

Customer's Address	1 Horse Guards Road, London, SW1A 2HQ
Invoice Address	[REDACTED]
Principal Contact	[REDACTED]

TO:

Supplier	eSynergy Solutions Ltd "Supplier"
Supplier's Address	[REDACTED]
Account Manager	[REDACTED]

1. TERM	
[REDACTED]	14 January 2017; or
1.2.2	the second (2) anniversary of the Commencement Date; whichever is the earlier, unless terminated earlier pursuant to Clause CO-9 of the Call-Off Agreement.
1.3	Services Requirements

These workstreams will explore, document and start to implement digital transformation of public services through the adoption and evolution of "government as a platform", including development of software prototypes and alpha/beta releases of certain services.

GDS are looking to procure the services of supply partners to assist with specialist needs including service design and user research, development of cloud-based software including prototypes, analysis of financial and service usage data, agile delivery and business analysis.

We will also be planning and implementing a common approach to productivity technology for civil servants across government. These workstreams will require specialist support from supply partners for the development of our approach, documentation and enabling reuse of certain methods and patterns, and implementation of this approach with certain departments and agencies.

The supplier's resources will continue to demonstrate capabilities and experience against the following high-level criteria:

- Quality and suitability of proposed candidates
- Track Record of Delivery
- Enablement
- Continuous Delivery
- Approach
- Alignment
- Evolutionary Architecture
- Specific Expertise
- Tool and platform selection
- Integration experience
- Operational experience
- Up-skill / share knowledge / best practice with exemplar department teams

We are expecting the supplier to be aligned with and informed by, but not limited to:

- GDS Principles
- GDS Design Principles
- Assisted Digital Strategy

The Contract will cover all roles on your rate card; Completion of this contract is no guarantee of work.

The Supplier will be required to work from remote locations across the UK dependent on the location of the projects to be completed.

The Intellectual Property of anything developed rests with the individual departments and/or GDS. We prize re-usability, transparency and open source.

1.3.2.1 Lot1 IaaS

1.3.2.2 Lot 2 PaaS

1.3.2.3 Lot 3 SaaS

1.3.2.4 Lot 4 5.G5.0587.004

Specialist Cloud
Services

All expenses associated with travel outside of central London, will be invoiced at cost to GDS in line with GDS expenses policies and the G-Cloud framework agreements. (As per attached Cabinet Office Policy document)

3. STANDARDS

3.1 Quality Standards

Not Applicable

3.2 Technical Standards

Not Applicable

4. ONBOARDING

4.1 On-boarding

Not Applicable

5. CUSTOMER RESPONSIBILITIES

5.1 Customer's Responsibilities

Not Applicable

5.2 Customer's equipment

Not applicable.

6. PAYMENT

6.1 Payment profile and method of payment

Charges payable by the Customer (including any applicable discount but excluding VAT), payment profile and method of payment (e.g. Government Procurement Card (GPC) or BACS)

	Strategi	Busi	Solution develop	Service	Procurement &	Client
Standard Rate Card:						
1. Follow						
5. Ensure/Advise						
6. Initiate/Influence						
7. Set Strategy/Inspire						

Standards for Consultancy Day Rate cards

Consultant's Working Day – 8 hours exclusive of travel and lunch.

Working Week – Monday to Friday excluding national holidays

Office Hours - 09:00 – 17:00 Monday to Friday

Travel and Subsistence – Included in day rate within M25. Payable at department's standard T&S rates outside M25.

Mileage – As above.

The value of this contract may flex over the term of the contract in completing the requirement, if further days above those stated are required to complete the requirement.

Indicate preferred payment profile by selecting one from:

6.1.1 Monthly in arrears

6.2 Invoice format

The Supplier shall issue paper invoices monthly in arrears. The Customer shall pay the Supplier within thirty (30) Calendar days of receipt of a valid invoice, submitted in accordance with this paragraph 6.2 the payment profile set out in paragraph 6.1 above and the provisions of this Call-Off Agreement.

