



**Crown  
Commercial  
Service**

## **G-Cloud 11 Call-Off Contract (version 4)**

### **Contents**

#### **Contents**

<b>G-Cloud 11 Call-Off Contract (version 4)</b> .....	<b>1</b>
<b>Part A - Order Form</b> .....	<b>3</b>
Principle contact details .....	4
Call-Off Contract term .....	5
Buyer contractual details .....	5
Supplier's information .....	8
Call-Off Contract charges and payment .....	8
Additional Buyer terms .....	9
<b>Schedule 1 - Services</b> .....	<b>11</b>
<b>Schedule 2 - Call-Off Contract charges</b> .....	<b>13</b>
<b>Schedule 2A – Supplier's Clarifications</b> .....	<b>22</b>
<b>Schedule 3 - Collaboration agreement</b> .....	<b>2</b>
<b>Schedule 4 – Not used</b> .....	<b>24</b>
<b>Schedule 5 – Not used</b> .....	<b>24</b>
<b>Schedule 6 - Glossary and interpretations</b> .....	<b>24</b>
<b>Schedule 7 - GDPR Information</b> .....	<b>32</b>
<b>Annex 1 - Processing Personal Data</b> .....	<b>32</b>
<b>Part B - Terms and conditions</b> .....	<b>34</b>

1. Call-Off Contract start date and length.....	34
2. Incorporation of terms .....	34
3. Supply of services .....	35
4. Supplier staff .....	36
5. Due diligence .....	36
6. Business continuity and disaster recovery .....	37
7. Payment, VAT and Call-Off Contract charges.....	37
8. Recovery of sums due and right of set-off.....	38
9. Insurance .....	38
10. Confidentiality .....	39
11. Intellectual Property Rights .....	40
12. Protection of information .....	41
13. Buyer data.....	41
14. Standards and quality .....	42
15. Open source .....	43
16. Security .....	43
17. Guarantee .....	44
18. Ending the Call-Off Contract .....	44
19. Consequences of suspension, ending and expiry .....	45
20. Notices .....	47
21. Exit plan .....	47
22. Handover to replacement supplier .....	48
23. Force majeure .....	49
24. Liability .....	49
25. Premises .....	49
26. Equipment.....	50
27. The Contracts (Rights of Third Parties) Act 1999.....	50
28. Environmental requirements .....	50
29. The Employment Regulations (TUPE) .....	51
30. Additional G-Cloud services .....	52
31. Collaboration .....	52
32. Variation process .....	53
33. Data Protection Legislation (GDPR).....	53

## Part A - Order Form

<b>Digital Marketplace service ID number:</b>	639933323391962
<b>Call-Off Contract reference:</b>	CQC ICTC 824
<b>Call-Off Contract title:</b>	<b>IT Service Management Toolset</b>
<b>Call-Off Contract description:</b>	<p>Provision of:</p> <p>Lot 2 - Cloud software:  <b>As CQC Lot 1 - SaaS licenses ServiceNow Products as required, ITSM, ITOM and SAM APPLICATIONS- All Professional version.</b>  and  Lot 3 - Cloud support:  <b>As CQC Lot 2 - Professional Implementation Services as required,</b> to deploy Service Now ITSM, ITOM and SAM and other application and modules in a number of phases of work; to provide training and development of CQC staff; and to provide subsequent and ongoing 3<sup>rd</sup> line support (How-to, assistance and resolve defects).  This support to be provided during and throughout the delivery of the professional support (agreed phases).  Under this Call-Off Contract although there is no guarantee to the Supplier of volume.</p>
<b>Start date:</b>	18 October 2019
<b>Expiry date:</b>	17 October 2021 with option to extend by 2 x 12 months periods giving a maximum term of 48 months.
<b>Call-Off Contract value:</b>	<p>In summary, all Excluding VAT.</p> <p>Over 24 months:  CQC Lot 1 – £365,564.00 and CQC Lot 2 – £366,300.00 = £731,864.00  and  Over 48 months:  CQC Lot 1 – £709,148.00 and CQC Lot 2 – £366,300.00 = £1,075,448.00  See Schedule 2 - Call Off Contract Charges for detail.</p>
<b>Charging method:</b>	Valid (and accurate) invoices, including quoting a valid Purchase Order number, Contract reference and

	Contract Title.
Purchase order number:	[TBC]

This Order Form is issued under the G-Cloud 11 Framework Agreement (RM1557.11).  
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>	Care Quality Commission Buyer's phone number: (NCSC) - 03000 616 161 Buyer's main address: Care Quality Commission Citygate Gallowgate Newcastle Upon Tyne NE1 4PA
<b>To: the Supplier</b>	FlyForm Ltd Supplier's phone number: 0333 305 8449 Supplier's address: Capital Tower Greyfriars Road Cardiff CF10 3AG United Kingdom Company number: 09735009
<b>Together: the 'Parties'</b>	

### Principle contact details

<b>For the Buyer:</b>	
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<b>For the Supplier:</b>	
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#### Call-Off Contract term

<b>Start date:</b>	This Call-Off Contract Starts on <b>18/10/2019</b>
<b>Ending (termination):</b>	The notice period needed for Ending the Call-Off Contract is at least <b>90 Working Days</b> from the date of written notice for undisputed sums or at least <b>30 days</b> from the date of written notice for Ending without cause.
<b>Extension period:</b>	This Call-Off Contract can be extended by the Buyer for 2 period(s) of 12 months each. 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.

#### 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>	This Call-Off Contract is for the provision of Services under: <b>Lot 2 - Cloud software and Lot 3 - Cloud support</b>
<b>G-Cloud services required:</b>	The Services to be provided by the Supplier under the above Lot are listed in Framework Section 2 and outlined below: ServiceNow Implementation, Software and Licensing: - Lot 2 - Cloud software: As CQC Lot 1 - <b>SaaS licenses ServiceNow Products as required</b> , ITSM, ITOM and SAM APPLICATIONS – All professional version. and Lot 3 - Cloud support: As CQC Lot 2 - <b>Professional Implementation Services as required</b> , to deploy Service Now ITSM, ITOM and SAM and other application and modules in a number of phases of work; to provide training and development of CQC staff; and to provide subsequent and ongoing 3 <sup>rd</sup> line support (How-to, assistance and resolve defects). This support to be provided during and throughout the delivery of the professional support (agreed phases). Under this Call-Off Contract although there is no guarantee to the Supplier of volume.
<b>Additional Services:</b>	Not Applicable.
<b>Location:</b>	The Services will be delivered to the following locations: Main location: <b>Newcastle office - Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA.</b> and

	<p><b>London office</b> - 151 Buckingham Palace Road, 3rd Floor, SW1W 9SW. On site attendance of the agreed team, as required and agreed is for up to 150 days maximum. This is to ensure, satisfactory delivery of professional services (for Implementation support - phases) as per statements of requirements.</p> <p>Any <b>additional onsite requirement</b> by CQC, to any locations by prior agreement, if required, the expenses will be paid in line with CQC expense policy for travel and subsistence.</p> <p>Other locations may include:</p> <p><b>Leeds office</b> - 1st floor St Paul's House, Park Square South, Leeds, LS1 2ND</p> <p><b>Nottingham office</b> - Concord Business Centre, Nottingham Road, New Basford, Nottinghamshire, NG7 7FF</p>
<b>Quality standards:</b>	The quality standards required for this Call-Off Contract are: ISO 9001.
<b>Technical standards:</b>	The technical standards required for this Call-Off Contract are: ISO 27001.
<b>Service level agreement:</b>	<p>The service level and availability criteria required for this Call-Off Contract are the service levels or availability criteria:</p> <ul style="list-style-type: none"> <li>• in the Supplier's Service Definition</li> <li>• in the Service Description</li> <li>• used as a requirement or acceptance criteria</li> </ul>
<b>Onboarding:</b>	<p>The onboarding plan for this Call-Off Contract is:</p> <p>Implementation project plan will be designed with the Buyer's project team and the Supplier's project manager at the project initiation meeting. For the avoidance of doubt, the content of the project plan will be agreed between the Parties.</p> <p>The implementation will consist of:</p> <ul style="list-style-type: none"> <li>• Standard project deployment <ul style="list-style-type: none"> <li>○ Pre-Kick-off</li> <li>○ Kick-off &amp; Requirements Gathering</li> <li>○ System Build &amp; Configuration</li> <li>○ Project Team Training</li> <li>○ Testing</li> <li>○ Go Live</li> </ul> </li> </ul> <p>This would include an implementation plan with an outline of processes and payment milestone of implementing the services required.</p>

<b>Offboarding:</b>	<p>The offboarding plan for this Call-Off Contract is:</p> <p>This section sets out the principles of the exit and service transfer arrangements that are intended to achieve an orderly transition which shall form the basis of the Exit Plan. This would include an exit plan of processes associated with exiting the Call-Off Contract and data standards for migration.</p> <p>The Supplier will, within one months after the award of the contract, deliver to the Buyer a full Exit Plan which sets out the Suppliers proposed methodology for achieving an orderly transition of Services from the Supplier to the Buyer and/or its replacement Supplier on the expiry or termination of this contract.</p> <p>Within 30 days after the submission of the Exit Plan, the parties will user their respective reasonable endeavours to agree the contents of the Exit Plan.</p> <p>The Exit Plan will comply with the requirements as per clause Exit Plan, 21.8 in the Part B Terms and conditions below and should contain as a minimum:</p> <ul style="list-style-type: none"> <li>• The management structure to be employed during both the transfer and cessation of the services</li> <li>• A detailed description of both the transfer and cessation processes, <u>including a timetable</u>.</li> </ul>
<b>Collaboration agreement:</b>	<p>The Buyer will require the Supplier to enter into a Collaboration Agreement as per schedule 3.</p> <p>CQC are in the process of procuring new Providers for key Services that may impact on the use of ServiceNow, as such the Supplier may need to work in collaboration where there is a requirement to do so.</p>
<b>Limit on Parties' liability:</b>	<p>The annual total liability of either Party for all Property defaults will not exceed £1,000,000 (one million pounds) or 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term (whichever is the greater).</p> <p>The annual total liability for Buyer Data defaults will not exceed £1,000,000 (one million pounds) or 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term (whichever is the greater).</p> <p>The annual total liability for all other defaults will not exceed the greater of £1,000,000 (one million pounds) or 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term (whichever is the greater).</p>
<b>Insurance:</b>	<p>The insurance(s) required will be:</p> <ul style="list-style-type: none"> <li>• a minimum insurance period of 6 years following the expiration or</li> </ul>

	<p>Ending of this Call-Off Contract</p> <ul style="list-style-type: none"> <li>• employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law</li> <li>• professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £1,000,000 for each individual claim or any higher limit the Buyer requires (and as required by Law)</li> <li>• public liability insurance with a minimum limit of indemnity of £1,000,000 for each individual claim.</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>All the required audit provisions from clauses 7.4 to 7.13 of the Framework Agreement.</p>
<b>Buyer's responsibilities:</b>	The Buyer is responsible for granting of access to all relevant CQC sites.
<b>Buyer's equipment:</b>	The Buyer's equipment to be used with this Call-Off Contract includes access to all relevant CQC collaboration tools.

### Supplier's information

<b>Subcontractors or partners:</b>	The following is a list of the Supplier's Subcontractors or Partners: Not Applicable.
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### Call-Off Contract charges and payment

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

<b>Payment method:</b>	The payment method for this Call-Off Contract is: by BACS.
<b>Payment profile:</b>	The payment profile for this Call-Off Contract is <b>monthly in arrears</b> after satisfactorily delivery of agreed payment milestones and acceptance by the Buyer.
<b>Invoice details:</b>	The Supplier will issue electronic invoices <b>monthly in arrears</b> . The Buyer will pay the Supplier within <b>30</b> days of receipt of valid and accurate invoice.
<b>Who and where to send invoices to:</b>	<p>Invoices will be sent to:</p> <p>Care Quality Commission T70 Payables F175 Phoenix House Topcliffe Lane Wakefield West Yorkshire WF3 1WE</p>
<b>Invoice information required – for example purchase</b>	All invoices must include: Purchase Order Reference and itemised details of goods/services satisfactorily delivered and accepted by the Buyer.


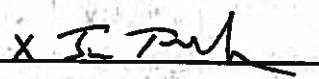
	perform the Call-Off Contract.
<b>Supplemental requirements in addition to the Call-Off terms:</b>	Not Applicable.
<b>Alternative clauses:</b>	Not Applicable.
<b>Buyer specific amendments to/refinements of the Call-Off Contract terms:</b>	A new Schedule 2A – Supplier's Clarifications inserted.
<b>Public Services Network (PSN):</b>	Not Applicable.
<b>Personal Data and Data Subjects:</b>	Annex 1 of Schedule 7 is being used.

## 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 and Order Form will supersede those of the Supplier Terms and Conditions.

## 2. Background to the agreement

- (A) The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.11.
- (B) The Buyer provided an Order Form for Services to the Supplier.

<b>Signed:</b>	Supplier	Buyer
<b>Name:</b>	Adam Godfrey	Ian Trenholm
<b>Title:</b>	Sales Director	Chief Executive
<b>Signature:</b>	X 	X 
<b>Date:</b>	21 /10/2019	___/10/2019

<b>order, project reference:</b>	
<b>Invoice frequency:</b>	Invoice will be sent to the Buyer monthly in arrears after satisfactory delivery of agreed payment milestones and acceptance by the Buyer.
<b>Call-Off Contract value:</b>	The total value of this Call-Off Contract, in summary is – All Excluding VAT Over 24 months: CQC Lot 1 – £365,564.00 and CQC Lot 2 – £366,300.00 = £731,864.00 and Over 48 months: CQC Lot 1 – £709,148.00 and CQC Lot 2 – £366,300.00 = £1,075,448.00
<b>Call-Off Contract charges:</b>	The breakdown of the Charges is See Schedule 2, Call-Off Contract Charges.

