



G-Cloud 12 Call-Off Contract

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

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Part A: Order Form

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

Digital Marketplace service ID number	6071 8074 9037 119
Call-Off Contract reference	Acas17187
Call-Off Contract title	Network & Application Monitoring Solution
Call-Off Contract description	A network monitoring tool to support the delivery of Acas services to the business. The application should monitor Network and Cloud infrastructure performance.
Start date	1/03/2021
Expiry date	28/02/2022 (option to extend 1 + 1 +1 for maintenance element)
Call-Off Contract value	£46,817.78 (inc VAT)
Charging method	Annual invoice, paid in advance. All payment obligations are non-cancellable, and Charges paid are non-refundable.
Purchase order number	To follow

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

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

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

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

From the Buyer	Acas Tel: 0330 109 3061 8th floor, Windsor House, 50 Victoria Street, Westminster, London SW1H 0TL
To the Supplier	SolarWinds Software Europe DAC Unit 1101, Building 1000 City Gate, Mahon Cork, Ireland Company number: 436824
Together the 'Parties'	

Principal contact details

For the Buyer:

Title: [REDACTED]

Name: [REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

For the Supplier:

Title: [REDACTED]

Name: [REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

Call-Off Contract term

Start date	<p>This Call-Off Contract Starts on 01/03/2021 and is valid for 12 months.</p> <p>The date and number of days or months is subject to clause 1.2 in Part B below.</p>
Ending (termination)	<p>The notice period for the Supplier needed for Ending the Call-Off Contract is at least 90 Working Days from the date of written notice for undisputed sums (as per clause 18.6).</p> <p>The notice period for the Buyer is a maximum of 30 days from the date of written notice for Ending without cause (as per clause 18.1).</p>
Extension period	<p>This Call-off Contract can be extended by the Buyer for 3 periods of 12 months each, by giving the Supplier 4 weeks written notice before its expiry. The extension periods are subject to clauses 1.3 and 1.4 in Part B below.</p> <p>Extensions which extend the Term beyond 24 months are only permitted if the Supplier complies with the additional exit plan requirements at clauses 21.3 to 21.8.</p> <p>The extension period after 24 months should not exceed the maximum permitted under the Framework Agreement which is 2 periods of up to 12 months each.</p> <p>If a buyer is a central government department and the contract Term is intended to exceed 24 months, then under the Spend Controls process, prior approval must be obtained from the Government Digital Service (GDS). Further guidance:</p> <p>https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service</p>

Buyer contractual details

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

G-Cloud lot	<p>This Call-Off Contract is for the provision of Services under:</p> <ul style="list-style-type: none"> • Lot 2: Cloud software
G-Cloud services required	<p>The Services to be provided by the Supplier under the above Lot are listed in Framework Section 2 and outlined below:</p> <ul style="list-style-type: none"> • Cloud software and maintenance
Additional Services	<p>NA</p> <p>[If relevant, include details of incidental Additional Services to be provided and if an Implementation Plan is required.]</p>
Location	<p>The Services will be delivered to:</p> <p>8th floor, Windsor House, 50 Victoria Street, Westminster, London SW1H 0TL</p>
Quality standards	<p>The quality standards required for this Call-Off Contract are as outlined where applicable in Annex 2 of Schedule 1 Statement of Requirement.</p>
Technical standards:	<p>The technical standards used as a requirement for this Call-Off Contract are as outlined where applicable in Annex 2 of Schedule 1 Statement of Requirement.</p>

Service level agreement:	<p>The service level and availability criteria required for this Call-Off Contract are</p> <ul style="list-style-type: none"> • as outlined where applicable in Annex 2 of Schedule 1 Statement of Requirement. <p>In addition:</p> <p>Services</p> <p>Supplier provides and licences the software to Buyer "as-is", without warranty of any kind and Supplier hereby disclaims and excludes all other warranties, whether statutory, express or implied, including, but not limited to, the implied warranties of merchantability, title, non-infringement, and fitness for a particular purpose.</p> <p>Support</p> <p>Supplier will provide software support for the term of this Call-Off Contract on the terms provided in Schedule 8 (Support and Maintenance Terms and Conditions).</p>
Onboarding	<p>The onboarding plan for this Call-Off Contract is delivery of licenses at point of purchase.[</p>
Offboarding	<p>The offboarding plan for this Call-Off Contract is not applicable. Licenses being purchased are perpetual licenses for on-premise software.</p>
Collaboration agreement	<p>NA</p>

Limit on Parties' liability	<p>The annual total liability of either Party for all Property Defaults will not exceed the value of the contract</p> <p>The annual total liability for Buyer Data Defaults will not exceed 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term</p> <p>The annual total liability for all other Defaults will not exceed the greater of 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term.</p>
Insurance	<p>The insurance(s) required will be:</p> <ul style="list-style-type: none"> • a minimum insurance period of 3 years following the expiration or Ending of this Call-Off Contract • 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)] • employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law
Force majeure	<p>A Party may End this Call-Off Contract if the Other Party is affected by a Force Majeure Event that lasts for more than 15 consecutive days.</p> <p>[This section relates to clause 23.1 in Part B below.]</p>

Audit	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 listed in clauses 7.4 to 7.13 of the Framework Agreement.
Buyer's responsibilities	<p>Buyer acknowledges, agrees, and warrants that:</p> <ul style="list-style-type: none"> (i) Buyer will be responsible for its and its Users' activity and compliance with this Agreement, and if Buyer become aware of any violation, Buyer will immediately terminate the offending party's access to the Services and notify Supplier; (ii) Buyer is legally able to process and share any data provided to Supplier, including obtaining appropriate consents or rights for such processing, as outlined further herein and have the right to access and use Buyer infrastructure, including any system or network, to obtain or provide the Services and will be solely responsible for the accuracy, security, quality, integrity, and legality of the same; (iii) Buyer will keep your registration information, billing information, passwords and technical data accurate, complete, secure and current; and (iv) Buyer shall use the Services solely in a manner that complies with all applicable laws in the jurisdictions in which Buyer uses the Services, including, but not limited to, applicable local, state, federal, and international laws, including intellectual property and privacy and security laws.
Buyer's equipment	N/a

Supplier's information

Subcontractors or partners	The sub-processor list can be found online at https://www.solarwinds.com/legal/legal-documents/application-management-sub-processor-list
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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.

Payment method	The payment method for this Call-Off Contract is BACS
Payment profile	The payment profile for this Call-Off Contract is yearly advance.
Invoice details	The Supplier will issue electronic invoices yearly . The Buyer will pay the Supplier within 30 days of receipt of a valid invoice.
Who and where to send invoices to	Invoices will be sent to [REDACTED]
Invoice information required	All invoices must include the PO number
Invoice frequency	Invoice will be sent to the Buyer yearly .
Call-Off Contract value	The total value of this Call-Off Contract is £46,817.78 (inc VAT)

Call-Off Contract charges	The breakdown of the Charges is as outlined in Schedule 2 .
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Additional Buyer terms

Performance of the Service and Deliverables	Additional terms are provided in Schedule 9 (Additional Terms) of this Call-Off Contract.
Guarantee	NA
Warranties, representations	NA
Supplemental requirements in addition to the Call-Off terms	NA
Alternative clauses	NA
Buyer specific amendments to/refinements of the Call-Off Contract terms	NA

Public Services Network (PSN)	NA
Personal Data and Data Subjects	Confirm whether Annex 1 (and Annex 2, if applicable) of Schedule 7 is being used: [Delete as appropriate] Annex 1 only

1. Formation of contract



- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.
- 1.4 In cases of any ambiguity or conflict, the terms and conditions of the Call-Off Contract (Part B) and Order Form (Part A) will supersede those of the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

2. Background to the agreement

- 2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.12.
- 2.2 The Buyer provided an Order Form for Services to the Supplier.

Signed	Supplier	Buyer
Name		
Title		

ap

Signature		
Date	[Enter date] 24 February 2021	[Enter date] Feb 25, 2021

Schedule 1: Services

- 1. **Services Description**
 - 1.1. SolarWinds will provide the following software products as further described in detail in Annex 2:
 - 1.1.1. SolarWinds Network Performance Monitor SL250 (up to 250 elements) - License with 1st-year Maintenance;

1.1.2. SolarWinds NetFlow Traffic Analyzer Module for SolarWinds Network Performance Monitor SL250 - License with 1st-year Maintenance;

1.1.3. Server & Application Monitor SAM200 (up to 200 nodes) - License with 1st-Year Maintenance;

1.1.4. SolarWinds Virtualization Manager VM192 (up to 192 sockets) - License with 1st-Year Maintenance;

1.1.5. SolarWinds Web Performance Monitor WPM10 (up to 10 [recordings x locations]) - License with 1st-Year Maintenance.

1.2. The software the Buyer will receive is out-of-the-box software to be utilized internally and beyond the Buyer's initial purchase, the Buyer will primarily buy annual software support and maintenance in order to receive additional downloads, upgrades, bug fixes, hot fixes, etc. Please visit the following link for additional benefits provided by SolarWinds support & maintenance: <http://www.solarwinds.com/support/maintenance.aspx>.

