## 7. **Commitments.**

a. **Spend Commitment.** If the Commitment-Eligible Fees incurred during a Contract Year are less than the applicable Spend Commitment, then the Buyer will pay the Supplier a Spend Commitment Shortfall Payment.

b. **VMware Cloud Spend Commitment.** If the VMware Cloud Fees incurred during the Discount Term are less than the VMware Cloud Spend Commitment, then the Buyer will pay the Supplier a VMware Cloud Spend Commitment Shortfall Payment.

8. **Payments.** Except as otherwise provided in the Call-Off Contract, the Buyer will pay all amounts due in U.S. dollars. The Buyer will pay all amounts in accordance with the payment terms of the Call-Off Contract. All payment obligations under this Addendum will survive expiration or termination.

9. **Available Balance.** During the Discount Term, the Supplier will apply the Available Balance to fees and any taxes for use of Eligible Services. Other than when it reflects the residual sum of an Upfront Payment following termination in accordance with clause 11.b.i. below or following the settlement of a liability arising pursuant to clause 11.b.ii below, the Available Balance is nonrefundable, will not reduce the Buyer's Upfront Payment (if applicable) or Spend Commitment Shortfall Payment obligations, and is not a deposit for or credit toward the purchase of any services after the Discount Term. After the Discount Term, the Supplier will invoice the Buyer for an amount equal to any remaining Available Balance, and such Available Balance will be applied against such invoiced amount.

10. **Programme selection.** The OGVA (and any Eligible Accounts that the Buyer includes in the OGVA) cannot be combined with any other discount programme, including but not limited to, the UKGDP or UKVCP. In the event the Buyer has Eligible Accounts that are already participating in any other discount programmes, such accounts shall be excluded from the OGVA.

## 11. **Term; Termination.**

a. **Term.** The term of this Addendum commences on the Start Date and ends on the last day of the Discount Term.

### b. **Termination by the Buyer.**

- i. If the Buyer terminates this Call-Off Contract for cause in accordance with the Call-Off Contract, any Spend Commitment Shortfall Payment obligations or VMware Cloud Spend Commitment Shortfall Payment obligations arising after the effective date of such termination will not apply. If applicable, the Supplier will refund the remaining balance of any Upfront Payment paid to the Supplier for the Contract Year of such termination, less any incurred and unpaid fees for the Eligible Services as of the effective date of such termination.

- ii. Subject to 11bii(4) to below, if the Buyer terminates this Call-Off Contract for convenience in accordance with the Call-Off Contract, the following process will apply in accordance with the Enterprise Tier Discount Scheme:
  - (1) If the Buyer has met the aggregate Spend Commitment, then no Return Amount will be required to be made to the Supplier;
  - (2) If Buyer has not met the aggregate Spend Commitment, then, subject to clause 11bii(3) below, the Spend Commitment Shortfall Payment:
    - (a) can be offset (in full or in part) against any positive amount from the aggregate Operational Spend that is over and above the aggregate Operational Commitment amount at the time of termination; and
    - (b) if, after the Buyer applies the offsetting in accordance with clause 11bii(2)(a) above, there remains a positive Spend Commitment Shortfall Payment amount, the Buyer will pay the Supplier the lesser of: (i) the remaining positive Spend Commitment Shortfall Payment amount, and (ii) the Return Amount.
  - (3) The Buyer acknowledges and agrees that:
    - (a) overspend against the Operational Spend used to partially or fully offset an individual Buyer's Spend Commitment Shortfall Payment under clause 11bii(2)(a) above can only be used once at the overall group level for this purpose. The second and any subsequent instance of any participant in the Enterprise Tier Discount Scheme terminating their Call-Off Contract for convenience will take into account any overspend sums that have been previously offset in this way when calculating the available group level overspend for any future offsetting;
    - (b) if more than one participant in the Enterprise Tier Discount Scheme wishes to terminate their Call-Off Contract for convenience in a given month, any available overspend against the Operational Spend will be shared between the terminating Enterprise Tier Discount Scheme participants on a pro-rata basis for the purposes of offsetting each individual participant's Spend Commitment Shortfall Payment; and
    - (c) the offsetting mechanism under clause 11bii(2)(a) will not apply in the event the Buyer terminates the Call-Off Contract within the last three (3) months of the Discount Term. In this case, the Buyer will pay the Supplier the lesser of: (i) the total value of the aggregate Spend Commitments under this Addendum, less the Commitment-Eligible Fees the Buyer paid during the Discount Term as of the effective date of termination, and (ii) the Return Amount.
  - (4) Notwithstanding anything in this Section 11bii, the Buyer must meet its obligations set forth in Section 7b.

**c. Termination by the Supplier.** If the Supplier terminates the Call-Off Contract for cause in accordance with the Call-Off Contract, the Buyer will pay the Supplier the lesser of: (i) an amount equal to the sum of (x) the Spend Commitments less the Commitment-Eligible Fees the Buyer paid during the Discount Term as of the effective date of termination, and (y) the VMware Cloud Spend Commitment less the VMware Cloud Fees the Buyer paid during the Discount Term as of the effective date of termination; and (ii) the Return Amount. Following such payment, any Spend Commitment Shortfall Payment obligations or VMware Cloud Spend Commitment Shortfall Payment obligations arising after the effective date of such termination will not apply.

**12. Expiry of the MOU.** In the event that the MOU is terminated or expires and is not replaced by CCS and the Supplier, the Enterprise Tier Discount Scheme will cease to operate, after which:

- a. fees for Eligible Services and fees for Eligible VMware Cloud Subscriptions will be invoiced on the basis of the Baseline Discount until the end of the Discount Term; and
- b. the Buyer will no longer be able to take advantage of the benefits associated with the Enterprise Tier Discount Scheme.

**13. Nondisclosure.** Each party agrees that the existence and terms of this Addendum are not publicly known and will not be disclosed by that party. Despite anything to the contrary in this Addendum, a party may exchange confidential information of the other party with VMware solely for



the purpose of exercising rights or performing obligations, or as otherwise contemplated under this Addendum.

**14. Definitions.** Capitalised terms have the meanings set forth in the Call-Off Contract or unless otherwise defined in this Addendum.

**“Available Balance”** means the remaining balance of any Upfront Payment (if applicable) and Spend Commitment Shortfall Payment paid to the Supplier during the term of this Addendum.

**“Eligible Accounts”** means the following accounts: (i) the Eligible Payer Accounts, other than any Eligible Payer Account that the Supplier agrees to remove at the Buyer’s request; (ii) any account that the Supplier agrees to add as an Eligible Payer Account at the Buyer’s request; and (iii) any Member Accounts joined via AWS Organizations to an Eligible Payer Account; provided that this Addendum: (x) applies only to accounts that have been opened by the Buyer for use by the Buyer, and that are registered with email addresses issued by the Buyer; and (y) will not apply to any Eligible Payer Account that is joined via AWS Organizations to an account that is not an Eligible Account. The Buyer will provide Supplier the Eligible Account IDs by sending notice of same to the Supplier at [aws-gcloud@amazon.com](mailto:aws-gcloud@amazon.com).

**“Eligible Regions”** means the AWS regions and locations listed at <https://regionslist.s3.amazonaws.com/Eligible+Regions.pdf>.

**“Eligible Services”** means the services listed under Lot 1 and Lot 2 in the Call-Off Contract and excludes: (i) the Services listed at <https://ineligibleserviceslist.s3.amazonaws.com/s3.amazonaws.com/Ineligible+Services.pdf>; (ii) VMware Offerings ; and (iii) CloudEndure services.

**“Eligible SOW”** means a mutually-agreed statement of work entered into during the Discount Term for AWS Professional Services to be delivered in locations approved by the Supplier.

**“Eligible VMware Cloud Subscriptions”** means VMware Cloud on AWS as described on the Supplier’s Pricing Document on the Digital Marketplace, purchased as a one-year subscription or a three-year subscription under a VMware Cloud Account in the VMware Cloud Region.

**“Enterprise Tier Discount Scheme”** means the discount scheme, as agreed between the Supplier and CCS under the MOU.

**“MOU”** means the ‘*One Government Value Agreement for AWS Services - Memorandum of Understanding*’ entered into between the Supplier and Crown Commercial Services, on or about [insert date].

**“OGVA”** means the One Government Value Agreement for AWS Services.

**“Other VMware Services”** means any additional VMware services not including Eligible VMware Cloud Subscriptions, that are provisioned under a VMware Cloud Account.

**“Return Amount”** means the amount of the total discounting received under this Addendum.

**“Spend Commitment Shortfall Payment”** means an amount equal to the applicable Spend Commitment less the Commitment-Eligible Fees incurred during the applicable period.

**“Total SOW Cost”** means the aggregate cost of AWS Professional Services stated in an Eligible SOW at the time of execution, excluding any expenses.

**“VMware”** means VMware, Inc., if the billing address for the VMware Cloud Account is in the United States, or VMware International Unlimited Company, a company organized and existing under the laws of Ireland, if the billing address for the VMware Cloud Account is outside of the United States.

**“VMware Cloud Add-On Services”** means the VMware add-on services that are listed on the Supplier’s Pricing Document on the Digital Marketplace.

**“VMware Cloud Fees”** means fees incurred under the VMware Cloud Account in the VMware Cloud Region for use of VMware Offerings.

**“VMware Cloud Region”** means: Europe West (London).



**“VMware Cloud Spend Commitment Shortfall Payment”** means an amount equal to the VMware Cloud Spend Commitment less the VMware Cloud Fees incurred during the Discount Term.

**“VMware Offerings”** means Eligible VMware Cloud Subscriptions, VMware Cloud Add-On Services, and Other VMware Services, collectively, provided by VMware and purchased through the Supplier under a VMware Cloud Account in a VMware Cloud Region.

