

	<p>A1 of the Insolvency Act 1986; or</p> <p>h) where the Supplier or Framework Guarantor or Call Off Guarantor is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or</p> <p>i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction.</p>
<b>"Intellectual Property Rights" or "IPR"</b>	<p>means</p> <p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction.</p>
<b>"IPR Claim"</b>	<p>means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Goods or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Customer in the fulfilment of its obligations under this Call Off Contract;</p>
<b>"Key Performance Indicators" or "KPIs"</b>	<p>means the performance measurements and targets in respect of the Supplier's performance of the Framework Agreement set out in Part B of Framework Schedule 2 (Goods and Key Performance Indicators);</p>
<b>"Key Personnel"</b>	<p>means the individuals (if any) identified as such in the Order Form or Part C of Call Off Schedule A1 (Implementation Plan, Customer Responsibilities and Key Personnel) where this is used;</p>
<b>"Key Role(s)"</b>	<p>has the meaning given to it in Clause <b>Error! Reference source not found..</b> (Key Personnel) where used;</p>
<b>"Key Sub-Contract"</b>	<p>means each Sub-Contract with a Key Sub-Contractor;</p>
<b>"Key Sub-Contractor"</b>	<p>means any Sub-Contractor:</p> <p>a) listed in Framework Schedule 7 (Key Sub-Contractors);</p> <p>b) which, in the opinion of the Authority and the Customer, performs (or would perform if appointed) a critical role in the provision of all or any part of the</p>

	Goods; and/or
	c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Call Off Contract Charges forecast to be payable under this Call Off Contract;
<b>"Know-How"</b>	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Goods but excluding know-how already in the other Party's possession before the Call Off Commencement Date;
<b>"Law"</b>	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
<b>"Licensed Software"</b>	means all and any Software licensed by or through the Supplier, its Sub-contractors or any third party to the Customer for the purposes of or pursuant to this Call Off Contract, including any Supplier Software, Third Party Software, Open Source Software and/or any Specially Written Software;
<b>"Losses"</b>	means 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>Loss</b> " shall be interpreted accordingly;
<b>"Malicious Software"</b>	means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
<b>"Man Day"</b>	7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>"Man Hours"</b>	the hours spent by the Supplier Personnel properly working on the provision of the Goods including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
<b>"Margin"</b>	means the percentage by which the price for Goods exceeds the Costs in relation to those Goods, excluding any other supply chain rebates and shipping/delivery;

**"Material Default"**

means:

- a) a Critical Service Level Failure;
- b) a Supplier's failure to comply with the Rectification Plan Process;
- c) the representation and warranty given by the Supplier pursuant to Clause 2.2.5 (Representations and Warranties) being materially untrue or misleading;
- d) a breach by the Supplier referred to expressly by the term Material Default in this Call Off Contract including in any of the following Clauses: A.1.2.3 (Implementation Plan), 4.5.2 (Undelivered Goods and Services), 4.4.2 (Provision of the Goods and the Services), 6.4 (Disruption), 10.5 (Records, Audit Access and Open Book Data), 15.4 (Confidentiality), 30.6.2 (Prevention of Fraud and Bribery) and, where used, 38.2 (Installation Works);
- e) any material breach by the Supplier of this Call Off Contract under the Law including of the following Clauses and Call Off Schedules (where used): 115 (Promoting Tax Compliance), 15.6 (Freedom of Information), 15.7 (Protection of Personal Data), 141 (Compliance), Call Off Schedule B12 (Security Management);
- f) a breach which prevents the Customer from discharging a statutory duty.