2. **Limited Warranty**

2.1. The Seller warrants to the Buyer that, for a period of thirty (30) days following the initial purchase and delivery of the Software to the Buyer, the Software will perform substantially in conformance with this Call-Off Contract and related documentation.

2.2. The Seller does not warrant that the Software will meet all of the Buyer's requirements or that the use of the Software will be uninterrupted or error-free.

2.3. The foregoing warranty applies only to failures in operation of the Software that are reproducible in standalone form and does not apply to:

2.3.1. Software that is modified or altered by the Buyer or any third party that is not authorized by the Seller;

2.3.2. Software that is otherwise operated in violation of this Agreement or other than in accordance with the Documentation; or

2.3.3. failures that are caused by other software or hardware products.

2.4. The Buyer's remedy for any breach of the foregoing warranty shall be for the Seller, at its sole option and expense, promptly repair or replace any Software that fails to meet this limited warranty or, if the Seller is unable to repair or replace the Software, refund to the Buyer the applicable license fees paid upon return, if applicable, of the nonconforming item.

2.5. This warranty is void if failure of the Software has resulted from accident, abuse, or misapplication by the Buyer or its employees or affiliates.

2.6. Any replacement Software under this limited warranty will be warranted for thirty (30) days.

3. **Export Restrictions**

3.1. The Services and Deliverables provided to the Buyer under this Call-Off Contract are subject to U.S. export control laws and regulations and may also be subject to import and export laws of England and Wales.

- 3.2. The Buyer shall abide by all applicable export control laws, rules and regulations applicable to the Services and Deliverables.
- 3.3. The Buyer agrees that it will not export, re-export, or transfer the Services or Deliverables, in whole or in part, to any country, person, or entity subject to U.S. export restrictions.
- 3.4. The Buyer specifically agrees not to export, re-export, or transfer the Services or Deliverables:
- 3.4.1. to any country to which the U.S. has embargoed or restricted the export of goods or services, or to any national of any such country, wherever located, who intends to transmit or transport the products back to such country;
- 3.4.2. to any person or entity who the Buyer knows or has reason to know will utilise the Services or Deliverables or portion thereof in the design, development, production or use of nuclear, chemical or biological materials, facilities, or weapons; or
- 3.4.3. to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government.

Annex 2

Statement of Requirements	ACAS2021MON-DDaT	Compliant	Product	Features	Notes/ links
3.1	Support for the initial configuration and implementation of the solution.	Yes	Orion Platform	<p>Solarwinds Premier Enterprise support</p> <p>Premier Enterprise Support offers the fastest service level guidelines and expedites you to the top of the queue. We created this program for our largest customers who have a highly complex, business-critical environment and need a relationship with a dedicated support team. Your designated team will partner with you to quickly respond to your questions and issues</p>	<p>for further information please review the following link https://support.solarwinds.com/premier-enterprise-support</p>

	Training	Yes	Orion Platform	Solarwinds offers a number of training mediums including the Solarwinds Academy that is free to access to existing customers.	Online and Partner Provided options are available Link to our online academy, we also have a youtube channel that is publicly available https://support.solarwinds.com/solarwinds-academy
	Application/System Support (ongoing)	Yes	All Products	Solarwinds offers support to all clients and their products that are in active maintenance. There are 3 level of support offerings available to you Professional support - included in all active products Premier support - A additional support level that is priced in addition to the professional support Premier Enterprise support - A additional support level that is priced in addition to the professional support this is highly recommend for the first year of a new deployment of Solarwinds Professional services are provided by our partners and is available from them directly. Solarwinds does not offer professional services but will support a Solarwinds accredited partner of your allocation via out case management platform	Product support provided by Solarwinds Customization provided by Partner Link for further details about our support offerings https://support.solarwinds.com/support-offerings
	Professional Services (as required ad hoc)	No	Partner provided		Partner Provided, a list of accredited partners can be provided upon request
3.2	Support for Initial configuration and Implementation	Yes	All Products	Solarwinds Premier Enterprise support Premier Enterprise Support offers the fastest service level guidelines and expedites you to the top of the queue. We created this program for our largest customers who have a highly complex, business-critical environment and	for further information please review the following link https://support.solarwinds.com/premier-enterprise-support Solarwinds will offer support and guidance, however implementation is actioned by the user or a partner

need a relationship with a dedicated support team. Your designated team will partner with you to quickly respond to your questions and issues

3.2.1	an implementation approach, test plans, procedures and training approach in co-ordination with DDaT	No	Solarwinds Smart Start	<p>Solarwinds Smart Start</p> <p>We'll schedule a welcome call to introduce you to your expert who will review your environment, review your IT management goals, and prioritize how to move forward with what's important to you.</p> <p>Then we'll schedule configuration sessions to help with your install, and work through a checklist of optimization activities based on your priorities.</p> <p>Finally, we'll follow up to ensure the optimizations in place meet your needs, verify you feel confident in the product configuration, and talk about resources we offer to help you continue to get the most out of your product.</p>	<p>Partner Provided or Through the Solarwinds Smart Start Program https://support.solarwinds.com/smartstart-assisted-onboarding</p>
3.2.2	design documents and diagrams for all components of the proposed system.	No	Solarwinds Documentation available	<p>Documentation is of your deployment is not actioned by Solarwinds, we do offer a library of documents covering the majority of scenarios include, Administration, deployment, best practices and product information</p>	<p>Partner Provided, Solarwinds has a number of very well documented deployment models that cover the majority of all needed deployments and is available for guidance and review</p> <p>Link to document library https://documentation.solarwinds.com/licenses/installation and config support provided by Solarwinds and/or partner</p> <p>Tenant configuration,</p>
3.2.3	software licences, and tenant creation or any pre-configuration required	No			

customization are
Partner Provided

for the operation of the solution in line with the Acas requirements.
3.2.4 Support for the complete system implementation of the software including any required integrations, for example to Active Directory and Single sign-on.

Yes

All Products

Solarwinds does not offer professional services, we can however provide documentation, best practices and administrative guides to our products and solutions.
Premier Enterprise Support would be recommend to assist in this request, however SolarWinds does not action implementations and pre-configurations but can provide guidance in All Solarwinds Support offering support for active products under maintenance

Solarwinds Support please review the following link for available support options <https://support.solarwinds.com/support-offerings>

3.2.5 support during any user acceptance testing in co-ordination with DDaT

Yes

All Products

All Solarwinds Support offering support for active products under maintenance

Solarwinds Support and Customer Success Manager available from Solarwinds

3.3 Training
The supplier should provide all technical, operational and administrative knowledge transfers required for Acas in-house IT teams to successfully conduct activities related to the deployed solution, including any Technical and End user training materials and classes including on-site/online delivery.

Yes

All Products

We offer a number of online, webcasts, youtube and Academies as training options. We would recommend that Smart Start and Premier Enterprise Support be acquired for the greats transfer of Knowledge

Online and Partner Provided

3.4 Support

The supplier should provide Ongoing application maintenance

Yes

All Products

All Solarwinds Support offering support for active products under maintenance

3.5	nance and support, with Warranty support for all system software. The supplier should provide a detailed Service Level Agreement (SLA) and is asked to clarify their standard terms of this agreement.	Yes	Orion	Solarwinds offers Services level Guidelines that can be reviewed in the link provided. Response time and criteria are subject to the support package that has been acquired.	https://www.solarwinds.com/legal/legal-documents https://support.solarwinds.com/support-offerings
3.6	Professional Services				
	Technical consulting and development of system integrations	No	Partner provided		Partner Provided
	Documentation of custom development and integrations	No	Partner provided		Partner Provided
	Data conversion and migration	No	Partner provided		Partner Provided
	Technical consulting services on integrations with external systems (e.g. web services, external workflow, etc.)	No	Partner provided		Partner Provided
	Process design and improvement	No	Partner provided		Partner Provided

4 BUSINESS REQUIREMENTS

4.1	Acas requires a scalable solution which can flex to meet business needs and is seeking SaaS service to minimise internal platform management overhead. provide a unified intuitive and	Partial	Orion Platform	On prem or self cloud hosted, not available as SaaS (except Pingdom)	https://www.solarwinds.com/solutions/orion
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user-friendly interface.