8. LIABILITY

Subject to the provisions of Clause CO 11 'Liability' of the Call-Off Agreement:

8.1 The annual aggregate liability of either Party for all defaults resulting in direct loss of or damage to the property of the other Party (including technical infrastructure, assets, equipment or IPR but excluding any loss or damage to the Customer Data or Customer Personal Data) under or in connection with this Call-Off Agreement shall in no event exceed £1 million.

8.2 The annual aggregate liability for all defaults resulting in direct loss, destruction, corruption, degradation or damage to the Customer Data or the Customer Personal Data or any copy of such Customer Data, caused by the Supplier's default under or in connection with this Call-Off Agreement shall in no event exceed £1 million [fifty percent (50%)] of the Charges payable by the Customer to the Supplier during the Call-Off Agreement Period.

8.3 The annual aggregate liability under this Call-Off Agreement of either Party for all defaults shall in no event exceed the greater of £100,000 or one hundred and twenty five per cent (125%) per cent of the Charges payable by the Customer to the Supplier during the Call-Off Agreement Period.

9. INSURANCE

9.1 Minimum Insurance Period

Six(6) Years following the expiration or earlier termination of this Call-Off Agreement

9.2 To comply with its obligations under this Call-Off Agreement and as a minimum, where requested by the Customer in writing the Supplier shall ensure that:

- **professional indemnity insurance** is held by the Supplier and by any agent, Sub-Contractor or consultant involved in the supply of the G-Cloud Services and that such professional indemnity insurance has a minimum limit of indemnity of one million pounds sterling (£1,000,000 for each individual claim or such higher limit as the Customer may reasonably require (and as required by Law) from time to time;
- **employers' liability insurance** with a minimum limit of five million pounds sterling (£5,000,000) or such higher minimum limit as required by Law from time to time.

10. TERMINATION

10.1 Undisputed Sums Time Period

At least ninety (90) Working Days of the date of the written notice specified in Clause CO 9.4 of the Call-Off Agreement.

10.2 Termination Without Cause

with the Customer to provide the G-Cloud Services. The Parties hereby acknowledge and agree that they have read the Call-Off Terms and the Order Form and by signing below agree to be bound by the terms of this Call-Off Agreement.

For and on behalf of the Supplier:

Name and Title	Mr Siri Narasimham
Position	
Signature	
Date	16/12/2014

For and on behalf of the Customer:

Name and Title	JEREMY PAGE
Position	
Signature	
Date	8-12-2014

G-CLOUD SERVICES CALL-OFF TERMS

Cabinet Office on behalf of Government Digital Services

and

Esynergy Solutions Limited

relating to

the provision of G-Cloud Services.

IT IS AGREED AS FOLLOWS:

CO-1 OVERRIDING PROVISIONS

- CO-1.1 The Supplier agrees to supply the G-Cloud Services and any G-Cloud Additional Services in accordance with the Call-Off Terms, including Supplier's own terms and conditions as identified in Framework Schedule 1 (G-Cloud Services) and incorporated into this Call-Off Agreement.
- CO-1.2 In the event of and only to the extent of any conflict or ambiguity between the Clauses of this Call-Off Agreement, the provisions of the Schedules, any document referred to in the Clauses of this Call-Off Agreement (including Supplier's terms and conditions) and the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:
- CO-1.2.1 the Framework Agreement (excluding Framework Schedule 2)
 - CO-1.2.2 the Clauses of this Call-Off Agreement (excluding Supplier Terms);
 - CO-1.2.3 the completed Order Form;
 - CO-1.2.4 the Collaboration Agreement (Framework Schedule 7);
 - CO-1.2.5 the Supplier's terms and conditions as set out in the Framework Schedule 1 (G-Cloud Services); and
 - CO-1.2.6 any other document referred to in the Clauses of this Call-Off Agreement.
- CO-1.3 The Supplier acknowledges and accepts that the order of prevailing provisions as set out in Clause CO-1.2 above.