**"Month"**

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

**"Occasion of Tax Non Compliance"**

means:

- a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:
  - i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax abuse principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax abuse principle;
  - ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the Disclosure of Tax Avoidance Scheme or any equivalent or similar regime in any jurisdiction; and/or
- b) the Supplier's tax affairs give rise on or after 1 April 2013 to a conviction in any jurisdiction for tax related offences which is not spent at the Call Off

Commencement Date or to a penalty for civil fraud or evasion;

**"Open Book Data"**

means complete and accurate financial information which is sufficient to enable the Customer to verify the Call Off Contract already paid or payable and Call Off Contract Charges forecast to be paid during the remainder of the Call Off Contract, including details and all assumptions relating to:

- a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software;
  - b) operating expenditure relating to the provision of the Goods and/or Services including an analysis showing:
    - i) the unit costs and quantity of consumables and bought-in services;
    - ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade; and
    - iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin;
  - c) Overheads;
  - d) the Supplier Profit achieved over the Call Off Contract Period and on an annual basis;
  - e) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier; and
- an explanation of the type and value of risk and contingencies associated with the provision of the Goods, including the amount of money attributed to each risk and/or contingency.

**"Open Source Software"**

computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes;

**"Order"**

means the order for the provision of the Goods placed by the Customer with the Supplier in accordance with the Framework Agreement and under the terms of this Call Off Contract;

**"Order Form"**

means the form, as completed and forming part of this Call Off Contract, which contains details of an Order,



	together with other information in relation to such Order, including without limitation the description of the Goods to be supplied;
<b>"Other Supplier"</b>	any supplier to the Customer (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;
<b>"Over-Delivered Goods"</b>	has the meaning given to it in Clause 107;
<b>"Parent Company"</b>	means any company which is the ultimate Holding Company of the Supplier and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged by the same or similar business to the Supplier. The term "Holding or Parent Company" shall have the meaning ascribed by the Companies Act 2006 or any statutory re-enactment or amendment thereto;
<b>"Party"</b>	means the Customer or the Supplier and <b>"Parties"</b> shall mean both of them;
<b>"Personal Data"</b>	has the same meaning as set out in the Data Protection Act 1998;
<b>"Processing"</b>	has the meaning given to "processing" under the Data Protection Legislation but, for the purposes of this Call Off Contract, it shall include both manual and automatic processing and <b>"Process"</b> and <b>"Processed"</b> shall be interpreted accordingly;
<b>"Prohibited Act"</b>	means any of the following: <ul style="list-style-type: none"> <li>a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer and/or the Authority or other Contracting Body or any other public body a financial or other advantage to: <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> </li> <li>b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;</li> <li>c) committing any offence: <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act)</li> <li>ii) under legislation or common law concerning fraudulent acts; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud the Customer; or</li> <li>iv) any activity, practice or conduct which would</li> </ul> </li> </ul>

constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

<b>"Project Specific IPR"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract and updates and amendments of these items including (but not limited to) database schema; and/or</li> <li>b) IPR in or arising as a result of the performance of the Supplier's obligations under this Call Off Contract and all updates and amendments to the same;</li> </ul> <p>but shall not include the Supplier Background IPR, Open Source Software or the Specially Written Software;</p>
<b>"Recipient"</b>	has the meaning given to it in Clause 15.4.1 (Confidentiality);
<b>"Rectification Plan"</b>	means a plan to address the impact of, and prevent the reoccurrence of, a Default;
<b>"Rectification Plan Process"</b>	means the process set out in Clause 18.2 (Rectification Plan Process);
<b>"Registers"</b>	has the meaning given to in Call Off Schedule B7 (Exit Management) where used;
<b>"Regulations"</b>	means the Public Contracts Regulations 2006 and/or the Public Contracts (Scotland) Regulations 2012 (as the context requires) as amended from time to time;
<b>"Related Supplier"</b>	means any person who provides goods and/or services to the Customer which are related to the Goods and/or Services from time to time;
<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
<b>"Relevant Tax Authority"</b>	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is required to submit a tax return;
<b>"Relief Notice"</b>	has the meaning given to it in Clause 19.1.2 (Supplier Relief Due to Customer Cause);
<b>"Replacement Goods "</b>	means any goods which are substantially similar to any of the Goods and which the Customer receives in substitution for any of the Goods following the Call Off Expiry Date, whether those goods are provided by the Customer internally and/or by any third party;
<b>"Replacement Supplier"</b>	means any third party provider of Replacement Goods appointed by or at the direction of the Customer from time to time or where the Customer is providing Replacement