- 4.2 The solution should integrate well with other technologies currently in operation at Acas, such as:

Cloud Infrastructure (MS Azure)	Yes	Orion Platform	the Orion platform has integration with MS Azure and further information regarding this can be found in the link provided	https://documentation.solarwinds.com/en/Success_Center/orion-platform/Content/install-orion-azure.htm
Azure Active Directory (Modern Authentication)	Yes	Orion Platform	the Orion platform has integration with Azure Active Directory and further information regarding this can be found in the link provided	https://documentation.solarwinds.com/en/Success_Center/orion-platform/Content/install-orion-azure.htm#DeployAzureActiveDirectory
MS Exchange (e.g. SMTP) and Single Sign On	Yes	Orion Platform	the Orion platform has integration with MS Exchange and Single Sign On and further information regarding this can be found in the link provided	https://support.solarwinds.com/SuccessCenter/s/article/SMTP-configuration-and-email-settings-for-scheduled-reports-and-alerts?language=en_US
				https://documentation.solarwinds.com/en/success_center/sam/Content/SAM-Microsoft-Office-365-Exchange-Mailboxes.htm
				https://documentation.solarwinds.com/en/Success_Center/orion-platform/content/core-users-saml-azure-ad.htm
Mobile platforms (Android, iOS)	No			

	M365 (e.g. Outlook)	Yes	Orion Platform	The Orion has features that can both	https://support.solarwinds.com/SuccessCenter/s/article/Send-Orion-alert-emails-using-Office-365-and-Outlook?language=en_US
	ITSM tool and CMDB	Yes	Orion Platform	Some development work may be needed and provided by a partner, depending on the information required	https://www.solarwinds.com/solutions/office-365-solutions Integrations possible using Rest API, Webhooks, email- Partner Provided
	AWS Web services	Yes	Orion Platform	Monitor Azure and AWS IaaS, PaaS, and SaaS 1,200+ out-of-the-box monitoring templates, plus more than 1,000 community templates Custom monitoring with REST API, WMI, SNMP, and PowerShell scripts Customizable server monitoring Infrastructure dependency mapping	https://documentation.solarwinds.com/en/SuccessCenter/orionplatform/Content/install-orion-aws.htm https://documentation.solarwinds.com/en/success_center/orionplatform/Content/Core-Cloud-Configure-AWS.htm https://www.solarwinds.com/server-application-monitor/use-cases/aws-monitoring
4.3	The solution should also have potential for further integration through REST API's or third-party solutions such as: Other Cloud/Application Monitoring (e.g. Azure Monitor, M365)	Yes	Orion Platform		https://documentation.solarwinds.com/en/success_center/orionplatform/Content/Core-Cloud-Configure-AWS.htm https://documentation.solarwinds.com/en/success_center/orionplatform/Content/Core-Cloud-Configure-AWS.htm https://documentation.solarwinds.com/en/success_center/orionplatform/Content/Core-Cloud-Configure-AWS.htm

	SIEM solutions (DarkTrace)	Yes	Orion Platform	ter/SAM/Content/SAM-Microsoft-Office-365-Templates.htm Rest API and Remote Powershell for Office 365
4.4	A key requirement for DDaT is that configuration of the tool is intuitive and user friendly. The tool must allow internal teams to be able to create, modify reports or monitors and easily develop the internal skills required to effectively manage and administer the solution without requiring specialist external resources.	Yes	Orion Platform	https://documentation.solarwinds.com/en/success_center/orionplatform/content/core-creating-and-viewing-reports-sw1334.htm https://documentation.solarwinds.com/en/Success_Center/orionplatform/content/core-creating-a-new-web-based-report-sw1322.htm
4.5	Advanced Reporting functionality is a key requirement for the solution which allows DDaT to make available MI and to generate reports from which Acas can optimise the availability and capacity of our internal facing services. The solution also needs to be intuitive and easy to use when creating the reports for all	Yes	Orion Platform	https://documentation.solarwinds.com/en/success_center/orionplatform/content/core-creating-and-viewing-reports-sw1334.htm

KPI's CSF's, and any ad-hoc reports required, allowing export of these to common formats (e.g. CSV) or integrate with other services e.g. through REST API's.

4.6	In line with our strategy, Acas would like this opportunity to explore the use of automation, AI or Machine learning to improve the efficiency of the services it delivers and would ideally like the solution to use elements of these new technologies.	Yes	Orion Platform	https://documentation.solarwinds.com/en/success_center/vman/content/VMAN-Recommendations-Overview.htm	Automation and Recommendation Engine (VMAN) only. No support for AI or Machine Learning currently
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5 TECHNICAL REQUIREMENTS

5.1	Acas is seeking a SaaS solution to minimise internal platform management overhead. Patch management and version control must be regularly managed and implemented.	No			On Prem or self hosted in the cloud
5.2	Acas requires that all data and systems hosting Acas data to be located in the United Kingdom only.	Yes			Customer decides where to host the DB
5.3	Acas expect the following types of devices/services to be in				

scope for monitoring:				
Switches	Yes	NPM		https://www.solarwinds.com/network-performance-monitor/use-cases/network-availability-monitoring
Routers	Yes	NPM		https://www.solarwinds.com/topics/network-insight-cisco-asa
Virtual Devices and Servers (e.g. DHCP, Print), and Physical servers.	Yes	SAM/VMA N		https://www.solarwinds.com/virtualization-manager
Cloud Infrastructure and servers (e.g. Azure Monitor, Azure Hyper V, AWS, Linux, Windows)	Yes	SAM		https://documentation.solarwinds.com/en/Success_Center/orion-platform/Content/install-orion-azure.htm https://documentation.solarwinds.com/en/success_center/orionplatform/Content/Core-Cloud-Configure-AWS.htm
Applications and Databases (e.g. SQL, Exchange etc)	Yes	SAM/DPA		https://documentation.solarwinds.com/en/success_center/SAM/content/SAM-AppInsight-for-SQL-sw1261.htm https://www.solarwinds.com/database-performance-monitoring-software
Storage (Azure and VM)	Yes	NPM/SAM/ SRM/VMA N		
Website and Web Transactions		SAM/WPM /Pingdom		https://www.solarwinds.com/web-performance-monitor
Physical devices such as: Uninterruptable Power Supplies, Multifunction Print Devices, Access Points, VoIP Audio/Video Con-	Yes	NPM	https://www.solarwinds.com/network-performance-monitor/use-cases/network-device-monitoring	SNMP access required

	ferencing equipment and Spider phones				
5.4	All monitoring data must be held for at least 180 days.	Yes	Orion Platform	https://support.solarwinds.com/SuccessCenter/s/article/Default-database-retention-settings-for-the-Orion-Platform?language=en_US	Data Retention period is customizable by the customer
5.5	The solution configuration must be as automated (zero-touch) as possible with minimal agent installation required (auto device discovery).	Yes	Orion Platform	https://documentation.solarwinds.com/en/success_center/ntm/Content/NTM_Scheduling_a_Discovery.htm	Device Discovery scheduling supported
5.6	The solution must have a customisable web GUI which displays the status of devices that are being monitored in real time.	Partial	Orion Platform	https://documentation.solarwinds.com/en/success_center/orionplatform/Content/Core-Customizing-Web-Console-Menu-Bars-sw1382.htm https://documentation.solarwinds.com/en/Success_Center/orionplatform/content/core-dashboards.htm	Devices are not polled in real time due to the effects this would have on production environments. Capable of polling in real time for specific devices/metrics for Root Cause Analysis
5.7	In addition to a web GUI the solution must have a corresponding mobile app available on all major mobile app platforms.	No	Orion Platform		Web Console is viewable on all modern browsers
5.8	The solution must also be able to monitor individual interfaces and ports of its devices.				
5.9	The solution must support the common monitoring protocols and flow types including but not limited to: SNMPv3,	Yes	Orion Platform/NTA	And width monitoring Application traffic alerting Network traffic analysis VMware vSphere distributed switch support Performance analysis dashboard Advanced application recognition	https://support.solarwinds.com/SuccessCenter/s/article/Polling-methods-used-by-Orion?language=en_US https://documentation.solarwinds.com/en/suc-