CO-2 PREVENTION OF BRIBERY AND CORRUPTION

- CO-2.1 If the Supplier breaches
- CO-2.1.1 Clauses FW-22.1 or FW-22.2 of the Framework Agreement; or,
 - CO-2.1.2 the Bribery Act 2010 in relation to the Framework Agreement
- the Customer may terminate this Call-Off Agreement.
- CO-2.2 The Parties agree that the Management Charge payable in accordance with Clause FW-9 does not constitute an offence under section 1 of the Bribery Act 2010.

CO-3 PROTECTION OF INFORMATION

- CO-3.1 The provisions of this Clause CO-3, shall apply during the Call-Off Agreement Period and for such time as the Supplier holds the Customer Personal Data.
- CO-3.2 The Supplier shall and shall procure that Supplier's Staff comply with any notification requirements under the DPA and both Parties undertake to duly observe all their obligations under the DPA which arise in connection with the Call-Off Agreement.

pursuant to this Clause; and

CO-3.3.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of its obligations under the DPA.

CO-3.4 To the extent that the Supplier Processes Service Personal Data the Supplier shall:

CO-3.4.1 Process Service Personal Data only in accordance with written instructions from the Customer as set out in this Call-Off Agreement;

CO-3.4.2 Process the Service Personal Data only to the extent, and in such manner, as is necessary for the provision of the G-Cloud Services or as is required by Law or any Regulatory Body;

CO-3.4.3 implement appropriate technical and organisational measures to protect Service Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to Service Personal Data and having regard to the nature of the Service Personal Data which is to be protected;

CO-3.4.4 take reasonable steps to ensure the reliability of any Supplier Staff who have access to Service Personal Data;

CO-3.4.5 ensure that all Supplier Staff required to access Service Personal Data are informed of the confidential nature of the Service Personal Data and comply with the obligations set out in this Clause;

CO-3.4.6 ensure that none of the Supplier Staff publish, disclose or divulge Customer's Personal Data to any third party unless necessary for the provision of the G-Cloud Services under the Call-Off Agreement and/or directed in writing to do so by the Customer;

CO-3.4.7 notify the Customer within five (5) Working Days if it receives:

CO-3.4.7.1 a request from a Data Subject to have access to Service Personal Data relating to that person; or

CO-3.4.7.2 a complaint or request relating to the Customer's obligations under the Data Protection Legislation;

CO-3.4.8 provide the Customer with full cooperation and assistance in relation to any complaint or request made relating to Service Personal Data, including by:

CO-3.4.8.1 providing the Customer with full details of the complaint or request;

CO-3.4.8.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Customer's instructions;

CO-3.4.8.3 providing the Customer with any Service Personal Data it holds in relation to a Data Subject (within the timescales required by the Customer); and

reasonable requests or directions by the Customer to enable the Customer to verify and/or procure that the Supplier is in full compliance with its obligations under this Call-Off Agreement; and/or

CO-3.5.2 subject to Clause CO-3.6 agree to an appointment of an independent auditor selected by the Supplier to undertake the activities in Clause CO-3.5.1 provided such selection is acceptable to the Customer or Customer Representative (subject to such independent auditor complying with the reasonable and appropriate confidentiality undertakings).

CO-3.6 The Supplier Shall:

CO-3.6.1 obtain prior written consent from the Customer in order to transfer Customer Personal Data to any other person (including for the avoidance of doubt any Sub-Contractors) for the provision of the G-Cloud Services;

CO-3.6.2 not cause or permit to be Processed, stored, accessed or otherwise transferred outside the EEA any Customer Personal Data supplied to it by the Customer without the prior written consent of the Customer. Where the Customer consents to such Processing, storing, accessing or transfer outside the European Economic Area the Supplier shall:

CO-3.6.2.1 comply with the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is so processed, stored, accessed or transferred;

CO-3.6.2.2 comply with any reasonable instructions notified to it by the Customer and either:

CO-3.6.2.3 incorporate standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) or warrant that that the obligations set out in the Supplier Terms provide Adequate protection for Personal Data.