	Goods for its own account, shall also include the Customer;
<b>"Request for Information"</b>	means a request for information or an apparent request relating to this Call Off Contract or the provision of the Goods or an apparent request for such information under the FOIA or the EIRs;
<b>"Restricted Countries"</b>	has the meaning given to it in Clause 15.7.3 (Protection of Personal Data);
<b>"Security Management Plan"</b>	means the Supplier's security management plan prepared pursuant to paragraph 3 of Call Off Schedule B12 (Security Management), where this is used a draft of which has been provided by the Supplier to the Customer in accordance with paragraph 3 of Call Off Schedule B12 (Security Management) and as updated from time to time;
<b>"Security Policy"</b>	the Customer's security policy in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Services"</b>	means the services to be provided by the Supplier to the Customer as specified in the Order Form;
<b>"Sites"</b>	means: <ul style="list-style-type: none"> <li>a) any premises (including the Customer Premises, the Supplier's premises or third party premises): <ul style="list-style-type: none"> <li>i) from, to or at which: <ul style="list-style-type: none"> <li>(1) the Goods are (or are to be) provided; or</li> <li>(2) the Supplier manages, organises or otherwise directs the provision of the Goods;</li> </ul> </li> </ul> </li> </ul>
<b>"Software"</b>	means Specially Written Software, Supplier Software, Open Source Software and Third Party Software;
<b>"Software Supporting Materials"</b>	has the meaning given to it in Clause 14.2.1b);
<b>"Source Code"</b>	means computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
<b>"Specially Written Software"</b>	means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Call Off Contract;
<b>"Specific Change in"</b>	means a Change in Law that relates specifically to the

<b>Law"</b>	business of the Customer and which would not affect a Comparable Supply;
<b>"Standards"</b>	has the meaning of: <ul style="list-style-type: none"> <li>a) any standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</li> <li>b) any standards detailed in the specification in Framework Schedule 2 (Goods and Key Performance Indicators);</li> <li>c) any standards detailed by the Customer in the Order Form following a Further Competition Procedure or agreed between the Parties from time to time;</li> <li>d) any relevant Government codes of practice and guidance applicable from time to time.</li> </ul>
<b>"Sub-Contract"</b>	means any contract or agreement or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier the Goods or any part thereof or facilities, services necessary for the provision of the Goods or any part thereof or necessary for the management, direction or control of the provision of the Goods or any part thereof;
<b>"Sub-Contractor"</b>	means the third party from the list of key-subcontractors listed in Framework Schedule 7 (Key Sub-Contractors) or any third party engaged by the Supplier from time to time under a Sub-Contract permitted pursuant to the Framework Agreement and this Call Off Contract or its servants or agents and any third party with whom that third party enters into a Sub-Contract or its servants or agents;
<b>"Supplier"</b>	means the person, firm or company with whom the Customer enters into the Call Off Contract as identified in the Order Form;
<b>"Supplier Assets"</b>	means all assets and rights used by the Supplier to provide the Goods in accordance with this Call Off Contract but excluding the Customer Assets;
<b>"Supplier Background IPR"</b>	means <ul style="list-style-type: none"> <li>a) Intellectual Property Rights owned by the Supplier before the Call Off Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business</li> </ul>