	WMI, SSH, Net-Flow, sFlow and jFlow.				cess_center/NTA/Content/Getting-Started-Guide/NTA-What-protocols-does-NTA-support.htm
5.10	The solution must have integrations with all major cloud platforms such as Azure, AWS and GCP.	Partial	Orion Platform		Monitoring of Azure/AWS, Azure AD authentication. No support for GCP monitoring(but can monitor servers in GCP)
5.11	The solution must provide real-time alerts on a number of customisable thresholds and deliver these using a variety of methods including email, SMS and mobile application notifications.	Partial	Orion Platform	https://www.solarwinds.com/network-performance-monitor/use-cases/network-alert	Alerting is based on customer thresholds, polling intervals and preferences. Not real time
5.12	The solution should have the ability to monitor cloud-based infrastructure services, on a variety of thresholds such as availability and latency.	Yes	SAM/NPM	<p>Server Application Manager</p> <p>Get started typically in minutes</p> <p>Monitor Azure and AWS IaaS, PaaS, and SaaS</p> <p>1,200+ out-of-the-box monitoring templates, plus more than 1,000 community templates</p> <p>Custom monitoring with REST API, WMI, SNMP, and PowerShell scripts</p> <p>Customizable server monitoring</p> <p>Infrastructure dependency mapping</p> <p>Network Performance Monitor</p> <p>Multi-vendor network monitoring</p> <p>Network Insights for deeper visibility</p> <p>Intelligent maps</p> <p>NetPath and PerfStack for easy troubleshooting</p> <p>Smarter scalability for large</p>	<p>https://www.solarwinds.com/network-performance-monitor/use-cases/cloud-monitoring</p> <p>https://www.solarwinds.com/server-application-monitor/use-cases/aws-monitoring</p>

environments
Advanced alerting

5.13	The solution should include functionality for the management and monitoring of web-sites (optionally monitoring SaaS services, but not core to requirement).	Yes	SAM/WPM /Pingdom		https://www.solarwinds.com/server-application-monitor/use-cases/web-application-monitor https://www.solarwinds.com/server-application-monitor https://www.pingdom.com/
5.14	The solution must provide opportunities to integrate with Acas existing IT Service Management Tool (ITSM). Acas have recently awarded a contract for an ITSM tool to Freshworks Ltd with an aim to implement this by February 2021.	Partial	Orion Platform	https://documentation.solarwinds.com/en/Success_Center/SWSD/Content/APIdocumentation/Sa-manage%20REST%20API%20Documentation.htm	Rest API, Webhooks, email, etc to integrate with third party products
5.15	The solution should ideally utilise Machine Learning or AI for trend prediction, performance degradation or potential outages.	Partial	Orion Platform		No support for AI but trend prediction is supported, performance monitored and alerting is customizable

5.16	The solution should provide capability to define thresholds and alerts to align with business monitoring and SLA's, with notifications provided through different channels (i.e. mobile, email, integrated service).	Yes	Orion Platform	https://documentation.solarwinds.com/en/success-center/SAM/Content/Onboarding/Alerts-Reports/SAM-OB-Create-Custom-Alert.htm
5.17	Customisable and intuitive monitoring dashboard, which provides multiple views across network and application services.	Yes	Orion Platform	https://documentation.solarwinds.com/en/Success-Center/orion-platform/content/core-dashboards.htm
5.18	The Requirements List in Annex A includes lists the business, scope and Technical requirements above and any supplementary requirements to these.			

6 NON-FUNCTIONAL REQUIREMENTS

6.1	The Supplier is expected to attend planned Service Performance Review meetings and quarterly Contract Review Meetings.	Yes	Solarwinds Account Manager and Customer Success Manager (CSM) would attend in relation to the Solarwinds Products only, This is extended through the Premier Enterprise Support as highlighted in the link previously provided	
6.2	As a minimum such Service Reviews should cover statistics explaining performance against the SLA,	Partial	Premier Enterprise Support Solarwinds offer Service level Guidelines and highlighted in the Premier Enterprise support link previously provided	https://support.solarwinds.com/premier-enterprise-support

	Extended Incident information for P1 and P2, and where requested P3.					
6.3	The Supplier should provide a Customer a Service Management Report at an agreed interval.	yes	Premier Enterprise Support	Premier Enterprise Support	The Premier Enterprise Health Check Report is the output of analysis performed by our Premier Enterprise technical lead against the Main Polling Engine (MPE), and all Additional Polling Engines (APE) logs received. The report's purpose is to review your Orion Platform deployment against SolarWinds best practices and deliver the findings in an easy-to-review document.	https://support.solarwinds.com/premier-enterprise-support
6.4	The supplier may be required to attend Governance Boards such as the Change Management Board to represent changes to their service provision which impact on the customers' own service.	no	Premier Enterprise Support	Premier Enterprise Support	<p>The Premier Enterprise Health Check Report is the output of analysis performed by our Premier Enterprise technical lead against the Main Polling Engine (MPE), and all Additional Polling Engines (APE) logs received. The report's purpose is to review your Orion Platform deployment against SolarWinds best practices and deliver the findings in an easy-to-review document.</p> <p>The outline of the report is as follows:</p> <p>Executive Summary—High-level outline of system team health able to be shared with your leadership team</p> <p>Recommendations and Implications—Highlights technical problems identified in the health check and categorizes them based on severity and business impact</p>	https://support.solarwinds.com/premier-enterprise-support

Snapshot of Environment—
Once MPE and APE logs
have been analyzed, pro-
vides a high-level overview
of the environment
Scalability Review—Shows
how the SolarWinds solu-
tion is load-balanced and
utilized against the back-
drop of optimal perfor-
mance
Looking Forward—Future-
proofing your solution for
future growth

6.5 It is expected
the supplier
should have an
ITIL compliant
Service Manage-
ment approach.

Yes

Feature, functions and
compliance has been provi-
tioned within the Solar-
winds platform

[https://www.solar-
winds.com/solu-
tions/itil-solutions](https://www.solarwinds.com/solutions/itil-solutions)

Continuous Improvement

6.6 The Supplier will
be expected to
continually im-
prove the way
in which they
required Ser-
vices are to be
delivered
throughout the
Contract dura-
tion.

Yes

Premier
Enterprise
Support

6.7 The Supplier is
expected to
identify solution
feature and per-
formance im-
provement op-
portunities that
the Customer
could exploit for
its own benefit
throughout the
contract.

Yes

CSM and
AM

Customer Success
Manager and Account
Manager would be re-
sponsible for the con-
tinuous engagements

Staff and Customer Ser-
vice

6.8	The Supplier is expected to provide a sufficient level of resource throughout the duration of the Contract in order to consistently deliver a quality service, with staff assigned to the contract having the relevant qualifications and experience to deliver the Contract to the required standard.	Yes	Premier Enterprise support	Guided	<p>Support does not include the development of custom scripts, reports, templates, SQL queries, perform analysis of or troubleshoot performance problems related to third-party products, or SQL or Operating System issues.</p> <p>SolarWinds will not take control of a company's environment to perform full installations, configurations, migrations, or upgrades.</p> <p>SolarWinds will not go on-site to the company to perform any support.</p>
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Service Levels and Performance

6.9	Suppliers should provide their Service Level Agreements (SLA's) as part of their response.	yes	Premier Enterprise Support	Service Level Guidelines are provided in the link	https://support.solarwinds.com/premier-enterprise-support
6.1	The supplier is required to provide their standard terms for contractual Service and Application availability. This will include documented assurances regarding the cloud hosting platform; ensuring scalability, resilience and agreed levels of availability. Details of the availability of testing and development environments	No			Solarwinds does not offer the Orion platform as a SaaS solution at this time

also be provided.

