

702695452 – Provision of EC2SPHD Operational Cloud Support (DInfoCom/0209)

G-Cloud 12 Call-Off Contract

DATED 27 January 2022 – REDACTED for TRANSPARENCY

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** | 3085 0244 3715 998 |
| **Call-Off Contract reference** | 702695452 |
| **Call-Off Contract title** | Provision of EC2SPHD Operational Cloud Support |
| **Call-Off Contract description** | Technical programme support for cloud planning and Delivery services is required to help in evolving the current EC2SPHD OCD and manage risk reduction, in order to investigate and test use cases at the operational and military strategic level. This includes the need to assess the programmatic impact of ongoing Defence Digital cloud delivery (Project CIR-  RUS) and develop private and public options which facilitate EC2SPHD DEVSECOPS and risk reduction in 2022Q1. The support should help tailor the solution to the client’s needs and help generate the optimal solution design for subsequent implementation. The support should fulfil the remit of Client Friend and Delivery Partner as necessary. |
| **Start date** | 01 April 2022 |
| **Expiry date** | 31 March 2023 |
| **Call-Off Contract value** | Year 0 - £1,434,350.00 (Ex VAT, Inc T&S)    Option Year 1 - £1,484,017.50 (Ex VAT, Inc  T&S)  Option Year 2 - £1,523,281.18 (Ex VAT, Inc T&S) |
| **Charging method** | CP&F |
| **Purchase order number** | TBC |

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

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

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

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

|  |  |
| --- | --- |
| **From the Buyer** | Toni Prince MCIPS  030 0164 8453  D Info Commercial, Army HQ, Blenheim Bldg  Monxton Road  Andover  Hampshire  SP11 8HJ |
| **To the Supplier** | C3IA Solutions Ltd    Address:  Unit B, The Outlook, Ling Road, POOLE, Dorset, BH12 4PY    Company number: 05746584 |
| **Together the ‘Parties’** | |

## Principal contact details

**For the Buyer:**

Title: D Info Commercial SCO

Name: [REDACTED]

Email: [REDACTED]@mod.gov.uk

Phone: 030 0164 8453

**For the Supplier:**

Title: Commercial Director

Name: [REDACTED]

Email: [REDACTED]@c31asolutions.co.uk

Phone: +44 (0)1202 721 123

## Call-Off Contract term

|  |  |
| --- | --- |
| **Start date** | This Call-Off Contract Starts on 01 April 2022and is valid until 31 March 2023.  The date and number of days or months is subject to clause 1.2 in Part B below. |
| **Ending**  **(termination)** | The notice period for the Supplier needed for Ending the CallOff Contract is at least **90** Working Days from the date of written notice for undisputed sums (as per clause 18.6).  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). |
| **Extension period** | Up to Two (2) Twelve (12) Month Periods and can be exercised in monthly / quarterly increments where required. |

## 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** | This Call-Off Contract is for the provision of Services under:  • Lot 3: Cloud Support |

|  |  |
| --- | --- |
| **G-Cloud services required** | The Services to be provided by the Supplier under the above Lot are listed in Framework Section 2 and outlined below:  • 3085 0244 3715 998 |
| **Additional Services** | N/A |
| **Location** | The Services will be delivered remotely during the COVID  Pandemic. Location post this will be confirmed but likely to be LSRC Blandford with visits to other sites when required and overseas |
| **Quality standards** | The quality standards required for this Call-Off Contract are in Schedule 1a - Services |
| **Technical standards:** | The technical standards used as a requirement for this CallOff Contract are detailed within Schedule 1a |
| **Service level agreement:** | The service level and availability criteria required for this CallOff Contract are as detailed in Schedule 1a – Service |
| **Onboarding** | The onboarding plan for this Call-Off is detailed with Schedule Annex D of Supplier Response. |
| **Offboarding** | The offboarding plan for this Call-Off Contract is  Exit Plan detailed at Schedule 8 and Annex E of Supplier Response |
| **Collaboration agreement** | N/A |

|  |  |
| --- | --- |
| **Limit on Parties’ liability** | The annual total liability of either Party for all Property Defaults will not exceed £1,000,000  The annual total liability for Buyer Data Defaults will not exceed £1,000,000 or 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term (whichever is the greater).    The annual total liability for all other Defaults under a specific Statement of Work will not exceed the greater of £1,000,000 or 125%of the Charges payable by the Buyer to the Supplier under the relevant Statement of Work during the Call-Off Contract Term (whichever is the greater). |
| **Insurance** | The insurance(s) required will be:   * a minimum insurance period of 6 years following the expiration or Ending of this Call-Off Contract subject to the Supplier arranging the cover requirements set out below on an annual basis with an insurer of good standing * 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** | A Party may End this Call-Off Contract if the Other Party is affected by a Force Majeure Event that lasts for more than 30 consecutive days. |
| **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.  Clause 7.6 & 7.7 of the Framework Agreement |
| **Buyer’s responsibilities** | The Buyer is responsible for supplying and maintaining the relevant hardware and software to access the platform. Provision of Security Passes onto Site and other Sites as directed. |
| **Buyer’s equipment** | The Buyer’s equipment to be used with this Call-Off Contract includes**:**    Corporate Laptop and email System (MODNET) |

## Supplier’s information

|  |  |
| --- | --- |
| **Subcontractors or partners** | The following is a list of the Supplier’s Subcontractors or Partners:    Trading Name: C3 Systems Consulting Ltd. |

## 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 through  Contracting, Purchasing & Finance (CP&F) system through Exostar |
| **Payment profile** | The payment profile for this Call-Off Contract is based on the Monthly Statement of Work. |
| **Invoice details** | The Supplier will issue electronic invoices monthly in arrears. 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 Army Info-spearhead-land-C2-PT2 and cc [REDACTED]@mod.gov.uk |
| **Invoice information required** | All invoices must include: Purchase Order, Contract reference. |
| **Invoice frequency** | Invoice will be sent to the Buyer Monthly. |
| **Call-Off Contract value** | Year 0 - £1,434,350.00 (Ex VAT, Inc T&S)  Option Year 1 - £1,484,017.50 (Ex VAT, Inc T&S)  Option Year 2 - £1,523,281.18 (Ex VAT, Inc T&S) |
| **Call-Off Contract charges** | The breakdown of the Charges is detailed within Schedule 2. |