	methodologies; and/or
	b) Intellectual Property Rights created by the Supplier independently of this Call Off Contract,
	for which the Customer requires a licence to realise the benefit of the Goods provided hereunder, but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;
<b>"Supplier Personnel"</b>	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-contractor engaged in the performance of the Supplier's obligations under this Call Off Contract;
<b>"Supplier Non-Performance"</b>	has the meaning given to it in Clause 19.1 (Supplier Relief Due to Customer Cause);
<b>"Supplier Representative"</b>	means the representative appointed by the Supplier named in the Order Form;
<b>"Supplier Software"</b>	means any software which is proprietary to the Supplier (or an Affiliate of the Supplier) and identified as such in the Order Form together with all other such software which is not identified in the Order Form but which is or will be used by the Supplier or any Sub-Contractor for the purposes of providing the Goods or is embedded in and in respect of such other software as required to be licensed in order for the Customer to receive the benefit of and/or make use of the Goods;
<b>"Supplier's Confidential Information"</b>	means <ul style="list-style-type: none"> <li>a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Background IPR) trade secrets, Know-How, and/or personnel of the Supplier;</li> <li>b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Call Off Contract;</li> <li>c) information derived from any of the above.</li> </ul>
<b>"Tender"</b>	means the tender submitted by the Supplier to the Authority which secured award of the Framework Agreement, as annexed to Framework Schedule 17;
<b>"Test Device"</b>	means a device provided by the Supplier to the Customer for the purposes of testing compatability of the Goods with the Customer's IT infrastructure. The Test Device shall be an exact sample of the Goods specified in the Order Form;
<b>"Tests" and "Testing"</b>	means any tests required to be carried out pursuant to this Call Off Contract as set out in the Test Plan or Call

	Off Schedule B2 where used or elsewhere in the Call Off Contract and <b>"Test"</b> shall be construed accordingly;
<b>"Termination Notice"</b>	means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Call Off Contract on a specified date and setting out the grounds for termination;
<b>"Third Party IPR"</b>	means Intellectual Property Rights owned by a third party and subsisting in Goods to be supplied hereunder but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software;
<b>"Third Party Software"</b>	means any software identified as such in the Order Form together with all other software which is not listed in the Order Form which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source Software which is made available to the Customer in accordance with the terms of this Call Off Contract;
<b>"Undelivered Goods" and "Undelivered Services"</b>	shall have the meaning given in Clause 4.5
<b>"Undisputed Sums Time Period"</b>	has the meaning given in Clause 22.1.1 (Termination of Customer Cause for Failure to Pay);
<b>"Valid Invoice"</b>	means an invoice issued by the Supplier to the Customer that complies with the invoicing procedure in paragraph 5 (Invoicing Procedure) of Call Off Schedule 2 (Call Off Contract Charges, Payment and Invoicing);
<b>"Variation"</b>	shall mean a change to the contract terms made in accordance with Clause 10.1 (Variation Procedure);
<b>"Variation Procedure"</b>	means the procedure set out in Clause 10.1 (Variation Procedure);
<b>"VAT"</b>	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"Warranty Period"</b>	means, in relation to any Goods, the warranty period specified in the Order Form;
<b>"Working Day"</b>	means any Day other than a Saturday or Sunday or public holiday in England and Wales.

## **CALL OFF SCHEDULE 2: CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING**

### **1. GENERAL PROVISIONS**

- 1.1 This Call Off Schedule details:
  - 1.1.1 the Call-Off Contract Charges for the Goods under this Call Off Contract; and
  - 1.1.2 the payment terms/profile for the Call Off Contract Charges;
  - 1.1.3 the invoicing procedure; and
  - 1.1.4 the procedure applicable to any adjustments of the Call Off Contract Charges.

### **2. CALL OFF CONTRACT CHARGES**

- 2.1 The Call Off Contract Charges applicable to this Call Off Contract are set out in the Order Form.
- 2.2 The Supplier acknowledges and agrees that:
  - 2.2.1 In accordance with paragraph 2 of Framework Schedule 3 (Pricing Structure), the Call Off Contract Charges can in no event exceed the Framework Prices set out in Annex 2 to Framework Schedule 3 (Charging Structure); and
  - 2.2.2 subject to paragraph 6 of this Call Off Schedule 2 (Adjustment of Call Off Contract Charges), the Call Off Contract Charges cannot be increased during the Call Off Contract Period.