### 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>Within one month of the award:</p> <p>The supplier will deliver a plan for the full implementation of the required services which will contain deliverables and associated payment milestone.</p> <p>Upon satisfactory delivery against payment milestone and acceptance by the Buyer, payments will be made monthly in arrears.</p> <p>The supplier will deliver the full exit plan as per clause Exit Plan, 21.8 in the Part B Terms and conditions below.</p>
<b>Guarantee:</b>	Not Applicable.
<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>The Supplier will use the best applicable and available techniques and standards and will perform the Call-Off Contract with all reasonable care, skill and diligence, and according to Good Industry Practice.</p> <p>The Supplier warrants that all Supplier Staff assigned to the performance of the Services have the necessary qualifications, skills and experience for the proper performance of the Services.</p> <p>The Supplier represents and undertakes to the Buyer that each Deliverable will meet the Buyer's acceptance criteria, as agreed for the delivery of each milestone.</p> <p>The Supplier undertakes to maintain any interface and interoperability between third-party software or Services and software or Services developed by the Supplier.</p> <p>The Supplier warrants that it has full capacity and authority and all necessary authorisations, consents, licences and permissions to</p>

## **Schedule 1 - Services**

### **1 Background/Preamble**

The Care Quality Commission (CQC) - We monitor, inspect and regulate health and social care services. We publish what we find, including ratings to help people choose care. We make sure health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage care services to improve.

The CQC plans to transition away from incumbent ITSM toolsets to a CQC in-house managed SaaS based solution. This approach will provide greater control over critical Service Management tooling and mitigate the need to change Supplier provided solutions with associated costs at contract expiry.

### **2 Specification**

The supplier will provide both the **ServiceNow** licences and the **implementation** of specific CQC configuration of the **ITIL Service Management** toolset and **support**.

### **LOT 2 - CLOUD SOFTWARE**

The Suppliers will provide cloud software Services Requirements as stated below:

**Lot 1 - Provide SaaS licenses ServiceNow Products as required, ITSM, ITOM and SAM APPLICATIONS** to support ITIL Service Management Processes. The ITSM, ITOM and SAM and other application and its modules to be delivered in a number of phases.

### **LOT 3 - CLOUD SUPPORT**

The Suppliers will provide Services Requirements as stated below:

**Lot 2 - Provide Professional Implementation Services as required**, to deploy Service Now ITSM, ITOM and SAM and other application and modules in a number of phases of work; to provide training and development of CQC staff; and to provide subsequent and ongoing 3<sup>rd</sup> line support.

**Phase 1 – IT Service Management (ITSM)- to be completed in shortest time as possible but by no later than the 31 December 2019.**

Implement a fully operational and populated deployment of the Service Now, IT Workflow: IT Service Management Standard edition.

1. Apply and activate a known and consistent initial configuration for the workflows delivering Incident Management; Problem Management; Change Management; Release Management; Cost Management; Asset Management; Request Management; and Walk-Up Experience.
2. Engage with CQC to identify and execute any further configuration necessary to reflect CQC's processes and working practices, whilst maintaining out-of-the-box functionality and avoiding bespoke scripting or programming.
3. Design, build and deploy the Service Now portal interface and begin population of the Knowledge Base.
4. Design, build and populate the CMDB in preparation of the deployment of Discovery tools during a later phase.
5. Design, build and initiate a series of standardised reports and dashboards.
6. Deliver training and learning support to nominated CQC staff as part of knowledge transfer to enable CQC staff to ultimately perform day-to-day administrative tasks.
7. Deploy mobile application to enable both approvals and the access to rich reporting and dashboards to appropriate users as and when required.

**Phase 2 – IT Operations Management (ITOM) - to be completed in shortest time as possible but by no later than the 31 March 2020.**

Implement a fully operational and populated deployment of the Service Now, IT Workflow; IT Operations Management Standard edition.

8. Apply and activate a known and consistent initial configuration for the workflows delivering Discovery and Event Management.
9. Engage with CQC to identify and execute any further configuration necessary to reflect CQC's processes and working practices, whilst maintaining out-of-the-box functionality and avoiding bespoke scripting or programming.
10. Design, build and deploy Discovery tools and commence auto-discovery and population of the CMDB.
11. Design, build and initiate a series of standardised reports and dashboards.
12. Deliver training and learning support to nominated CQC staff as part of knowledge transfer to enable CQC staff to ultimately perform day-to-day administrative tasks.

**Phase 3 – Software Asset Management (SAM) - to be completed in shortest time as possible but by no later than the 30 June 2020.**

Implement a fully operational and populated deployment of the Service Now, IT Workflow; SAM Professional.

13. Apply and activate a known and consistent initial configuration for the workflows delivering SAM, Client Software Distribution for SAM and Performance Analytics for SAM.
14. Extend the power of the CMDB to included full Software Asset Management of both the End User and the Server estate.

**Future Phases – Please Propose**

Please propose, future phases and provide full details of what each phase will deliver as outcomes stating each module or feature to be delivered.

15. Please note that the Buyer's preference is to bring the organisation's IT maturity to a level that is well advanced as quickly as possible but in a logical and cost-effective manner. Thus, it is mandatory that proposals are well structured to deliver maximum output efficiently in the shortest period for each phase without compromising quality and industry best practice.

For example:

Phase 4 – Review operation of the deployment of Service Now and present options to inform CQC's consideration in relation to the business benefit of investing in upgrading to Professional and Enterprise editions – no target date for completion, this may be revisited at appropriate points during the engagement.

For the duration of the contract term – the supplier will provide 2<sup>nd</sup> and 3<sup>rd</sup> line support and development effort (the latter upon request at agreed day rates).

The Supplier will.

- The Supplier will describe, in detail how they propose to work with CQC to implement the ServiceNow product across the CQC Digital function and will assist with integration of other CQC suppliers that are required to utilise or integrate with the ITSM product.
- The Supplier will describe, in detail their proposed tried and tested model for the ServiceNow toolset and modules together with their deployment and configuration. Initially using Standard Product and facilities within ServiceNow toolset and followed by additional functionality once the service is live.

- The Supplier will describe, in detail how they propose to engage and work with CQC to introduce changes to the configuration of the tools, the interfaces, workflows, reports and other features to correspond with and meet the requirements of CQC's processes and ways of working. This will be minimal to get maximum efficiency and the resulting IPR will rest with CQC.
- The Supplier will describe, in detail their proposed training roadmap for CQC staff both to prepare for the start of the engagement and for their eventual assuming of day-to-day administrative tasks. This training roadmap could consist of types of training such as; recommended pre-requisite training material including essential and non-essential set courses from ServiceNow; other available training materials and resources; and tailored training provided by the Supplier.
- The Supplier will describe, in detail how they propose to carry out training, knowledge transfer and shadowing to enable CQC staff to prepare and to take on day-to-day administrative tasks and trouble shooting.
- The Supplier will provide continuing further training and mentoring to CQC staff for the duration of the subscription term to enable the continued development of skills and experience of nominated CQC staff.
- The Supplier will provide 3<sup>rd</sup> line support. At the beginning of the engagement and deployment the Supplier will provide all support and as each stage is completed and commissioned into normal business operation, the Supplier will step back to 3<sup>rd</sup> line support for the remaining duration of the subscription term.

#### **Programme Objectives and Outcomes**

- Adhere to "Out of The Box" (OOTB) approach wherever possible to minimise maintenance costs.
- Introduce effective support and self-service across CQC.
- Deploy auto-Discovery tools to populate a rich CMDB so that we have a complete visibility of all IT assets at all times.
- Introduce an advanced Event Management capability to drive appropriate alerts and to initiate appropriate action to reduce system downtime.
- Take control of the software on our full End User and Server estate, to not only control deployment and management but also manage licencing costs using Software Asset Management.
- Future objectives:
- Control and automate Servers and infrastructure in remote datacentres and public cloud (Azure/AWS) using advanced Cloud Management tools.
- Automate routine tasks such as Password Reset and Client Software Distribution using Orchestration to prevent them tying up internal resources or causing third party costs.

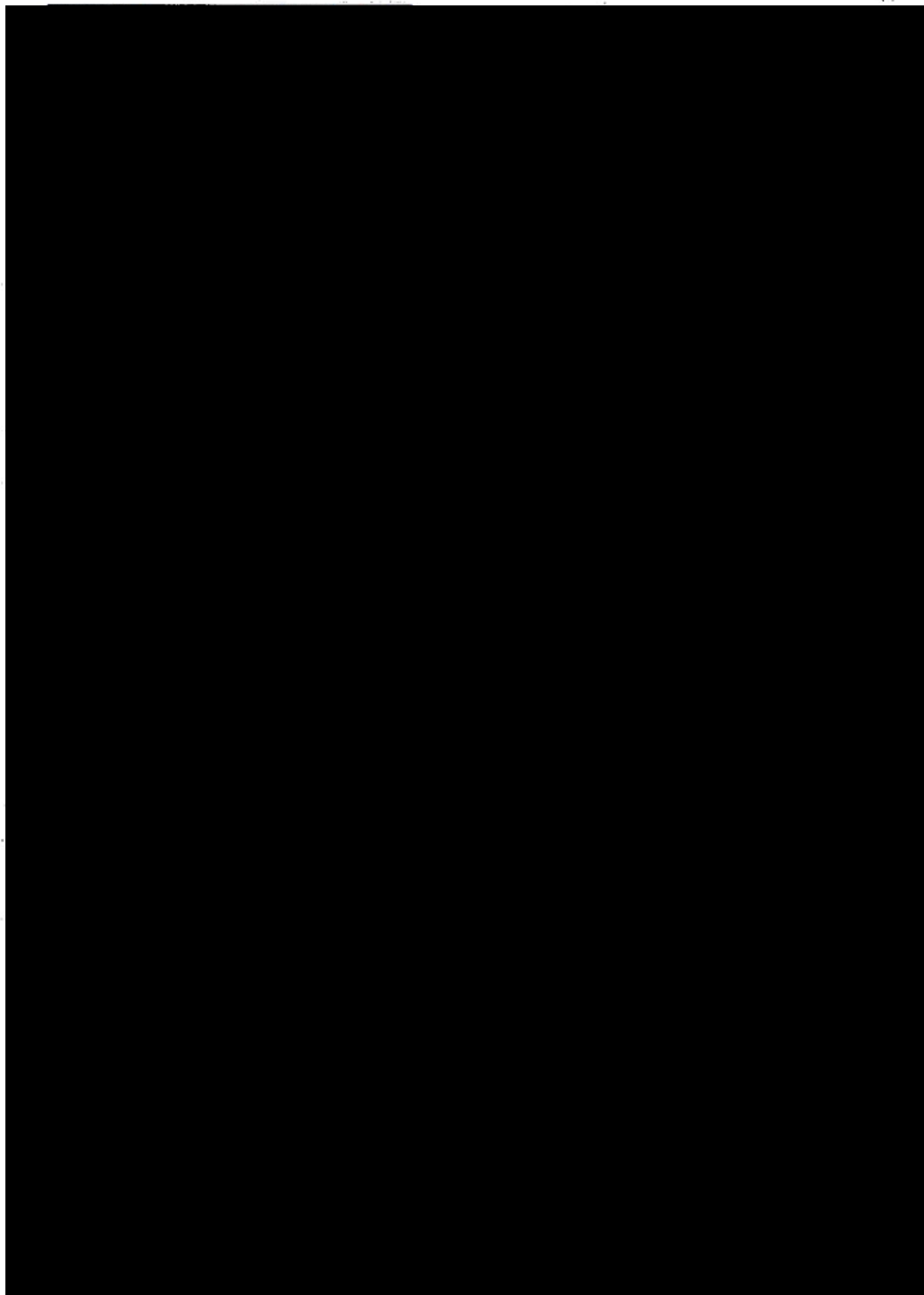
## **Schedule 2 - Call-Off Contract charges**

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:

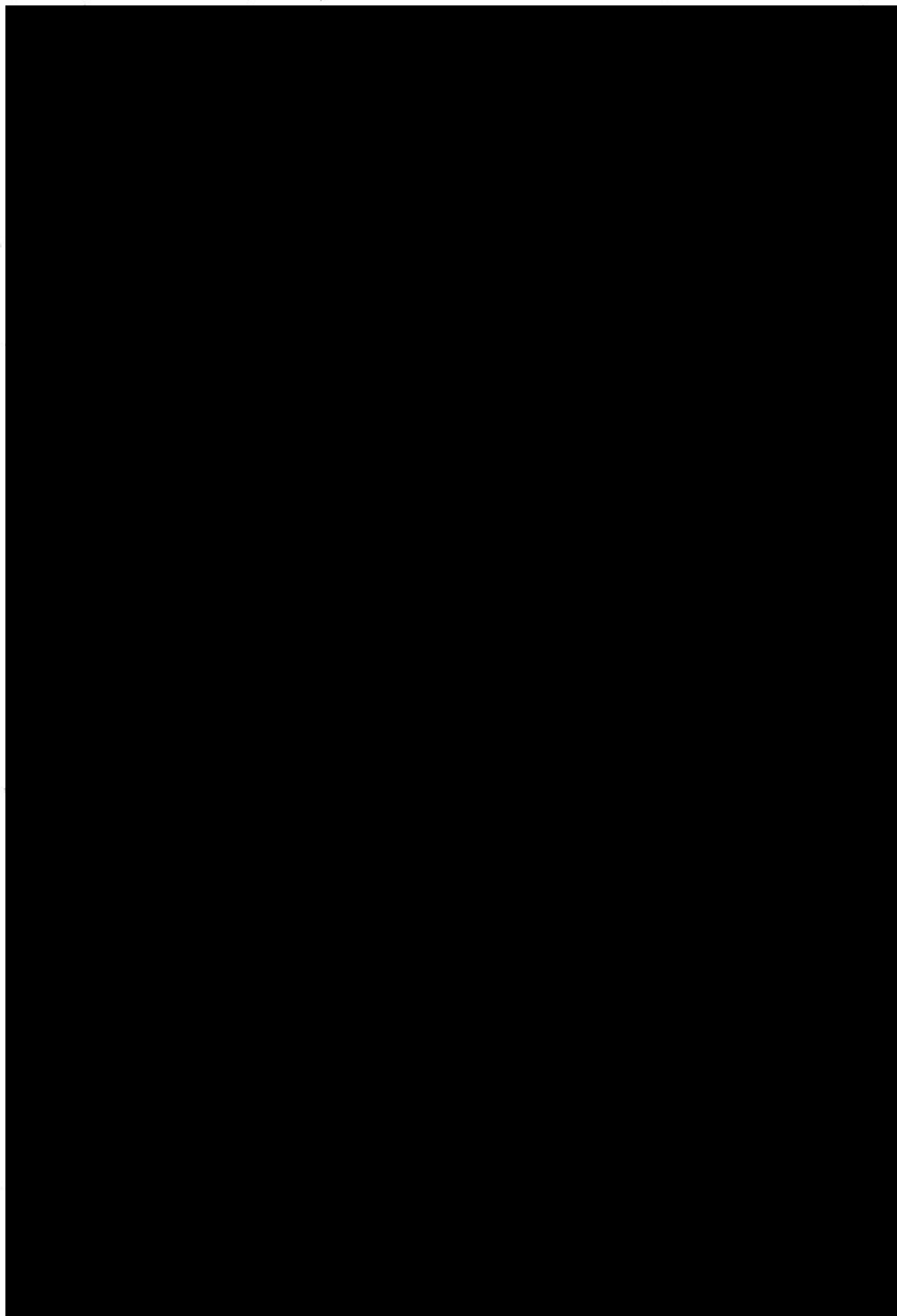
**All submissions must be based upon these terms;**