## Additional Buyer terms

|  |  |
| --- | --- |
| **Performance of the**  **Service and Deliverables** | This Call-Off Contract will include the following Implementation Plan, exit and offboarding plans and milestones:  As detailed within the Supplier Response – Schedule 1b and the Exit Plan at Schedule 8 |
| **Guarantee** | N/A |
| **Warranties, representations** | N/A |
| **Supplemental requirements in addition to the Call-Off terms** | N/A |
| **Alternative clauses** | N/A |
| **Buyer specific**  **amendments**  **to/refinements of the Call-Off Contract terms** | Within the scope of the Call-Off Contract, the Supplier will adhere to the following Defence Conditions:    DEFCON 5J (Edn 18/11/16) Unique Identifiers  DEFCON 76 (Edn 12/06) Contractors Personnel at Government  Establishments  DEFCON 90 (Edn 11/06) Copy Right  DEFCON 91 (Edn 11/06) Intellectual Property Rights in Software  DEFCON 129J (Edn 18/11/16) The Use of Electronic business Delivery Form |
|  | DEFCON 513 (Edn 11/16) Value Added Tax  DEFCON 516 (Edn 04/12) Equality  DEFCON 518 (Edn 02/17) Transfer  DEFCON 531 (Edn 11/14) Disclosure of Information  DEFCON 532B (Edn 04/20) Protection of Personal Data  DEFCON 537 (Edn 06/02) Rights of Third Parties  DEFCON 539 (Edn 08/13) Transparency  DEFCON 550 (Edn 02/14) Child Labour/Employment Law  DEFCON 566 (Edn 10/20) Change of control of contractor  DEFCON 658 (Edn 10/17) Cyber  DEFCON 659A (Edn 02/17) Security Measures  DEFCON 660 (Edn 12/15) Official-Sensitive Security Requirements  AUTHORISATION BY THE CROWN FOR USE OF THIRD  PARTY INTELLECTUAL PROPERTY RIGHTS    Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved. |
| **Public Services Network (PSN)** | N/A |
| **Personal Data and Data Subjects** | Confirm whether Annex 1 (and Annex 2, if applicable) of Schedule 7 is being used: Annex 1 |

## 1. Formation of contract

1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a CallOff 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** | [REDACTED] | [REDACTED] |
| **Title** | Commercial Director | Army D Info Commercial SCO |
| **Signature** | [REDACTED] | [REDACTED] |
| **Date** | 27 January 2022 | 27 January 2022 |

# Schedule 1a: Services (Statement of Requirement)

**STATEMENT OF REQUIREMENT: EC2SPHD OPERATIONAL CLOUD SUPPORT**

**STATEMENT OF REQUIREMENT: OPERATIONAL CLOUD BASED INFORMATION SERVICE AND AI SUPPORT**

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## **1. PURPOSE**

a. The purpose of this Statement of Requirement (SoR) is to detail a commercial contract requirement for composite programme support for operational cloud delivery in support of the Enhanced Command & Control Spearhead (EC2SPHD). This activity will underpin further development and delivery of Artificial Intelligence capability outlined in the VCDS programme mandate. This will support ongoing Prototype Warfare activity and help deliver operational advantage in accordance with Army transformation goals.

## **2. BACKGROUND TO THE CONTRACTING AUTHORITY**

1. The Ministry of Defence (MOD) protects the security, independence and interests of our country at home and abroad. We work with our allies and partners whenever possible. Our aim is to ensure that the armed forces have the training, equipment and support necessary for their work, and that we keep within budget.

1. **Responsibilities.** The MOD have seven military tasks:

* 1. Defending the UK and its overseas territories.

* 1. Providing strategic intelligence.

* 1. Providing nuclear deterrence.

* 1. Supporting civil emergency organisations in times of crisis.

* 1. Defending our interests by projecting power strategically and through expeditionary interventions.

* 1. Providing a defence contribution to UK influence.

* 1. Providing security for stabilisation.

## **3. BACKGROUND TO THE REQUIREMENT / OVERVIEW OF REQUIREMENT**

1. UK Defence is currently undergoing intensive modernisation, following the publication of the 2021 Integrated Review and Defence Command Plan. These outline the need to seek operational and information advantage through the integration of key technologies. This includes the accelerated use of Artificial Intelligence (AI) and Machine Learning (ML).

1. The Spearheads initiative – mandated by VCDS - was conceived as a mechanism by which emerging technology (whether from inside Defence or from industry) could be used in the fastest possible way to solve real-world military problems. The EC2SPHD programme has established a representative real-world reference hub and information-testing range. It investigates enhanced C2 using AI technologies combined with bearers of opportunity to access hyper-scale, open-sourced data sets. It has established a Microworld / AI factory model in the LSRC.

1. Central to this work is the creation of Microworlds which specifically source and structure data to make it ‘AI-ready’ for use in development, testing and operational release. The scale of these data sets requires their hosting under accessible cloud arrangements to support fixed and deployed users. Following a successful Operational Capability Demonstrator deployment in 2021, the EC2SPHD is now upscaling its capability to address more complex use cases supporting a distributed user base at the tactical, operational and military strategic level.

1. To deliver this VCDS sponsored capability there are several Portfolio, Programme and Project (P3M), security, architecture, development and technical functions and outputs that need to be put in place and maintained.

## **4.**

## **DEFINITIONS**

1. The table below summarises abbreviations within this document and their meaning.

|  |  |
| --- | --- |
| **Abbreviation** | **Meaning** |
| AI | Artificial Intelligence |
| AHE | Army Hosting Environment. |
| CP&F (or CPF) | Contracting, Procurement and Finance. |
| DEVSECOPS | Development and Security Operations |
| CIS | Communication and Information Services. |
| GIS | Geographical Information Systems. |
| IOC | Initial Operating Capability. |
| IPR | Intellectual Property Rights. |
| IRE | Innovation Research and Experimentation. |
| KPI | Key Performance Indicator |
| LSRC | Land Systems Reference Centre |
| ML | Machine Learning |
| MOD | Ministry of Defence. |
| OCD | Operational Capability Demonstrator |
| RAIDO | Risks, Assumptions, Issues, Dependencies and Opportunities. |
| RLI | Restricted LAN Interconnect. |
| SC | Security Cleared. |
| SOR | Statement of Requirement. |
| UKSV | United Kingdom Security Vetting. |

1. The table below summarises key terms used within this document and their meaning.

|  |  |
| --- | --- |
| **Term** | **Meaning** |
| Artificial  Intelligence | Theories and techniques developed to allow computer systems to perform tasks normally requiring human or biological intelligence |
| Automation | Refers to the ability of a system to control a platform, like autopilot or cruise control. |
| Autonomy | The ability of a system to not only control a platform but respond to unexpected hazards |
| Data Science | A field that combines statistics, mathematics, computer science and domain expertise to extract relevant insights or knowledge from data. |
| Deployed Cloud | The ability to access critical data sets for exploitation by AI services within a defined Area of Operations. This refers to activity in the tactical space. This will be via MOD CIS approved for use within the theatre of operations if accessing a protectively marked cloud store or a non-MOD access device if accessing data held in the public cloud. |
| Fixed Cloud | The ability to access critical data sets for exploitation by bespoke AI services from within the UK Homebase or other fixed operating bases.  This may be via MOD CIS not available at the tactical level. |
| Machine Learning | A field that aims to provide computer systems with the ability to learn and improve automatically, without having to be explicitly programmed |

## **5. SCOPE OF THE REQUIREMENT**

1. **Statement of Requirement.** Programme support, both technical and non-technical, to include Programme Management and other P3M outputs and functions plus security, engagement to facilitate cloud planning and delivery service outputs are required to deliver against the current EC2SPHD mandate. This includes the need to assess the programmatic impact of ongoing Defence Digital cloud delivery (Project CIRRUS) on EC2SPHD DEVSECOPS and as a palliative develop private and public options which facilitate EC2SPHD outputs and risk reduction in 2022Q2 though not losing sight of the programme mandate to align with multiple MOD strategies. The support should help tailor the solution to the client’s needs and help generate the preferred solution design, cognisant of the need to work within the parameters of the extant Microworld architecture, IT engineering requirements and GDPR/data compliance, for subsequent implementation. These outputs will manage risk reduction, investigate and test use cases at the tactical, operational and military strategic level within a secure MOD location and aligned with MOD vetting requirements including to BS7858. The support should fulfil the remit of Client Friend and Delivery Partner as necessary.