6.11	In the event of a loss, failure or impairment of the service, Acas expect the Supplier to be liable to pay service credits to the Authority in lieu of the service impact. Suppliers are invited to provide their Service Credit calculations.	No			Data is maintained and Managed by the client in an SQL database
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Security and Governance and Compliance Requirements

6.12	The supplier's services should adhere to Cloud Security Principles and Cyber Essentials, and hold accreditation in cyber essentials certificate awarded by one of the government approved accreditation bodies.	Yes	Orion	Solarwinds had native a number of Security principles and compliance with the products. An extended list can be found on the link provided	https://www.solarwinds.com/federal-government/product-certifications
6.13	Acas require assurances around the security governance and processes the supplier uses to manage the security of its own environment, which will be used to provide critical support for our applications and services.	yes	Orion	The link provided expands out Security governance and processes	https://www.solarwinds.com/security/security-state-ment

6.14	The supplier should maintain and robust security governance framework it uses to coordinate and direct the overall approach to the management of the service and information within it. Appropriate processes and procedures should be in place and detailed to ensure the operational security of the service and to identify and mitigate security threats, e.g. Denial of Service attacks.	Yes	Orion	The infrastructure and framework on which the Orion platform and products are deployed are not supplied by Solarwinds. Partner can and do offer these services	https://www.solarwinds.com/security/security-statement
6.15	There should be a defined information management incident process and plans to deal with actual and suspected incidents or events that may pose a risk to the service. A standard approach should be followed to ensure a consistent approach to managing incidents aligned with the Service Management requirements mentioned elsewhere.	Yes	Orion	Premier Enterprise Support offer Service Level Guidelines and information regarding response times.	https://www.solarwinds.com/security/security-statement https://support.solarwinds.com/premier-enterprise-support
6.16	Robust methods should be used by your administrators to	Yes	Client actioned		

	manage the operational service and to mitigate any risk of exploitation that could undermine the security of the service.		
6.17	All supplier personnel with administrative access to Acas software applications must be BPSS checked as standard. In addition, where there is a requirement for any supplier staff to work within Acas premises, they will be expected to undergo National Security Vetting to at least SC clearance.	No	
6.18	The security classification of this and other related contract documents are to be regarded as "Official".	No	
6.19	The application must use encryption (of at least 1024-bit RSA key). Access portals should also be provided should use encryption (i.e. via SSL).		
6.2	Any Acas user and personnel data accessed by the supplier should be securely accessed and adequately protected	yes	https://www.solarwinds.com/access-rights-manager/use-cases/gdpr-compliance-software https://www.solarwinds.com/legal/privacy

	against tampering via a combination of network protection and encryption methods. The assets storing or processing of this data should be protected against physical tampering, loss, damage or seizure and be flexible enough to support any future changes in data protection legislation				
6.21	Supplier staff and contractors should be provided with the appropriate tools to help them securely manage their service, ensure access to all service interfaces (for Users and Suppliers) and are constrained to authenticated and authorised individuals.	No	Client actioned		SolarWinds does not access client platforms
6.22	The service should ensure access to the Acas solution services by supplier administrators is separated, authenticated and validated to protect data including the ability to prevent one malicious or compromised user from af-	Yes	Client actioned		SolarWinds does not access client platforms

	fecting the service or data of another.				
6.23	The supplier should have its own documented information security policy and appropriate operational security controls should be in place.	Yes	Orion		https://www.solarwinds.com/security/security-statement https://www.solarwinds.com/information-security
6.24	The supplier should work to relevant Accessibility standards in the development of any services, for example any web-based development must conform to minimum rating of AA for the WCAG v2 accessibility standards and thereby conform to the Equality Act.	No	Partner/ System integrator		Solarwinds does not offer development or customisation of the Orion or related products. This can be provided by Solarwinds Partners and system integrators
6.25	The supplier should hold independent security-related certification (i.e. such as ISO27001) to validate the implementation of their internal information security management policies and processes.	Yes	Orion	ISO/IEC 27001, SOC 2, Privacy Shield, General Data Protection Regulation (GDPR) and other privacy regulations, Sarbanes-Oxley and SolarWinds Federal Product Certifications are some of the certifications we currently hold	https://www.solarwinds.com/trust-center
6.26	Any service provided must be able to meet General Data Protection Regulations (GDPR) requirements.				

Monitoring of Transactions

6.27	Acas administrators should, upon request have access to audit reports to show supplier access to the services.	Yes	Orion	Built into the Orion, multiple reports on many functions and monitors can be generated	https://documentation.solarwinds.com/en/Success_Center/orion-platform/content/core-creating-and-viewing-reports-sw1334.htm
Disaster Recovery					
6.28	The supplier should ensure they have resilience, disaster recovery and business continuity plans to ensure no impact to the customers services through issues with supplier managed applications, services, or operations.	Yes	High Availability	Failover deployment, Near-instantaneous failover, Automatic failback, Failover to cloud, Notification and alerting, Failover rules	https://www.solarwinds.com/high-availability
Sustainability					
6.29	There are no known specific sustainability requirements as part of this contract, but Suppliers are expected to operate in line with general sustainability best practices.	Yes	All products	Best practice, administrative, system requirement documentation are updated frequently with each product release	https://documentation.solarwinds.com/en/Success_Center/orion-platform/Content/orion_platform_Documentation.htm
Quality					
6.3	Potential suppliers are requested to state which quality standards they adhere to in the	Orion	All products		https://www.solarwinds.com/company/press-releases/solarwinds-it-management-solu-

delivery of the
Services.

[tions-achieve-com-
mon-criteria-certifica-
tion](#)

7. KEY MILESTONES AND DELIVERABLES

7.1	Suppliers are asked to set out the contract milestones/deliverables which they recommend apply to the successful implementation of the service	Yes	Smart Start	<p>This is client engagement Driven</p> <p>With assisted onboarding, our implementation experts partner with you to understand your business needs and goals. We apply SolarWinds-recommended best practices from years of experience to assist you in installing and configuring your product. From installation through optimization, we will help you create the right environment for your business.</p> <p>SmartStart Assisted Onboarding can be purchased just like any other SolarWinds product and is designed to get customers with complex environments like yours up and running quickly</p>
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<https://support.solarwinds.com/smartstart-assisted-onboarding>

8. CONTRACT TERM AND START DATE

8.1	Acas is seeking a minimum 2-year contract for the provision of the application and support in this requirement, with the option of 2 one-year extensions. The contract commencement date is 15th February 2021.	Yes	All Products	Pricing has been provided in quote links and in the pricing tab of this workbook
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Schedule 2: Call-Off Contract charges

product	SKU	New Purchase cost		SKU	Renewal cost	
		Quan- tity	New Purchase Value		renew value	
SolarWinds Network Performance Monitor SL250 (up to 250 elements) - License with 1st-year Maintenance		1				
SolarWinds NetFlow Traffic Analyzer Module for SolarWinds Network Performance Monitor SL250 - License with 1st-year Maintenance		1				
Server & Application Monitor SAM200 (up to 200 nodes) - License with 1st-Year Maintenance		1				
SolarWinds Virtualization Manager VM192 (up to 192 sockets) - License with 1st-Year Maintenance		1				
SolarWinds Web Performance Monitor WPM10 (up to 10 [recordings x locations]) - License with 1st-Year Maintenance		1				
			£ 39,014.82	£ 14,441.00		
			Inc VAT £ 46,817.78			

Part B: Terms and conditions

1. Call-Off Contract Start date and length

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

2. Incorporation of terms

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

- 4.1 (Warranties and representations)
- 4.2 to 4.7 (Liability)
- 4.11 to 4.12 (IR35)
- 5.4 to 5.5 (Force majeure)
- 5.8 (Continuing rights)
- 5.9 to 5.11 (Change of control)
- 5.12 (Fraud)
- 5.13 (Notice of fraud)
- 7.1 to 7.2 (Transparency)
- 8.3 (Order of precedence)
- 8.6 (Relationship)
- 8.9 to 8.11 (Entire agreement)
- 8.12 (Law and jurisdiction)
- 8.13 to 8.14 (Legislative change)
- 8.15 to 8.19 (Bribery and corruption)
- 8.20 to 8.29 (Freedom of Information Act)
- 8.30 to 8.31 (Promoting tax compliance)
- 8.32 to 8.33 (Official Secrets Act)
- 8.34 to 8.37 (Transfer and subcontracting)
- 8.40 to 8.43 (Complaints handling and resolution)
- 8.44 to 8.50 (Conflicts of interest and ethical walls)
- 8.51 to 8.53 (Publicity and branding)
- 8.54 to 8.56 (Equality and diversity)
- 8.59 to 8.60 (Data protection)
- 8.64 to 8.65 (Severability)
- 8.66 to 8.69 (Managing disputes and Mediation)

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

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

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

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

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

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

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

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

3. Supply of services

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

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

4. Supplier staff

4.1 The Supplier Staff must:

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

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

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

4.1.4 respond to any enquiries about the Services as soon as reasonably possible

4.1.5 complete any necessary Supplier Staff vetting as specified by the Buyer

4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.