### Attachment [X]


### Optional Upfront Payment Increase Notice

This Optional Upfront Payment Increase Notice is provided pursuant to the OGVA Addendum, effective as of [x], by and among [Amazon Web Services, EMEA SARL] and [Buyer] (the **“Addendum”**). All capitalised terms used but not defined in this Optional Upfront Payment Increase Notice have the meanings set forth in the Addendum.

This Optional Upfront Payment Increase Notice will apply to the following Contract Year with the Optional Upfront Payment Increase indicated below:

Optional Upfront Payment (select the Contract Year)	
<input type="radio"/>	Contract Year
1:	\$2,785,383
<input type="radio"/>	Contract Year
2:	\$0
<input type="radio"/>	Contract Year
3:	\$0

**AGREED BY:** Driver Vehicle Standards Agency DVSA

By: 

Name: Loveday Ryder

Title: Chief Executive

Date signed: 06/01/2021





## PEGGED EXCHANGE RATE ADDENDUM

This Pegged Exchange Rate Terms and Conditions Addendum (this “Addendum”), effective as of 1 December 2020 (the “Rate Program Effective Date”), is separate from and in addition to the terms of the Call-Off Contract (G-Cloud 12 Call-Off Contract – RM1557.12) governing your use of Services (the “Agreement”), between the Amazon Web Services EMEA SARL, UK Branch (“AWS”, “we”, “us” or “our”) and Customer (“you”); and describes additional terms under which you may use the services described in this Addendum (“Rate Program”) in connection with your use of our Services. Capitalized terms used herein but not defined herein have the meaning ascribed to them in the Agreement. In addition to the terms applicable to Services and Service Offerings under the Agreement, the terms of which are hereby incorporated herein, the following terms and conditions will apply to your participation in the Rate Program:

1. During the Rate Program Term, you agree to pay Charges for use of the Services in the currency listed on Attachment A attached hereto (the “Payment Currency”). You agree that the pre-pay and post-pay invoices you receive for Services provided directly by AWS, including taxes, will have the USD total amount converted to the Payment Currency using the Applicable Exchange Rate listed on Attachment A (the “Applicable Exchange Rate”). AWS reserves the right to add or remove Services covered under the Rate Program at any time with written notice. When using the Rate Program you are not tendering payment in one currency and receiving from us another currency.
2. The term of this Addendum will commence on the Rate Program Effective Date and will continue until terminated pursuant to this Section 2 (the “Rate Program Term”). Either party may terminate this Addendum at any time by providing 30 days’ written notice, except that you may not terminate this Addendum during the term of any AWS Enterprise Discount Program Addendum, Private Pricing Addendum or any other custom pricing agreement between AWS and you (as applicable, the “Custom Pricing Addendum”). Notwithstanding anything in this Addendum to the contrary, this Addendum will terminate immediately upon termination of the Agreement. Upon termination of this Addendum, all invoices generated in the future will be billed and payable by you in USD.
3. While using the Rate Program, all fees and charges for your use of the Rate Program are included in the Applicable Exchange Rate. The payment total will be derived by applying the Applicable Exchange Rate to your Charges total, including taxes, and will be the amount reflected on your invoice. In some cases your bank may still charge you a separate wire transfer fee for making a payment. Your use of the Rate Program and these terms and conditions do not give you any extra rights under the Agreement.
4. For a specified payer account, or list of existing payer accounts as identified in the Agreement, the Applicable Exchange Rate applies at the time of invoice generation. The payer accounts must match the payer accounts listed on the Custom Pricing Addendum. During the Rate Program Term, Charges for the use of the Services and any payment obligations under the Custom Pricing Addendum (including any up-front payment) are to be paid by you following the remittance instructions provided in writing for each invoice generated thereafter, unless and until this Addendum is terminated in accordance with Section 2. Some invoices, such as those issued on behalf of third parties on the AWS Marketplace and external training are not covered by the terms of this Addendum and will continue to be generated in USD and payable in USD. Please note that as of the Rate Program Effective Date, the Custom Pricing Addendum no longer applies



to AWS Implementation Services (i.e., AWS Professional Services and AWS Training).

5. Regardless of your payments in Payment Currency hereunder, your commitment to incur a certain amount of the Charges for use of Services under the Custom Pricing Addendum, and the application of such Charges to that commitment, will be determined in USD. During the Rate Program Term, any up-front payment under the Custom Pricing Addendum (a "Custom Pricing Up-Front Payment") will be invoiced and paid in Payment Currency. The amount of a Custom Pricing Up-Front Payment in Payment Currency will be determined by AWS by applying the Applicable Exchange Rate in effect on the date that AWS generates the invoice for that Custom Pricing Up-Front Payment. Except as provided below, at any time during the term of the Custom Pricing Addendum the remaining balance of a Custom Pricing Up-Front Payment will be the actual balance of that Custom Pricing Up-Front Payment then remaining in Payment Currency. In the event that AWS chooses to terminate this Addendum during the term of the Custom Pricing Addendum in accordance with Section 2, and the full amount of an Custom Pricing Up-Front Payment thereunder has not yet been applied to your Charges for use of Services, then the unused portion of that Custom Pricing Up-Front Payment will be converted to USD at the then current Bloomberg Major World

Currency Market Rate, as determined by AWS in its sole discretion (the "USD Adjusted UpFront Payment Balance"). Thereafter, the USD Adjusted Up-Front Payment Balance will represent your remaining Custom Pricing Up-Front Payment balance. No amount is payable by either party as a result of such conversion.

6. The Applicable Exchange Rate is subject to revision (a) on each Scheduled Rate

Revision Date (as defined in Attachment A); (b) upon the occurrence of an Unscheduled Rate Revision Event (as defined in Attachment A); and (c) pursuant to our right to make changes to this Addendum in accordance with Section 10. Notwithstanding the occurrence of a Scheduled Rate Revision Date or Unscheduled Rate Revision Event, any revision to the Applicable Exchange Rate shall be effective only as expressly set forth in a written notice provided by us to you in accordance with Section 10.

7. Notwithstanding the foregoing, the Rate Program is not made separately available for use, and is made available for use only in connection with the Services and Service Offerings under the Agreement. The Rate Program is not traded on an organized market or over-the counter. You and AWS each represent and warrant that the Agreement, as supplemented by this Addendum, serves a commercial, business or non-profit purpose independent from speculating, hedging or investing in transactions in foreign exchange.

8. The existence of this Addendum is not publicly known and constitutes AWS Confidential Information under the Agreement. You will not issue any press release or public statement regarding this Addendum or the Rate Program unless AWS has approved in writing the time, form and content of the information to be disseminated to third parties or the public.

9. This Addendum and any dispute of any sort that may arise between you and us are governed by and construed in accordance with the laws of England, without regard to principles of conflict of laws. Any dispute relating to or arising from this Addendum where a party seeks aggregate relief of \$7,500 USD or more shall be adjudicated only in an English Court. You consent to exclusive jurisdiction and venue in those courts and waive any challenges or defenses to the exercise of personal jurisdiction by those courts relating to any such disputes. We may seek injunctive or other relief in any state, federal, or national court of competent jurisdiction for any actual or alleged infringement of our, our affiliates, or any third

party's intellectual property or other proprietary rights. The United Nations Convention for the International Sale of Goods does not apply to this Addendum.

10. This Addendum may only be modified upon the written agreement of the parties. Notwithstanding the foregoing, we reserve the right to make changes to or terminate this Addendum at any time by providing 30 days' written notice.

11. Except as amended by this Addendum, the Agreement will remain in full force and effect. This Addendum, supplements and forms an integral part of, and is not severable from, the Agreement or the Services. This Addendum may not be assigned or transferred by either party separately from an assignment or transfer of the entire Agreement in accordance with its terms. This Addendum, together with the Agreement, is intended by the parties as the final, complete and exclusive expression of the terms regarding the subject matter hereof. This Addendum supersedes all prior or contemporaneous representations, understandings, agreements, or communications between you and us, whether written or verbal, regarding the subject matter of this Addendum. We will not be bound by, and specifically object to, any term, condition or other provision which is different from or in addition to the provisions of this Addendum (whether or not it would materially alter this Addendum) and which is submitted by you in any order, receipt, acceptance, confirmation, correspondence or other document. If the terms of this Addendum are inconsistent with the terms contained in the Agreement or any Policy incorporated therein, the terms contained in this document will control solely with respect to your use of and access to the Rate Program. Notwithstanding anything in this Addendum to the contrary, your AWS customer account and your use of the web services offered by AWS are governed by the Agreement. For avoidance of doubt, the Rate Program constitutes a Service Offering under the terms of the Agreement. The parties agree that the provision of and the use of the Rate Program pursuant to this Addendum shall not constitute a "swap" as defined in Section 1a (47) of the U.S. Commodity Exchange Act, as amended. To the fullest extent permitted by applicable law, you agree that AWS, its affiliates, and their respective shareholders, partners, members, officers, directors, principals, employees and agents shall not be liable to you, your affiliates, and their respective shareholders, partners, members, officers, directors, principals, employees or agents for any losses, damages, costs, liabilities, expenses or claims occasioned by, or arising out of, this Addendum, including, without limitation, the provision of the Rate Program or any fluctuations in the exchange rate for the Currency Pair (as defined in Attachment A).

12. If any of these conditions is deemed invalid, void, or for any reason unenforceable by a court, that condition will be deemed severable and will not affect the validity and enforceability of any remaining condition.

**ANNEX 1 – to Pegged Exchange Rate Addendum  
Payment Currency and Exchange Rate**

**Currency Pair:** Pounds Sterling (“GBP”) / United States Dollars (“USD”)

**Payment Currency:** GBP

**Applicable Exchange Rate:** *0.78166 GBP per 1 USD, subject to adjustment from time to time to in accordance with Section 6 of the Addendum*

**Rate Valid Until:** 30<sup>th</sup> April 2021

**Scheduled Rate Revision Date:** 1 May 2021

**Unscheduled Rate Revision Events:** (1) if the Bloomberg Major World Currency Market Rate, as determined by AWS in its sole discretion, fluctuates at least ten percent (10%) from the Applicable Exchange Rate, or (2) AWS determines in its sole discretion to amend the Applicable Exchange Rate then in effect in a manner advantageous to you.