1. **Background.**

* 1. AI/ML development in Defence is reliant upon access to accurate, assured data that has been prepared for exploitation using appropriate AI/ML technologies (e.g. Natural Language Processing). As required, all appropriate data security regulations must be adhered to.

* 1. All the data is structured for AI/ML use and underpinned by geo-authentication.

* 1. The data sets involved are extensive, including events, equipment, Critical National Infrastructure, telecommunications, social demographics, energy, Orders of Battle and threat data. The depth and complexity of these data sets will differ according to the nature of the operating environment and type of operation being pursued. The data must be securely stored and exploited.

* 1. The use of AI/ML that reflects how the British military operates is capable of significantly enhancing decision-making and contributing directly to overall improvements in Command and Control. The AI/ML to support this may be tailored in accordance with operational demands.

* 1. This enables commanders to react to threats and adversary forces quicker than before and with an increased confidence in their decision making.

## c. **Overview**

1. Commercially available data and related services, whilst a concept new to the

Army, are widely and extensively used by the private sector. These compliment MOD-

owned data sets that are available for use by the EC2SPHD. There are GDPR implications which must be factored into the use of external data.

1. With appropriate cleansing and annotation, the MOD and non-MOD data are suitable for exploitation by Artificial Intelligence and other advanced analytics capabilities.
2. In combination, these data sources provide a foundation for all C2-related activities. It is a 21st century, "must have” requirement.
3. Private industry response to the global growth and demand for data and information, in all countries, has increased the coverage, volume and quality of data available. The new data sources provide deep understanding of regions and countries around the globe.
4. The volume of data available is growing; and as a result, the available data sources are becoming impossible to store locally on MOD CIS. The scale requires cloud hosting – with appropriate processing – to ensure that the MOD can suitably integrate and use AI/ML technologies.

1. Following a successful OCD deployment in 2021, the EC2SPHD is now significantly growing its data sets for use case development at the tactical, operational and military-strategic level. This increases the user access potential and ability to leverage processing in the cloud. The EC2SPHD must now consider the availability of this service at the unclassified, Official Sensitive and Secret level.

1. The envisaged services will be provided by the private sector and allow the EC2SPHD to access technical programme management support for fixed and deployed cloud delivery in support of its programme mandate, with the ability to add new information and services as required.

1. The objective is for a single supplier to provide the technical and non technical programme management and programme outputs for cloud planning and delivery in the EC2SPHD.

1. Any personnel identified to provide outputs in support of this contract are to have the LSRC as their main workplace and are to work directly to the EC2SPHD Team Leader. No EC2SPHD related work is to be passed to the supplier and any personnel responsible for output delivery will be expected to sign a Non-Disclosure Agreement (NDA) on joining the programme.

1. The support should be end Year 0 (FY22/23) with the option to extend for a further 1-year + 1-year extension dependent on the EC2SPHD programme progress.

## **6. REQUIREMENT**

1. **Year 0 Capability (completing on 31 March 2023).** The programme support will assist the EC2SPHD in the selection, design and delivery of the EC2SPHD capabilities in preparation for a transfer to a cloud environment as part of the defined programmeof activity.

1. The initial functions and associated outputs identified to support the programme from 1 Apr 22 include P3M (to include commercial and financial activity), Programme Support, Service Development, Systems Administration, Configuration Management, Architecting, Engagement and Communications all underpinned by a Security Coordination function. As the programme evolves, additional functions and associated outputs will be required, and the supplier will be approached to provide these.

1. By function the initial required outputs are:

* 1. **P3M / Technical Programme Support (TPM):**

* + 1. The supplier will provide P3M/technical programme management outputs.

* + 1. The authority anticipates the outputs to be delivered will most likely consume resource 5 days per week (outputs to be delivered will be agreed with the authority on a monthly basis). The outputs may be required to be delivered outside of the UK, to non-conflict areas, to support exercises and other events.

* + 1. The supplier is conversant with AI/ML technologies being investigated by Defence.

* + 1. The supplier is to be conversant with cloud technologies and strategies in Defence.

* + 1. The supplier is conversant with MOD approvals, finance and CP&F procedures relating to the EC2SPHD activity, to inform financial Forecast of Outlays for cloud delivery timelines.

* + 1. The supplier is familiar with Army and MOD structures, including Defence Digital, DSTL, Defence Innovation and the remit of each Front Line Command.

* + 1. The supplier is familiar with data security requirements and GDPR regulations to ensure EC2SPHD compliance. They will be expected to collaborate with the provider of the programme Security Assurance outputs to achieve and ensure programme risk reduction.

* + 1. The supplier will tailor commercial solutions to meet the EC2SPHD requirements and will adhere to MOD legal, commercial and security direction and guidance.

* + 1. The supplier will act as Delivery Partner for the implementation of the preferred cloud solution for the EC2SPHD.

* + 1. The supplier is conversant with and can generate the MOD programme management outputs including Forecast of Outturn (FOO), Review Notes, Information Notes, Business Cases and Statements of Requirement (SOR).

* 1. **Programme Support**:

* 1. The supplier will provide access to programme support / Enterprise Programme Management (EPM) that provides the central repository of Project and Programme information, including progress and status, and provides regular summary reports to the team leader and programme manager. These outputs will be held on the MOD network.

* 1. The authority anticipates the EPM outputs to be delivered will most likely consume resource 5 days per week (outputs to be delivered will be agreed with the authority on a monthly basis)

* 1. The supplier will provide accurate AI related Business Intelligence and management information outputs and maintain it in line with Army DInfo Programme Technical Information Management directives.

* 1. Other outputs will include the maintenance of the programme sharepoint site and the RAIDO framework which is to be provided to the Programme Team Leader on a monthly basis.

1. **Technical Development**:

* + 1. The supplier will provide access to programme technical development outputs in line with AGILE development methodologies and cognisant of MOD CIS in support of deployed operations.

* + 1. The authority anticipates the outputs to be delivered will most likely consume resource 5 days per week (outputs to be delivered will be agreed with the authority on a monthly basis). The outputs may be required to be delivered outside of the UK, to non-conflict areas, to support exercises and other events.

* + 1. The supplier will provide support that delivers the following outputs and functions:
       - 1. Sustainable progress through an agile process of managing the ex-

penditure rates of DEVSECOPS resources being provided by the industry consortium. This will entail, among other responsibilities, prioritisation of Sprint Backlog tasks IAW agile principles.