- 4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.
- 4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35.
- 4.5 The Buyer may End this Call-Off Contract for Material Breach as per clause 18.5 hereunder if the Supplier is delivering the Services Inside IR35.
- 4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14-digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.
- 4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.
- 4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

5. Due diligence

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

6. Business continuity and disaster recovery

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

7. Payment, VAT and Call-Off Contract charges

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

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

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

9. Insurance

- 9.1 The Supplier will maintain the insurances required by the Buyer including those in this clause.
- 9.2 The Supplier will ensure that:
 - 9.2.1 during this Call-Off Contract, Subcontractors hold third party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000
 - 9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit
 - 9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
 - 9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
- 9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.
- 9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:
 - 9.4.1 a broker's verification of insurance
 - 9.4.2 receipts for the insurance premium
 - 9.4.3 evidence of payment of the latest premiums due
- 9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:
 - 9.5.1 take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers
 - 9.5.2 promptly notify the insurers in writing of any relevant material fact under any Insurances
 - 9.5.3 hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance
- 9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.

- 9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.
- 9.8 The Supplier will be liable for the payment of any:
 - 9.8.1 premiums, which it will pay promptly
 - 9.8.2 excess or deductibles and will not be entitled to recover this from the Buyer

10. Confidentiality

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

11. Intellectual Property Rights

- 11.1 Unless otherwise specified in this Call-Off Contract, a Party will not acquire any right, title or interest in or to the Intellectual Property Rights (IPRs) of the other Party or its Licensors.
- 11.2 The Supplier grants the Buyer a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to use the Project Specific IPRs and any Background IPRs embedded within the Project Specific IPRs for the Buyer's ordinary business activities.
- 11.3 The Supplier must obtain the grant of any third-party IPRs and Background IPRs so the Buyer can enjoy full use of the Project Specific IPRs, including the Buyer's right to publish the IPR as open source.
- 11.4 The Supplier must promptly inform the Buyer if it can't comply with the clause above and the Supplier must not use third-party IPRs or Background IPRs in relation to the Project Specific IPRs if it can't obtain the grant of a licence acceptable to the Buyer.
- 11.5 The Supplier will, on written demand, fully indemnify the Buyer and the Crown for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:
 - 11.5.1 rights granted to the Buyer under this Call-Off Contract
 - 11.5.2 Supplier's performance of the Services
 - 11.5.3 use by the Buyer of the Services
- 11.6 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:
 - 11.6.1 modify the relevant part of the Services without reducing its functionality or performance

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

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

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

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

11.7.3 other material provided by the Buyer necessary for the Services

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

12. Protection of information

12.1 The Supplier must:

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

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

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

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

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

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

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

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

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

13. Buyer data

- 13.1 The Supplier must not remove any proprietary notices in the Buyer Data.
- 13.2 The Supplier will not store or use Buyer Data except if necessary to fulfil its obligations.
- 13.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested.
- 13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.
- 13.5 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.
- 13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:
 - 13.6.1 the principles in the Security Policy Framework:
<https://www.gov.uk/government/publications/security-policy-framework> and
the Government Security Classification policy:
<https://www.gov.uk/government/publications/government-security-classifications>
 - 13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management:
<https://www.cpni.gov.uk/content/adopt-risk-management-approach> and
Protection of Sensitive Information and Assets:
<https://www.cpni.gov.uk/protection-sensitive-information-and-assets>
 - 13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance:
<https://www.ncsc.gov.uk/collection/risk-management-collection>
 - 13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint:
<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>
 - 13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance:
<https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>
 - 13.6.6 buyer requirements in respect of AI ethical standards
- 13.7 The Buyer will specify any security requirements for this project in the Order Form.
- 13.8 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer

immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.

- 13.9 The Supplier agrees to use the appropriate organisational, operational and technological processes to keep the Buyer Data safe from unauthorised use or access, loss, destruction, theft or disclosure.
- 13.10 The provisions of this clause 13 will apply during the term of this Call-Off Contract and for as long as the Supplier holds the Buyer's Data.

14. Standards and quality

- 14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.
- 14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at:
<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>
- 14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.
- 14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.
- 14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

15. Open source

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

16. Security

- 16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both

plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.

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

17. Guarantee

- 17.1 If this Call-Off Contract is conditional on receipt of a Guarantee that is acceptable to the Buyer, the Supplier must give the Buyer on or before the Start date:
- 17.1.1 an executed Guarantee in the form at Schedule 5
- 17.1.2 a certified copy of the passed resolution or board minutes of the guarantor approving the execution of the Guarantee

18. Ending the Call-Off Contract

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

18.2 The Parties agree that the:

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

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

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

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

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

18.4.2 any fraud

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

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

18.5.2 an Insolvency Event of the other Party happens

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

18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.

18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

19. Consequences of suspension, ending and expiry

19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.

19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the Ordered G-Cloud Services until the dates set out in the notice.

- 19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date (whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.
- 19.4 Ending or expiry of this Call-Off Contract will not affect:
- 19.4.1 any rights, remedies or obligations accrued before its Ending or expiration
- 19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry
- 19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses
- 7 (Payment, VAT and Call-Off Contract charges)
 - 8 (Recovery of sums due and right of set-off)
 - 9 (Insurance)
 - 10 (Confidentiality)
 - 11 (Intellectual property rights)
 - 12 (Protection of information)
 - 13 (Buyer data)
 - 19 (Consequences of suspension, ending and expiry)
 - 24 (Liability); incorporated Framework Agreement clauses: 4.2 to 4.7 (Liability)
 - 8.44 to 8.50 (Conflicts of interest and ethical walls)
 - 8.89 to 8.90 (Waiver and cumulative remedies)
- 19.4.4 any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires
- 19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:
- 19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it
- 19.5.2 return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer
- 19.5.3 stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer
- 19.5.4 destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law
- 19.5.5 work with the Buyer on any ongoing work
- 19.5.6 return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

- 19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.
- 19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

20. Notices

- 20.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being 'in writing'.
- Manner of delivery: email
 - Deemed time of delivery: 9am on the first Working Day after sending
 - Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message
- 20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

21. Exit plan

- 21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.
- 21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.
- 21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 24 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 18 month anniversary of the Start date.
- 21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.
- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.
- 21.6 The Supplier acknowledges that the Buyer's right to extend the Term beyond 24 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls

process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:

21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the extension period on terms that are commercially reasonable and acceptable to the Buyer

21.6.2 there will be no adverse impact on service continuity

21.6.3 there is no vendor lock-in to the Supplier's Service at exit

21.6.4 it enables the Buyer to meet its obligations under the Technology Code Of Practice

21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.

21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:

21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier

21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer

21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier

21.8.4 the testing and assurance strategy for exported Buyer Data

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

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

22. Handover to replacement supplier

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

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

22.1.2 other information reasonably requested by the Buyer

22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This

will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.

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

23. Force majeure

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

24. Liability

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

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

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

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

25. Premises

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

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

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

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

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

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

25.5.2 comply with Buyer requirements for the conduct of personnel

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

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

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

26. Equipment

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

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

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

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

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

28. Environmental requirements

28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.

28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

29. The Employment Regulations (TUPE)

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

- 29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:
- 29.2.1 the activities they perform
 - 29.2.2 age
 - 29.2.3 start date
 - 29.2.4 place of work
 - 29.2.5 notice period
 - 29.2.6 redundancy payment entitlement
 - 29.2.7 salary, benefits and pension entitlements
 - 29.2.8 employment status
 - 29.2.9 identity of employer
 - 29.2.10 working arrangements
 - 29.2.11 outstanding liabilities
 - 29.2.12 sickness absence
 - 29.2.13 copies of all relevant employment contracts and related documents
 - 29.2.14 all information required under regulation 11 of TUPE or as reasonably requested by the Buyer
- 29.3 The Supplier warrants the accuracy of the information provided under this TUPE clause and will notify the Buyer of any changes to the amended information as soon as reasonably possible. The Supplier will permit the Buyer to use and disclose the information to any prospective Replacement Supplier.
- 29.4 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.
- 29.5 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 29.6 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:
- 29.6.1 its failure to comply with the provisions of this clause
 - 29.6.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer
- 29.7 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.
- 29.8 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

30. Additional G-Cloud services

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

31. Collaboration

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

32. Variation process

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

33. Data Protection Legislation (GDPR)

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

Schedule 3: Collaboration agreement – not used

Schedule 4: Alternative clauses – not used

Schedule 5: Guarantee – not used

Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
Additional Services	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.
Admission Agreement	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
Application	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Digital Marketplace).
Audit	An audit carried out under the incorporated Framework Agreement clauses specified by the Buyer in the Order (if any).
Background IPRs	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> 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 created by the Party independently of this Call-Off Contract, or <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>
Buyer	The contracting authority ordering services as set out in the Order Form.
Buyer Data	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
Buyer Personal Data	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
Buyer Representative	The representative appointed by the Buyer under this Call-Off Contract.