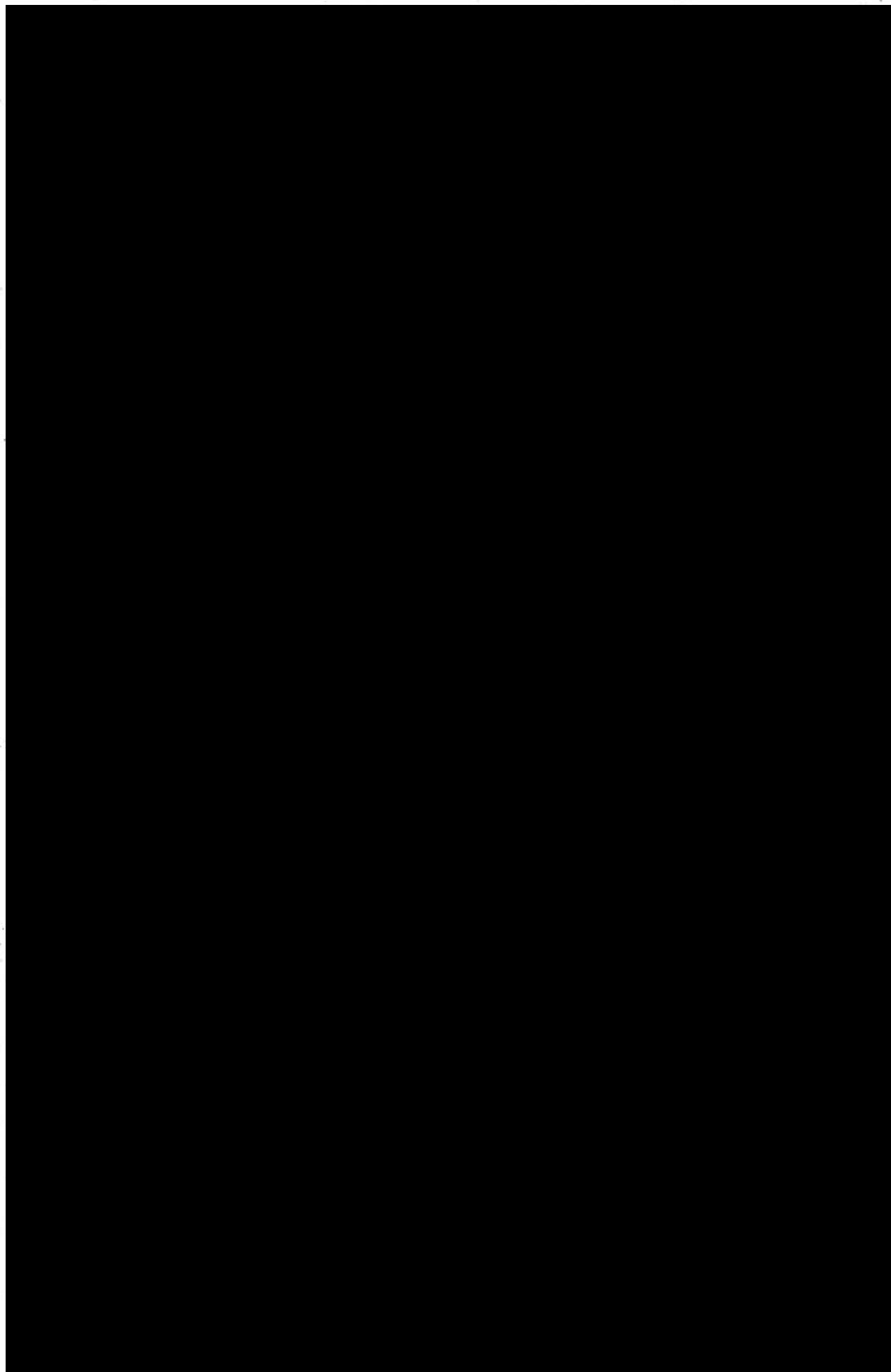
- **All prices shall be fixed and firm for the duration of the contract;**
- **Include all other charges and overheads associated with the element being priced including travel and subsistence costs;**
- **All costs must be exclusive of VAT;**
- **All costs must be stated in Pounds Sterling.**