* + - * 1. Reports from engagement with the User community to elicit additional needs and development of data driven Use Cases that could thereafter inform task prioritisation for the programme.
        2. Continual reporting on data discovery within and outside of MOD resources that compliment and supplement datasets that are underpinning AI development within the EC2SPHD programme.
        3. A written report that addresses second and third order-effects of data development actions including security, assurance and through life management of data within the EC2SPHD.
        4. Through continuous horizon scanning, reports stating the latest thinking and concepts on the application of AI technologies within Government and Defence context and the implications for the EC2SPHD.
        5. Establishment of a feedback loop into MOD and Industry teams to maintain momentum and ensure collaborate working.
        6. Programme documentation to ensure Concept and Doctrine DLOD requirement**s** are being met.
        7. User insights and front-line experience feeding into the scientific and technical expertise of the EC2SPHD programme.
        8. The impacts on the EC2SPHD of the broader Defence programmes

with a digitisation focus, especially STRATCOM and Joint Warfare development work

1. **Technical Development Support**:

* + 1. The supplier will provide access to technical development support to deliver outputs in line with AGILE development methodologies and cognisant of MOD CIS in support of deployed operations.

* + 1. The authority anticipates the outputs to be delivered will most likely consume resource 5 days per week (outputs to be delivered will be agreed with the authority on a monthly basis).

* + 1. The Technical Development support outputs will include:
       - 1. Support to Technical development outputs.
         2. Adherence to LSRC processes and procedures regarding the safe installation and support of EC2SPHD equipments.
         3. Generation of test plans to ensure the EC2SPHD equipments are fit

for use for deployments.

1. **Technical Architecting:**

* 1. The supplier will provide Technical Architecting outputs.

* 1. The authority anticipates the outputs to be delivered will most likely consume resource 5 days per week (outputs to be delivered will be agreed with the authority on a monthly basis). The outputs may be required to be delivered outside of the UK, to non-conflict areas, to support exercises and other events.

* 1. The technical architecting outputs are to be delivered in line with MOD technical architectures and ensuring that EC2SPHD specified technical architectural requirements can be realised by the EC2SPHD programme.

* 1. The technical architecting outputs will include:

* + 1. Input technical expertise into service requirements

* + 1. Develop, validate and review conceptual, logical and physical

architectural designs: Manage the architectural aspects of the target design, policies and standards, working pro-actively to achieve stable, viable designs

* + 1. Ownership, with a record, of data related design decisions throughout the delivery process, including selection of tools to support data architecture activities.

* + 1. A report capturing data-specific project activities are aligned technically, and that the architecture is consistent from a data perspective.

* + 1. Ensuring compliance with data related standard and key architectural principles and generation of a report, including rationale, when the EC2SPHD in not compliant with these standards and principles.

1. **System Administration**:

* + 1. The supplier will provide access to IT System Administration resource that delivers IT outputs.

* + 1. The authority anticipates the outputs to be delivered will most likely consume resource 5 days per week (outputs to be delivered will be agreed with the authority on a monthly basis).

* + 1. The System Administration outputs will be based on any resource allocated to deliver these outputs to be conversant with, and being able to configure and manage the following technologies:

* + - * 1. Advanced Windows Server 2016, 2019
        2. Advanced Windows Active Directory, DNS, DHCP, WINS
        3. Advanced Exchange Server 2016
        4. Citrix
        5. VMware, including ESXi 6, 6.7 and 7.0 hosts
        6. VSphere 7
        7. V centre server 6
        8. Cisco IOS and Nexus devices
        9. Solaris and Linux servers (inc Redhat 7.7)
        10. Oracle databases
        11. Firewalls

(d) The System Administration functions and outputs required to support the programme include:

i. Maintenance of the health and security of the Microworld(s) to in-

clude Anti-Virus and WSUS, iaw JSP 440 and JSP 604. ii. Configuration management of all Microworld related software.

* + - * 1. Maintenance of a top-level architecture of the Microworld and CDISC equipment which documents system relationships.
        2. Maintenance of the Microworld User administration (setup and maintaining accounts).
        3. Creation and maintenance of technical documentation to support the Microworld transfer to the EPP.
        4. Monitoring the Microworld system performance
        5. Creation of Microworld file systems
        6. Maintenance of the Microworld backup and recovery policy.
        7. Continuous review of the design of the Microworld, to align with MOD policy.
        8. Monitoring network communication, to include liaison with the LSRC for Patchview connectivity.
        9. Updates to system software and hardware within timeframes mandated by current MOD policy.
        10. Collaboration with vendors to ensure that any software and hardware

updates do not break any MOD security policy. xiii. Review of vendor software and hardware updates to Microworld baseline prior to introduction to ensure risk to system confidentiality, integrity or availability remains within the information owner’s risk appetite.

xiv. Implementation of the MOD provided policies for the use of the computer system and network. xv. Creation, maintenance and enforcement of Microworld technical security policies and control measures to include Business Continuity, Cryptography, Vulnerability Management, Identity and Access Control, Incident Management, and Network/Device Hardening.

1. **Security Assurance**:

* + 1. The supplier will provide security assurance support.

* + 1. The authority anticipates the security assurance outputs will most likely consume resource 3 days per week (outputs to be delivered will be agreed with the authority on a monthly basis).

* + 1. The supplier will deliver the following security assurance outputs:

i. Ensuring that all elements of the EC2SPHD programme adhere to MOD security policies and procedures. ii. Coordinate, consider, witness, manage and report on all security requirements for the project, including IT Health Check (ITHC) and Vulnerability Assessments (VA), ensuring they are completed professionally, efficiently and to schedule, and that they are fit for purpose and compliant with relevant policy and legislation. iii. Achieve and maintain security accreditation as directed. iv. Maintenance of the EC2SPHD DART entries.

v. Provide advice on and ensure programme compliance with security policy (covering both policy that is already in place e.g., HMG Security Policy Framework (SPF), Departmental Policy, IEC/ISO 27001 and relevant legislation including the Data Protection Act 2018, General Data Protection Regulation (GDPR) and Freedom of Information Act FOI). vi. Create and maintain security related documents for the programme,

to include Risk Management and Accreditation Document set (RMADS). vii. In consultation with the LSRC crypto custodian ensure all crypto-

graphic requirements are met.

* + 1. In order to deliver the Security assurance outputs the support must be aligned to and experience of providing technical security to the MOD (Defence Digital) working to HMG policy and JSP 440.

* + 1. The outputs will rely on the MOD accreditation processes and use of the DART tool to register and manage Targets of Accreditation.

* + 1. The outputs are to be delivered by the supplier resource that **must** holdcurrent security qualifications such as CISSP, CISM, ISO 27001.

1. **Engage, Media, Communications & Transformation**:

* 1. The supplier will provide access to Engagement, Media, Communications (EMC) & Transformation support.

* 1. The authority anticipates that the EMC and transformation outputs to be delivered will most likely consume resource 3 days per week (outputs to be delivered will be agreed with the authority on a monthly basis).

* 1. The EMC and transformation outputs are to be delivered within a UK, MOD and International landscape and will include the following:
     + 1. Deliver the transformation strategy for the EC2SPHD programme as it moves into its next phase with tangible activities, engagement and planning.
       2. Deliver the engagement and communications strategy to support transformation in Defence as embodied by the EC2SPHD programme.
       3. Lead and capture all engagement and communication for the EC2SPHD programme, across Army, Defence, PAG and Allies. iv. Maintenance of the engagement/RASCI matrix.

v. Editing and publishing the EC2SPHD Whitepaper series. vi. Coordinate and deliver the DVD programme and attendance. vii. Production and maintenance of EC2SPHD ‘engagement’ material.