CO-3.7 The Supplier shall not perform its obligations under this Call-Off Agreement in such a way as to cause the Customer to breach any of its applicable obligations under the Data Protection Legislation.

CO-3.8 The Supplier acknowledges that, in the event that it breaches (or attempts or threatens to breach) its obligations relating to Personal Data that the Customer may be irreparably harmed (including harm to its reputation). In such circumstances, the Customer may proceed directly to court and seek injunctive or other equitable relief to remedy or prevent any further breach (or attempted or threatened breach).

CO-4 CONFIDENTIALITY

CO-4.1 Except to the extent set out in this Clause or where disclosure is expressly permitted elsewhere in this Call-Off Agreement, each Party shall:

CO-4.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and

- CO-4.4 The provisions of Clauses CO-4.1 shall not apply to the extent that:
- CO-4.4.1 such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under Clause CO-7 (Transparency) and the FOIA, the Ministry of Justice Code or the Environmental Information Regulations pursuant to Clause CO-6 (Freedom of Information);
 - CO-4.4.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - CO-4.4.3 such information was obtained from a third party without obligation of confidentiality;
 - CO-4.4.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Call-Off Agreement; or
 - CO-4.4.5 it is independently developed without access to the other Party's Confidential Information.
- CO-4.5 Nothing in this Call-Off Agreement shall prevent the Customer from disclosing the Supplier's Confidential Information (including the Management Information obtained under Clause FW-8 (Provision of Management Information) of the Framework Agreement):
- CO-4.5.1 for the purpose of the examination and certification of the Customer's accounts;
 - CO-4.5.2 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;
 - CO-4.5.3 to any Crown body or any Other Contracting Body. All Crown bodies or Contracting Bodies receiving such Supplier's Confidential Information shall be entitled to further disclose the Supplier's Confidential Information to other Crown bodies or Other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body or any Contracting Body; or
 - CO-4.5.4 to any consultant, contractor or other person engaged by the Customer (on the basis that the information shall be held by such consultant, contractor or other person in confidence and is not to be disclosed to any third party) or any person conducting a Cabinet Office or ERG Gateway review or any additional assurance programme.
- CO-4.6 In the event that the Supplier fails to comply with Clauses CO-4.1 to Clause CO-4.4, the Customer reserves the right to terminate this Call-Off Agreement with immediate effect by notice in writing.
- CO-4.7 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in performance of this Call-Off Agreement, the Supplier undertakes to maintain adequate security arrangements that meet the requirements of Good Industry Practice.
- CO-4.8 The Supplier will immediately notify the Customer of any breach of security in relation to Customer Confidential Information obtained in the performance of this Call-Off Agreement and will keep a record of such breaches. The Supplier will use its best endeavours to recover such Customer Confidential Information however it may be recorded. This obligation is in addition to the Supplier's obligations under Clauses CO-4.1 to Clause CO-4.4. The Supplier will co-operate with the Customer in any

CO-5 CUSTOMER DATA

- CO-5.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- CO-5.2 The Supplier shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Supplier of its obligations under this Call-Off Agreement or as otherwise expressly approved by the Customer.
- CO-5.3 The Supplier shall ensure that any system on which the Supplier holds any Customer Data, including back-up data, is a secure system that complies with the Supplier security policy.

STATUTORY OBLIGATIONS AND REGULATIONS

CO-6 FREEDOM OF INFORMATION

- CO-6.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Customer to enable the Customer to comply with its Information disclosure obligations.
- CO-6.2 The Supplier shall:
 - CO-6.2.1 transfer to the Customer all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
 - CO-6.2.2 provide the Customer with a copy of all Information, relating to a Request for Information, in its possession or control, in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may specify) of the Customer's request; and
 - CO-6.2.3 provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- CO-6.3 The Customer shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Call-Off Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information (including Supplier's Confidential Information) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- CO-6.4 In no event shall the Supplier respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- CO-6.5 The Supplier acknowledges that the Customer may, acting in accordance with the Ministry of Justice Code, be obliged under the FOIA, or the Environmental Information Regulations to disclose Information concerning the Supplier or the G-Cloud Services:
 - CO-6.5.1 in certain circumstances without consulting the Supplier; or
 - CO-6.5.2 following consultation with the Supplier and having taken its views into account;