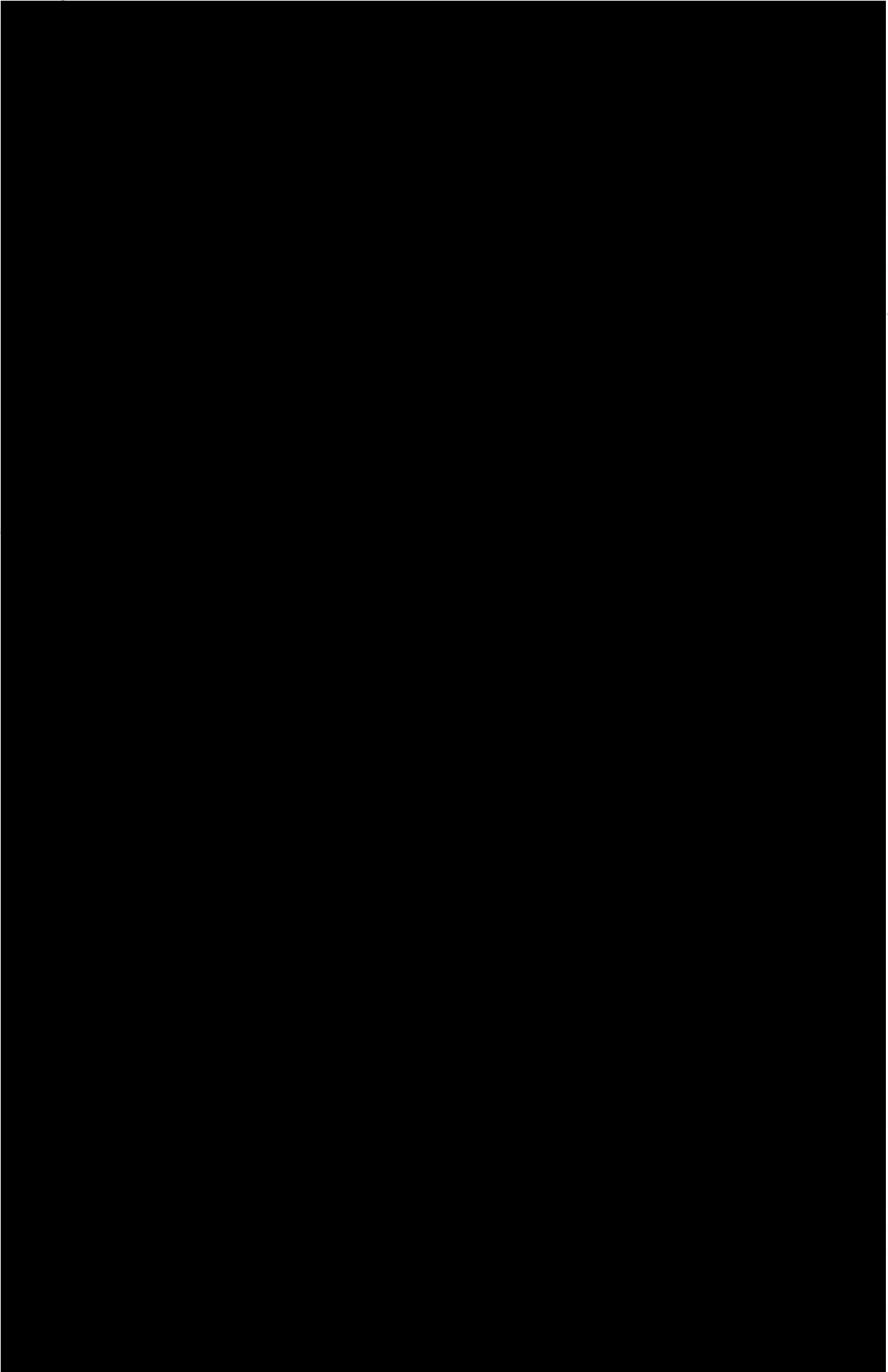


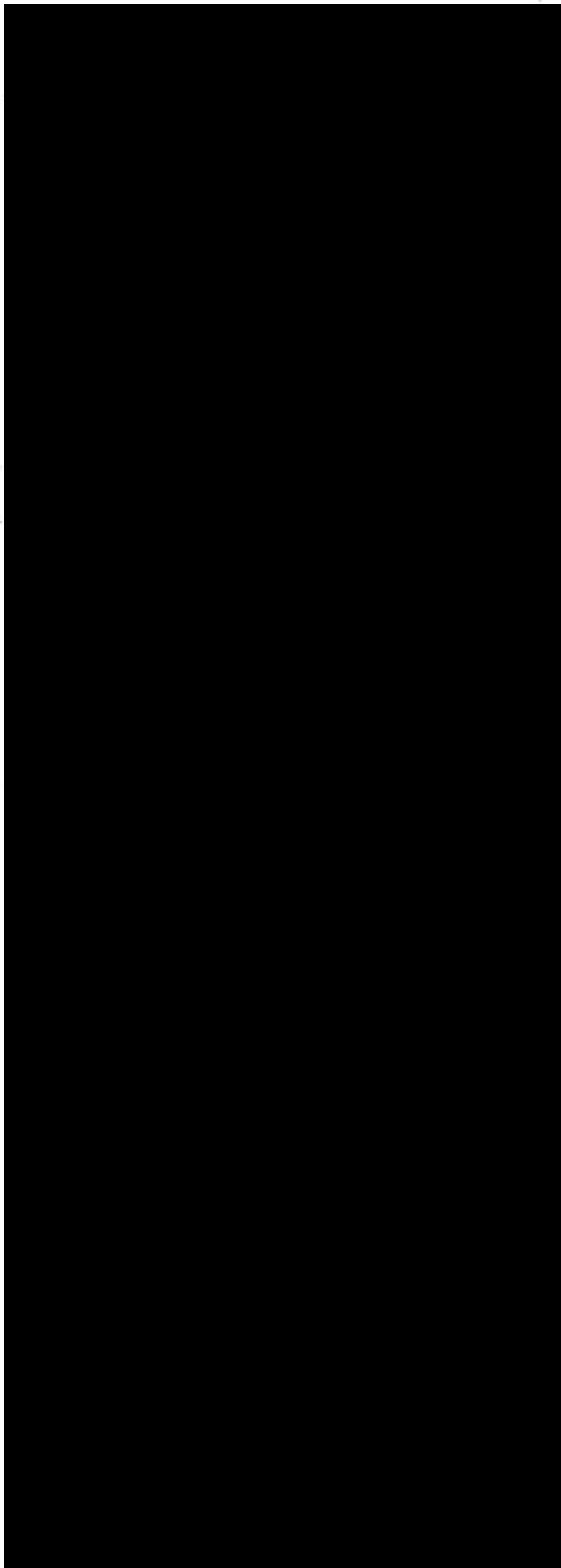










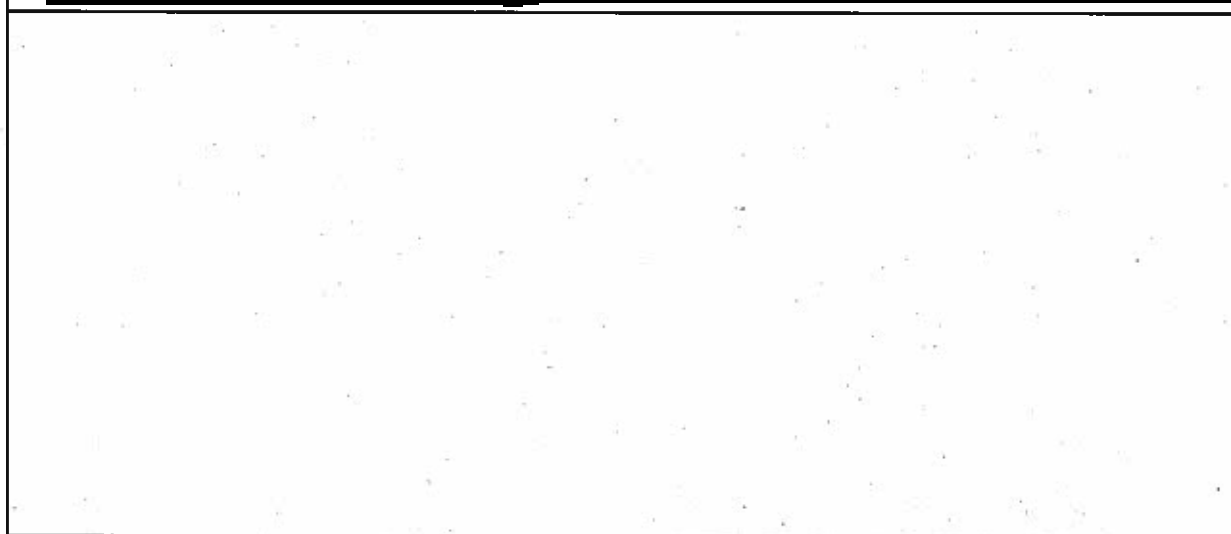


## Schedule 2A – Supplier's Clarifications

No	Method Statement (Questions) Technical merit and functional fit	Clarification Response (Answers)
1	<p><b>Approach and Methodology</b> - Please demonstrate your proven track record of your experience and the knowledge of ServiceNow, in terms of developing, enhancing and configuring the toolset with the interfaces, workflows, reports and other features and of implementing new modules and capability and how this corresponds with and meet the requirements of CQC's processes and ways of working.</p>	<p>As a dedicated ServiceNow Elite partner we live and breathe this technology and our clients' needs on a day to day basis. Our founders [REDACTED] both come from service delivery and operations backgrounds as previous customers of ServiceNow themselves. In setting up FlyForm four years ago they set to close a gap in the market where ServiceNow partners who were not delivering quality services, particularly in the UK Public Sector. It is our corporate mandate to deliver the ultimate partner experience and our entire business culture is built around this.</p> <p>Our KPI for this goal is not growth, revenue or profit, it's the ServiceNow Customer satisfaction Score (CSAT) which is surveyed by ServiceNow directly with the customer on completion of a project.</p> <p>With our team of 30+ highly experienced consultants we have delivered 34 projects in the last 12 months and our independent score is 9.7/10 as you can see in our Accompanying Material attached.</p> <p>Having secured many new long-term customers of similar size and shape to CQC we are set to continue our steady growth and are fortunate to be adding 3-4 highly skilled team members every month.</p> <p>As we continue to expand, we ensure Quality, Simplicity and Value are the 3 core values that our company holds dearly in every customer interaction we have.</p> <p>FlyForm's approach to the implementation is based on the ServiceNow Implementation Methodology (SIM), as seen in Figure 1 and Figure 2 (Accompanying Materials), which is used by ServiceNow Global Services and its partners to implement the ServiceNow suite of products. When combined with the right team, strong leadership and an empowered culture this produces outstanding results for our clients. Our delivery method has enabled us to achieve a 9.7/10 CSAT for which we are very proud.</p> <p>The ServiceNow Implementation Methodology leverages Agile and Scrum methodologies; an iterative approach to product development. This focusses on delivering value early and often and allows for requirements and plans to change more so than traditional project management. Through use of this method we have delivered success time and time again to long standing customers such as DVSA and CPS.</p> <p>CQC's requirements necessitate a knowledgeable partner, able to show leadership and hit demanding timescales. As you will see from the DVSA case study we have attached (file - DVSA - CaseStudy) this is something we are very comfortable with. Advice on technical requirements and your service delivery processes must be made in the context of business decisions.</p> <p>With CQC and your planned moved to separate from a legacy contract we will ensure that our guidance is mindful of those constraints, the overall timeline and the budget.</p> <p>FlyForm understand the importance of good quality documentation, and our approach is to work with CQC to create 4 levels of documentation around process and work instructions. Examples of which can be provided upon request.</p> <p>FlyForm consultants bring their real world and platform knowledge to the fore, ensuring from launch, CQC have a clear idea of</p>

	<p>the quality of their services, as well as highlighting opportunities for training during ELS and service improvement as the processes and operations mature.</p> <p>Utilising baseline reports provided through the ServiceNow platform, together with the review and interpretation of CQC requirements, FlyForm ensure the knowledge transfer to key CQC staff in order to self-serve their reporting needs, whilst ensuring more complex requirements that may have been identified are recorded within the story backlog for subsequent approval and prioritisation.</p> <p>This operational framework ensures that our clients' needs are always at the forefront of our service delivery and our team(s) will support, and where necessary challenge, CQC's current processes and workflows to ensure best practice is followed and the platform is built as close to Out of the Box as possible.</p> <p><b>Organisational Capacity</b> We like to form close relationships with our customers, and we find this to be the single biggest factor in our ability to deliver 10/10 projects as mentioned in Answer 1. For CQC specifically we would expect this to look as follows:</p> <ul style="list-style-type: none"> <li>• <b>Account Manager</b> - FlyForm will allocate a named Account Manager who will be responsible for managing and maintaining the on-going relationship between CQC and FlyForm. Your account manager will be supported by a Solution Consultant for any future presales requirements you may have (future phases etc.)</li> <li>• <b>Engagement Manager</b> - All Project and Programmes Outcomes are overseen by an Engagement Manager who delivers against a specific statement of work and acts as your day to day delivery contact</li> <li>• <b>Service Delivery Manager</b> - All on-going support/managed services are supported by a Service Delivery Manager who represents our UK based support team</li> <li>• <b>Exec Sponsorship</b> - these roles will be supported by both our Sales Director and Director of Professional Services. In addition to this alignment our CEO Phil Davies will personally sponsor this engagement to reinforce how important CQC would be to FlyForm as a customer</li> </ul> <p><b>Organisational Capability</b> is demonstrated in the specific skills and experiences of the individuals selected to deliver this program for CQC. We set up each team for success to ensure they have the skills, experience and support required to work with our customers to achieve a 10/10 delivery.</p> <p><b>Answer 2a)</b> Based on our experience of similar size and type projects we have proposed a team structure to fulfil the needs of CQC; accompanying visual representation in Figure 3 (Accompanying Materials). Your team will consist of the following hand-picked Individuals:</p>
<p><b>Organisational Capacity and Capability</b> - Please demonstrate technical competency for Supporting the Programmes Outcomes - detail how you would provide a dedicated Account Manager/Service Delivery Manager as the main relationship holder and the Service Delivery Team. by a) Providing Roles, Names and CV's for your team and b) Confirming their availability for the contract start date and for the duration of the contract.</p>	

development teams.



Please provide a detailed Implementation Plan, for both first three phases and any other future proposed phases, including payment milestones and resources required, to achieve the Programmes Outcomes - from planning the discovery, the design, the installation, the configuration, building the interfaces, the testing, the data transfer, and implementation of service to go live. Have demonstrable experience in planning / identifying, evaluating, managing, mitigating and reporting of implementation and delivery risks, including delivery to budget, ( i.e. a risk register - profile and dependencies of those risks that relevant to a similar project of size, complexity, value, etc.).

3

Please find attached a full work breakdown structure to support the requirements of the CQC Implementation project. You will see that the FlyForm submission includes two delivery plan options, both very detailed and each with appropriate milestones.

The first represents the Phased Approach which fits your specific RFP request. This meets the project timescales and includes a 4-person team handling the deliverables of each phase.

The second option combines the workstreams into one larger project while still providing you with a December Go Live for ITSM. This continuous working with a larger team of 6-persons enables us to deliver much faster. Under this option we have the velocity to complete all deliverables (including SAM) in just 20 weeks with 5 clear milestones.

In both we have challenged your 7th November start date and suggested that with your December ITSM deadline it would be worth considering starting mid-October. We are willing to be flexible with commercials and contracting to start at risk if you feel that extra time is useful to CQC in order to facilitate an earlier start than planned. We are happy to adjust the plan to a November start and just wanted to illustrate the art of the possible.

Projects of this size, complexity and value are typical for a FlyForm engagement and we can reference two customers who have undertaken the exact same journey, each of whom have provided us with 10/10 CSAT scores which we hope you feel validates our strength in this area and our suitability as a partner for CQC. Both customers are also UK public sector.

Risks are monitored, maintained and managed throughout the life of a project and are the responsibility of our Engagement Manager (EM). The EM will work peer to peer, on-site typically on a part time basis, with a nominated Programme Manager from CQC. The EM will be responsible for delivering the implementation and will be your day-to-day contact on the project. We recommend throughout each of the initial 3 stages we support your engagement utilising the ServiceNow platform to track stories, Risk, Issues, Decisions, Actions and Changes (RIDAC) and all project reporting for clear visibility and accountability.

As the level of CQC's ServiceNow maturity and confidence increases, there will be ample opportunity to take advantage of additional modules and applications across the ServiceNow suite. To assist with considering these we have priced three suggested phases based on what we feel could offer the most value. Phase 4 is Cloud Management; Phase 5 is Password Reset, and Phase 6 is Service Mapping.

For each example project we have provided a summary of roles, effort time and cost.

In the attached case studies for both DVSA and CPS you will see how the approach outlined above was used to successfully deliver two very challenging projects against strict deadlines. DVSA were actually exiting an outsource contract very similar to CQC's position and they had a hard deadline and limited resources. This does change the risk profile of an engagement but as we have experience here we know how to capture and mitigate those risks accordingly.

CPS were bringing the tool in house and then onboarding new suppliers (as CQC will be doing as part of your wider programme).

Again, this requires very strong leadership in the project to ensure that the onboarding doesn't slow the pace of the project and the requirements for all parties are both made clear and effectively managed. We have that specific experience, its demonstrable and as a dedicated Elite ServiceNow partner this is all we do.

Both example customers started with ITSM and then expanded into other modules. DVSA followed the same path as you (stretched over a longer period due to their budget constraints) and CPS actually went from ITSM into IT Business Management before then moving into IT Operations Management.

After-sales service management

<p><b>Service Quality</b> - Please provide details of how you would undertake Service Design &amp; to operate to a principle of continuous improvement of service &amp; process.</p>	<p>Service Quality is paramount to us and this we must think about the intended business outcomes from the very start of the project. Using ServiceNow Adaptive Implementation Framework (SAIF) and the ServiceNow Implementation Methodology (SIM) we will design and deliver the specific stories required to fulfil your immediate requirements but during that process we will no doubt capture many more opportunities for continuous improvement. These will be captured, prioritised and built into a backlog for future releases.</p> <p>With limited engagement to date it is hard to accurately perceive the on-going and future business objectives of the organisation but once we start working with you, we will have 4-6 highly skilled and experienced FlyForm team members fully immersed into CQC.</p> <p>This is where you will see even more value derive from your relationship with FlyForm as once we know become an extension of the CQC team, we can ensure that the Service Design is aligned to the CQC Service Strategy in order to devise a full plan for delivery focusing clearly on people, processes, products and partners.</p> <p>With an effective Service Design in place we would look to also develop a robust CSIP in conjunction with CQC to determine the changing trends in the business. It is in this area that the majority of improvements can be achieved. There are opportunities to capture and managed this CSIP process in ServiceNow itself.</p>
<p><b>Performance Management</b> - provide details of service delivered at each milestones including producing comprehensive weekly, monthly, quarterly and annual (Financial/Management Information) reports.</p>	<p>The attached table (Accompanying Materials - Artefact Matrix) is an example of the artefacts expected to be produced. This is not an exhaustive list and any additional reporting required would be considered and added in where applicable aligned to any contractual requirements.</p> <p>FlyForm conduct similar activity across our client base and would be happy to propose our templates for the formal reporting. However if CQC have set standards that we would need to adhere to, we will support the format required by you.</p> <p>Effective performance management is a further key component of any project and something that FlyForm take incredibly seriously. The function of performance management is undertaken by the Engagement Manager, as the overall lead for the project on our side.</p> <p>Our Engagement Manager would work with the Programme or Project Manager at CQC to provide reporting on cost and status of the agreed activities as part of our end to end project. We will work with CQC very early in the process to establish the governance around this ensuring we are aligned with your needs and expectations and to agree upon the frequency and timing of any such reports.</p> <p>From our experience with similar customers to CQC, when undertaking a project of this size and complexity we believe that you will need a flexible partner. We can and must plan in detail, but it is worth accepting that not all plans are delivered flawlessly no matter how skilled and prepared the team are. Accepting this, you will need a partner who can adjust and adapt when required. We have process where process is required yet we also have the ability to pivot to changing business needs.</p> <p>As just one example of this, when DVSA forgot a specific partner needed integration work before January and approached us mid-December to see if we could complete that task (unplanned/undocumented at the time) we were able to adjust the planned workload, alter the plan, advise them of the impact and completed the work over the Christmas holiday period. It was in tested, documented on time and the impact was mitigated by changing other elements of the plan. Flexibility and agility are a key consideration when you are selecting FlyForm. As a pureplay ServiceNow Elite partner, independently owned and truly invested in having CQC as a key customer, we will not let you down and we can deliver.</p> <p>Your FlyForm account manager will remain involved throughout your entire journey, as will the exec sponsorship. As an SME in the UK, our flat organisational structure means that our Senior Management Team are always close to our customers and as such our CEO, Phil Davies and COO, Arron Davies, will be executive sponsors of your relationship with FlyForm and will also</p>

		<p>provide regular updates on our business relationships, working with Senior Management at CQC to develop a strong and prosperous future on both sides.</p> <p>As you would expect for a dedicated ServiceNow Elite partner we strictly adhere to using the ServiceNow Adaptive Implementation Framework (SAIF) and the ServiceNow Implementation Methodology (SIM). This enables quality and performance to be tracked on a day to day basis.</p> <p>From our many successful engagements with customers similar to CQC we believe that a focus on User Acceptance Testing will play an important role here. We will work closely with you at the start of the project to manage expectations and ensure you have what you need to be prepared and conduct this effectively.</p> <p>Managing quality and performance against the contract is the primary responsibility of the Engagement Manager and another key reason why we place such importance on this role and why we place so much focus on ensuring that individual has the support of our leadership team.</p> <p>It's through this focus that we can ensure quality is maintained and that is how we are able to score 10/10 delivery CSATs on projects that span several months. It doesn't mean that the project was flawless, as no project is. It means that together with the customer, FlyForm worked as one team and we collectively identified, mitigated and managed each and every challenge to ensure the overall success of the project.</p> <p>Ongoing management of the process will be carried out over various media including face to face meetings, voice and video calls. Effective management will include but will not be limited to reviews of the agreed RAID and Risk log as well as the RAG status report. This will ensure that risks are being discussed and mitigated in collaboration and the project stays on track.</p> <p>For ongoing support beyond the completion of the ELS period of your projects we recommend using FlyForm's UK based managed service centre in Cardiff where we have a team of ServiceNow professionals able to handle every potential need. This is an agreed mechanism between both parties to ensure that CQC have a point of call in the event of any minor or major issues with the platform and a conduit to further ServiceNow support if needed.</p> <p>You can contract FlyForm via a dedicated non-geographic number, via email, online, app and we provide additional escalation via our directors. CQC will be a key customer for FlyForm and although we can offer a SLA backed managed service with strong process and procedures in place, we would like to reconfirm that in addition to this you will have the mobile phone numbers of our directors and you can call us anytime in the event you are not getting exactly what you need.</p> <p>We support many clients via this Managed Service today, including organisations such as DVSA, CPS, Capita and University of Salford.</p> <p>The service will have a dedicated Service Delivery Manager (SDM) who will act as first point of escalation and we will also share a formal escalation path when suitable.</p> <p>As part of the ongoing service delivery process, our SDM issues monthly status and usage reports, quarterly and annual service delivery reports and will attend quarterly service review meetings if suitable for CQC. The SDM will also engage on a peer to peer basis with the necessary stakeholders at CQC to ensure a strong working relationship throughout.</p> <p>All our customer interactions are supported by satisfaction and feedback surveys, delivered and captured via our ServiceNow instance.</p>
3	<p>Please demonstrate how would you ensure Contract Management for Quality and Performance in delivering the programme outcomes, by detailing supporting Governance throughout delivery of relevant service design &amp; execution including Discovery tasks, Transition Planning &amp; Interim Delivery, etc. to go live.</p>	
4	<p>The provision of Customer Support (service helpdesk, account management function) Detail your approach for communications / interfaces with other teams (including but not limited to Service Management &amp; Operational Teams, and stakeholder/other interested parties) on a day to day basis and at any periodic events. Previous experience in national end user support - Able to provide customer service with a portable non geographic local rate phone number for users to call and an email address and carry out customer satisfaction and feedback surveys.</p>	
	<b>Non-functional characteristics</b>	