* + - 1. Maintenance of existing programme presentation material to reflect the breadth of the EC2SPHD programme, suited to a variety of audiences and update the material as directed.
      2. Coordination of EC2SPHD engagement at the strategic, force development, S&T and equipment programme levels.
      3. Ensure all programme lessons on ethics, MDI, legal, education and other primarily non-technical aspects of AI across Defence, PAG, academia, industry and with Allies.
      4. Through engagement with other AI-related endeavours across Army, Defence, PAG and Allies gain sufficient understanding and insights in AIenabled capability development to inform EC2SPHD approaches.

1. **Test and Integration**:

* 1. The supplier will provide access to Test and integration support iaw MOD processes (JSP 604).
  2. The authority anticipates that the test and integration outputs to be delivered will most likely consume resource 3 days per week (outputs to be delivered will be agreed with the authority on a monthly basis).
  3. The test and integration outputs will include the following:

* + - 1. Management of the introduction of AI outputs and products into the Microworld (AI) factory / Information Range for assessment including a report on all activity.
      2. Determine and capture the Test requirements of new and evolving technologies to be incorporated onto the Information Range including the Microworld.
      3. Management of the AI tools and products assessment component of the programme’s Development, Security and Operations (DEVSECOPS).
      4. Provide the interface between the EC2SPHD, the LSRC and Defence Digital for all test and network joining requirements.
      5. Management and liaison between the EC2SPHD and the LSRC on, all EC2SPHD contracts with the LSRC (Airbus).
      6. Conduct initial technical assurance assessments of new technologies identified by DSTL for integration with the EC2SPHD/Microworld and capture all findings in a report for the EC2SPHD team leader.
      7. Identify and maintain collaboration with other MOD/PAG test centres.
      8. Liaison with Defence Digital delivery teams to ensure projects are scaled to include representation on the Spearhead Information Range.
      9. Identify and record additional functionality test tools to be incorporated into the EC2SPHD Information Range portfolio.
      10. Act as the focal point for using, developing and informing on the Spearhead Information Range. xi. Ensuring the Information Range and the Microworld can interact with a federated test network. xii. Production and maintenance of the EC2SPHD Information Range and Microworld Annual test plan.

xiii. Production and maintenance of a EC2SPHD Technical Release Readiness Assessment (TRRA) for Microworlds and other capability developed by the programme. xiv. Coordinate and assist in the delivery of microworld specific training is provided for LSRC staff.

xv. Provide the EC2SPHD interface with the Defence Digital JSP 604 Case

Officer.

## (10) **Requirements Management**

1. The supplier will provide access to Requirements Management support.

1. The authority anticipates that the Requirements Management outputs to be delivered will most likely consume resource 3 days per week (outputs to be delivered will be agreed with the authority on a monthly basis).

1. The Requirements Management (RM) outputs will be based on the MOD Requirements Management process and training courses and reflect activity within a delivery agency such as DE&S or a project/programme sponsor organisation such as STRATCOM.

1. The RM outputs will include: 
   1. Conducting and capturing requirements analyses with stakeholders. This should include those scoping activity but not immediately committed to working with the EC2SPHD
   2. Formulation of requirements that can feasibly be investigated by the programme.
   3. Review and creation of requirement specifications or user stories and identification of improvement potential. iv. Optimization of the requirement processes to ensure stakeholder timelines meet EC2SPHD planning.
   4. Execution of requirement reviews with MOD Unified Customer or individual stakeholders as necessary.
   5. Documentation of clear user requirements and system requirements as necessary.
   6. Ensure compliance with MOD and industry standards.
   7. Validation of specifications and errors in requirement management (potentially using tools such as DOORS).

## **7. AUTHORITY’S RESPONSIBILITIES**

a. The Authority will provide technical evaluation of the delivery of the requirement detailed in this Statement of Requirement.

## **8. REPORTING**

a. The initial requirements for the reporting of delivery will be as follows, these requirements may be varied once the planning timelines become established:

(1) A weekly email summarising activity backed up by via a skype call.

**9. VOLUMES**

a. Not applicable.

## **10. CONTINUOUS IMPROVEMENT**

1. The Supplier will be expected to continually improve the way in which the required Services are to be delivered throughout the Contract duration.

1. Changes to the way in which the Services are to be delivered must be brought to the Authority’s attention and agreed prior to any changes being implemented.

1. **SUSTAINABILITY**

* 1. Not applicable.

1. **QUALITY**

* 1. Not applicable.

## **13. PRICE**

a. Prices are to be submitted via Annex A – Price Schedule, excluding VAT. This should be supported by a letter headed quotation showing a complete breakdown of the price against each function/output.

## **14. STAFF AND CUSTOMER SERVICE**

1. The Authority requires the Potential Provider to deliver a sufficient level of resource throughout the duration of the Contract to consistently deliver a quality of service to all Parties.

1. Potential Provider’s staff assigned to the Contract shall have the relevant qualifications and experience to deliver the Contract.

1. The Potential Provider shall ensure that staff understand the Authority’s vision and objectives and will provide excellent customer service to the Authority throughout the duration of the Contract.

## **15. OUTPUTS, DELIVERABLES AND MILESTONES**

a. The prime supplier will provide:

1. Access to suitable support during Year 0.

1. Act as the primary point of contact for the tailoring, progression and implementation of cloud-based services within the EC2SPHD.

## **16. ACCEPTANCE**

1. The prime supplier will work with the EC2SPHD to assist in the selection, design and delivery of cloud services supporting the EC2SPHD.

1. The prime supplier will identify the cloud specifications, compute and storage capacity required to meet defined EC2SPHD objectives.

1. The prime supplier will inform CP&F planning in the EC2SPHD for cloud-related activities.

1. The activity will take place at the LSRC, Blandford.

1. Provision of technical documentation as requested.

## **17. SECURITY REQUIREMENTS**

a. All contractor personnel assigned to the task will require a minimum of UKSV SC status, with proof of BS7858 compliance.

## **18. INTELLECTUAL PROPERTY RIGHTS (IPR)**

a. All activity conducted by personnel under this SOR will be directed and funded by the MOD (the Authority) and any IPR will belong to the Authority.

## **19. PAYMENT**

1. Payment will be made through the Authority’s CPF (Contracting, Procurement and Finance) tool.

1. Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.

1. Payment will be made monthly in arrears.

1. Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs.

## **20. PERSONAL DATA**

a. The MoD will not provide the vendor with or access personal data during this contract.

1. **SHEF.**

* 1. Not Applicable.

1. **ITAR.**

* 1. None of the activity, functions or outputs are to have ITAR implications.

## **23. GENERAL**

1. The prime supplier will ensure that all staff identified to work onsite at the LSRC will, as a minimum, hold a UK SC clearance and will have provided their details to the EC2SPHD team leader.