### **3. COSTS AND EXPENSES**

- 3.1 The Call Off Contract Charges include all costs and expenses relating to the Goods and/or the Supplier's performance of its obligations under this Call Off Contract and no further amounts shall be payable by the Customer to the Supplier in respect of such performance, including in respect of matters such as:
  - 3.1.1 any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs required by the Supplier Personnel, network or data interchange costs or other telecommunications charges; or
  - 3.1.2 any amount for any services provided or costs incurred by the Supplier prior to the Call Off Commencement Date.

### **4. PAYMENT TERMS/PAYMENT PROFILE**

- 4.1 The payment terms/profile applicable to this Call Off Contract are set out in the Order Form.

### **5. INVOICING PROCEDURE**

- 5.1 The Customer shall pay all sums properly due and payable to the Supplier in cleared funds within thirty (30) days of receipt of a Valid Invoice, submitted to the address specified by the Customer in the Order Form and in accordance with the provisions of this Call Off Contract.

- 5.2 The Customer shall pay all sums properly due and payable under any Financed Purchase Agreement in accordance with the terms of such Financed Purchase Agreement.
- 5.3 The Supplier shall ensure that each invoice (whether submitted electronically through a purchase-to-pay (P2P) automated system (or similar) or in a paper form, as the Customer may specify (but, in respect of paper form, subject to paragraph 4.3)):
  - 5.3.1 contains:
    - 5.3.1.1 all appropriate references, including the unique Order reference number as instructed in the Order Form; and
    - 5.3.1.2 a detailed breakdown of the Delivered Goods, including the Milestone(s) (if any) and any other charges, for example, Delivery, and Deliverable(s) within this Call-Off Contract to which the Delivered Goods relate, against the applicable due and payable Call Off Contract Charges; and
  - 5.3.2 shows separately:
    - 5.3.2.1 the VAT added to the due and payable Call Off Contract Charges in accordance with Clause 11.2.1 and the tax point date relating to the rate of VAT shown; and
  - 5.3.3 is exclusive of any Management Charge (and the Supplier shall not attempt to increase the Call Off Contract Charges or otherwise recover from the Customer as a surcharge the Management Charge levied on it by the Authority); and
  - 5.3.4 it is supported by any other documentation reasonably required by the Customer to substantiate that the invoice is a Valid Invoice.
- 5.4 If the Customer is a Central Government Body, the Customer's right to request paper form invoicing shall be subject to procurement policy note 11/15 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/437471/PPN\\_e-invoicing.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437471/PPN_e-invoicing.pdf)) in respect of the Customer's obligation to accept unstructured electronic invoices from the Supplier where and as required under that procurement policy note (as amended from time to time).
- 5.5 The Supplier shall accept the Government Procurement Card as a means of payment for the Goods where such card is agreed with the Customer to be a suitable means of payment. The Supplier shall be solely liable to pay any merchant fee levied for using the Government Procurement Card and shall not be entitled to recover this charge from the Customer.
- 5.6 All payments due by one Party to the other shall be made within thirty (30) days of receipt of a valid invoice unless otherwise specified in this Call Off Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- 5.7 The Supplier shall submit invoices directly to the invoicing address specified in the Order Form:

## **6. ADJUSTMENT OF CALL OFF CONTRACT CHARGES**

- 6.1 The Call Off Contract Charges shall only be varied:
  - 6.1.1 due to a Specific Change in Law in relation to which the Parties agree that a change is required to all or part of the Call Off Contract Charges in



accordance with Clause 10.2 of this Call Off Contract (Legislative Change); or

- 6.1.2 in accordance with Clause 11.1.4 (Call Off Contract Charges and Payment) where all or part of the Call Off Contract Charges are reduced as a result of a reduction in the Framework Prices;