1	<p>Please provide the Terms and Conditions of Contract (T&amp;Cs) that would apply or would you use the GCloud framework Terms and Conditions of Contract or the Buyer's Terms And Conditions of Contract. Please highlight any T&amp;Cs that you want the Buyer to be aware of.</p> <p>The Supplier will provide, in detail how they propose carry out Training including train the trainer, mentoring and shadowing. To prepare and continued development of skills and experience of CQC Staff to take on day-to-day administrative tasks and trouble shooting.</p>	<p>FlyForm propose that we utilise the G-Cloud Framework Terms and Conditions of Contract as we believe this will be the most successful way to engage quickly and not lose valuable project time that could be invested in achieving your deadlines. FlyForm are flexible and can engage early while paperwork is being completed as a gesture of goodwill.</p>
2		<p>Each of the project options put forward include structured training as we believe that training is a key investment. Our training methods, tailored to client's needs, work on frameworks including learning cycle models and taxonomy for learning. There are two distinct types of training in the ServiceNow ecosystem; Platform based which is procured and delivered through ServiceNow which we can facilitate on behalf of CQC. The second is Partner based which is a tailored approach delivered specific to the partner and client.</p> <p>The latter of these approaches is FlyForm's preferred method during an implementation project as it enables us to deliver this training over the course of the project, bringing the client into the process and making the materials specific to the implementation.</p> <p>Working with key stakeholders at the earliest opportunity is key, whilst encouraging information sharing throughout the project will encourage engagement and awareness.</p> <p>We strongly advocate the use of participatory learning methods to ensure maximum business readiness. This includes the use of training environments, the creation of training scripts and stories.</p> <p>FlyForm typically provide a Train-the-Trainer approach to learning, placing the role of Process Owners and Functional experts, having become knowledgeable in the process and ways of working, at the heart of the learning community.</p> <p>With weekly development show and tell sessions through the implementation stages, complimented with a schedule of, typically, daily classes and ad hoc drop in sessions if agreed.</p> <p>Documents can be stored on the CQC ServiceNow instance in the relevant Knowledge base. FlyForm provide detailed training packs as well as Quick Reference Guides (QRG's) to support "take to desk" knowledge building and retention.</p>

3	<p>Please provide details for the <b>Business Continuity Plan</b> and disaster recovery. To assist with onboarding with minimal or no disruption to operational service, ensure reliability by providing the right people for the job (in terms of skillsets/recruitment/screening of resources), ability to flex levels, numbers, provided, to remain aligned to project needs during the contract period.</p>	<p>As an SME in the UK, we deliver the vast majority of our business through cloud-based services, meaning we consider ourselves 'always on'. As we operate in a fast-moving marketplace, the access to information is vital to the integrity of our business. We maintain all project records centrally within our ServiceNow instance meaning if we need to flex or alter the resource team to suit a particular need, any new resource to the project can be brought up to speed at very short notice ensuring the velocity of the project is not hindered.</p> <p>Due to our size, FlyForm's DR and BC process would be to ensure the Senior Management Team is fully aware of the situation and if required recover any data from our cloud storage system. Due to our always on nature, our employees would be able to work from anywhere with a stable network connection ensuring any down time is at an absolute minimum.</p> <p>As a SaaS product, the hosting of the CQC environment is undertaken by ServiceNow. ServiceNow is certified ISO 27001:2015, which certifies that they have the highest environmental and physical security, making sure all client data (sensitive or otherwise) are secure and backed up at all times.</p> <p>We have a vast amount of information on ServiceNow's resilience and availability but as this is not FlyForm specific it may be best to discuss that outside of the RFP as ServiceNow is the same regardless of which partner you select.</p> <p>In terms of our attitude towards recruitment, our goal at FlyForm is to fulfil your needs from a project outcome perspective. We are not comfortable with posting job roles online in order to put a warm body at a desk. At FlyForm, we aim for the ultimate partner experience and our actions and decisions are based on this goal.</p> <p>Due to the sensitive work we undertake for many UK public sector clients we have strict screening and many of our team are SC Cleared.</p> <p>Beyond the important technical skills, we focus on hiring people with the right cultural fit for our organisation. We look for people that are hungry but humble. We hire people with drive and determination, people who want to work on 10/10 delivery projects and understand the mindset that requires and the commitment needed to go the extra mile.</p> <p>For further information on the culture of FlyForm please take a look at our video series in the attached Accompanying Material document.</p>
4	<p><b>Exit Strategy</b> - Please provide details for offboarding including plans for the transfer of knowledge, skills and any appropriate material from this activity back to the Authority or a new Contractor during and at the end of the contract.</p>	<p>FlyForm would deliver knowledge and materials to CQC at every phase of working. We are massive advocates for our clients being self-sufficient from a day to day perspective and we consider our position as Subject Matter Experts (SME's) working with our clients to support their business objectives via the ServiceNow platform.</p> <p>FlyForm would recommend that CQC nominates an internal SME during the pre-work. We will then include this individual at every single step of the project, they will be totally aligned with the FlyForm Engagement Manager who will make the CQC individual part of the delivery team. This further supports a strong relationship between FlyForm and CQC and will ensure that the transition to BAU service internally at CQC will be as smooth as possible.</p> <p>In terms of the intellectual property held within CQC's ServiceNow instance, this is entirely CQC's to own throughout the process and as such, should CQC decide at any point that it no longer needed a partner or that a change away from FlyForm would be necessary we would ensure that any handover was approached with the same level of collaboration as our working relationship.</p> <p>As the source code is held in the ServiceNow platform a change in circumstance for FlyForm can be handled in a controlled manner over an agreed period.</p>

Thank you for your clarification on your GCloud offer, response submitted on 20/09/2019.

**CLARIFICATION QUESTION & ANSWER LOG – [FlyForm Ltd]**

Q No.	Clarification Question	Response (Please indicate if there is an additional associated cost or if it is included FOC)
<b>LOT 1</b>		
1	Please note that the dates in the time-table provided, No. 8 to 13, should read October (10) and not November (11). Please confirm that this will (if so detail how) or will not affect the lead time.	It is FlyForm's preference to begin the project in October to ensure the required end dates outlined by CQC can be met, therefore no impact.
2	Please Clarify who will provide the ServiceNow Fundamental Training and ServiceNow Learning Credit. Is it ServiceNow the application provider, your Organisation or a third party (if so provide details including any official certification/accreditation).	The Fundamentals and Learning Credits are for training delivered by ServiceNow employees. Please note our proposal includes additional CQC specific training delivered by FlyForm employees.
3	Please Clarify and confirm that the quantity and cost for the ServiceNow Fundamental Training (PROD00100) and ServiceNow Learning Credit (PROD17061) is per person or per day or per session (if so provide details of number of days and maximum number of participants)	The Fundamental Training is a per person cost.  The Learning Credits a per unit cost and is associated to the varied catalogue of training that ServiceNow deliver directly. Each course costs a different amount of credits depending on the complexity and length of the training being delivered.  Example Scenario ITSM Advanced Training Cost – 48 Credits CQC Requirement – 2 Individuals Overall Cost – 96 Credits
4	For ITOM application the price for Computer and Device is not provided, what does this mean, is it FOC, included in Node price and not relevant?	ITOM is priced on a per Node (ie Virtual or Physical Server) scenario. The volume of items that are discovered (Computers, devices etc.) has no bearing on the price. To be clear, those devices are FOC.
5	Please confirm that you are able to supply the software under the GCloud framework	Yes. As FlyForm have gone through the strict and rigorous process to be recognised officially on both lots of the G-Cloud Framework, we can confirm that supply of ServiceNow software via the official Lot can be achieved by selecting FlyForm as CQC's licensing partner.
6	Please confirm that you are able to supply the software and that ServiceNow will be able to offer you the product and prices as proposed and on time.	Yes. FlyForm confirm that as an Elite Partner, registered correctly on G-Cloud, supply of the software via ServiceNow can be actioned in time for the implementation to begin in October as per our preferred plan.
7	For any value-added product proposed, if it is not FOC, please itemise the cost in detail.	The value add items proposed are FOC.
<b>LOT 2</b>		

1	<p>Please note that the dates in the time-table provided, No. 8 to 13 should read October (10) and not November (11). Please confirm that this will (if so detail how) or will not affect the implementation plan to complete the delivery of all phases as required.</p> <p>Please specify, due to tight timescale, that the number of days for each role and phase are accurate only for the delivery of full CQC requirements Phases 1, 2 &amp; 3 (using your previous experience in delivering similar service) if not please resubmit as (CQC does not wish to pay extra for additional unplanned days later on or for excessive and additional contingency days that may not be required).</p> <p>As per, solution development and implementation, on GCloud rate card, the day rate for item 2 &amp; 3 for both Lead and Senior Technical Consultant is [REDACTED] is this a mistake? Please clarify.</p>	<p>It is FlyForm's preference to begin the project in October to ensure the required end dates outlined by CQC can be met, therefore no impact.</p> <p>All roles and days are accurate for the delivery of Phases 1, 2 and 3 as requested.</p> <p>Apologies, this was a mistake on our part however our recommendation would be to take advantage of the Discounted Blended Rate designed for CQC.</p>
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#### CLARIFICATION QUESTION & ANSWER LOG – FLYFORM

Q No.	Clarification Question	Response (Please indicate if there is an additional associated cost or if it is included FOC)
LOT 1		
1	<p>Your proposal is for the Madrid but ServiceNow have released the New York. The NY has been offered in clarification at a cost lower than your cost for the current release. Is there a free upgrade or can you provide the latest release at the same or lower cost?</p>	<p>Yes, we can certainly do this.</p> <p>To clarify; the only pricing issued by Dean Mitchell is for the Madrid pricing. This is because it provides many commercial benefits to CQC.</p> <p>The pricing may be 'Madrid' but it was always our intention to install the latest New York release.</p> <p>Commercial pricing and installed versions are two separate considerations.</p> <p>Before opting for using the New York price list we would encourage you to consider the commercial impact. We can have a call to discuss this but to illustrate just one point: Software Asset Management is [REDACTED] per computer in Madrid and [REDACTED] in New York. There are many other advantages to taking Dean's offer of Madrid pricing.</p> <p>Once again, the only official pricing issued by Dean Mitchell at ServiceNow is Madrid pricing.</p>
2	You have proposed, 3 units for the ServiceNow Fundamental Training (PROD00100) and 212 units for ServiceNow Learning Credit	ServiceNow training is a mandatory item that ServiceNow themselves add to all licensing

	(PROD17061), what is the next banding and its cost or can we unit cost pro-rata for variation upwards? If the training was paid up front what would be discounted price? Are the credits time limit	quotes.  The type of training is directly proportionate to what you buy.  When you finalise what exactly what you want to buy (with our help) we can work with ServiceNow to request a further discount on training.  Training credits last six months. If required we can request that this be extended.
3	Your proposal includes additional CQC specific training delivered by FlyForm employees Please provide details including type of courses, mode of delivery, any official certification/accreditation, number of days and maximum number of participants, etc.	As part of any project we would strongly encourage training as part of the project. This isn't ServiceNow certification; this is showing your team members (who use ServiceNow day to day) how to use the specific functionality we have built and configured for them.  This is in addition to the formal ServiceNow certification that you may choose to send three people on.
4	For the value-added product proposed (Timeline Visualisation. In addition, FlyForm can provide access to features such as Service Owner Workspace and Vendor Manager Workspace), please provide additional details on how CQC can benefit from the product.	Using Vendor Workspace we can help you manage and optimise vendor services from a single destination. With consolidated insights into vendor performance, you can make data-driven decisions and maximise value for your organisation  Using Service Owner Workspace we can help you manage and optimise IT services from a single, centralised application. Proactively solve issues, lower costs, and deliver great service experiences with a consolidated view of your service portfolio and performance.
LOT 2		
1	You have confirmed, that the number of days for each role and phase are accurate only for the delivery of full CQC requirements Phases 1, 2 & 3. It is understood that different Suppliers have different delivery models, upon review of all clarifications, your proposed number of days appear to be more than other providers and may include additional training days that were offered FOC, please recheck and confirm the number of days.	Phase 1, 2 & 3 draw out the project for an extended period. This contributes to a higher number of days and a higher price.  Our recommended option is to consolidate the work into one project. This doesn't just reduce our costs, it reduces the effort and disruption on your side also.  Phases 1, 2 & 3 have been priced at [REDACTED] (using the blended rate)  Combined project has been priced at [REDACTED] (using the blended rate)  Both options do include training within the models. We strongly suggest you would need this and benefit from it, but I am happy to reduce our price to assist.  If FlyForm fund the 'in project' training of [REDACTED] that would reduce the cost by [REDACTED] on both options (via the blended rate).
2	As per, solution development and implementation, on GCloud rate card, the day rate for item 2 & 3 for both Lead and Senior Technical	The blended day rate calculation with the Senior and Lead Technical Consultants at [REDACTED]