1. EC2SPHD is to provide access to MODNET for the prime supplier.

1. EC2SPHD is to provide access to the EC2SPHD DEVSECOPS facility.

# Schedule 1b: Services

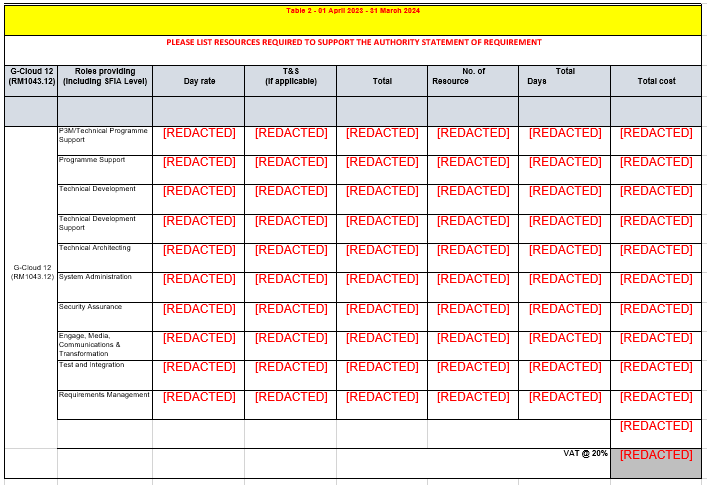
The Services outlined in the Suppliers Response shall be the deliverables that are used in respect of the compliance with this Call Off Contract and shall take precedence over Schedule 1a. Please also refer to Attached Schedule 1b – Supplier Response [REDACTED]

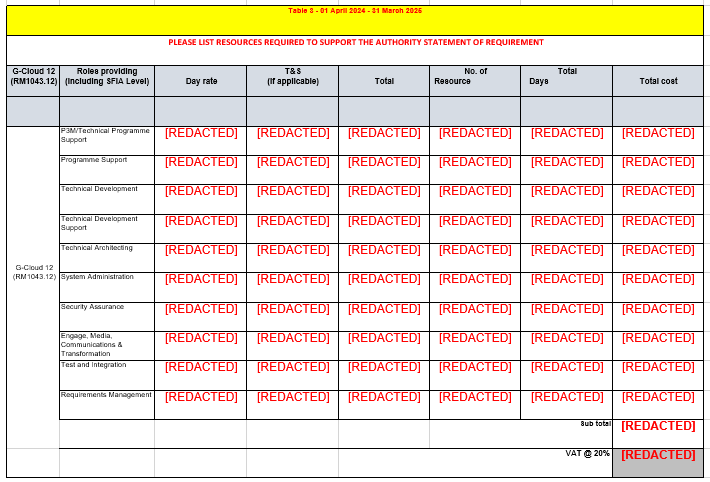
# Schedule 2: Call-Off Contract charges

For each individual Service, the applicable Call-Off Contract Charges (in accordance with the

Supplier’s Digital Marketplace pricing document) can’t be amended during the term of the Call-Off Contract. The detailed Charges breakdown for the provision of Services during the Term will include:







# Customer Benefits

For each Call-Off Contract please complete a customer benefits record, by following this link;

[G-Cloud 12 Customer Benefits Record](https://docs.google.com/forms/d/e/1FAIpQLSfQ3VeAMCIYNur4FoZxzn1F5BDkOTxFNK-4qbTlHVcyGqTgpw/viewform)

# 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:

* + 1. a reference to the ‘Framework Agreement’ will be a reference to the ‘Call-Off Contract’
    2. a reference to ‘CCS’ will be a reference to ‘the Buyer’
    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

* 1. 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.

* 1. The Framework Agreement incorporated clauses will be referred to as incorporated

Framework clause ‘XX’, where ‘XX’ is the Framework Agreement clause number.

* 1. 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 14digit 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, royaltyfree 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)

<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-ofpractice/technology-code-of-practice](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-codeof-practice](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[.](https://www.gov.uk/government/publications/cyber-risk-management-a-board-level-responsibility/10-steps-summary)

## 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:

* + 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

* + 1. return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer

* + 1. 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

* + 1. 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

* + 1. work with the Buyer on any ongoing work

* + 1. return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

* 1. 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.

* 1. 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 CallOff 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 – N/A

This agreement is made on [enter date]

between:

1. [Buyer name] of [Buyer address] (the Buyer)

1. [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]

1. [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]

1. [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]

1. [Company name] a company incorporated in [company address] under [registration number], whose registered office is at [registered address]

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

Whereas the:

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

Collaboration Suppliers in the provision of services under their respective Call-Off Contract to the Buyer

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

## 1. Definitions and interpretation

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

1.1.1 “Agreement” means this collaboration agreement, containing the Clauses and Schedules

1.1.2 “Call-Off Contract” means each contract that is let by the Buyer to one of the Collaboration Suppliers

1.1.3 “Contractor’s Confidential Information” has the meaning set out in the Call-Off Contracts

1.1.4 “Confidential Information” means the Buyer Confidential Information or any

Collaboration Supplier's Confidential Information

1.1.5 “Collaboration Activities” means the activities set out in this Agreement

1.1.6 “Buyer Confidential Information” has the meaning set out in the Call-Off Contract

1.1.7 “Default” means any breach of the obligations of any Collaboration Supplier or any Default, act, omission, negligence or statement of any Collaboration Supplier, its employees, servants, agents or subcontractors in connection with or in relation to the subject matter of this Agreement and in respect of which such Collaboration Supplier is liable (by way of indemnity or otherwise) to the other parties

1.1.8 “Detailed Collaboration Plan” has the meaning given in clause 3.2

1.1.9 “Dispute Resolution Process” means the process described in clause 9

1.1.10 “Effective Date” means [insert date]

1.1.11 “Force Majeure Event” has the meaning given in clause 11.1.1

1.1.12 “Mediator” has the meaning given to it in clause 9.3.1

1.1.13 “Outline Collaboration Plan” has the meaning given to it in clause 3.1

1.1.14 “Term” has the meaning given to it in clause 2.1

1.1.15 "Working Day" means any day other than a Saturday, Sunday or public holiday in England and Wales

1.2 General

1.2.1 As used in this Agreement the:

1.2.1.1 masculine includes the feminine and the neuter

1.2.1.2 singular includes the plural and the other way round

1.2.1.3 A reference to any statute, enactment, order, regulation or other similar instrument will be viewed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent reenactment.

1.2.2 Headings are included in this Agreement for ease of reference only and will not affect the interpretation or construction of this Agreement.

1.2.3 References to Clauses and Schedules are, unless otherwise provided, references to clauses of and schedules to this Agreement.

1.2.4 Except as otherwise expressly provided in this Agreement, all remedies available to any party under this Agreement are cumulative and may be exercised concurrently or separately and the exercise of any one remedy will not exclude the exercise of any other remedy.

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

## 2. Term of the agreement

2.1 This Agreement will come into force on the Effective Date and, unless earlier terminated in accordance with clause 10, will expire 6 months after the expiry or termination (however arising) of the exit period of the last Call-Off Contract (the “Term”).

2.2 A Collaboration Supplier’s duty to perform the Collaboration Activities will continue until the end of the exit period of its last relevant Call-Off Contract.

## 3. Provision of the collaboration plan

3.1 The Collaboration Suppliers will, within 2 weeks (or any longer period as notified by the Buyer in writing) of the Effective Date, provide to the Buyer detailed proposals for the

Collaboration Activities they require from each other (the “Outline Collaboration Plan”).