CO-7.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Call-Off Agreement is not Confidential Information. The Customer shall be responsible for determining in its absolute discretion whether any of the content of this Call-Off Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

CO-7.2 Notwithstanding any other term of this Call-Off Agreement, the Supplier hereby gives its consent for the Customer to publish this Call-Off Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including from time to time agreed changes to this Call-Off Agreement, to the general public.

CO-7.3 The Customer may consult with the Supplier to inform its decision regarding any redactions but the Customer shall have the final decision in its absolute discretion.

CO-7.4 The Supplier shall assist and cooperate with the Customer to enable the Customer to publish this Call-Off Agreement.

CO-8 OFFICIAL SECRETS ACTS

CO-8.1 The Supplier shall comply with and shall ensure that the Supplier Staff comply with, the provisions of:

CO-8.1.1 the Official Secrets Act 1911 to 1989; and

CO-8.1.2 Section 182 of the Finance Act 1989.

CO-8.2 In the event that the Supplier or the Supplier Staff fails to comply with this Clause, the Customer reserves the right to terminate this Call-Off Agreement with immediate effect by giving notice in writing to the Supplier.

CO-9 TERM AND TERMINATION

CO-9.1 This Call-Off Agreement shall take effect on the Effective Date and shall expire on:

CO-9.1.1 the date specified in paragraph 1.2 of the Order Form; or

CO-9.1.2 twenty four (24) Months after the Effective Date, whichever is the earlier, unless terminated earlier pursuant to this Clause CO-9.

CO-9.2 Termination without Cause

CO-9.2.1 The Customer shall have the right to terminate this Call-Off Agreement at any time by giving the length of written notice to the Supplier as set out in paragraph 10.2 of the Order Form.

CO-9.3 Termination on Change of Control

CO-9.3.1 The Supplier shall notify the Customer immediately if the Supplier undergoes a change of control within the meaning of Section 450 of the Corporation Tax Act 2010 ("**Change of Control**") and provided this does not contravene any Law shall notify the Customer immediately in writing of any circumstances suggesting that a Change of Control is planned

CO-9.3.2 For the purposes of Clause CO-9.3.1, any transfer of shares or of any interest in shares by its affiliate company where such transfer forms part of a bona fide reorganisation or restructuring shall be disregarded.

CO-9.4 Termination by Supplier

CO-9.4.1 If the Customer fails to pay the Supplier undisputed sums of money when due, the Supplier shall notify the Customer in writing of such failure to pay and allow the Customer five (5) calendar days to settle undisputed invoice. If the Customer fails to pay such undisputed sums within allotted additional 5 calendar days, the Supplier may terminate this Call-Off Agreement subject to giving the length of notice as specified in paragraph 10.1 of the Order Form.

CO-9.5 Termination on Insolvency

CO-9.5.1 The Customer may terminate this Call-Off Agreement with immediate effect by notice in writing where the Supplier:

CO-9.5.1.1 being an individual, or where the Supplier is a firm, any partner or partners in that firm who together are able to exercise direct or indirect control, as defined by Section 416 of the Income and Corporation Taxes Act 1988, and:

CO-9.5.1.2 shall at any time become bankrupt or shall have a receiving order or administration order made against him or shall make any composition or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport so to do, or appears unable to pay or to have no reasonable prospect of being able to pay a debt within the meaning of Section 268 of the Insolvency Act 1986, or any similar event occurs under the law of any other jurisdiction; or

CO-9.5.1.3 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within fourteen (14) calendar days; or