	<p>Consultant was adjusted correctly to £950 (as this was a mistake confirmed by you). Would this affect the Blended Day rate, if so what would be the new Blended Day rate?</p>	<p>day is £985.15 as per our original submission.</p> <p>As per our previous clarification answer this was an error on our part. By amending the rates for Senior and Lead Technical Consultant to [REDACTED] per day each, the calculation provided in the 'GCloud ITSM Clarification v1' spreadsheet amends the blended day rate to [REDACTED] for Phases 1, 2 &amp; 3.</p> <p>FlyForm's offer of [REDACTED] per day as a CQC specific rate is a significant saving on the overall project cost even at the reduced day rate determined by our error.</p>
	<b>LOT 1 &amp; LOT 2</b>	
1	<p>Bearing in mind we are CQC and our role in Health and Social Care Sector and the associated kudos and influence in If you were to be successful in both Lot 1 and Lot 2 would CQC be eligible for any percentage discount?</p>	<p>We would be extremely excited to work with CQC and it would be a flagship win for FlyForm. We believe our consultancy is already priced extremely keen at [REDACTED] a day. Please consider that our CSAT score of 9.7 far exceeds the other partners and we feel this is a strong indication of our quality.</p> <p>That said, on LOT 1 (ServiceNow subscription licencing) we would be willing to offer you a further [REDACTED] on that pricing if FlyForm were successful with both Lots.</p>

## **Schedule 3 - Collaboration agreement**

### **COLLABORATION AGREEMENT**

**BETWEEN**

**Care Quality Commission**

**and**

**{Insert Parties Details}**

## **Contents**

<b>1</b>	<b>Definitions and Interpretation</b>	<b>4</b>
<b>2</b>	<b>Joining Parties</b>	<b>7</b>
<b>3</b>	<b>Term</b>	<b>8</b>
<b>4</b>	<b>Termination</b>	<b>8</b>
<b>5</b>	<b>Required Behaviours</b>	<b>8</b>
<b>6</b>	<b>Confidentiality</b>	<b>9</b>
<b>7</b>	<b>Liability</b>	<b>10</b>
<b>8</b>	<b>Non-financial remedies</b>	<b>10</b>
<b>9</b>	<b>Governance</b>	<b>11</b>
<b>10</b>	<b>Change Control</b>	<b>11</b>
<b>11</b>	<b>Waiver and Cumulative Remedies</b>	<b>11</b>
<b>12</b>	<b>Severance</b>	<b>11</b>
<b>13</b>	<b>Relationship of the Parties</b>	<b>12</b>
<b>14</b>	<b>Notices</b>	<b>12</b>
<b>15</b>	<b>Third Party Rights</b>	<b>13</b>
<b>16</b>	<b>Variation</b>	<b>13</b>
<b>17</b>	<b>Counterparts</b>	<b>13</b>
<b>18</b>	<b>Assignment and Novation</b>	<b>13</b>
<b>19</b>	<b>Dispute Resolution</b>	<b>13</b>
<b>20</b>	<b>Governing Law</b>	<b>13</b>

<b>Schedule 1 – Pro Forma Accession Agreement</b>	<b>15</b>
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<b>Schedule 2 – Governance</b>	<b>16</b>
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<b>Schedule 3 – Dispute Resolution</b>	<b>19</b>
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## **Collaboration Agreement**

This Agreement is dated [insert date] 20[19]

### **Between**

- (1) The Care Quality Commission ("CQC") (the "Customer"); and
- (2) [insert details];
- (3) [insert details];

(each of [insert details] being a "Supplier" and together the "Suppliers" and each of the Customer and the Suppliers being a "Party" and together the "Parties").

### **Recitals**

- A The Customer has decided to outsource various ICT functions and activities to the Suppliers as part of the government's ICT strategy to transform government ICT services into a multi-source service environment (the "Customer's Outsourced ICT Services").
- B As such the Customer has established the Digital Foundations Programme ("DFP").
- C The purpose of this document is to ensure all Suppliers work together to develop and maintain excellent working relationships across all aspects of the Supplier's delivery to support the operation of a collaborative supplier model that benefits the Customer and its Suppliers.
- D In connection with their respective Supplier Agreements with the Customer, the Suppliers wish to enter into this Collaboration Agreement with each other and with the Customer in order to ensure the smooth and effective delivery of end-to-end services to the Customer and other bodies and to document in the necessary level of detail the particulars and dependencies of the manner in which they will cooperate with the Customer and with each other in providing the Customer's Services.

### **It is agreed:**

#### **1 Definitions and Interpretation**

In this Agreement, the following capitalised expressions shall have the meanings set out below:

<b>"Accession Agreement"</b>	an accession agreement in the form set out in Schedule 1;
<b>"Customer's Target Operating Model"</b>	the Customer's document which describes the nature of the Customer's business and principles in place to meet Customers' needs, as notified to the Suppliers from time to time;
<b>"Customer's Strategy"</b>	the Customer's strategy as set out at [XXXX] as updated from time to time;
<b>"Customer Premises"</b>	CQC office locations in London, Newcastle, Leeds and such other locations as notified by the Customer to the Supplier in writing from time to time;
<b>"Central Government Body"</b>	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none"> <li>(a) Government Department;</li> <li>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li> <li>(c) Non-Ministerial Department; or</li> <li>(d) Executive Agency;</li> </ul>
<b>"Collaboration Agreement Effective Date"</b>	the date of this Agreement as set out at the top of page 4;
<b>"Confidential Information"</b>	all information relating to any Party or its operation or business, products, developments, systems or plans supplied in connection with the Customer's Outsourced ICT Services or generated by the receiving Party from such information (whether before or after the Collaboration Agreement Effective Date), including all analyses, compilations, studies and other documents whether prepared by or on behalf of a party which contain or otherwise reflect or are derived from such information;
<b>"Dispute"</b>	any dispute, difference, issue, claim or question of interpretation arising out of or in connection with this Agreement;
<b>"Digital Service Delivery Group"</b>	means the body described in Paragraph 2 of Schedule 2 (Governance);

<b>"Strategic Partnership Board"</b>	means the body described in Paragraph Error! Reference source not found. of Schedule 2 (Governance);
<b>"Law"</b>	any law, statute, 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, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
<b>"Parties"</b>	means the Customer and the Suppliers together and Party shall mean any one of them;
<b>"Required Behaviours"</b>	shall have the meaning set out in Clause 5;
<b>"Supplier Agreement"</b>	a contract between the Customer and one of the Suppliers setting out services provided by that Supplier which form part of the Customer's Outsourced ICT Services;
<b>"Supplier Personnel"</b>	all directors, officers, employees, agents, consultants and contractors of a Supplier and/or of any sub-contractor engaged in the performance of the Supplier's obligations under this Agreement and its applicable Supplier Agreement; and
<b>"Supplier Review Meeting"</b>	shall have the meaning set out in Clause 8;
<b>"Working Day"</b>	any day other than a Saturday, Sunday or public holiday in England and Wales

**1.1 Unless the context otherwise requires:**

- (a) the singular includes the plural and vice versa;
- (b) reference to a gender includes the other gender and the neuter;
- (c) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Central Government Body;
- (d) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- (e) the words "including", "other", "in particular", "for example" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
- (f) references to "writing" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- (g) the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement;
- (h) references to this Agreement are references to this Agreement as amended from time to time.

**1.2 In entering into this Agreement the Customer is acting as part of the Crown.**

**1.3 If there is any conflict between the Clauses and the Schedules the conflict shall be resolved in accordance with the following order of precedence:**

- (a) the Clauses; and
- (b) the Schedules.

**1.4 If there is any conflict between this Agreement and any Supplier Agreement, the conflict shall be resolved in accordance with the following order of precedence:**

- (a) the Supplier Agreement(s); and
- (b) this Agreement.

**2 Joining Parties**

**2.1 The Customer shall have the sole and absolute right, at any time, to agree with a third party that it will become a Supplier for the purposes of this Agreement through the conclusion of an Accession Agreement.**

**2.2 All of the parties to this Agreement prior to the conclusion of the relevant Accession Agreement shall remain bound by the terms of this Agreement following conclusion of the Accession Agreement and in addition, from**

the date on which the relevant Accession Agreement was concluded, the new Supplier shall have all of the rights and obligations of a Supplier under this Agreement.

### **3 Term**

- 3.1** This Agreement shall continue in full force and effect from the Collaboration Agreement Effective Date until the termination or expiry of all the Supplier Agreements, unless previously terminated in accordance with the termination provisions contained in Clause 4.

### **4 Termination**

- 4.1** This Agreement shall terminate:

- (a) on termination or expiry of all Supplier Agreement(s); or
- (b) on the written consent of all Parties; or
- (c) following not less than thirty (30) Working days' prior written notice from the Customer,

provided that a relevant Supplier has the right to be relieved from its obligations arising under this Agreement in relation to the period after the termination or expiry of such Supplier's Supplier Agreement.

- 4.2** The Parties acknowledge that this Agreement is intended to support the Supplier Agreements and accordingly that there shall be no rights of termination of the Agreement other than pursuant to Clause 4.1.

### **5 Required Behaviours**

- 5.1** Each Supplier will undertake its obligations under this Agreement and the relevant Supplier Agreement in accordance with the following behaviours set out in this Clause 5 (the "Required Behaviours"):

- 5.1.1** Suppliers must work collaboratively with the Customer and all other Suppliers towards the successful end to end transition and implementation of all services procured by the Customer under the Supplier Agreements, and operational running and delivery of those services.

- 5.1.2** Suppliers shall act in a manner which is consistent with and supports the Customer's Strategy and the Customer's Target Operating Model.

- 5.1.3** Suppliers must comply with the principles of collaboration set out in BS11000 (Collaborative Business Relationships).

- 5.1.4** Suppliers must co-operate with the other Suppliers to:

- (a) assist with any testing and/or any quality assurance analysis to be undertaken by the Customer or any other Supplier;
- (b) provide prompt access to any of their resources, systems, Software and materials required by the other Suppliers to enable them to provide their services to the Customer and to deal with security and/or compliance issues, assessments and actions;
- (c) promptly provide the other Suppliers with all relevant information (including details of all operating environments, system constraints, all relevant information concerning interfacing, interoperability and operating parameters that may be reasonably required by the other Suppliers) that they may need to provide their services to the Customer;

- (d) ensure the orderly provision of seamless end to end services;
- (e) avoid hindering provision of services by any other Suppliers;
- (f) facilitate the successful delivery of services by other Suppliers;
- (g) avoid unnecessary duplication of effort;
- (h) avoid undue disturbance to the Customer and other Suppliers;
- (i) do what is necessary to integrate systems and the services provided under their Supplier Agreement with other relevant systems and services;
- (j) ensure efficient and effective delivery of their obligations under their Supplier Agreement;
- (k) ensure integration and interfacing where the services provided under their Supplier Agreement or other services are subject to inter-party dependencies;
- (l) achieve value for money solutions for the Customer.

- 5.1.5 Suppliers must adopt a 'fix first, find fault later' approach, prioritise achieving solutions to incidents or problems or issues over seeking to blame any other Party, and support and contribute to investigations by other Suppliers and the Customer to resolve incidents and problem investigations.
- 5.1.6 Suppliers must be proactive and honest in their dealings with each other and open to honest feedback and must commit to creating a culture of openness that encourages all Parties to raise and discuss concerns, solve problems and deal directly with any issues, including those that are difficult.
- 5.1.7 Suppliers must take responsibility for their actions or inactions, as well as any foreseeable consequences, whether intended or not. Suppliers should not seek to blame other suppliers for service failures but support other suppliers in the resolution of incidents and problems.
- 5.1.8 Suppliers must send appropriately knowledgeable and authorised personnel to all relevant governance meetings they are to attend under this Agreement or their Supplier Agreement. These personnel should contribute actively to those meetings on matters within their knowledge and experience.
- 5.1.9 Suppliers must demonstrate a preparedness to be flexible and to innovate and adopt best practices and be forthcoming in initiating proposals for new best practices which could deliver improved value to the Customer.

## **6 Confidentiality**

- 6.1 Without prejudice to any other rights and obligations relating to confidentiality, freedom of information and data protection to which any Party may be subject pursuant to the terms of a Supplier Agreement, each Party undertakes that it shall:
  - 6.1.1 treat all any other Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored, the nature of the Confidential Information contained in those materials, and any security classification);
  - 6.1.2 not disclose any other Party's Confidential Information to any other person except as expressly set out in this Agreement or without obtaining that Party's prior written consent;

- 6.1.3 not use or exploit a Party's Confidential Information in any way except for the purposes anticipated under this Agreement; and
- 6.1.4 immediately notify the Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of that Party's Confidential Information.
- 6.2 A Supplier may disclose another Party's Confidential Information:
  - 6.2.1 to its Supplier Personnel who need to know such information for the purposes of exercising that Supplier's rights or carrying out its obligations under or in connection with this Agreement or its relevant Supplier Agreement (provided that the Supplier shall ensure its Supplier Personnel whom it discloses any other Party's Confidential Information comply with this Clause 6);
  - 6.2.2 to its professional advisers for the purposes of obtaining advice in relation to this Agreement; and
  - 6.2.3 as may be required by law, a court of competent jurisdiction or any governmental or regulatory body.
- 6.3 Where the Supplier discloses a Party's Confidential Information pursuant to Clauses 6.2.1 and 6.2.2 it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.
- 6.4 The Customer may disclose another Party's Confidential Information to the extent it is entitled to disclose the same under the relevant Supplier Agreement.

## **7 Liability**

- 7.1 Nothing in this Agreement excludes or limits the liability of any Party to any other Party for:
  - 7.1.1 death or personal injury cause by its own negligence; and
  - 7.1.2 any other obligation in respect of which any limitation or exclusion is prohibited by law.
- 7.2 In no event shall the total aggregate liability of each Supplier under its respective Supplier Agreement and this Agreement in respect of any losses arising as a result of any claims made against it by the Customer or any other Supplier exceed the limitations of that Supplier's liability under its respective Supplier Agreement.

## **8 Non-financial remedies**

- 8.1 Without prejudice to Clause 18, any persistent instances of a Supplier not demonstrating the Required Behaviours will be recorded and may result in the following actions being taken:
  - 8.1.1 the Customer may require that such Supplier attend an exceptional meeting (the "Supplier Review Meeting") to be convened by serving not less than five (5) Working Days' notice.
  - 8.1.2 at the Supplier Review Meeting, the Supplier will be required to detail the actions it will take to prevent further failures to demonstrate the Required Behaviours and, in the event that:
    - (a) the actions proposed by the Supplier fail to remedy the breach of Required Behaviours within 30 Working Days of such Supplier Review Meeting; or
    - (b) the Customer reasonably believes that such actions will not or are unlikely to remedy the failure to demonstrate the Required Behaviours or that the timescales for delivering such actions are inappropriate,

the Customer may request a formal rectification plan, to address the impact of and prevent the reoccurrence of a failure, from the Supplier in accordance with the relevant Supplier Agreement.