3.2 Within 10 Working Days (or any other period as agreed in writing by the Buyer and the Collaboration Suppliers) of [receipt of the proposals] or [the Effective Date], the Buyer will prepare a plan for the Collaboration Activities (the “Detailed Collaboration Plan”). The Detailed Collaboration Plan will include full details of the activities and interfaces that involve all of the Collaboration Suppliers to ensure the receipt of the services under each

Collaboration Supplier’s respective [contract] [Call-Off Contract], by the Buyer. The Detailed Collaboration Plan will be based on the Outline Collaboration Plan and will be submitted to the Collaboration Suppliers for approval.

3.3 The Collaboration Suppliers will provide the help the Buyer needs to prepare the Detailed Collaboration Plan.

3.4 The Collaboration Suppliers will, within 10 Working Days of receipt of the Detailed Collaboration Plan, either:

3.4.1 approve the Detailed Collaboration Plan

3.4.2 reject the Detailed Collaboration Plan, giving reasons for the rejection

3.5 The Collaboration Suppliers may reject the Detailed Collaboration Plan under clause 3.4.2 only if it is not consistent with their Outline Collaboration Plan in that it imposes additional, more onerous, obligations on them.

3.6 If the parties fail to agree the Detailed Collaboration Plan under clause 3.4, the dispute will be resolved using the Dispute Resolution Process.

## 4. Collaboration activities

4.1 The Collaboration Suppliers will perform the Collaboration Activities and all other obligations of this Agreement in accordance with the Detailed Collaboration Plan.

4.2 The Collaboration Suppliers will provide all additional cooperation and assistance as is reasonably required by the Buyer to ensure the continuous delivery of the services under the Call-Off Contract.

4.3 The Collaboration Suppliers will ensure that their respective subcontractors provide all cooperation and assistance as set out in the Detailed Collaboration Plan.

## 5. Invoicing

5.1 If any sums are due under this Agreement, the Collaboration Supplier responsible for paying the sum will pay within 30 Working Days of receipt of a valid invoice.

5.2 Interest will be payable on any late payments under this Agreement under the Late Payment of Commercial Debts (Interest) Act 1998, as amended.

## 6. Confidentiality

6.1 Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Collaboration Suppliers acknowledge that any Confidential Information obtained from or relating to the Crown, its servants or agents is the property of the Crown.

6.2 Each Collaboration Supplier warrants that:

6.2.1 any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) will only use Confidential Information for the purposes of this Agreement

6.2.2 any person employed or engaged by it (in connection with this Agreement) will not disclose any Confidential Information to any third party without the prior written consent of the other party

6.2.3 it will take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (except as agreed) or used other than for the purposes of this Agreement by its employees, servants, agents or subcontractors

6.2.4 neither it nor any person engaged by it, whether as a servant or a consultant or otherwise, will use the Confidential Information for the solicitation of business from the other or from the other party's servants or consultants or otherwise

6.3 The provisions of clauses 6.1 and 6.2 will not apply to any information which is:

6.3.1 or becomes public knowledge other than by breach of this clause 6

6.3.2 in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party

6.3.3 received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure

6.3.4 independently developed without access to the Confidential Information

6.3.5 required to be disclosed by law or by any judicial, arbitral, regulatory or other authority of competent jurisdiction

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

## 7. Warranties

7.1 Each Collaboration Supplier warrant and represent that:

7.1.1 it has full capacity and authority and all necessary consents (including but not limited to, if its processes require, the consent of its parent company) to enter into and to perform this Agreement and that this Agreement is executed by an authorised representative of the Collaboration Supplier

7.1.2 its obligations will be performed by appropriately experienced, qualified and trained personnel with all due skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this clause 7) in accordance with its own established internal processes

7.2 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to fitness for purpose) are excluded to the extent permitted by law.

## 8. Limitation of liability

8.1 None of the parties exclude or limit their liability for death or personal injury resulting from negligence, or for any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.

8.2 Nothing in this Agreement will exclude or limit the liability of any party for fraud or fraudulent misrepresentation.

8.3 Subject always to clauses 8.1 and 8.2, the liability of the Buyer to any Collaboration

Suppliers for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than if made fraudulently), breach of statutory duty or otherwise under this Agreement (excluding Clause 6.4, which will be subject to the limitations of liability set out in the relevant Contract) will be limited to [(£,000)].

8.4 Subject always to clauses 8.1 and 8.2, the liability of each Collaboration Supplier for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than if made fraudulently), breach of statutory duty or otherwise under this Agreement will be limited to [Buyer to specify].

8.5 Subject always to clauses 8.1, 8.2 and 8.6 and except in respect of liability under clause 6

(excluding clause 6.4, which will be subject to the limitations of liability set out in the [relevant contract] [Call-Off Contract]), in no event will any party be liable to any other for:

8.5.1 indirect loss or damage

8.5.2 special loss or damage

8.5.3 consequential loss or damage

8.5.4 loss of profits (whether direct or indirect)

8.5.5 loss of turnover (whether direct or indirect)

8.5.6 loss of business opportunities (whether direct or indirect)

8.5.7 damage to goodwill (whether direct or indirect)

8.6 Subject always to clauses 8.1 and 8.2, the provisions of clause 8.5 will not be taken as limiting the right of the Buyer to among other things, recover as a direct loss any:

8.6.1 additional operational or administrative costs and expenses arising from a

Collaboration Supplier’s Default

8.6.2 wasted expenditure or charges rendered unnecessary or incurred by the Buyer arising from a Collaboration Supplier's Default

## 9. Dispute resolution process

9.1 All disputes between any of the parties arising out of or relating to this Agreement will be referred, by any party involved in the dispute, to the representatives of the parties specified in the Detailed Collaboration Plan.

9.2 If the dispute cannot be resolved by the parties' representatives nominated under clause 9.1 within a maximum of 5 Working Days (or any other time agreed in writing by the parties) after it has been referred to them under clause 9.1, then except if a party seeks urgent injunctive relief, the parties will refer it to mediation under the process set out in clause 9.3 unless the Buyer considers (acting reasonably and considering any objections to mediation raised by the other parties) that the dispute is not suitable for resolution by mediation.

9.3 The process for mediation and consequential provisions for mediation are:

9.3.1 a neutral adviser or mediator will be chosen by agreement between the parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one party to the other parties to appoint a Mediator or if the Mediator agreed upon is unable or unwilling to act, any party will within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to the parties

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

9.3.2 the parties will within 10 Working Days of the appointment of the Mediator meet to agree a programme for the exchange of all relevant information and the structure of the negotiations

9.3.3 unless otherwise agreed by the parties in writing, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the parties in any future proceedings

9.3.4 if the parties reach agreement on the resolution of the dispute, the agreement will be put in writing and will be binding on the parties once it is signed by their authorised representatives

9.3.5 failing agreement, any of the parties may invite the Mediator to provide a nonbinding but informative opinion in writing. The opinion will be provided on a without prejudice basis and will not be used in evidence in any proceedings relating to this Agreement without the prior written consent of all the parties

9.3.6 if the parties fail to reach agreement in the structured negotiations within 20 Working Days of the Mediator being appointed, or any longer period the parties agree on, then any dispute or difference between them may be referred to the courts

9.4 The parties must continue to perform their respective obligations under this Agreement and under their respective Contracts pending the resolution of a dispute.