## Part B: Terms and conditions

### 1. Call-Off Contract Start date and length

- 1.1 The Supplier must start providing the Services on the date specified in the Order Form.
- 1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 24 months from the Start date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.
- 1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, provided that this is within the maximum permitted under the Framework Agreement of 2 periods of up to 12 months each.
- 1.4 The Parties must comply with the requirements under clauses 21.3 to 21.8 if the Buyer reserves the right in the Order Form to extend the contract beyond 24 months.

### 2. Incorporation of terms

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

- 4.1 (Warranties and representations)
- 4.2 to 4.7 (Liability)
- 4.11 to 4.12 (IR35)
- 5.4 to 5.5 (Force majeure)
- 5.8 (Continuing rights)
- 5.9 to 5.11 (Change of control)
- 5.12 (Fraud)
- 5.13 (Notice of fraud)
- 7.1 to 7.2 (Transparency)
- 8.3 (Order of precedence)
- 8.6 (Relationship)
- 8.9 to 8.11 (Entire agreement)
- 8.12 (Law and jurisdiction)
- 8.13 to 8.14 (Legislative change)
- 8.15 to 8.19 (Bribery and corruption)
- 8.20 to 8.29 (Freedom of Information Act)
- 8.30 to 8.31 (Promoting tax compliance)
- 8.32 to 8.33 (Official Secrets Act)
- 8.34 to 8.37 (Transfer and subcontracting)
- 8.40 to 8.43 (Complaints handling and resolution)
- 8.44 to 8.50 (Conflicts of interest and ethical walls)
- 8.51 to 8.53 (Publicity and branding)
- 8.54 to 8.56 (Equality and diversity)
- 8.59 to 8.60 (Data protection)

- 8.64 to 8.65 (Severability)
- 8.66 to 8.69 (Managing disputes and Mediation)
- 8.80 to 8.88 (Confidentiality)
- 8.89 to 8.90 (Waiver and cumulative remedies)
- 8.91 to 8.101 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement glossary and interpretation
- any audit provisions from the Framework Agreement set out by the Buyer in the Order Form

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

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

2.2.2 a reference to 'CCS' will be a reference to 'the Buyer'

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

2.3 The Parties acknowledge that they are required to complete the applicable Annexes contained in Schedule 4 (Processing Data) of the Framework Agreement for the purposes of this Call-Off Contract. The applicable Annexes being reproduced at Schedule 7 of this Call-Off Contract.

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

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

### 3. Supply of services

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

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

### 4. Supplier staff

4.1 The Supplier Staff must:

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

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

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

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

## 5. Due diligence

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

## 6. Business continuity and disaster recovery

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their service descriptions.



- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.
- 6.3 If requested by the Buyer prior to entering into this Call-Off Contract, the Supplier must ensure that its business continuity and disaster recovery plan is consistent with the Buyer's own plans.

## 7. Payment, VAT and Call-Off Contract charges

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

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

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

## 9. Insurance

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

- 9.2 The Supplier will ensure that:

- 9.2.1 during this Call-Off Contract, Subcontractors hold third party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000
- 9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit
- 9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
- 9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

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

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

- 9.4.1 a broker's verification of insurance
- 9.4.2 receipts for the insurance premium
- 9.4.3 evidence of payment of the latest premiums due

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

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



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

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

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

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

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

9.8.1 premiums, which it will pay promptly

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

## 10. Confidentiality

10.1 Subject to clause 24.1 the Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under the Data Protection Legislation or under incorporated Framework Agreement clauses 8.80 to 8.88. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

## 11. Intellectual Property Rights

11.1 Unless otherwise specified in this Call-Off Contract, a Party will not acquire any right, title or interest in or to the Intellectual Property Rights (IPRs) of the other Party or its Licensors.

11.2 The Supplier grants the Buyer a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to use the Project Specific IPRs and any Background IPRs embedded within the Project Specific IPRs for the Buyer's ordinary business activities.

11.3 The Supplier must obtain the grant of any third-party IPRs and Background IPRs so the Buyer can enjoy full use of the Project Specific IPRs, including the Buyer's right to publish the IPR as open source.

11.4 The Supplier must promptly inform the Buyer if it can't comply with the clause above and the Supplier must not use third-party IPRs or Background IPRs in relation to the Project Specific IPRs if it can't obtain the grant of a licence acceptable to the Buyer.

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

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

11.5.2 Supplier's performance of the Services

11.5.3 use by the Buyer of the Services

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

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

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

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

11.7 Clause 11.5 will not apply if the IPR Claim is from:

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

11.7.3 other material provided by the Buyer necessary for the Services

11.8 If the Supplier does not comply with clauses 11.2 to 11.6, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money paid for the affected Services.

## 12. Protection of information

12.1 The Supplier must:

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

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

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

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

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

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

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

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

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

### 13. Buyer data

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

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

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

13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.

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

13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:

13.6.1 the principles in the Security Policy Framework:

<https://www.gov.uk/government/publications/security-policy-framework> and

the Government Security Classification policy:

<https://www.gov.uk/government/publications/government-security-classifications>

13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management:

<https://www.cpni.gov.uk/content/adopt-risk-management-approach> and

Protection of Sensitive Information and Assets:

<https://www.cpni.gov.uk/protection-sensitive-information-and-assets>

13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance:

<https://www.ncsc.gov.uk/collection/risk-management-collection>

13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint:

<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>

13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance: \_

<https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>

13.6.6 buyer requirements in respect of AI ethical standards

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

13.8 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.

13.9 The Supplier agrees to use the appropriate organisational, operational and technological processes to keep the Buyer Data safe from unauthorised use or access, loss, destruction, theft or disclosure.

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

## 14. Standards and quality

14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.

14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at: \_  
<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>

14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.

14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.

14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

## 15. Open source

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

## 16. Security

- 16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.
- 16.2 The Supplier will use all reasonable endeavours, software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.
- 16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.
- 16.4 Responsibility for costs will be at the:
  - 16.4.1 Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided
  - 16.4.2 Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control
- 16.5 The Supplier will immediately notify the Buyer of any breach of security of Buyer's Confidential Information (and the Buyer of any Buyer Confidential Information breach). Where the breach occurred because of a Supplier Default, the Supplier will recover the Buyer's Confidential Information however it may be recorded.
- 16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance:  
<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>
- 16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start date.



## 17. Guarantee

17.1 If this Call-Off Contract is conditional on receipt of a Guarantee that is acceptable to the Buyer, the Supplier must give the Buyer on or before the Start date:

17.1.1 an executed Guarantee in the form at Schedule 5

17.1.2 a certified copy of the passed resolution or board minutes of the guarantor approving the execution of the Guarantee

## 18. Ending the Call-Off Contract

18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.

18.2 The Parties agree that the:

18.2.1 Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided

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

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

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

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

18.4.2 any fraud

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

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

18.5.2 an Insolvency Event of the other Party happens

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

- 18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.
- 18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

## 19. Consequences of suspension, ending and expiry

- 19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.
- 19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the Ordered G-Cloud Services until the dates set out in the notice.
- 19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date (whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.
- 19.4 Ending or expiry of this Call-Off Contract will not affect:
- 19.4.1 any rights, remedies or obligations accrued before its Ending or expiration
- 19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry
- 19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses
- 7 (Payment, VAT and Call-Off Contract charges)
  - 8 (Recovery of sums due and right of set-off)
  - 9 (Insurance)
  - 10 (Confidentiality)
  - 11 (Intellectual property rights)
  - 12 (Protection of information)
  - 13 (Buyer data)
  - 19 (Consequences of suspension, ending and expiry)
  - 24 (Liability); incorporated Framework Agreement clauses: 4.2 to 4.7 (Liability)
  - 8.44 to 8.50 (Conflicts of interest and ethical walls)
  - 8.89 to 8.90 (Waiver and cumulative remedies)
- 19.4.4 any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires
- 19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:
- 19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it

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

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

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

19.5.5 work with the Buyer on any ongoing work

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

19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.

19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

## 20. Notices

20.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being 'in writing'.

- Manner of delivery: email
- Deemed time of delivery: 9am on the first Working Day after sending
- Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message

20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

## 21. Exit plan

21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.

- 21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.
- 21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 24 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 18 month anniversary of the Start date.
- 21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.
- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.
- 21.6 The Supplier acknowledges that the Buyer's right to extend the Term beyond 24 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:
- 21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the extension period on terms that are commercially reasonable and acceptable to the Buyer
- 21.6.2 there will be no adverse impact on service continuity
- 21.6.3 there is no vendor lock-in to the Supplier's Service at exit
- 21.6.4 it enables the Buyer to meet its obligations under the Technology Code Of Practice
- 21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.
- 21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:
- 21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier
- 21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer
- 21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier

21.8.4 the testing and assurance strategy for exported Buyer Data

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

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

## 22. Handover to replacement supplier

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

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

22.1.2 other information reasonably requested by the Buyer

22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.

22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

## 23. Force majeure

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

## 24. Liability

24.1 Subject to incorporated Framework Agreement clauses 4.2 to 4.7, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract (whether expressed as an indemnity or otherwise) will be set as follows:

24.1.1 Property: for all Defaults by either party resulting in direct loss to the property (including technical infrastructure, assets, IPR or equipment but excluding any loss or damage to Buyer Data) of the other Party, will not exceed the amount in the Order Form

24.1.2 Buyer Data: for all Defaults by the Supplier resulting in direct loss, destruction, corruption, degradation or damage to any Buyer Data, will not exceed the amount in the Order Form

24.1.3 Other Defaults: for all other Defaults by either party, claims, Losses or damages, whether arising from breach of contract, misrepresentation (whether under common law or statute), tort (including negligence), breach of statutory duty or otherwise will not exceed the amount in the Order Form.