Buyer Software	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.
Call-Off Contract	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.
Charges	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
Collaboration Agreement	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.
Commercially Sensitive Information	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.
Confidential Information	Data, Personal Data and any information, which may include (but isn't limited to) any: <ul style="list-style-type: none"> 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 other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').
Control	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
Controller	Takes the meaning given in the GDPR.
Crown	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.

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

Environmental Information Regulations or EIR	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.
Equipment	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.
ESI Reference Number	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
Employment Status Indicator test tool or ESI tool	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: https://www.gov.uk/guidance/check-employment-status-for-tax
Expiry Date	The expiry date of this Call-Off Contract in the Order Form.
Force Majeure	<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"> • acts, events or omissions beyond the reasonable control of the affected Party • riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare • acts of government, local government or Regulatory Bodies • fire, flood or disaster and any failure or shortage of power or fuel • industrial dispute affecting a third party for which a substitute third party isn't reasonably available <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> • any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain • 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 • the event was foreseeable by the Party seeking to rely on Force Majeure at the time this Call-Off Contract was entered into • 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
Former Supplier	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).

Framework Agreement	The clauses of framework agreement RM1557.12 together with the Framework Schedules.
Fraud	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.
Freedom of Information Act or FoIA	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.
G-Cloud Services	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.
GDPR	General Data Protection Regulation (Regulation (EU) 2016/679)
Good Industry Practice	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.
Government Procurement Card	The government's preferred method of purchasing and payment for low value goods or services.
Guarantee	The guarantee described in Schedule 5.
Guidance	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.
Implementation Plan	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.
Indicative test	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.

Information	Has the meaning given under section 84 of the Freedom of Information Act 2000.
Information security management system	The information security management system and process developed by the Supplier in accordance with clause 16.1.
Inside IR35	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
Insolvency event	Can be: <ul style="list-style-type: none"> • a voluntary arrangement • a winding-up petition • the appointment of a receiver or administrator • an unresolved statutory demand • a Schedule A1 moratorium
Intellectual Property Rights or IPR	Intellectual Property Rights are: <ul style="list-style-type: none"> • 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 • 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 • all other rights having equivalent or similar effect in any country or jurisdiction
Intermediary	For the purposes of the IR35 rules an intermediary can be: <ul style="list-style-type: none"> • the supplier's own limited company • a service or a personal service company • a partnership <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>
IPR claim	As set out in clause 11.5.
IR35	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.
IR35 assessment	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.

Know-How	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.
Law	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply.
LED	Law Enforcement Directive (EU) 2016/680.
Loss	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.
Lot	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
Malicious Software	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.
Management Charge	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.
Management Information	The management information specified in Framework Agreement section 6 (What you report to CCS).
Material Breach	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.
Ministry of Justice Code	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.

New Fair Deal	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.
Order	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
Order Form	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
Ordered G-Cloud Services	G-Cloud Services which are the subject of an order by the Buyer.
Outside IR35	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
Party	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
Personal Data	Takes the meaning given in the GDPR.
Personal Data Breach	Takes the meaning given in the GDPR.
Processing	Takes the meaning given in the GDPR.
Processor	Takes the meaning given in the GDPR.
Prohibited act	<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"> • induce that person to perform improperly a relevant function or activity • reward that person for improper performance of a relevant function or activity • commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud
Project Specific IPRs	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.
Property	Assets and property including technical infrastructure, IPRs and equipment.
Protective Measures	Appropriate technical and organisational measures which may include: pseudonymisation and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
PSN or Public Services Network	The Public Services Network (PSN) is the government's high-performance network which helps public sector organisations work together, reduce duplication and share resources.
Regulatory body or bodies	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.
Relevant person	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.
Relevant Transfer	A transfer of employment to which the employment regulations applies.
Replacement Services	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.
Replacement supplier	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).
Security management plan	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.
Services	The services ordered by the Buyer as set out in the Order Form.
Service data	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.

Service definition(s)	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.
Service description	The description of the Supplier service offering as published on the Digital Marketplace.
Software	The object code versions of the products identified in Schedule 1 (Services) of this Call-Off Contract, together with the updates, new releases or versions, modifications or enhancements, owned and provided by the Seller to the Buyer pursuant to the applicable Supplier Terms.
Service Personal Data	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.
Spend controls	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service
Start date	The Start date of this Call-Off Contract as set out in the Order Form.
Subcontract	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.
Subcontractor	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.
Subprocessor	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
Supplier	The person, firm or company identified in the Order Form.
Supplier Representative	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.
Supplier staff	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.

Supplier terms	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.
Term	The term of this Call-Off Contract as set out in the Order Form.
User	An individual authorized by the Buyer to use the Software and Services. User(s) may include Buyer employees, consultants, and contractors, and, if applicable, Buyer customers.
Variation	This has the meaning given to it in clause 32 (Variation process).
Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.
Year	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: [REDACTED]
- 1.2 The contact details of the Supplier's Data Protection Officer are: [REDACTED]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Descriptions	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</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> <ul style="list-style-type: none"> Supplier will process configuration, performance, usage, and consumption data, which may include hardware identification, operating system, application software, peripheral hardware, internet protocol address, about Buyer and Buyer's Users' use of the Software in accordance with its Privacy Notice <p>The Parties are Independent Controllers of Personal Data</p> <p>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> Business contact details of Supplier Personnel for which the Supplier is the Controller

	<ul style="list-style-type: none"> Business contact details of any directors, officers, employees, agents, consultants and contractors of Buyer (excluding the Supplier Personnel) engaged in the performance of the Buyer's duties under the Contract) for which the Buyer is the Controller
Duration of the Processing	The Supplier applies a general rule of keeping Personal Data for as long as it is required to fulfil the purposes for which it was collected. In some circumstances, however, the Supplier may retain Personal Data for other periods of time, including where required to do so in accordance with legal, tax and accounting requirements or if required to do so by a legal process, legal authority, or other governmental entity capable of making this request.
Nature and purposes of the Processing	Supplier will process configuration, performance, usage, and consumption data, which may include hardware identification, operating system, application software, peripheral hardware, internet protocol address, about Buyers and Buyer's Users' use of the Software in accordance with its Privacy Notice.
Type of Personal Data	IP address and/or details provided by Buyer's Users where provided as part of a support ticket.
Categories of Data Subject	Buyer's Users.
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data	As per https://www.solarwinds.com/legal/privacy

Schedule 8: Support & Maintenance Terms & Conditions

SolarWinds Software Support and Maintenance Terms and Conditions

This Software Support and Maintenance Terms and Conditions ("Agreement") govern the delivery of any standard Software Support (defined below) and is entered into by you, either an individual or an entity, and your Affiliates ("You" or "Company") and SolarWinds Worldwide, LLC ("SolarWinds Worldwide").

1. DEFINITIONS

1.1 Affiliates means an entity controlled by, under common control with, or controlling such party, where control is denoted by having fifty percent (50%) or more of the voting power (or equivalent) of the applicable

entity. Subject to this Agreement, Affiliates may use the Software Support provided hereunder. All references to SolarWinds shall be deemed to be references to SolarWinds and its Affiliates, and all references to Company, You, or Your shall be deemed to be references to Company and its Affiliate(s).

1.2 Contact means the person(s) designated by You to act as the Company's point of contact and who is otherwise responsible for the day-to-day administration of the Software and the activities and responsibilities agreed hereto.

1.3 Computer means the hardware, if the hardware is a single computer system, whether physical or virtual, or means the computer system with which the hardware operates, if the hardware is a computer system component.

1.4 Documentation means the official user documentation provided by SolarWinds Worldwide to You on the use of the Software. For the avoidance of doubt, any installation guide or end user documentation not prepared or provided by SolarWinds Worldwide; any online community site; unofficial documentation, videos, white papers, or related media; or feedback does not constitute Documentation.

1.5 EULA means the SolarWinds End User License Agreement.

1.6 Support Addendum(a) means additional terms and conditions set forth in Section 5 that relate to the applicable Software or support.

1.7 Release means all generally available releases of the Software that (i) contain new features, functionality, extensions, or fixes for bugs, and (ii) are designated by means of a change in the digit to either the left of the first decimal point (e.g., Software 8.0>> Software 9.0), to the right of the decimal point (e.g., Software 8.0>>Software 8.1), or to the right of the second decimal point (e.g. Software 8.0>>Software 8.0.1).

1.8 Software means the object code versions of the product, together with the updates, Releases, modifications or enhancements, owned and provided by SolarWinds Worldwide to You pursuant to the EULA.