CO-9.5.1.4 he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or

CO-9.5.1.5 the Supplier suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

CO-9.5.2 being a company, passes a resolution, or the Court makes an order that the Supplier or its Parent Company be wound up otherwise than for the purpose of a bona fide reconstruction or amalgamation, or a receiver, manager or administrator on behalf of a creditor is appointed in respect of the business or any part thereof of the Supplier or its Parent Company (or an application for the appointment of an administrator is made or notice to appoint an administrator is given in relation to the Supplier or its Parent Company), or circumstances arise which entitle the Court or a creditor to appoint a receiver, manager or

which notice to the Supplier if the Supplier commits a Material Breach of any obligation under this Call-Off Agreement and if:

CO-9.6.1.1 the Supplier has not remedied the Material Breach within thirty (30) Working Days (or such other longer period as may be specified by the Customer) of written notice to the Supplier specifying the Material Breach and requiring its remedy; or

CO-9.6.1.2 the Material Breach is not, in the opinion of the Customer capable of remedy.

CO-9.7 Termination for repeated Default

CO-9.7.1 If there are two or more Defaults (of a similar nature) that will be deemed a breach for Material Breach. Where the Customer considers that the Supplier has committed a repeated Default in relation to this Call-Off Agreement or any part thereof (including any part of the G-Cloud Services) and believes that the Default is remediable, then the Customer shall be entitled to serve a notice on the Supplier:

CO-9.7.1.1 specifying that it is a formal warning notice;

CO-9.7.1.2 giving reasonable details of the breach; and

CO-9.7.1.3 stating that such breach is a breach which, if it recurs or continues, may result in a termination of this Call-Off Agreement or that part of the G-Cloud Services affected by such breach.

CO-9.7.2 If, thirty (30) Working Days after service of a formal warning notice as described in Clause CO-9.7, the Supplier has failed to demonstrate to the satisfaction of the Customer that the breach specified has not continued or recurred and that the Supplier has put in place measures to ensure that such breach does not recur, then the Customer may deem such failure to be a Material Breach not capable of remedy for the purposes of Clause CO-9.6.1.2.

CO-9.8 The termination (howsoever arising) or expiry of this Call-Off Agreement pursuant to this Clause 9 shall be without prejudice to any rights of either the Customer or the Supplier that shall have accrued before the date of such termination or expiry.

CO-9.9 Save as aforesaid, the Supplier shall not be entitled to any payment from the Customer after the termination (howsoever arising) or expiry of this Call-Off Agreement.

CO-10 CONSEQUENCES OF SUSPENSION, TERMINATION AND EXPIRY

CO-10.1 Where a Customer has the right to terminate a Call-Off Agreement, it may elect to suspend this Call-Off Agreement and its performance.

CO-10.2 Notwithstanding the service of a notice to terminate this Call-Off Agreement or any part thereof, the Supplier shall continue to provide the Ordered G-Cloud Services until the date of expiry or termination (howsoever arising) of this Call-Off Agreement (or any part thereof) or such other date as required under this Clause CO-10.

obligations under the Framework Schedule FVV-5, or such period as is necessary for such compliance (after which time the data must be deleted); and

CO-10.3.2 any sums prepaid in respect of Ordered G-Cloud Services not provided by the date of expiry or termination (howsoever arising) of this Call-Off Agreement.

CO-10.4 The Customer and the Supplier shall comply with the exit and service transfer arrangements as per the Supplier's terms and conditions identified in Framework Schedule 1 (G-Cloud Services).

CO-10.5 Subject to Clause CO-11 (Liability), where the Customer terminates this Call-Off Agreement under Clause CO-9.2 (Termination without Cause), the Customer shall indemnify the Supplier against any reasonable and proven commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call-Off Agreement, provided that the Supplier takes all reasonable steps to mitigate such loss. Where the Supplier holds insurance, the Supplier shall reduce its unavoidable costs by any insurance sums available. The Supplier shall submit a fully itemised and costed list of such loss, with supporting evidence, of losses reasonably and actually incurred by the Supplier as a result of termination under Clause CO-9.2 (Termination without Cause).