## 25. Premises

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

25.2 The Supplier will use the Buyer's premises solely for the performance of its obligations under this Call-Off Contract.

25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.

25.4 This clause does not create a tenancy or exclusive right of occupation.

25.5 While on the Buyer's premises, the Supplier will:

25.5.1 comply with any security requirements at the premises and not do anything to weaken the security of the premises

25.5.2 comply with Buyer requirements for the conduct of personnel

25.5.3 comply with any health and safety measures implemented by the Buyer

25.5.4 immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury

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

## 26. Equipment

26.1 The Supplier is responsible for providing any Equipment which the Supplier requires to provide the Services.

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

26.3 When the Call-Off Contract Ends or expires, the Supplier will remove the Equipment and any other materials leaving the premises in a safe and clean condition.

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

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

## 28. Environmental requirements

- 28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.
- 28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

## 29. The Employment Regulations (TUPE)

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

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

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

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



- 29.4 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.
- 29.5 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 29.6 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:
- 29.6.1 its failure to comply with the provisions of this clause
- 29.6.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer
- 29.7 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.
- 29.8 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

### 30. Additional G-Cloud services

- 30.1 The Buyer may require the Supplier to provide Additional Services. The Buyer doesn't have to buy any Additional Services from the Supplier and can buy services that are the same as or similar to the Additional Services from any third party.
- 30.2 If reasonably requested to do so by the Buyer in the Order Form, the Supplier must provide and monitor performance of the Additional Services using an Implementation Plan.

### 31. Collaboration

- 31.1 If the Buyer has specified in the Order Form that it requires the Supplier to enter into a Collaboration Agreement, the Supplier must give the Buyer an executed Collaboration Agreement before the Start date.
- 31.2 In addition to any obligations under the Collaboration Agreement, the Supplier must:
- 31.2.1 work proactively and in good faith with each of the Buyer's contractors
- 31.2.2 co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and G-Cloud Services

## 32. Variation process

- 32.1 The Buyer can request in writing a change to this Call-Off Contract if it isn't a material change to the Framework Agreement/or this Call-Off Contract. Once implemented, it is called a Variation.
- 32.2 The Supplier must notify the Buyer immediately in writing of any proposed changes to their G-Cloud Services or their delivery by submitting a Variation request. This includes any changes in the Supplier's supply chain.
- 32.3 If Either Party can't agree to or provide the Variation, the Buyer may agree to continue performing its obligations under this Call-Off Contract without the Variation, or End this Call-Off Contract by giving 30 days notice to the Supplier.

## 33. Data Protection Legislation (GDPR)

- 33.1 Pursuant to clause 2.1 and for the avoidance of doubt, clauses 8.59 and 8.60 of the Framework Agreement are incorporated into this Call-Off Contract. For reference, the appropriate GDPR templates which are required to be completed in accordance with clauses 8.59 and 8.60 are reproduced in this Call-Off Contract document at schedule 7.

## Schedule 3: Collaboration agreement

This agreement is made on [enter date]

between:

- 1) [Buyer name] of [Buyer address] (the Buyer)
- 2) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 3) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 4) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 5) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]
- 6) [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address] together (the Collaboration Suppliers and each of them a Collaboration Supplier).

Whereas the:

- Buyer and the Collaboration Suppliers have entered into the Call-Off Contracts (defined below) for the provision of various IT and telecommunications (ICT) services
- Collaboration Suppliers now wish to provide for the ongoing cooperation of the Collaboration Suppliers in the provision of services under their respective Call-Off Contract to the Buyer

In consideration of the mutual covenants contained in the Call-Off Contracts and this Agreement and intending to be legally bound, the parties agree as follows:

### 1. Definitions and interpretation

- 1.1 As used in this Agreement, the capitalised expressions will have the following meanings unless the context requires otherwise:

- 1.1.1 "Agreement" means this collaboration agreement, containing the Clauses and Schedules
- 1.1.2 "Call-Off Contract" means each contract that is let by the Buyer to one of the Collaboration Suppliers
- 1.1.3 "Contractor's Confidential Information" has the meaning set out in the Call-Off Contracts
- 1.1.4 "Confidential Information" means the Buyer Confidential Information or any Collaboration Supplier's Confidential Information



- 1.1.5 “Collaboration Activities” means the activities set out in this Agreement
- 1.1.6 “Buyer Confidential Information” has the meaning set out in the Call-Off Contract
- 1.1.7 “Default” means any breach of the obligations of any Collaboration Supplier or any Default, act, omission, negligence or statement of any Collaboration Supplier, its employees, servants, agents or subcontractors in connection with or in relation to the subject matter of this Agreement and in respect of which such Collaboration Supplier is liable (by way of indemnity or otherwise) to the other parties
- 1.1.8 “Detailed Collaboration Plan” has the meaning given in clause 3.2
- 1.1.9 “Dispute Resolution Process” means the process described in clause 9
- 1.1.10 “Effective Date” means [insert date]
- 1.1.11 “Force Majeure Event” has the meaning given in clause 11.1.1
- 1.1.12 “Mediator” has the meaning given to it in clause 9.3.1
- 1.1.13 “Outline Collaboration Plan” has the meaning given to it in clause 3.1
- 1.1.14 “Term” has the meaning given to it in clause 2.1
- 1.1.15 “Working Day” means any day other than a Saturday, Sunday or public holiday in England and Wales

## 1.2 General

- 1.2.1 As used in this Agreement the:
  - 1.2.1.1 masculine includes the feminine and the neuter
  - 1.2.1.2 singular includes the plural and the other way round
  - 1.2.1.3 A reference to any statute, enactment, order, regulation or other similar instrument will be viewed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment.
- 1.2.2 Headings are included in this Agreement for ease of reference only and will not affect the interpretation or construction of this Agreement.
- 1.2.3 References to Clauses and Schedules are, unless otherwise provided, references to clauses of and schedules to this Agreement.
- 1.2.4 Except as otherwise expressly provided in this Agreement, all remedies available to any party under this Agreement are cumulative and may be exercised concurrently

or separately and the exercise of any one remedy will not exclude the exercise of any other remedy.

- 1.2.5 The party receiving the benefit of an indemnity under this Agreement will use its reasonable endeavours to mitigate its loss covered by the indemnity.

## 2. Term of the agreement

- 2.1 This Agreement will come into force on the Effective Date and, unless earlier terminated in accordance with clause 10, will expire 6 months after the expiry or termination (however arising) of the exit period of the last Call-Off Contract (the “Term”).
- 2.2 A Collaboration Supplier’s duty to perform the Collaboration Activities will continue until the end of the exit period of its last relevant Call-Off Contract.

## 3. Provision of the collaboration plan

- 3.1 The Collaboration Suppliers will, within 2 weeks (or any longer period as notified by the Buyer in writing) of the Effective Date, provide to the Buyer detailed proposals for the Collaboration Activities they require from each other (the “Outline Collaboration Plan”).
- 3.2 Within 10 Working Days (or any other period as agreed in writing by the Buyer and the Collaboration Suppliers) of [receipt of the proposals] or [the Effective Date], the Buyer will prepare a plan for the Collaboration Activities (the “Detailed Collaboration Plan”). The Detailed Collaboration Plan will include full details of the activities and interfaces that involve all of the Collaboration Suppliers to ensure the receipt of the services under each Collaboration Supplier’s respective [contract] [Call-Off Contract], by the Buyer. The Detailed Collaboration Plan will be based on the Outline Collaboration Plan and will be submitted to the Collaboration Suppliers for approval.
- 3.3 The Collaboration Suppliers will provide the help the Buyer needs to prepare the Detailed Collaboration Plan.
- 3.4 The Collaboration Suppliers will, within 10 Working Days of receipt of the Detailed Collaboration Plan, either:
- 3.4.1 approve the Detailed Collaboration Plan
  - 3.4.2 reject the Detailed Collaboration Plan, giving reasons for the rejection
- 3.5 The Collaboration Suppliers may reject the Detailed Collaboration Plan under clause 3.4.2 only if it is not consistent with their Outline Collaboration Plan in that it imposes additional, more onerous, obligations on them.
- 3.6 If the parties fail to agree the Detailed Collaboration Plan under clause 3.4, the dispute will be resolved using the Dispute Resolution Process.

## 4. Collaboration activities

- 4.1 The Collaboration Suppliers will perform the Collaboration Activities and all other obligations of this Agreement in accordance with the Detailed Collaboration Plan.
- 4.2 The Collaboration Suppliers will provide all additional cooperation and assistance as is reasonably required by the Buyer to ensure the continuous delivery of the services under the Call-Off Contract.
- 4.3 The Collaboration Suppliers will ensure that their respective subcontractors provide all co-operation and assistance as set out in the Detailed Collaboration Plan.

## 5. Invoicing

- 5.1 If any sums are due under this Agreement, the Collaboration Supplier responsible for paying the sum will pay within 30 Working Days of receipt of a valid invoice.
- 5.2 Interest will be payable on any late payments under this Agreement under the Late Payment of Commercial Debts (Interest) Act 1998, as amended.