- 8.2** In the event that the rectification referred to in Paragraph 8.1 fails to remedy the breach of Required Behaviours within 30 Working Days of the submission of the plan to the Customer, the Parties acknowledge that the Supplier will be in material default of its obligations under this Agreement (and that this will be a Supplier Termination Event for the purposes of the relevant Supplier Agreement).

## **9 Governance**

- 9.1** The provisions of Schedule 2 shall apply to this Agreement.

## **10 Change Control**

- 10.1** Any requirement for an amendment to this Agreement shall be subject to the change control or variation procedures in each Supplier's Supplier Agreement.

## **11 Waiver and Cumulative Remedies**

- 11.1** The rights and remedies under this Agreement may be waived only by notice and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

- 11.2** Unless otherwise provided in this Agreement, rights and remedies under this Agreement are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise.

## **12 Severance**

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

- 12.2** In the event that any deemed deletion under Clause 12.1 is so fundamental as to prevent the accomplishment of the purpose of this Agreement or materially alters the balance of risks and rewards in this Agreement, any Party may give notice to the other Parties requiring the Parties to commence good faith negotiations to amend this Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Agreement and, to the extent that it is reasonably possible, achieves the Parties' original commercial intention.

### **13 Relationship of the Parties**

- 13.1** Except as expressly provided otherwise in this Agreement, nothing in this Agreement, nor any actions taken by the Parties pursuant to this Agreement, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise any Party to make representations or enter into any commitments for or on behalf of any other Party.

### **14 Notices**

- 14.1** Any notices sent under this Collaboration Agreement must be in writing.

- 14.2** The following table sets out the method by which notices may be served under this Agreement and the respective deemed time of service and proof of service:

<b>Manner of Delivery</b>	<b>Deemed time of service</b>	<b>Proof of service</b>
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day.	Properly addressed and delivered as evidenced by signature of a delivery receipt.
Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next working day service providing proof of delivery.	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt.

- 14.3** Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to another Party for the purpose of service of notices under this Agreement:

	<b>Customer</b>	<b>[insert supplier]</b>	<b>[insert supplier]</b>	<b>[insert supplier]</b>
<b>Contact</b>				
<b>Address</b>				
<b>Email</b>				

**14.4** This Clause 14 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**15 Third Party Rights**

**15.1** A person who is not a Party to this Collaboration Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

**16 Variation**

**16.1** No variation of this Collaboration Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives.)

**17 Counterparts**

**17.1** This Collaboration Agreement may be executed in any number of counterparts, each of which when signed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

**18 Assignment and Novation**

**18.1** A Supplier may only assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Collaboration Agreement with the prior written consent of the Customer and to the extent that the Customer has consented to such action being taken to the relevant Supplier Agreement.

**19 Dispute Resolution**

**19.1** Any Dispute that arises under or in connection with this Collaboration Agreement that involves the Customer and a single Supplier, and which does not impact the other Suppliers nor the performance of their obligations under this Agreement or their relevant Supplier Agreements, shall be resolved in accordance with the escalation and/or dispute resolution procedure in the relevant Supplier's Supplier Agreement.

**19.2** Any other Dispute which arises under or in connection with this Agreement shall be raised at the next available meeting of the Digital Service Delivery Group described in Schedule 2 (Governance) for discussion and where possible determination, and the provisions of Schedule 3 (Dispute Resolution) will apply.

**20 Governing Law**

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

**20.2** Subject to Clause 18, the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

**IN WITNESS** of which this Agreement has been duly executed by the Parties on the date which appears at the head of its page 4.

**SIGNED for and on behalf of the Customer**

**Signature:**

**Name:**

**Position :**

**Date:**

**SIGNED for and on behalf of [insert details]**

**Signature:**

**Name:**

**Position :**

**Date:**

**SIGNED for and on behalf of the [insert details]**

**Signature:**

**Name:**

**Position :**

**Date:**

## Schedule 1 – Pro Forma Accession Agreement

THIS ACCESSION AGREEMENT is made on

20[ ]

### BETWEEN:

- (1) The Care Quality Commission (CQC) (the "Customer"); and
- (2) [NAME OF SUPPLIER] a company registered in [insert details] under company no. [insert details] whose registered company is at [insert details] ("Supplier");

### 1 Background

- 1.1 On [insert Collaboration Agreement Effective Date], the Customer entered into a multiparty Collaboration Agreement with a number of suppliers (the "Collaboration Agreement", as such may be amended from time to time).
- 1.2 The Customer and the Supplier have agreed that the Supplier shall become a party to the Collaboration Agreement as a Supplier.

### 2 Accession

- 2.1 The Customer agrees that, in entering into this Accession Agreement, the Supplier shall become a Supplier under the Collaboration Agreement in accordance with clause 2.1 of that agreement.
- 2.2 The Supplier agrees that, in entering into this Accession Agreement, it will have all of the rights and obligations of a Supplier under the Collaboration Agreement in accordance with clause 2.2 of that agreement.

### 3 Governing Law

This Accession Agreement shall be governed by and construed in accordance with English law and, without prejudice to clause 20 of the Collaboration Agreement, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

IN WITNESS of which this Accession Agreement has been duly executed by the parties.

SIGNED for and on behalf of Customer

SIGNED for and on behalf of Supplier

Signature ..... Signature.....

Name:.....

Name.....

Position:.....

Position .....

Date ..... Date.....

## **Schedule 2 – Governance**

### **1 Governance Principles**

#### **1.1 The Suppliers acknowledge and agree that:**

- (a) that their respective relationships with the Customer are governed by the governance provisions within the relevant Supplier Agreement (the "Supplier Agreement Governance Provisions"); and
- (b) the Supplier Agreement Governance Provisions shall include attendance at and participation in the governance boards described at Paragraphs 2 and Error! Reference source not found. of this REF\_Ref446063002 \r\h \\* MERGEFORMAT Schedule 2 (Governance).

#### **1.2 The governance boards described at Paragraphs 2 and Error! Reference source not found. of this Schedule 2 (Governance) will be attended by representatives from all suppliers except where the Customer determines, in its sole discretion, that only specified supplier representatives are to attend.**

### **2 Digital Service Delivery Group**

#### **2.1 The Digital Service Delivery Group shall:**

- (a) act as a point of escalation for Supplier Service Reviews ;
- (b) provide review and approval, where possible, of the short-term and long-term plans and activities in regard to the delivery of the Services;
- (c) review the Suppliers' performance against the Required Behaviours;
- (d) assure that the end to end services are being delivered in an efficient and cost-effective manner and are meeting the requirements of the Customer;
- (e) resolve key service delivery issues and Disputes;
- (f) manage interfaces and integration to achieve a seamless end to end service;
- (g) provide opportunity to inject coherence and resilience into deliverables;
- (h) work collaboratively to overcome problems, provide solutions and leading edge expertise;
- (i) drive suppliers forward to deliver to scope, quality, schedule and cost; and
- (j) seek guidance from, provide recommendations to, and escalate issues to the Strategic Partnership Board as required.

#### **2.2 The Digital Service Delivery Group representation and structure shall be as set out below:**

<b>Customer Members of Digital Service Delivery Group</b>	<b>Head of Operational Business Services</b> <b>Service Delivery Managers</b> <b>Head of Architecture, Data Management and Design</b> <b>Commercial representation as required</b>
<b>Supplier Members of Digital Service Delivery Group</b>	<b>Account Executives</b> <b>Chief technology officers</b> <b>Service delivery executives</b>
<b>Start Date for Digital Service Delivery Group meetings</b>	<b>Collaboration Agreement Effective Date</b>
<b>Frequency of Digital Service Delivery Group meetings</b>	<b>Every two months</b>
<b>Location of Digital Service Delivery Group meeting</b>	<b>Customer premises</b>

### **3 Strategic Partnership Board**

#### **3.1 The Strategic Partnership Board shall:**

- (a) act as a point of escalation from the Digital Service Delivery Group and for issues from service delivery and financial performance perspectives and any staff matters that arise;**
- (b) manage the strategic relationship between all Parties at a senior level;**
- (c) evaluate feedback from other governance bodies about the whole spectrum of the relationship between the Customer and the Suppliers;**
- (d) address the alignment of the Customer's ICT strategy and the leverage of ICT to deliver additional value to the Customer's business activities.**

#### **3.2 The Strategic Partnership Board representation and structure shall be as set out below however the Customer reserves the right to amend the frequency and membership:**

<b>Customer Members of Strategic Partnership Board</b>	<b>Chief Digital Officer</b> <b>Head of Operational Business Services</b> <b>Head of Product Management</b> <b>Service Delivery Managers</b> <b>Head of Architecture, Data Management and Design</b> <b>Head of Contracts and Commercial</b> <b>Commercial representation as required</b>
<b>Supplier Members of Strategic Partnership Board</b>	<b>Chief technology officer</b> <b>Service delivery executives</b>
<b>Start Date for Strategic Partnership Board meetings</b>	<b>Collaboration Agreement Effective Date</b>
<b>Frequency of Strategic Partnership Board meetings</b>	<b>Every six months</b>
<b>Location of Strategic Partnership Board meetings</b>	<b>Customer premises</b>

## **Schedule 3 – Dispute Resolution**

### **1 Definitions**

**In this Schedule, the following additional definitions shall apply:**

<b>"Bi-Party Dispute"</b>	a) a Dispute between the Customer and a Supplier which affects another Supplier's performance of its obligations under this Agreement; or b) a Dispute between two Suppliers.
<b>"CEDR"</b>	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
<b>"Dispute Notice"</b>	written notice from one Party to another that a Dispute has arisen;
<b>"Dispute Parties"</b>	the Parties involved in the determination of any Dispute;
<b>"LCIA"</b>	the London Court of International Arbitration;
<b>"Mediation Notice"</b>	a written notice to proceed to mediation in accordance with Paragraph 4 of this Schedule 3;
<b>"Mediator"</b>	the independent third party appointed in accordance with Paragraph 4.2 of this Schedule 3 to mediate a Dispute;
<b>"Multi-Collaborating Parties Dispute"</b>	a Dispute which involves the Customer and/or more than one Supplier;
<b>"Multi-Collaborating Parties Dispute Representatives"</b>	has the meaning given in Paragraph 3.8 of this Schedule 3;
<b>"Multi-Collaborating Parties Dispute Resolution Board"</b>	has the meaning given in Paragraph 3.8 of this Schedule 3;
<b>"Multi-Collaborating Parties Procedure Initiation Notice"</b>	a notice from the Customer or the Digital Service Delivery Group (as applicable) notifying Supplier(s) of a Multi-Collaborating Parties Dispute as further described in Paragraphs 3.2 and 3.3 of this Schedule 3;
<b>"Originating Supplier"</b>	has the meaning given in Paragraph 3.2 of this Schedule 3;
<b>"Related Suppliers"</b>	the Suppliers other than the Originating Supplier which are to be involved in a Multi-Collaborating Parties Dispute Resolution Procedure;
<b>"Supplier Request"</b>	a notice served by the Originating Supplier requesting that the Dispute be treated as a Multi-Collaborating Parties Dispute, setting out its grounds for that request and specifying each Supplier that it believes should be involved in the Multi-Dispute Resolution Procedure in respect of that Dispute.

## **2 Bi-Party Disputes**

**2.1** Subject to Paragraph 3 of this Schedule 3, if a Bi-Party Dispute referred to the Digital Service Delivery Group pursuant to Clause 19 is not resolved between the relevant Dispute Parties within twenty five (25) Working Days of the referral (or such longer period as the Dispute Parties may agree in writing), then:

- (a) any Dispute Party may serve a Mediation Notice in respect of the Dispute in which case Paragraph 4 of this Schedule 3 shall apply; and/or
- (b) Paragraph 5 of this Schedule 3 shall apply to the Dispute.

## **3 Multi-Collaborating Parties Disputes**

**3.1** All Multi-Collaborating Parties Disputes shall be resolved in accordance with the procedure set out in this Paragraph 3 (the "Multi-Collaborating Parties Dispute Resolution Procedure"), notwithstanding any provisions relating to the resolution of multi party disputes in any Supplier Agreement.

**3.2** If at any time following the issue of a Dispute Notice to the Customer, the Customer reasonably considers that the matters giving rise to the Dispute involve one or more Suppliers other than the Supplier to whom the Dispute initially relates (the "Originating Supplier"), then the Customer shall be entitled to determine that the Dispute is a Multi-Collaborating Parties Dispute and to serve a Multi-Collaborating Parties Procedure Initiation Notice on the Originating Supplier which sets out the Customer's determination that the Dispute is a Multi-Collaborating Parties Dispute. The Multi-Collaborating Parties Procedure Initiation Notice shall specify any other Related Suppliers.

**3.3** Where a Dispute between Suppliers is referred to the Digital Service Delivery Group then the Digital Service Delivery Group shall consider whether the matters giving rise to the Dispute involve additional Suppliers and if so send a Multi-Collaborating Parties Procedure Initiation Notice to the Related Suppliers that a Multi-Collaborating Parties Dispute has arisen.

**3.4** If following the issue of a Dispute Notice but before the Dispute has been referred to arbitration (to the extent that such forms of alternative dispute resolution are permitted under the Originating Supplier's Supplier Agreement, where the Dispute includes the Customer), the Originating Supplier has reasonable grounds to believe that the matters giving rise to the Dispute have been contributed to by one or more Suppliers, the Originating Supplier may serve a Supplier Request on the Customer or the Digital Service Delivery Group (as applicable).

**3.5** The Customer or Digital Service Delivery Group (as applicable) shall consider each Supplier Request submitted to it and shall determine within five (5) Working Days whether the Dispute is:

- (a) a Multi-Collaborating Parties Dispute, in which case it shall serve a Multi-Collaborating Parties Procedure Initiation Notice on the Related Suppliers; or
- (b) not a Multi-Collaborating Parties Dispute, in which case it shall serve written notice of such determination upon the Originating Supplier (and any other Suppliers, as necessary) and the Dispute

shall be treated in accordance with the dispute resolution procedure in the Originating Supplier's Supplier Agreement.