1.9 Software Support means the standard maintenance and/or support to be provided by SolarWinds or its designated agents as set forth in this Agreement.

1.10 Supported Platform means a Computer or platform that functions with the Software and components contemplated for use with the Software. Changes to any of the foregoing that break compatibility or inhibit the functionality of the Software, unless authorized by the Documentation, do not constitute a Supported Platform.

1.11 Term means the period that You are eligible to receive Software Support, which starts: (i) the day the Software is delivered to You, or (ii) if You are purchasing out-of-maintenance Software Support, the date that You renew Your Software Support, to the date that the Software Support expires.

2. SOFTWARE SUPPORT

2.1 SolarWinds Support. Subject to the terms and conditions of this Agreement, SolarWinds shall, during the Term, provide You with Software Support, provided that You have obtained such Software from SolarWinds Worldwide.

2.2 Provision of Software Support. During the Term, You may receive:

2.2.1 Online Software Support. Your Contact(s) may submit support and related requests via an online webform that is available on SolarWinds' customer portal ("SolarWinds Customer Portal") and its websites 24 hours a day, 7 days a week, 365 days a year. Each request is given a unique identification number for Your convenience and reference. All online support submissions are managed using the English language.

2.2.2 Telephone Software Support. Telephone support is generally available 24 hours a day, 7 days a week, 365 days a year.

2.2.3 Releases. You may receive Releases of the Software, which can be obtained from SolarWinds' Customer Portal.

3. LIMITATIONS OF SOFTWARE SUPPORT

3.1 Purchase Requirement. Except as otherwise agreed upon by SolarWinds, You may purchase Software Support only for the most current, generally available Release of the Software.

3.2 Access to Your Computer System. Upon explicit request by You, You acknowledge that SolarWinds may perform Software Support that may be conditioned upon access to Your Computer and/or Supported Platform. You understand and agree that the completeness and accuracy of the information You provide to SolarWinds may affect SolarWinds' ability to provide Software Support to You.

3.3 Exclusions. SolarWinds will have no obligation to provide Software Support for problems caused by or arising out of the following:

3.3.1 Modifications or changes to the Supported Platform or Software, except for any modification or change made by You as directed by SolarWinds in the Documentation;

3.3.2 Use of the Software that is not authorized in the EULA or the Documentation;

3.3.3 External physical factors, such as inclement weather conditions, which affects the ability to provide Software Support and which may cause electrical or electromagnetic stress or a failure of electric power, air conditioning or humidity control; neglect; misuse; operation of the Software with other media not in accordance with Documentation; or causes other than ordinary use; and

3.3.4 Third party products that are not authorized by SolarWinds in the Documentation or, for any third party products that are authorized by SolarWinds in the Documentation, problems solely arising from such third party products.

3.4 Supported Releases. SolarWinds shall not be obligated to provide Software Support for any Release of the Software aside from the current and previous Release of the Software. Notwithstanding anything to the contrary herein, SolarWinds may, at its discretion, decide to retire the Software from time to time ("End of Life"). SolarWinds shall publicly post a notice of End of Life, including the last date of general commercial availability of the affected Software and the timeline for discontinuing the Software Support on its website. SolarWinds shall have no obligation to provide Software Support for Software that is outside of the applicable service life.

4. YOUR OBLIGATIONS

4.1 In addition to Your compliance with this Agreement, SolarWinds' obligation to provide You with Software Support are subject to the following:

4.1.1 You agreeing to receive communications from SolarWinds via email, telephone, and other formats, including communications concerning Software Support, the extent of Your coverage, errors, technical issues, and availability of Releases.

4.1.2 The delivery of the Company name as well as Your Contact's name, relevant contact information, and Your SolarWinds identification number when You request Software Support.

4.1.3 Your cooperation with SolarWinds to enable SolarWinds to provide You with the Software Support.

4.1.4 The assumption of responsibility for performing all operations on the Supported Platform and for the use of the Software. SolarWinds shall have no responsibility to perform operations on Your Computer or the Supported Platform or for operations performed on Your Computer or the Supported Platform. You are solely responsible for the use of the Software and shall properly train Your personnel in the use and application of the Software in accordance with the EULA and the Documentation.

4.1.5 Your prompt notification to SolarWinds of all problems with the Software and Your prompt implementation of any corrective procedures provided by SolarWinds relating to the Software.

4.1.6 Your protection, storage, and back-up of data and information stored on Your Computer or Supported Platform on which and with which the Software is used. You are solely responsible for Your data and information and should confirm that such data and information is protected and backed up in accordance with any internal or regulatory requirements.

4.2 Internal Use. The Software Support purchased by You is intended for use by You and only for Your benefit.

4.3 Designated Contact Requirements. The parties agree that the Software Support is intended to be provided to technical personnel performing the daily administration of the Software on Your Computer. You shall identify at least one Contact for SolarWinds' records, and at least one of Your Contacts must be an administrator who coordinates and controls access for other Contacts from the Company. SolarWinds will provide Software Support to only Your Contact(s). You may not use a single Contact to act as a mere forwarding service for other personnel. Each Contact must be able to communicate in English and possess the relevant technical knowledge necessary to assist SolarWinds in performing the Software Support

contemplated under this Agreement. You must promptly notify SolarWinds of any change in Your Contacts in writing. You shall allow one calendar week for processing by SolarWinds of any change in Contacts.

5. SUPPORT ADDENDA. If you are purchasing any of the below-listed Software support services, the addendum to this Agreement identified below and located at: <https://www.solarwinds.com/legal/legal-documents> shall also apply.

Support	Addendum
SolarWinds Smart Start	SolarWinds Smart Start Addendum
SolarWinds Smart Start Orion Upgrade	SolarWinds Smart Start Orion Upgrade Addendum
SolarWinds Premier Support	SolarWinds Premier Support Addendum

Schedule 9: Additional Terms

1. SPECIAL TERMS

1.1 The parties agree that *Part B: Terms and Conditions* of the Call-Off Contract are varied as follows:

1.1.1 The words "*(internal)*" shall be inserted after the words "*for the Buyer's ordinary*" in Clause 11.2.

1.1.2 Clause 11.3 shall be deleted and a new Clause 11.3 shall be inserted in its place:

"Supplier may not:

11.3.1 *provide, make available to, or permit other individuals to use the Services or Deliverables, except as expressly provided for under these terms, either in whole or part;*

11.3.2 *modify, translate, reverse engineer, decompile, disassemble, create derivative works, or otherwise attempt to derive the source code based upon the Services except to the extent reverse engineering is permitted by applicable law;*

11.3.3 *copy, reproduce, republish, upload, post, or transmit the Services or Deliverables (except for back-up or archival purposes, which will not be used for transfer, distribution, or sale);*

11.3.4 *license, sell, rent, lease, transfer, sublicense, distribute, or otherwise transfer rights to the Services or Deliverables;*

11.3.5 *remove any proprietary notices or labels on the Services or Deliverables;*

11.3.6 *use the Services or Deliverables to store or transmit infringing, libellous, unlawful, or tortious material or to store or transmit material in violation of third party rights, including privacy rights; or*

11.3.7 *use the Services or Deliverables in a manner that results in excessive use or circumvention of the technical limitations or usage limits of the Services.*

Any such forbidden use shall immediately terminate Buyer's license and/or right to use the Services, Deliverables and related IPRs provided under this Call-Off Contract.

The Software is intended only for use with public domain or properly licensed third-party materials. All responsibility for obtaining such a license is the Buyer's, and the Supplier shall not be responsible for the Buyer's failure to do so."

1.1.3 Clause 11.4 shall be deleted.

1.1.4 The words "*in the US or EEA*" shall be inserted after the words "*third party's IPR*" in Clause 11.5.

1.1.5 The following words shall be inserted as new Clauses 11.7.4 – 11.7.6:

"11.7.4 an IPR Claim which was initially notified to the Buyer and the Buyer did not promptly notify the Supplier in writing of the claim

11.7.5 an IPR Claim where the Supplier was not granted sole control of the selection of counsel, defence, and settlement of the claim

11.7.6 an IPR Claim where the Buyer did not provide the Supplier with reasonable assistance, information and authority required for the defence and settlement of the claim"

1.1.6 The following words shall be inserted as a new Clause 13.11:

"The Buyer shall review the Supplier's:

13.11.1 Code of Conduct

13.11.2 Security Statements available here: <https://www.solarwinds.com/security/security-statement>

13.11.3 Privacy Policy available here: <https://www.solarwinds.com/legal/privacy>

and inform the Supplier of any changes to such policies as it may reasonably request in order to ensure compliance with this Clause 13."