## 6. Confidentiality

- 6.1 Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Collaboration Suppliers acknowledge that any Confidential Information obtained from or relating to the Crown, its servants or agents is the property of the Crown.
- 6.2 Each Collaboration Supplier warrants that:
  - 6.2.1 any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) will only use Confidential Information for the purposes of this Agreement
  - 6.2.2 any person employed or engaged by it (in connection with this Agreement) will not disclose any Confidential Information to any third party without the prior written consent of the other party
  - 6.2.3 it will take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (except as agreed) or used other than for the purposes of this Agreement by its employees, servants, agents or subcontractors
  - 6.2.4 neither it nor any person engaged by it, whether as a servant or a consultant or otherwise, will use the Confidential Information for the solicitation of business from the other or from the other party's servants or consultants or otherwise
- 6.3 The provisions of clauses 6.1 and 6.2 will not apply to any information which is:
  - 6.3.1 or becomes public knowledge other than by breach of this clause 6

- 6.3.2 in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party
- 6.3.3 received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure
- 6.3.4 independently developed without access to the Confidential Information
- 6.3.5 required to be disclosed by law or by any judicial, arbitral, regulatory or other authority of competent jurisdiction

- 6.4 The Buyer's right, obligations and liabilities in relation to using and disclosing any Collaboration Supplier's Confidential Information provided under this Agreement and the Collaboration Supplier's right, obligations and liabilities in relation to using and disclosing any of the Buyer's Confidential Information provided under this Agreement, will be as set out in the [relevant contract] [Call-Off Contract].

## 7. Warranties

- 7.1 Each Collaboration Supplier warrant and represent that:
  - 7.1.1 it has full capacity and authority and all necessary consents (including but not limited to, if its processes require, the consent of its parent company) to enter into and to perform this Agreement and that this Agreement is executed by an authorised representative of the Collaboration Supplier
  - 7.1.2 its obligations will be performed by appropriately experienced, qualified and trained personnel with all due skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this clause 7) in accordance with its own established internal processes
- 7.2 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to fitness for purpose) are excluded to the extent permitted by law.

## 8. Limitation of liability

- 8.1 None of the parties exclude or limit their liability for death or personal injury resulting from negligence, or for any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.
- 8.2 Nothing in this Agreement will exclude or limit the liability of any party for fraud or fraudulent misrepresentation.
- 8.3 Subject always to clauses 8.1 and 8.2, the liability of the Buyer to any Collaboration Suppliers for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than if made fraudulently), breach of statutory duty or otherwise under this Agreement (excluding Clause 6.4, which will be



subject to the limitations of liability set out in the relevant Contract) will be limited to [(£,000)].

- 8.4 Subject always to clauses 8.1 and 8.2, the liability of each Collaboration Supplier for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than if made fraudulently), breach of statutory duty or otherwise under this Agreement will be limited to [Buyer to specify].
- 8.5 Subject always to clauses 8.1, 8.2 and 8.6 and except in respect of liability under clause 6 (excluding clause 6.4, which will be subject to the limitations of liability set out in the [relevant contract] [Call-Off Contract]), in no event will any party be liable to any other for:
- 8.5.1 indirect loss or damage
  - 8.5.2 special loss or damage
  - 8.5.3 consequential loss or damage
  - 8.5.4 loss of profits (whether direct or indirect)
  - 8.5.5 loss of turnover (whether direct or indirect)
  - 8.5.6 loss of business opportunities (whether direct or indirect)
  - 8.5.7 damage to goodwill (whether direct or indirect)
- 8.6 Subject always to clauses 8.1 and 8.2, the provisions of clause 8.5 will not be taken as limiting the right of the Buyer to among other things, recover as a direct loss any:
- 8.6.1 additional operational or administrative costs and expenses arising from a Collaboration Supplier's Default
  - 8.6.2 wasted expenditure or charges rendered unnecessary or incurred by the Buyer arising from a Collaboration Supplier's Default

## 9. Dispute resolution process

- 9.1 All disputes between any of the parties arising out of or relating to this Agreement will be referred, by any party involved in the dispute, to the representatives of the parties specified in the Detailed Collaboration Plan.
- 9.2 If the dispute cannot be resolved by the parties' representatives nominated under clause 9.1 within a maximum of 5 Working Days (or any other time agreed in writing by the parties) after it has been referred to them under clause 9.1, then except if a party seeks urgent injunctive relief, the parties will refer it to mediation under the process set out in clause 9.3 unless the Buyer considers (acting reasonably and considering any objections to mediation raised by the other parties) that the dispute is not suitable for resolution by mediation.
- 9.3 The process for mediation and consequential provisions for mediation are:
- 9.3.1 a neutral adviser or mediator will be chosen by agreement between the parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one party to the other parties to appoint a Mediator or if the Mediator agreed upon is unable or unwilling to act, any party will within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to the parties

that he is unable or unwilling to act, apply to the President of the Law Society to appoint a Mediator

- 9.3.2 the parties will within 10 Working Days of the appointment of the Mediator meet to agree a programme for the exchange of all relevant information and the structure of the negotiations
  - 9.3.3 unless otherwise agreed by the parties in writing, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the parties in any future proceedings
  - 9.3.4 if the parties reach agreement on the resolution of the dispute, the agreement will be put in writing and will be binding on the parties once it is signed by their authorised representatives
  - 9.3.5 failing agreement, any of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. The opinion will be provided on a without prejudice basis and will not be used in evidence in any proceedings relating to this Agreement without the prior written consent of all the parties
  - 9.3.6 if the parties fail to reach agreement in the structured negotiations within 20 Working Days of the Mediator being appointed, or any longer period the parties agree on, then any dispute or difference between them may be referred to the courts
- 9.4 The parties must continue to perform their respective obligations under this Agreement and under their respective Contracts pending the resolution of a dispute.

## 10. Termination and consequences of termination

### 10.1 Termination

- 10.1.1 The Buyer has the right to terminate this Agreement at any time by notice in writing to the Collaboration Suppliers whenever the Buyer has the right to terminate a Collaboration Supplier's [respective contract] [Call-Off Contract].
- 10.1.2 Failure by any of the Collaboration Suppliers to comply with their obligations under this Agreement will constitute a Default under their [relevant contract] [Call-Off Contract]. In this case, the Buyer also has the right to terminate by notice in writing the participation of any Collaboration Supplier to this Agreement and sever its name from the list of Collaboration Suppliers, so that this Agreement will continue to operate between the Buyer and the remaining Collaboration Suppliers.

### 10.2 Consequences of termination

- 10.2.1 Subject to any other right or remedy of the parties, the Collaboration Suppliers and the Buyer will continue to comply with their respective obligations under the [contracts] [Call-Off Contracts] following the termination (however arising) of this Agreement.

- 10.2.2 Except as expressly provided in this Agreement, termination of this Agreement will be without prejudice to any accrued rights and obligations under this Agreement.

## 11. General provisions

### 11.1 Force majeure

- 11.1.1 For the purposes of this Agreement, the expression “Force Majeure Event” will mean any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or Regulatory Bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to any party, the party's personnel or any other failure of a Subcontractor.
- 11.1.2 Subject to the remaining provisions of this clause 11.1, any party to this Agreement may claim relief from liability for non-performance of its obligations to the extent this is due to a Force Majeure Event.
- 11.1.3 A party cannot claim relief if the Force Majeure Event or its level of exposure to the event is attributable to its wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.
- 11.1.4 The affected party will immediately give the other parties written notice of the Force Majeure Event. The notification will include details of the Force Majeure Event together with evidence of its effect on the obligations of the affected party, and any action the affected party proposes to take to mitigate its effect.
- 11.1.5 The affected party will notify the other parties in writing as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this Agreement. Following the notification, this Agreement will continue to be performed on the terms existing immediately before the Force Majeure Event unless agreed otherwise in writing by the parties.

### 11.2 Assignment and subcontracting

- 11.2.1 Subject to clause 11.2.2, the Collaboration Suppliers will not assign, transfer, novate, sub-license or declare a trust in respect of its rights under all or a part of this Agreement or the benefit or advantage without the prior written consent of the Buyer.
- 11.2.2 Any subcontractors identified in the Detailed Collaboration Plan can perform those elements identified in the Detailed Collaboration Plan to be performed by the Subcontractors.

### 11.3 Notices

11.3.1 Any notices given under or in relation to this Agreement will be deemed to have been properly delivered if sent by recorded or registered post or by fax and will be deemed for the purposes of this Agreement to have been given or made at the time the letter would, in the ordinary course of post, be delivered or at the time shown on the sender's fax transmission report.

11.3.2 For the purposes of clause 11.3.1, the address of each of the parties are those in the Detailed Collaboration Plan.

### 11.4 Entire agreement

11.4.1 This Agreement, together with the documents and agreements referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes any previous agreement between the Parties about this.

11.4.2 Each of the parties agrees that in entering into this Agreement and the documents and agreements referred to in it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Agreement. The only remedy available to each party in respect of any statements, representation, warranty or understanding will be for breach of contract under the terms of this Agreement.

11.4.3 Nothing in this clause 11.4 will exclude any liability for fraud.

### 11.5 Rights of third parties

Nothing in this Agreement will grant any right or benefit to any person other than the parties or their respective successors in title or assignees, or entitle a third party to enforce any provision and the parties do not intend that any term of this Agreement should be enforceable by a third party by virtue of the Contracts (Rights of Third Parties) Act 1999.

### 11.6 Severability

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, that provision will be severed without effect to the remaining provisions. If a provision of this Agreement that is fundamental to the accomplishment of the purpose of this Agreement is held to any extent to be invalid, the parties will immediately commence good faith negotiations to remedy that invalidity.

### 11.7 Variations

No purported amendment or variation of this Agreement or any provision of this Agreement will be effective unless it is made in writing by the parties.

### 11.8 No waiver

The failure to exercise, or delay in exercising, a right, power or remedy provided by this Agreement or by law will not constitute a waiver of that right, power or remedy. If a party waives a breach of any provision of this Agreement this will not operate as a waiver of a subsequent breach of that provision, or as a waiver of a breach of any other provision.

### 11.9 Governing law and jurisdiction

This Agreement will be governed by and construed in accordance with English law and without prejudice to the Dispute Resolution Process, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

Executed and delivered as an agreement by the parties or their duly authorised attorneys the day and year first above written.