CO-11 LIABILITY

CO-11.1 Nothing in this Clause CO-11 shall affect a Party's general duty to mitigate its loss.

CO-11.2 Nothing in this Call-Off Agreement shall be construed to limit or exclude either Party's liability for:

CO-11.2.1 death or personal injury caused by its negligence or that of its staff;

CO-11.2.2 bribery, Fraud or fraudulent misrepresentation by it or that of its staff;

CO-11.2.3 any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982; or

CO-11.2.4 any other matter which, by Law, may not be excluded or limited.

CO-11.3 Nothing in this Call-Off Agreement shall impose any liability on the Customer in respect of any liability incurred by the Supplier to any other person, but this shall not be taken to exclude or limit any liability of the Customer to the Supplier that may arise by virtue of either a breach of the Call-Off Agreement or by negligence on the part of the Customer, or the Customer's employees, servants or agents.

CO-11.4 Subject always to Clause CO-11.2, the aggregate liability of either Party under or in connection with each Year of this Call-Off Agreement (whether expressed as an indemnity or otherwise):

CO-11.4.1 for all defaults resulting in direct loss to the property (including technical infrastructure, assets, IPR or equipment but excluding any loss or damage to the Customer Personal Data or Customer Data) of the other Party, shall be subject to the financial limits set out in paragraph 8.1 of the Order Form;

CO-11.4.2 and in respect of all other defaults, claims, losses or damages, whether arising from breach of contract, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall not exceed a sum equivalent to the financial limit set out in paragraph 8.3 of the Order Form .

CO-11.6 The Supplier shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Call-Off Agreement.

CO-11.7 Subject to Clauses CO-11.2 and Clause CO-11.5, in no event shall either Party be liable to the other for any:

CO-11.7.1 loss of profits;

CO-11.7.2 loss of business;

CO-11.7.3 loss of revenue;

CO-11.7.4 loss of or damage to goodwill;

CO-11.7.5 loss of savings (whether anticipated or otherwise); and/or

CO-11.7.6 any indirect, special or consequential loss or damage.

CO-11.8 The annual aggregate liability for all defaults resulting in direct loss, destruction, corruption, degradation or damage to the Customer Data or the Customer Personal Data or any copy of such Customer Data, caused by the Supplier's default under or in connection with this Call-Off Agreement shall be subject to the financial limits set out in paragraph 8.2 of the Order Form.

CO-12 INSURANCE

CO-12.1 The Supplier shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under this Call-Off Agreement, including death or personal injury, loss of or damage to property or any other loss (including the insurance policies specified in the relevant paragraph of the Order Form). Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Supplier. Such insurance shall be maintained for the Call-Off Agreement Period and for the minimum insurance period as set out in paragraph 9 of the Order Form.

CO-12.2 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under this Call-Off Agreement.

CO-13 PAYMENT, VAT AND CALL-OFF AGREEMENT CHARGES

CO-13.1 In consideration of the Supplier's performance of its obligations under this Call-Off Agreement, the Customer shall pay the Charges in accordance with the Clause CO-13.2 to CO-13.8.

CO-13.2 The Customer shall pay all sums properly due and payable to the Supplier in cleared funds within the time period specified in paragraph 6 of the Order Form.

CO-13.6 The Supplier shall fully indemnify the Customer on demand and keep the Customer fully indemnified on a continuing basis against any liability, including without limitation against any interest, penalties or costs, which are suffered or incurred by or levied, demanded or assessed on the Customer at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Call-Off Agreement. Any amounts due under this Clause CO-13 shall be paid by the Supplier to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.

The Supplier shall not suspend the supply of the G-Cloud Services unless the Supplier is entitled to terminate this Call-Off Agreement under Clause CO-9.4 for Customer's failure to pay undisputed sums of money. Interest shall be payable by the Customer on the late payment of any undisputed sums of money properly invoiced in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended from time to time).