## **7. IMPLEMENTATION OF ADJUSTED CALL OFF CONTRACT CHARGES**

- 7.1 Variations in accordance with the provisions of this Call Off Schedule to all or part of the Call Off Contract Charges (as the case may be) shall be made by the Customer to take effect:
  - 7.1.1 in accordance with Clause 10.2 (Legislative Change) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 6.1.1 of this Call Off Schedule;
  - 7.1.2 in accordance with Clause 11.1.4 (Call Off Contract Charges and Payment) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 6.1.2 of this Call Off Schedule.
- 7.2 The Parties shall amend the Call Off Contract Charges shown in the Order form to reflect such variations.

## **ANNEX A – FINANCED PURCHASE AGREEMENT**

## **CALL OFF SCHEDULE 3: THIRD PARTY SOFTWARE AND MAINTENANCE AGREEMENTS**

This Call Off Schedule 3 incorporates or references the license terms and/or maintenance agreements applicable to the Third Party Software, as specified in the Order Form.

### **1. THIRD PARTY SOFTWARE LICENSE(S)**



Microsoft Enterprise  
Agreement

### **2. THIRD PARTY MAINTENANCE AGREEMENT(S)**

## CALL OFF SCHEDULE 4: SPECIFIC EXCLUSIONS FOR LOT 6 ORDERS

### 1. GENERAL

1.1 The following terms of this Call Off Contract (including any subclauses and subparagraphs) shall not apply to Lot 6.

- Clauses 4.2.3 to 4.2.7 inclusive
- Clauses 4.12 to 4.14 inclusive
- Clause 6
- Clause 13.3
- Clauses 14.2 to 14.5 inclusive
- Clause 18.2
- Clause 21.2
- Clause 24
- Clause 30.3

### FRAMEWORK SCHEDULE 4 – ANNEX 3

### ALTERNATIVE AND ADDITIONAL CALL OFF CONTRACT PROVISIONS

#### ALTERNATIVE CLAUSES

Scots Law  
Northern Ireland Law  
Non-Crown Bodies  
Non-FOIA Public Bodies

#### ADDITIONAL CLAUSES AND SCHEDULES

##### A: TERMED DELIVERY – GOODS

- A1 Implementation Plan
- A2 Insurance
- A3 Termination - Financial Standing
- A4 Termination - Insolvency
- A5 Termination - Change of Control
- A6 Assignment and Novation (27.2 on)

##### B: COMPLEX DELIVERY – SOLUTIONS

- B1 Variation
- B2 Testing
- B3 Service Levels & Service Credits
- B4 Performance Monitoring
- B5 Supplier Personnel
- B6 Licence Granted by the Customer
- B7 Exit Management
- B8 Relevant Convictions



B9	Installation Works
B10	Key Personnel
B11	Supplier Equipment
B12	Security Measures

#### **C-I: OPTIONAL PROVISIONS**

C	Due Diligence
D	Call Off Guarantee
E	NHS Coding Requirements Continuous Improvement &
F	Benchmarking
G	Customer Premises
H	Customer Property
I	MOD Additional Clauses

Unless a clear adjustment to an existing provision of the Call Off Contract (e.g. the alternative Clauses and Clause B.5 replacing the short form Variation Procedure) additional Clauses incorporated to the Call Off Contract via the Order Form will have the effect of being inserted sequentially immediately after Clause 37. New definitions for Call Off Schedule 1 will have the effect of being inserted alphabetically into the table therein and associated schedules will have the effect of being inserted sequentially immediately after Call Off Schedule 4.

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## **ALTERNATIVE CLAUSES**

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### **SCOTS LAW**

Law and Jurisdiction (Clause 37)

The original Clause 37 shall be replaced with:

This Call Off Contract shall be governed by and interpreted in accordance with the Laws of Scotland and the Parties agree to submit to the exclusive jurisdiction of the Scottish courts any dispute that arises in connection with this Call Off Contract including, without limitation, any dispute relating to any contractual or non-contractual obligation and the existence, validity or termination of this Call Off Contract.