#### **For and on behalf of the Buyer**

Signed by:

Full name (capitals):

Position:

Date:

#### **For and on behalf of the [Company name]**

Signed by:

Full name (capitals):

Position:

Date:

#### **For and on behalf of the [Company name]**

Signed by:

Full name (capitals):

Position:

Date:

#### **For and on behalf of the [Company name]**

Signed by:

Full name (capitals):

Position:

Date:

**For and on behalf of the [Company name]**

Signed by:

Full name (capitals):

Position:

Date:

**For and on behalf of the [Company name]**

Signed by:

Full name (capitals):

Position:

Date:

**For and on behalf of the [Company name]**

Signed by:

Full name (capitals):

Position:

Date:

**Collaboration Agreement Schedule 1: List of contracts**

Collaboration supplier	Name/reference of contract	Effective date of contract

## Collaboration Agreement Schedule 2 **[Insert Outline Collaboration Plan]**



## Schedule 4: Alternative clauses

### 1. Introduction

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

### 2. Clauses selected

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

2.1.1 Scots Law and Jurisdiction

2.1.2 References to England and Wales in incorporated Framework Agreement clause 8.12 (Law and Jurisdiction) of this Call-Off Contract will be replaced with Scotland and the wording of the Framework Agreement and Call-Off Contract will be interpreted as closely as possible to the original English and Welsh Law intention despite Scots Law applying.

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

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

2.1.5 Reference to the Supply of Goods and Services Act 1982 will be removed in incorporated Framework Agreement clause 4.2.

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

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

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

### 2.3 Discrimination

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

- Employment (Northern Ireland) Order 2002
- Fair Employment and Treatment (Northern Ireland) Order 1998
- Sex Discrimination (Northern Ireland) Order 1976 and 1988
- Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003
- Equal Pay Act (Northern Ireland) 1970
- Disability Discrimination Act 1995

- Race Relations (Northern Ireland) Order 1997
- Employment Relations (Northern Ireland) Order 1999 and Employment Rights (Northern Ireland) Order 1996
- Employment Equality (Age) Regulations (Northern Ireland) 2006
- Part-time Workers (Prevention of less Favourable Treatment) Regulation 2000
- Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- The Disability Discrimination (Northern Ireland) Order 2006
- The Employment Relations (Northern Ireland) Order 2004
- Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006
- Employment Relations (Northern Ireland) Order 2004
- Work and Families (Northern Ireland) Order 2006

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

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

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

## 2.4 Equality policies and practices

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

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

- a. the issue of written instructions to staff and other relevant persons
- b. the appointment or designation of a senior manager with responsibility for equal opportunities
- c. training of all staff and other relevant persons in equal opportunities and harassment matters

- d. the inclusion of the topic of equality as an agenda item at team, management and staff meetings

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

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

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

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

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

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

## 2.5 Equality

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

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

## 2.6 Health and safety

- 2.6.1 The Supplier will promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Call-Off Contract. The Customer will promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer premises and which may affect the Supplier in the performance of its obligations under the Call-Off Contract.
- 2.6.2 While on the Customer premises, the Supplier will comply with any health and safety measures implemented by the Customer in respect of Supplier Staff and other persons working there.
- 2.6.3 The Supplier will notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Call-Off Contract on the Customer premises if that incident causes any personal injury or damage to property which could give rise to personal injury.
- 2.6.4 The Supplier will comply with the requirements of the Health and Safety at Work (Northern Ireland) Order 1978 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Supplier Staff and other persons working on the Customer premises in the performance of its obligations under the Call-Off Contract.
- 2.6.5 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work (Northern Ireland) Order 1978) is made available to the Customer on request.

## 2.7 Criminal damage

- 2.7.1 The Supplier will maintain standards of vigilance and will take all precautions as advised by the Criminal Damage (Compensation) (Northern Ireland) Order 1977 or as may be recommended by the police or the Northern Ireland Office (or, if replaced, their successors) and will compensate the Customer for any loss arising directly from a breach of this obligation (including any diminution of monies received by the Customer under any insurance policy).
- 2.7.2 If during the Call-Off Contract Period any assets (or any part thereof) is or are damaged or destroyed by any circumstance giving rise to a claim for compensation under the provisions of the Compensation Order the following provisions of this clause 2.7 will apply.
- 2.7.3 The Supplier will make (or will procure that the appropriate organisation make) all appropriate claims under the Compensation Order as soon as possible after the CDO Event and will pursue any claim diligently and at its cost. If appropriate, the Customer will also make and pursue a claim diligently under the Compensation Order. Any appeal against a refusal to meet any claim or against the amount of the award will be at the Customer's cost and the Supplier will (at no additional cost to the Customer) provide any help the Customer reasonably requires with the appeal.

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

## Schedule 5: Guarantee

[A Guarantee should only be requested if the Supplier's financial standing is not enough on its own to guarantee delivery of the Services. This is a draft form of guarantee which can be used to procure a Call Off Guarantee, and so it will need to be amended to reflect the Beneficiary's requirements]

This deed of guarantee is made on **[insert date, month, year]** between:

- (1) **[Insert the name of the Guarantor]** a company incorporated in England and Wales with number **[insert company number]** whose registered office is at **[insert details of the guarantor's registered office]** [or 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

and

- (2) The Buyer whose offices are **[insert Buyer's official address]** ('Beneficiary')

### Whereas:

- (A) The guarantor has agreed, in consideration of the Buyer entering into the Call-Off Contract with the Supplier, to guarantee all of the Supplier's obligations under the Call-Off Contract.
- (B) It is the intention of the Parties that this document be executed and take effect as a deed.

[Where a deed of guarantee is required, include the wording below and populate the box below with the guarantor company's details. If a deed of guarantee isn't needed then the section below and other references to the guarantee should be deleted.]

Suggested headings are as follows:

- Demands and notices
- Representations and Warranties
- Obligation to enter into a new Contract
- Assignment
- Third Party Rights
- Governing Law
- This Call-Off Contract is conditional upon the provision of a Guarantee to the Buyer from the guarantor in respect of the Supplier.]

<b>Guarantor company</b>	<b>[Enter Company name] 'Guarantor'</b>
<b>Guarantor company address</b>	<b>[Enter Company address]</b>
<b>Account manager</b>	<b>[Enter Account Manager name]</b>
	Address: <b>[Enter Account Manager address]</b>
	Phone: <b>[Enter Account Manager phone number]</b>
	Email: <b>[Enter Account Manager email]</b>
	Fax: <b>[Enter Account Manager fax if applicable]</b>

In consideration of the Buyer entering into the Call-Off Contract, the Guarantor agrees with the Buyer as follows:

### Definitions and interpretation

In this Deed of Guarantee, unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms will have the same meaning as they have for the purposes of the Call-Off Contract.



Term	Meaning
<b>Call-Off Contract</b>	Means [the Guaranteed Agreement] made between the Buyer and the Supplier on [insert date].
<b>Guaranteed Obligations</b>	Means all obligations and liabilities of the Supplier to the Buyer under the Call-Off Contract together with all obligations owed by the Supplier to the Buyer that are supplemental to, incurred under, ancillary to or calculated by reference to the Call-Off Contract.
<b>Guarantee</b>	Means the deed of guarantee described in the Order Form (Parent Company Guarantee).

References to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Call-Off Contract) apply now, and as amended, varied, restated, supplemented, substituted or novated in the future.

Unless the context otherwise requires, words importing the singular are to include the plural and vice versa.

References to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect.

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 if a wider construction is possible.

Unless the context otherwise requires:

- reference to a gender includes the other gender and the neuter
- references to an Act of Parliament, statutory provision or statutory instrument also apply if amended, extended or re-enacted from time to time
- any phrase introduced by the words 'including', 'includes', 'in particular', 'for example' or similar, will be construed as illustrative and without limitation to the generality of the related general words

References to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee.

References to liability are to include any liability whether actual, contingent, present or future.

## Guarantee and indemnity

The Guarantor irrevocably and unconditionally guarantees that the Supplier duly performs all of the guaranteed obligations due by the Supplier to the Buyer.

If at any time the Supplier will fail to perform any of the guaranteed obligations, the Guarantor irrevocably and unconditionally undertakes to the Buyer it will, at the cost of the Guarantor:

- fully perform or buy performance of the guaranteed obligations to the Buyer
- as a separate and independent obligation and liability, compensate and keep the Buyer compensated against all losses and expenses which may result from a failure by the Supplier to perform the guaranteed obligations under the Call-Off Contract

As a separate and independent obligation and liability, the Guarantor irrevocably and unconditionally undertakes to compensate and keep the Buyer compensated on demand against all losses and expenses of whatever nature, whether arising under statute, contract or at common Law, 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 will be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

## Obligation to enter into a new contract

If the Call-Off Contract is terminated or if it is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable, the Guarantor will, at the request of the Buyer, enter into a Contract with the Buyer in the same terms as the Call-Off Contract and the obligations of the Guarantor under such substitute agreement will be the same as if the Guarantor had been original obligor under the Call-Off Contract or under an agreement entered into on the same terms and at the same time as the Call-Off Contract with the Buyer.

## Demands and notices

Any demand or notice served by the Buyer on the Guarantor under this Deed of Guarantee will be in writing, addressed to:

**[Enter Address of the Guarantor in England and Wales]**

**[Enter Email address of the Guarantor representative]**

For the Attention of **[insert details]**

or such other address in England and Wales as the Guarantor has notified the Buyer in writing as being an address for the receipt of such demands or notices.

Any notice or demand served on the Guarantor or the Buyer under this Deed of Guarantee will be deemed to have been served if:



- delivered by hand, at the time of delivery
- posted, at 10am on the second Working Day after it was put into the post
- sent by email, at the time of despatch, if despatched before 5pm on any Working Day, and in any other case at 10am on the next Working Day

In proving Service of a notice or demand on the Guarantor or the Buyer, it will 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 fax message was properly addressed and despatched.

Any notice purported to be served on the Buyer under this Deed of Guarantee will only be valid when received in writing by the Buyer.