- 3.6 If the Customer or Digital Service Delivery Group has determined, following a Supplier Request, that a Dispute is not a Multi-Collaborating Parties Dispute, the Originating Supplier may not serve another Supplier Request with reference to the same Dispute.
- 3.7 The Customer may also serve a Multi-Collaborating Parties Procedure Initiation Notice on one or more Suppliers following any determination by the Digital Service Delivery Group that a Dispute is a Multi-Collaborating Parties Dispute.
- 3.8 Following service of a Multi-Collaborating Parties Procedure Initiation Notice a Multi-Collaborating Parties Dispute shall be dealt with by a board (in relation to such Multi-Collaborating Parties Dispute, the "Multi-Collaborating Parties Dispute Resolution Board") comprising representatives from the following parties to the Multi-Collaborating Parties Dispute, each of whom shall be of a suitable level of seniority to finalise any agreement with the other parties to settle the Multi-Collaborating Parties Dispute:
- (a) the Customer;
  - (b) the Originating Supplier;
  - (c) each Related Supplier involved in the Multi-Collaborating Parties Dispute; and
  - (d) any other representatives of any of the Parties whom the Customer considers necessary,
- (together "Multi-Collaborating Parties Dispute Representatives").
- 3.9 Subject to Paragraph 3.11 of this Schedule 3, the Parties agree that the Multi-Collaborating Parties Dispute Resolution Board shall seek to resolve the relevant Multi-Collaborating Parties Dispute in accordance with the following principles and procedures:
- (a) the Dispute Parties shall procure that their Multi-Collaborating Parties Dispute Representatives attend all meetings of the Multi-Collaborating Parties Dispute Resolution Board in respect of the Multi-Collaborating Parties Dispute;
  - (b) the Multi-Collaborating Parties Dispute Resolution Board shall first meet within ten (10) Working Days of service of the relevant Multi-Collaborating Parties Procedure Initiation Notice at such time and place as the Dispute Parties may agree or, if those Parties do not reach agreement on the time and place within five (5) Working Days of service of the relevant Multi-Collaborating Parties Procedure Initiation Notice, at the time and place specified by the Customer, provided such place is at a neutral location within England and that the meeting is to take place between 9.00am and 5.00pm on a Working Day; and
  - (c) in seeking to resolve or settle any Multi-Collaborating Parties Dispute, the members of the Multi-Collaborating Parties Dispute Resolution Board shall have regard to the principle that a Multi-Collaborating Parties Dispute should be determined based on the contractual rights and obligations

between the Dispute Parties and that any apportionment of costs should reflect the separate components of the Multi-Collaborating Parties Dispute.

- 3.10** Subject to Paragraph 3.11 of this Schedule 3, if a Multi-Collaborating Parties Dispute is not resolved between the relevant Parties within twenty five (25) Working Days of the issue of the Multi-Collaborating Parties Procedure Initiation Notice (or such longer period as the Dispute Parties may agree in writing), then:
- (a) any Dispute Party may serve a Mediation Notice in respect of the Multi-Collaborating Parties Dispute in which case Paragraph 4 of this Schedule 3 shall apply; and/or
  - (b) Paragraph 5 of this Schedule 3 shall apply to the Multi-Collaborating Parties Dispute.
- 3.11** The Customer may, in its absolute discretion, reduce the timescale for the resolution of Multi-Collaborating Parties Disputes set out in Paragraph 2.1 of this Schedule 3, or this Paragraph 3.

#### **4 Mediation**

- 4.1** If a Mediation Notice is served, the Dispute Parties shall attempt to resolve the Dispute in accordance with the version of CEDR's Model Mediation Agreement which is current at the time the Mediation Notice is served (or such other version as the Dispute Parties may agree).
- 4.2** If the Dispute Parties are unable to agree on the joint appointment of an independent person to mediate the Dispute within twenty (20) Working Days from (and including) the service of a Mediation Notice then any Dispute Party may apply to CEDR to nominate such a person.
- 4.3** If the Dispute Parties are unable to reach a settlement in the negotiations at the mediation, and only if both Dispute Parties so request and the Mediator agrees, the Mediator shall produce for the Dispute Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 4.4** Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Dispute Parties (in accordance with Clause 10 where appropriate). The Mediator shall assist the Dispute Parties in recording the outcome of the mediation.
- 4.5** The CEDR Model Mediation Procedure (together with the provisions of this Schedule 3) shall apply to govern the mediation and is deemed to be incorporated into this Agreement. Notwithstanding the foregoing, in the

event of an inconsistency between the CEDR Model Mediation Procedure and this Schedule 3 (including as to the timescales set out in Paragraph 4.2) then the provisions of this Schedule 3 shall prevail.

## **5 Arbitration**

**5.1** Subject to compliance with its obligations under Paragraph 3.9 of this Schedule 3, a Dispute Party may at any time before court proceedings are commenced refer a Dispute to arbitration in accordance with the provisions of Paragraph 5.2 of this Schedule 3.

**5.2** The Parties hereby confirm that if any arbitration proceedings are commenced pursuant to Paragraph 5.1 of this Schedule 3:

- (a) the Dispute shall be referred to and finally resolved by arbitration under the Rules of the LCIA (subject to Paragraphs 5.2(e), (f) and (g) of this Schedule 3);
- (b) the arbitration shall be administered by the LCIA;
- (c) the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Agreement and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- (d) if the Parties fail to agree the appointment of the arbitrator within ten (10) Working Days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the chair of the arbitral tribunal shall be British;
- (f) the arbitration proceedings shall take place in London and in the English language; and
- (g) the seat of the arbitration shall be London.

## **Schedule 4 – Not used**

## **Schedule 5 – Not used**

## **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</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: <ul style="list-style-type: none"> <li>i) (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time</li> <li>ii) (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to Processing of personal data and privacy;</li> <li>iii) (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 .</li> </ul>
<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 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="http://tools.hmrc.gov.uk/esi">http://tools.hmrc.gov.uk/esi</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 RM1557.11 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>	The 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 <a href="https://www.gov.uk/government/publications/government-procurement-card-2">https://www.gov.uk/government/publications/government-procurement-card-2</a> .
<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 applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.
<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 'Losses' 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: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of 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: **Nimali de Silva.**
- 1.2 The contact details of the Supplier's Data Protection Officer are: **Hugo Nguyen, Office Manager.**
- 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.

Description	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>The Buyer Personal Data includes: authorised users' work email addresses and last login IP address, in a user table that is maintained persistently and backed up regularly.</p> <p>The parties acknowledge and agree that, due to the nature of Supplier's Services, employees of the Buyer who are granted access to the Supplier's online learning platform have the option (but are not required) to provide to the Supplier additional Personal Data ("Subscriber Data") and that the Supplier is the Controller with respect to such Subscriber Data, excluding and distinct from the Buyer Personal Data.</p>
Duration of the Processing	<p>The duration of the processing will be: until the earliest of</p> <p>(I) expiry/termination of the Call-Off Contract 24 months from the start date of the contract. or 36 months from the start date of contract if extended once. or 48 months from the start date of contract if extended twice. or (ii) the date upon which processing is no longer necessary for the purposes of either party performing its obligations under the Call-Off Contract (to the extent applicable).</p>

<p><b>Nature and purposes of the Processing</b></p>	<p>The capture of information about CQC staff and other authorised CQC IT service users in order to be able to capture, record, manage and ultimately resolve IT faults and requests and to manage technology assets and software.</p> <p>This information will be available to staff in CQC Digital and to authorized 3rd party suppliers, for example those providing; the IT Service Desk; 2nd and 3rd line remote support; desk side engineers. This access is necessary to allow 3rd parties to resolve faults reported by CQC staff and to fulfil requests.</p> <p>Semi-static information concerning every authorised user will include their name, work email address, work telephone number and username. There will also be information about their role, their department and whether they are home or office based.</p> <p>Additional variable information will be captured and stored that can be associated with each individual person and will contained details of the specific faults that individuals report, the requests that they make and the equipment and software they have been issued with.</p>
<p><b>Type of Personal Data</b></p>	<p>The Buyer Personal Data includes: Typically, this would be name, and contact details such as email, address, phone number and any authorised users' work email address for and the last login IP address. There will also be information about their role, their department and whether they are home or office based.</p> <p>All in a user table that is maintained persistently and backed up regularly.</p>
<p><b>Categories of Data Subject</b></p>	<p>CQC staff CQC Bank Inspectors CQC Temporary workers Suppliers; manufacturers, resellers and service providers</p>
<p><b>Plan for return and destruction of the data once the Processing is complete</b></p> <p><b>UNLESS</b> requirement under Union or Member State law to preserve that type of data</p>	<p>As soon as reasonably practicable following, and in any event within sixty (60) days of, termination or expiry of the Call-Off Contract.</p> <p>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.</p>

## **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, as long as 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)
- 8.4 (Relationship)
- 8.7 to 8.9 (Entire agreement)
- 8.10 (Law and jurisdiction)
- 8.11 to 8.12 (Legislative change)
- 8.13 to 8.17 (Bribery and corruption)
- 8.18 to 8.27 (Freedom of Information Act)
- 8.28 to 8.29 (Promoting tax compliance)

- 8.30 to 8.31 (Official Secrets Act)
- 8.32 to 8.35 (Transfer and subcontracting)
- 8.38 to 8.41 (Complaints handling and resolution)
- 8.42 to 8.48 (Conflicts of interest and ethical walls)
- 8.49 to 8.51 (Publicity and branding)
- 8.52 to 8.54 (Equality and diversity)
- 8.57 to 8.58 (data protection)
- 8.62 to 8.63 (Severability)
- 8.64 to 8.77 (Managing disputes and Mediation)
- 8.78 to 8.86 (Confidentiality)
- 8.87 to 8.88 (Waiver and cumulative remedies)
- 8.89 to 8.99 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement glossary and interpretations
- 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:

- a reference to the 'Framework Agreement' will be a reference to the 'Call-Off Contract'
- a reference to 'CCS' will be a reference to 'the Buyer'
- 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:**

- be appropriately experienced, qualified and trained to supply the Services
- apply all due skill, care and diligence in faithfully performing those duties
- obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer
- respond to any enquiries about the Services as soon as reasonably possible
- 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 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:**

- have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party

- are confident that they can fulfil their obligations according to the Call-Off Contract terms
- have raised all due diligence questions before signing the Call-Off Contract
- 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 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:
- 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
  - the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit
  - 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
  - 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:
- a broker's verification of insurance
  - receipts for the insurance premium
  - 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:
- take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers
  - promptly notify the insurers in writing of any relevant material fact under any insurances
  - 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:
- premiums, which it will pay promptly
  - 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 8.78 to 8.86. 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:
- rights granted to the Buyer under this Call-Off Contract
  - Supplier's performance of the Services
  - 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:
- modify the relevant part of the Services without reducing its functionality or performance
  - 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
  - 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:
- the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract
  - 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:**

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

- providing the Buyer with full details of the complaint or request
- complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions
- providing the Buyer with any Buyer Personal Data it holds about a Data Subject (within the timescales required by the Buyer)
- 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**

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

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

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

### **13.3 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 policy and all Buyer requirements in the Order Form.**

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

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

- the principles in the Security Policy Framework at <https://www.gov.uk/government/publications/security-policy-framework> and the Government Security Classification policy at <https://www.gov.uk/government/publications/government-security-classifications>
- guidance issued by the Centre for Protection of National Infrastructure on Risk Management at <https://www.cpni.gov.uk/content/adopt-risk-management-approach> and Protection of Sensitive Information and Assets at <https://www.cpni.gov.uk/protection-sensitive-information-and-assets>
- the National Cyber Security Centre's (NCSC) information risk management guidance, available at <https://www.ncsc.gov.uk/collection/risk-management-collection>
- 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, available at <https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>
- the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance at <https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>

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

13.7 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.

13.8 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.

13.9 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 available 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:

- 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
- 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 CCS of any breach of security of CCS'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 CCS and Buyer 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, available at <https://www.ncsc.gov.uk/quidance/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:

- an executed Guarantee in the form at Schedule 5
- 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:

- Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided
- 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:
- a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied
  - any fraud
- 18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:
- 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
  - an Insolvency Event of the other Party happens
  - 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:**

- any rights, remedies or obligations accrued before its Ending or expiration
- the right of either Party to recover any amount outstanding at the time of Ending or expiry
- 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); 8.42 to 8.48 (Conflicts of interest and ethical walls) and 8.87 to 8.88 (Waiver and cumulative remedies)
- 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:**

- return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it
- return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer
- 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
- 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
- work with the Buyer on any ongoing work
- 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'.

<b>Manner of delivery</b>	<b>Deemed time of delivery</b>	<b>Proof of service</b>
Email	9am on the first Working Day after sending	Sent by pdf to the correct email address without getting an 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:

- 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
- there will be no adverse impact on service continuity
- there is no vendor lock-in to the Supplier's Service at exit
- 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:

- 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
- 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
- the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier
- the testing and assurance strategy for exported Buyer Data
- if relevant, TUPE-related activity to comply with the TUPE regulations
- 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:

- data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control
- 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:
- Property: for all defaults 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
  - Buyer Data: for all defaults resulting in direct loss, destruction, corruption, degradation or damage to any Buyer Data caused by the Supplier's default will not exceed the amount in the Order Form
  - Other defaults: for all other defaults, 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:

- comply with any security requirements at the premises and not do anything to weaken the security of the premises
- comply with Buyer requirements for the conduct of personnel
- comply with any health and safety measures implemented by the Buyer
- 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:
- the activities they perform
  - age
  - start date
  - place of work
  - notice period
  - redundancy payment entitlement
  - salary, benefits and pension entitlements
  - employment status
  - identity of employer
  - working arrangements
  - outstanding liabilities
  - sickness absence
  - copies of all relevant employment contracts and related documents
  - 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:
- its failure to comply with the provisions of this clause
  - 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:

- work proactively and in good faith with each of the Buyer's contractors
- 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 8.57 and 8.58 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 8.57 and 8.58 are reproduced in this Call-Off Contract document at schedule 7