CO-13.7 In the event of a disputed invoice, the Customer shall make payment in respect of any undisputed amount in accordance with the provisions of Clause CO-13 of this Call-Off Agreement and return the invoice to the Supplier within ten (10) Working Days of receipt with a covering statement proposing amendments to the invoice and/or the reason for any non-payment. The Supplier shall respond within ten (10) Working Days of receipt of the returned invoice stating whether or not the Supplier accepts the Customer's proposed amendments. If it does then the Supplier shall supply with the response a replacement valid invoice.

CO-14 GUARANTEE

CO-14.1 Where the Customer has specified in the Order Form that this Call-Off Agreement shall be conditional upon receipt of a guarantee from the Guarantor, the Supplier shall deliver to the Customer an executed guarantee from the Guarantor, on or prior to the Commencement Date; and deliver to the Customer a certified copy of the passed resolution and/or board minutes of the Guarantor approving the execution of the guarantee

CO-15 FORCE MAJEURE

CO-15.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under this Call-Off Agreement to the extent that such delay or failure is a result of Force Majeure.

CO-15.2 Notwithstanding Clause CO-15.1, each Party shall use all reasonable endeavours to continue to perform its obligations under the Call-Off Agreement for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under this Call-Off Agreement for a period in excess of one hundred and twenty (120) calendar days, either Party may terminate this Call-Off Agreement with immediate effect by notice in writing to the other Party.

CO-16 TRANSFER AND SUB-CONTRACTING

CO-16.1 The Supplier shall not assign, novate, sub-contract or in any other way dispose of this Call-Off Agreement or any part of it without the Customer's prior written approval which shall not be unreasonably withheld or delayed. Sub-Contracting any part of this Call-Off Agreement shall not relieve the Supplier of any obligation or duty attributable to the Supplier under this Call-Off Agreement.

provided that any such assignment, novation or other disposal shall not increase the burden of the Supplier's obligations under the Call-Off Agreement.

CO-17 THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

CO-17.1 A person who is not party to this Call-Off Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Call-Off Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

CO-18 LAW & JURISDICTION

CO-18.1 This Call-Off Agreement and/or any non-contractual obligations or matters arising out of or in connection with it, shall be governed by and construed in accordance with the Laws of England and Wales and without prejudice to the dispute resolution procedures set out in Clause FW-14 or CO-22 (Dispute Resolution) each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

CO-19 ADDITIONAL G-CLOUD SERVICES

CO-19.1 The Customer may require the Supplier to provide the Additional G-Cloud Services. The Supplier acknowledges that the Customer is not obliged to take any Additional G-Cloud Services from the Supplier and that there is nothing preventing the Customer from receiving services that are the same as or similar to the Additional G-Cloud Services from any third party.

CO-19.2 The Supplier shall provide Additional G-Cloud Services in accordance with any relevant Implementation Plan(s) and the Supplier shall monitor the performance of such services against the Implementation Plan(s).

CO-20 VARIATION PROCEDURE

CO-21.1 The Customer may request in writing a variation to this Call-Off Agreement provided that such variation does not amount to a material change of the Framework Agreement and is within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a "**Variation**".

CO-21.2 The Supplier shall notify the Customer immediately in writing of any changes proposed or in contemplation in relation to G-Cloud Services or their delivery by submitting Variation request. For the avoidance of doubt such changes would include any changes within the Supplier's supply chain.

CO-21.3 In the event that:

- (a) Either Party is unable to agree (agreement shall not be unreasonably withheld or delayed) to or provide the Variation;
- (b) the Customer may:
 - (i) agree to continue to perform its obligations under this Call-Off Agreement without the Variation; or
 - (ii) terminate this Call-Off Agreement by mutual agreement within 30 days with immediate effect.

CO-21.4 The obligations of the Parties under this Call-Off Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation or arbitration pursuant to this Clause and the Supplier and Supplier's Staff shall continue to comply fully with the requirements of this Call-Off Agreement at all times.