#### Beneficiary's protections

The Guarantor will not be discharged or released from this Deed of Guarantee by:

- any arrangement made between the Supplier and the Buyer (whether or not such arrangement is made with the assent of the Guarantor)
- any amendment to or termination of the Call-Off Contract
- any forbearance or indulgence as to payment, time, performance or otherwise granted by the Buyer (whether or not such amendment, termination, forbearance or indulgence is made with the assent of the Guarantor)
- the Buyer doing (or omitting to do) anything which, but for this provision, might exonerate the Guarantor

This Deed of Guarantee will be a continuing security for the Guaranteed Obligations and accordingly:

- it will not be discharged, reduced or otherwise affected by any partial performance (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 Buyer in exercising its rights under this Deed of Guarantee
- it will 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 Buyer, the Guarantor or any other person
- if, for any reason, any of the Guaranteed Obligations is void or unenforceable against the Supplier, the Guarantor will be liable for that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor
- the rights of the Buyer against the Guarantor under this Deed of Guarantee are in addition to, will not be affected by and will not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Buyer

The Buyer will be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes. The making of a demand (whether effective, partial or defective) relating to the breach or non-performance by the Supplier of any Guaranteed Obligation will not preclude the Buyer from making a further demand relating to the same or some other Default regarding the same Guaranteed Obligation.

The Buyer will 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
- make or file any claim in a bankruptcy or liquidation of the Supplier or any third party
- take any action against the Supplier or the Guarantor or any third party
- resort to any other security or guarantee or other means of payment

No action (or inaction) by the Buyer relating to any such security, guarantee or other means of payment will prejudice or affect the liability of the Guarantor.

The Buyer's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by Law. The Buyer's rights may be exercised as often as the Buyer deems expedient. Any waiver by the Buyer of any terms of this Deed of Guarantee, or of any Guaranteed Obligations, will only be effective if given in writing and then only for the purpose and upon the terms and conditions on which it is given.

Any release, discharge or settlement between the Guarantor and the Buyer will be conditional upon no security, disposition or payment to the Buyer by the Guarantor or any other person being void, set aside or ordered to be refunded following any enactment or Law relating to liquidation, administration or insolvency or for any other reason. If such condition will not be fulfilled, the Buyer will 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 Buyer will be entitled to retain this security before and after the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Buyer from the Guarantor for such period as the Buyer may determine.

## Representations and warranties

The Guarantor hereby represents and warrants to the Buyer that:

- 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
- the Guarantor has power to carry on its business as now being conducted and to own its Property and other assets
- 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
- 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 entry into and performance of a Call-Off Contract following Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:
  - the Guarantor's memorandum and articles of association or other equivalent constitutional documents, any existing Law, statute, rule or Regulation or any judgment, decree or permit to which the Guarantor is subject
  - 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

- all governmental and other authorisations, approvals, licences and consents, required or desirable

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.

## Payments and set-off

All sums payable by the Guarantor under this Deed of Guarantee will be paid without any set-off, lien or counterclaim, deduction or withholding, except for those required by Law. If any deduction or withholding must be made by Law, the Guarantor will pay that additional amount to ensure that the Buyer 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.

The Guarantor will 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.

The Guarantor will reimburse the Buyer for all legal and other costs (including VAT) incurred by the Buyer in connection with the enforcement of this Deed of Guarantee.

## Guarantor's acknowledgement

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

## Assignment

The Buyer will 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 will not release the Guarantor from its liability under this Guarantee.

The Guarantor may not assign or transfer any of its rights or obligations under this Deed of Guarantee.

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

## Third-party rights

A person who is not a Party to this Deed of Guarantee will 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 following that Act.

## Governing law

This Deed of Guarantee, and any non-Contractual obligations arising out of or in connection with it, will be governed by and construed in accordance with English Law.

The Guarantor irrevocably agrees for the benefit of the Buyer that the courts of England will 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.

Nothing contained in this Clause will limit the rights of the Buyer to take proceedings against the Guarantor in any other court of competent jurisdiction, nor will 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).

The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for 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.

[The Guarantor hereby irrevocably designates, appoints and empowers **[enter the Supplier name]** [or 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 fax number **[insert fax number]** 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 Buyer 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 names]**

Director

Director/Secretary

## Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
<b>Additional Services</b>	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Section 2 (Services Offered) which a Buyer may request.
<b>Admission Agreement</b>	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
<b>Application</b>	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Digital Marketplace).
<b>Audit</b>	An audit carried out under the incorporated Framework Agreement clauses specified by the Buyer in the Order (if any).
<b>Background IPRs</b>	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> <li>owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes</li> <li>created by the Party independently of this Call-Off Contract, or</li> </ul> <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>
<b>Buyer</b>	The contracting authority ordering services as set out in the Order Form.
<b>Buyer Data</b>	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
<b>Buyer Personal Data</b>	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
<b>Buyer Representative</b>	The representative appointed by the Buyer under this Call-Off Contract.



<b>Buyer Software</b>	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.
<b>Call-Off Contract</b>	This call-off contract entered into following the provisions of the Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.
<b>Charges</b>	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
<b>Collaboration Agreement</b>	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
<b>Commercially Sensitive Information</b>	Information, which the Buyer has been notified about by the Supplier in writing before the Start date with full details of why the Information is deemed to be commercially sensitive.
<b>Confidential Information</b>	<p>Data, Personal Data and any information, which may include (but isn't limited to) any:</p> <ul style="list-style-type: none"> <li>information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above</li> <li>other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').</li> </ul>
<b>Control</b>	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
<b>Controller</b>	Takes the meaning given in the GDPR.
<b>Crown</b>	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.

<b>Data Loss Event</b>	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Framework Agreement and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
<b>Data Protection Impact Assessment (DPIA)</b>	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
<b>Data Protection Legislation (DPL)</b>	Data Protection Legislation means: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy (iii) all applicable Law about the Processing of Personal Data and privacy including if applicable legally binding guidance and codes of practice issued by the Information Commissioner
<b>Data Subject</b>	Takes the meaning given in the GDPR
<b>Default</b>	<p>Default is any:</p> <ul style="list-style-type: none"> <li>• breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term)</li> <li>• other Default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract</li> </ul> <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
<b>Deliverable(s)</b>	The G-Cloud Services the Buyer contracts the Supplier to provide under this Call-Off Contract.
<b>Digital Marketplace</b>	The government marketplace where Services are available for Buyers to buy. ( <a href="https://www.digitalmarketplace.service.gov.uk/">https://www.digitalmarketplace.service.gov.uk/</a> )
<b>DPA 2018</b>	Data Protection Act 2018.
<b>Employment Regulations</b>	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') which implements the Acquired Rights Directive.
<b>End</b>	Means to terminate; and Ended and Ending are construed accordingly.

<b>Environmental Information Regulations or EIR</b>	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department about the regulations.
<b>Equipment</b>	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.
<b>ESI Reference Number</b>	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
<b>Employment Status Indicator test tool or ESI tool</b>	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here: <a href="https://www.gov.uk/guidance/check-employment-status-for-tax">https://www.gov.uk/guidance/check-employment-status-for-tax</a>
<b>Expiry Date</b>	The expiry date of this Call-Off Contract in the Order Form.
<b>Force Majeure</b>	<p>A force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none"> <li>• acts, events or omissions beyond the reasonable control of the affected Party</li> <li>• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare</li> <li>• acts of government, local government or Regulatory Bodies</li> <li>• fire, flood or disaster and any failure or shortage of power or fuel</li> <li>• industrial dispute affecting a third party for which a substitute third party isn't reasonably available</li> </ul> <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> <li>• any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain</li> <li>• any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure</li> <li>• the event was foreseeable by the Party seeking to rely on Force Majeure at the time this Call-Off Contract was entered into</li> <li>• any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans</li> </ul>
<b>Former Supplier</b>	A supplier supplying services to the Buyer before the Start date that are the same as or substantially similar to the Services. This also

	includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).
<b>Framework Agreement</b>	The clauses of framework agreement RM1557.12 together with the Framework Schedules.
<b>Fraud</b>	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.
<b>Freedom of Information Act or FoIA</b>	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to the legislation.
<b>G-Cloud Services</b>	The cloud services described in Framework Agreement Section 2 (Services Offered) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
<b>GDPR</b>	General Data Protection Regulation (Regulation (EU) 2016/679)
<b>Good Industry Practice</b>	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances.
<b>Government Procurement Card</b>	The government's preferred method of purchasing and payment for low value goods or services.
<b>Guarantee</b>	The guarantee described in Schedule 5.
<b>Guidance</b>	Any current UK government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK government guidance and the Crown Commercial Service guidance, current UK government guidance will take precedence.
<b>Implementation Plan</b>	The plan with an outline of processes (including data standards for migration), costs (for example) of implementing the services which may be required as part of Onboarding.

<b>Indicative test</b>	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
<b>Information</b>	Has the meaning given under section 84 of the Freedom of Information Act 2000.
<b>Information security management system</b>	The information security management system and process developed by the Supplier in accordance with clause 16.1.
<b>Inside IR35</b>	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
<b>Insolvency event</b>	Can be: <ul style="list-style-type: none"> <li>• a voluntary arrangement</li> <li>• a winding-up petition</li> <li>• the appointment of a receiver or administrator</li> <li>• an unresolved statutory demand</li> <li>• a Schedule A1 moratorium</li> </ul>
<b>Intellectual Property Rights or IPR</b>	Intellectual Property Rights are: <ul style="list-style-type: none"> <li>• 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</li> <li>• 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</li> <li>• all other rights having equivalent or similar effect in any country or jurisdiction</li> </ul>
<b>Intermediary</b>	For the purposes of the IR35 rules an intermediary can be: <ul style="list-style-type: none"> <li>• the supplier's own limited company</li> <li>• a service or a personal service company</li> <li>• a partnership</li> </ul> <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>
<b>IPR claim</b>	As set out in clause 11.5.
<b>IR35</b>	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.