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### **NORTHERN IRELAND LAW**

Law and Jurisdiction (Clause 37)

The original Clause 37 shall be replaced with:

This Call Off Contract shall be governed by and interpreted in accordance with the Laws of Northern Ireland and the Parties agree to submit to the exclusive jurisdiction of the Northern Irish courts any dispute that arises in connection with this Call Off Contract including, without limitation, any dispute relating to any contractual or non-contractual obligation and the existence, validity or termination of this Call Off Contract.

Schedule 1:

In the definition of "Insolvency Event", Section 123 of the Insolvency Act 1986" shall be replaced with "Article 103 of the Insolvency (NI) Order 1989".

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### **NON-CROWN BODIES**

Where the Customer is not a Crown Body replace Clause 26.2 with the following:

#### **"26.2 Finance Act**

26.2.1 The Supplier shall comply with section 182 of the Finance Act 1989."

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### **NON-FOIA PUBLIC BODIES**

Where the Customer is not a public body for the purposes of FOIA replace Clause 15.6 with the following:

#### **"15.6 Freedom of Information**

15.6 The Customer has notified the Supplier that the Customer is exempt from the provisions of FOIA."

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## **A: TERMED DELIVERY – GOODS**

**Additional contractual provisions to apply to Customer requirements for Goods purchase, including where Financed Purchase Agreements are used, over a specified duration of Call-Off Contract. To be selected by the Customer using the Order Form.**

### **A.1 IMPLEMENTATION PLAN**

#### **A.1.1 Formation of Implementation Plan**

A.1.1.1 Where the Parties agreed in the Order Form (or elsewhere in this Call Off Contract) that an Implementation Plan (or parts thereof) shall be provided in draft by the Supplier prior to the commencement of the provision of the supply of the Goods, the Supplier's draft must contain information at the level of detail necessary to manage the implementation stage effectively and as the Customer may require. The draft Implementation Plan shall take account of all dependencies known to, or which should reasonably be known to the Supplier.

A.1.1.2 The Supplier shall submit the draft Implementation Plan to the Customer for Approval (such decision of the Customer to Approve or not shall not be unreasonably delayed or withheld) within such period as specified by the Customer in the Order Form (or elsewhere in this Call Off Contract).

A.1.1.3 The Supplier shall perform each of the Deliverables identified in the Implementation Plan by the applicable date assigned to that Deliverable in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.

A.1.1.4 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and any other requirements of the Customer as set out in this Call Off Contract and report to the Customer on such performance.

#### **A.1.2 Control of Implementation Plan**

A.1.2.1 Subject to Clause A.1.2.2, the Supplier shall keep the Implementation Plan under review in accordance with the Customer's instructions and ensure that it is maintained and updated on a regular basis as may be necessary to reflect the then current state of the supply of the Goods. The Customer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.

A.1.2.2 Changes to the Milestones (if any), Milestone Payments (if any) and Delay Payments (if any) shall only be made in accordance with the Variation Procedure and provided that the Supplier shall not attempt to postpone any of the Milestones using the Variation Procedure or otherwise (except in the event of a Customer Cause which affects the Supplier's ability to achieve a Milestone by the relevant Milestone Date).

A.1.2.3 Where so specified by the Customer in the Implementation Plan or elsewhere in this Call Off Contract, time in relation to compliance with a date, Milestone Date or period shall be of the essence and failure of the Supplier to comply with such date, Milestone Date or period shall be a Material Default unless the Parties expressly agree otherwise.

#### **A.1.3 Rectification of Delay in Implementation**

A.1.3.1 If the Supplier becomes aware that there is, or there is reasonably likely to be a Delay under this Call Off Contract:

a) it shall:

(i) notify the Customer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay; and

(ii) include in its notification an explanation of the actual or anticipated impact of the Delay; and