<b>IR35 assessment</b>	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.
<b>Know-How</b>	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or CCS's possession before the Start date.
<b>Law</b>	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply.
<b>LED</b>	Law Enforcement Directive (EU) 2016/680.
<b>Loss</b>	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' <b>Losses</b> ' will be interpreted accordingly.
<b>Lot</b>	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
<b>Malicious Software</b>	Any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.
<b>Management Charge</b>	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
<b>Management Information</b>	The management information specified in Framework Agreement section 6 (What you report to CCS).
<b>Material Breach</b>	Those breaches which have been expressly set out as a Material Breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.

<b>Ministry of Justice Code</b>	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.
<b>New Fair Deal</b>	The revised Fair Deal position in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 as amended.
<b>Order</b>	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
<b>Order Form</b>	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
<b>Ordered G-Cloud Services</b>	G-Cloud Services which are the subject of an order by the Buyer.
<b>Outside IR35</b>	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
<b>Party</b>	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
<b>Personal Data</b>	Takes the meaning given in the GDPR.
<b>Personal Data Breach</b>	Takes the meaning given in the GDPR.
<b>Processing</b>	Takes the meaning given in the GDPR.
<b>Processor</b>	Takes the meaning given in the GDPR.
<b>Prohibited act</b>	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>• induce that person to perform improperly a relevant function or activity</li> <li>• reward that person for improper performance of a relevant function or activity</li> <li>• commit any offence: <ul style="list-style-type: none"> <li>○ under the Bribery Act 2010</li> <li>○ under legislation creating offences concerning Fraud</li> <li>○ at common Law concerning Fraud</li> <li>○ committing or attempting or conspiring to commit Fraud</li> </ul> </li> </ul>



<b>Project Specific IPRs</b>	Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.
<b>Property</b>	Assets and property including technical infrastructure, IPRs and equipment.
<b>Protective Measures</b>	Appropriate technical and organisational measures which may include: pseudonymisation and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
<b>PSN or Public Services Network</b>	The Public Services Network (PSN) is the government's high-performance network which helps public sector organisations work together, reduce duplication and share resources.
<b>Regulatory body or bodies</b>	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.
<b>Relevant person</b>	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
<b>Relevant Transfer</b>	A transfer of employment to which the employment regulations applies.
<b>Replacement Services</b>	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.
<b>Replacement supplier</b>	Any third-party service provider of replacement services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).
<b>Security management plan</b>	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.

<b>Services</b>	The services ordered by the Buyer as set out in the Order Form.
<b>Service data</b>	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
<b>Service definition(s)</b>	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Section 2 (Services Offered) of the Framework Agreement.
<b>Service description</b>	The description of the Supplier service offering as published on the Digital Marketplace.
<b>Service Personal Data</b>	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.
<b>Spend controls</b>	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see <a href="https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service">https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service</a>
<b>Start date</b>	The Start date of this Call-Off Contract as set out in the Order Form.
<b>Subcontract</b>	Any contract or agreement or proposed agreement between the Supplier and a subcontractor in which the subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
<b>Subcontractor</b>	Any third party engaged by the Supplier under a subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
<b>Subprocessor</b>	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
<b>Supplier</b>	The person, firm or company identified in the Order Form.
<b>Supplier Representative</b>	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.

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

## Schedule 7: GDPR Information

This schedule reproduces the annexes to the GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract.

### Annex 1: Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

- 1.1 The contact details of the Buyer's Data Protection Officer are: **[Insert Contact details]**
- 1.2 The contact details of the Supplier's Data Protection Officer are: **[Insert Contact details]**
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Descriptions	Details
Identity of Controller for each Category of Personal Data	<p><b>The Buyer is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with paragraph 2-15 Framework Agreement Schedule 4 (Where the Party is a Controller and the other Party is Processor) and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <p>[Insert the scope of Personal Data for which the purposes and means of the Processing by the Supplier is determined by the Buyer]</p>
Duration of the Processing	[Clearly set out the duration of the Processing including dates]
Nature and purposes of the Processing	Under the AWS shared responsibility model, the Buyer also has a responsibility to ensure the protection of its own Buyer Data. Supplier provides tools and service offerings to assist Buyers with the protection of Buyer Data. Supplier strongly recommends that Buyers use AWS Services such as CloudTrail, Security Hub and GuardDuty to ensure that the Buyer is in compliance with Data Protection Legislation.

	<p>Buyer acknowledges that Supplier achieves compliance with its notification and security requirements under this Call-Off Contract by making such services available provided that the Supplier provides such services with all reasonable skill and care and meets the technical standards the Supplier is required to comply with as set out in Clause 13.5 of the Call-Off Contract and in the 'Technical standards' section of the Order Form.</p> <p>Supplier is not in a position to determine whether Documented Instructions infringe the GDPR given the automated nature of the Supplier's Services. However, in the unlikely event that Supplier does form an opinion that such instructions infringe the GDPR, it shall immediately inform Buyer of such an opinion, in which case Buyer is entitled to withdraw or modify its processing instructions and may terminate this Call-Off Contract in accordance with its terms.</p> <p>[Please be as specific as possible, but make sure that you cover all intended purposes.</p> <p>The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment Processing, statutory obligation, recruitment assessment etc]</p>
Type of Personal Data	[Enter type of Personal Data. Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]
Categories of Data Subject	[Enter categories. Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data	<p>[Describe how long the data will be retained for, how it be returned or destroyed]</p> <p>Refer to Offboarding Section of this Call off Contract</p>

## Annex 2: Joint Controller Agreement

### 1. Joint Controller Status and Allocation of Responsibilities

- 1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 2 to 15 of Schedule 4 of the Framework Agreement (Where one Party is Controller and the other Party is Processor) and paragraphs 17-27 of Schedule 4 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.
- 1.2 The Parties agree that the **[delete as appropriate Supplier/Buyer]**:
- (a) is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the GDPR regarding the exercise by Data Subjects of their rights under the GDPR;
  - (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
  - (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the GDPR;
  - (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and
  - (e) shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the **[Supplier's/Buyer's]** privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).
- 1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a data subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

### 2. Undertakings of both Parties

- 2.1 The Supplier and the Buyer each undertake that they shall:
- (a) report to the other Party every **[enter number]** months on:
    - (i) the volume of Data Subject Request (or purported Data Subject Requests) from Data Subjects (or third parties on their behalf);

- (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
  - (iii) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
  - (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
  - (v) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law, that it has received in relation to the subject matter of the Contract during that period;
- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in Clauses 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Clauses 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;
- (f) ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;
- (g) take all reasonable steps to ensure the reliability and integrity of any of its personnel who have access to the Personal Data and ensure that its personnel:
- (i) are aware of and comply with their 's duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information
  - (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or

divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;

- (iii) have undergone adequate training in the use, care, protection and handling of Personal Data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Data Loss Event;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds; and
- (i) ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

### 3. Data Protection Breach

3.1 Without prejudice to Paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the other Party and its advisors with:

- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;
- (b) all reasonable assistance, including:
  - (i) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
  - (ii) co-operation with the other Party including taking such reasonable steps as are directed by the other Party to assist in the investigation, mitigation and remediation of a Personal Data Breach;



(iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach;

and/or

(iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

- (a) the nature of the Personal Data Breach;
- (b) the nature of Personal Data affected;
- (c) the categories and number of Data Subjects concerned;
- (d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- (e) measures taken or proposed to be taken to address the Personal Data Breach; and
- (f) describe the likely consequences of the Personal Data Breach.

#### 4. Audit

4.1 The Supplier shall permit:

- (a) the Buyer, or a third-party auditor acting under the Buyer's direction, to conduct, at the Buyer's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or
- (b) the Buyer, or a third-party auditor acting under the Buyer's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 GDPR by the Supplier so far as relevant to the contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.

- 4.2 The Buyer may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.

## 5. Impact Assessments

### 5.1 The Parties shall:

- (a) provide all reasonable assistance to the each other to prepare any data protection impact assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- (b) maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the contract, in accordance with the terms of Article 30 GDPR.

## 6. ICO Guidance

- 6.1 The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant central government body. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend the contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant central government body.

## 7. Liabilities for Data Protection Breach

**[Guidance:** This clause represents a risk share, you may wish to reconsider the apportionment of liability and whether recoverability of losses are likely to be hindered by the contractual limitation of liability provisions]

- 7.1 If financial penalties are imposed by the Information Commissioner on either the Buyer or the Supplier for a Personal Data Breach ("Financial Penalties") then the following shall occur:

(a) if in the view of the Information Commissioner, the Buyer is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Buyer, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Buyer, then the Buyer shall be responsible for the payment of such Financial Penalties. In this case, the Buyer will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Buyer and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;

(b) if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Buyer is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Buyer and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or

(c) if no view as to responsibility is expressed by the Information Commissioner, then the Buyer and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any Financial Penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the procedure set out in clauses 8.66 to 8.79 of the Framework terms (Managing disputes).

7.2 If either the Buyer or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the Court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.

7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):

(a) if the Buyer is responsible for the relevant Personal Data Breach, then the Buyer shall be responsible for the Claim Losses;

(b) if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and

(c) if responsibility for the relevant Personal Data Breach is unclear, then the Buyer and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Buyer and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Buyer.

8. Not used

9. Termination

9.1 If the Supplier is in material Default under any of its obligations under this Annex 2 (joint controller agreement), the Buyer shall be entitled to terminate the contract by issuing a termination notice to the Supplier in accordance with Clause 18.5 (Ending the contract).

10. Sub-Processing

10.1 In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

(a) carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the contract, and provide evidence of such due diligence to the other Party where reasonably requested; and

- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

## 11. Data Retention

- 11.1 The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the a Party for statutory compliance purposes or as otherwise required by the contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.