## 10. Termination and consequences of termination

10.1 Termination

10.1.1 The Buyer has the right to terminate this Agreement at any time by notice in writing to the Collaboration Suppliers whenever the Buyer has the right to terminate a Collaboration Supplier’s [respective contract] [Call-Off Contract].

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

10.2 Consequences of termination

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

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

## 11. General provisions

11.1 Force majeure

11.1.1 For the purposes of this Agreement, the expression “Force Majeure Event” will mean any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or Regulatory Bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to any party, the party's personnel or any other failure of a Subcontractor.

11.1.2 Subject to the remaining provisions of this clause 11.1, any party to this Agreement may claim relief from liability for non-performance of its obligations to the extent this is due to a Force Majeure Event.

11.1.3 A party cannot claim relief if the Force Majeure Event or its level of exposure to the event is attributable to its wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.

11.1.4 The affected party will immediately give the other parties written notice of the Force Majeure Event. The notification will include details of the Force Majeure Event together with evidence of its effect on the obligations of the affected party, and any action the affected party proposes to take to mitigate its effect.

11.1.5 The affected party will notify the other parties in writing as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this Agreement. Following the notification, this Agreement will continue to be performed on the terms existing immediately before the Force Majeure Event unless agreed otherwise in writing by the parties.

11.2 Assignment and subcontracting

11.2.1 Subject to clause 11.2.2, the Collaboration Suppliers will not assign, transfer, novate, sub-license or declare a trust in respect of its rights under all or a part of this Agreement or the benefit or advantage without the prior written consent of the Buyer.

11.2.2 Any subcontractors identified in the Detailed Collaboration Plan can perform those elements identified in the Detailed Collaboration Plan to be performed by the Subcontractors.

11.3 Notices

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

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

11.4 Entire agreement

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

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

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

11.5 Rights of third parties

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

11.6 Severability

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

11.7 Variations

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

11.8 No waiver

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

11.9 Governing law and jurisdiction

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

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

### For and on behalf of the Buyer

Signed by:

Full name (capitals):

Position:

Date:

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

Signed by: [REDACTED]

Full name (capitals): [REDACTED] Position: Commercial Director Date: 26 January 2022..

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

Signed by:

Full name (capitals):

Position:

Date:

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

Signed by:

Full name (capitals):

Position:

Date:

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

Signed by:

Full name (capitals):

Position:

Date:

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

Signed by:

Full name (capitals):

Position:

Date:

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

Signed by:

Full name (capitals):

Position: Date:

## Collaboration Agreement Schedule 1: List of contracts

|  |  |  |
| --- | --- | --- |
| **Collaboration supplier** | **Name/reference of contract** | **Effective date of contract** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

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

# Schedule 4: Alternative clauses – N/A

## 1. Introduction

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

## 2. Clauses selected

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

2.1.1 Scots Law and Jurisdiction

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

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

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

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

2.1.6 References to “tort” will be replaced with “delict” throughout

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

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

### 2.3 Discrimination

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

* Employment (Northern Ireland) Order 2002
* Fair Employment and Treatment (Northern Ireland) Order 1998
* Sex Discrimination (Northern Ireland) Order 1976 and 1988
* Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003
* Equal Pay Act (Northern Ireland) 1970
* Disability Discrimination Act 1995
* Race Relations (Northern Ireland) Order 1997
* Employment Relations (Northern Ireland) Order 1999 and Employment Rights (Northern Ireland) Order 1996
* Employment Equality (Age) Regulations (Northern Ireland) 2006
* Part-time Workers (Prevention of less Favourable Treatment) Regulation 2000
* Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
* The Disability Discrimination (Northern Ireland) Order 2006
* The Employment Relations (Northern Ireland) Order 2004
* Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006
* Employment Relations (Northern Ireland) Order 2004
* Work and Families (Northern Ireland) Order 2006

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

* 1. persons of different religious beliefs or political opinions
  2. men and women or married and unmarried persons
  3. persons with and without dependants (including women who are pregnant or on maternity leave and men on paternity leave)
  4. persons of different racial groups (within the meaning of the Race

Relations (Northern Ireland) Order 1997)

* 1. persons with and without a disability (within the meaning of the

Disability Discrimination Act 1995)

* 1. persons of different ages
  2. persons of differing sexual orientation

2.3.2 The Supplier will take all reasonable steps to secure the observance of clause

2.3.1 of this Schedule by all Supplier Staff.

### 2.4 Equality policies and practices

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

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

1. the issue of written instructions to staff and other relevant persons
2. the appointment or designation of a senior manager with responsibility for equal opportunities
3. training of all staff and other relevant persons in equal opportunities and harassment matters
4. the inclusion of the topic of equality as an agenda item at team, management and staff meetings

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

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

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

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

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

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

### 2.5 Equality

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

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

### 2.6 Health and safety

2.6.1 The Supplier will promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the CallOff Contract. The Customer will promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer premises and which may affect the Supplier in the performance of its obligations under the Call-Off Contract.

2.6.2 While on the Customer premises, the Supplier will comply with any health and safety measures implemented by the Customer in respect of Supplier Staff and other persons working there.

2.6.3 The Supplier will notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Call-Off Contract on the Customer premises if that incident causes any personal injury or damage to property which could give rise to personal injury.

2.6.4 The Supplier will comply with the requirements of the Health and Safety at Work (Northern Ireland) Order 1978 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Supplier Staff and other persons working on the Customer premises in the performance of its obligations under the Call-Off Contract.

2.6.5 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work (Northern Ireland) Order 1978) is made available to the Customer on request.

### 2.7 Criminal damage

2.7.1 The Supplier will maintain standards of vigilance and will take all precautions as advised by the Criminal Damage (Compensation) (Northern Ireland) Order 1977 or as may be recommended by the police or the Northern Ireland Office (or, if replaced, their successors) and will compensate the Customer for any loss arising directly from a breach of this obligation (including any diminution of monies received by the Customer under any insurance policy).

2.7.2 If during the Call-Off Contract Period any assets (or any part thereof) is or are damaged or destroyed by any circumstance giving rise to a claim for compensation under the provisions of the Compensation Order the following provisions of this clause 2.7 will apply.

2.7.3 The Supplier will make (or will procure that the appropriate organisation make) all appropriate claims under the Compensation Order as soon as possible after the CDO Event and will pursue any claim diligently and at its cost. If appropriate, the

Customer will also make and pursue a claim diligently under the Compensation

Order. Any appeal against a refusal to meet any claim or against the amount of the

award will be at the Customer’s cost and the Supplier will (at no additional cost to the Customer) provide any help the Customer reasonably requires with the appeal.

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

# Schedule 5: Guarantee – N/A

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

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

* 1. [**Insert the name of the Guarantor]** a company incorporated in England and Wales with number [insert company number] whose registered office is at [i**nsert details of the guarantor's registered office**] [or a company incorporated under the Laws of [**insert country**], registered in [**insert country**] with number [**insert number**] at

[**insert place of registration**], whose principal office is at [**insert office details**]]('Guarantor'); in favour of

and

* 1. The Buyer whose offices are [**insert Buyer’s official address**] (‘Beneficiary’)

**Whereas:**

* + 1. The guarantor has agreed, in consideration of the Buyer entering into the Call-Off Contract with the Supplier, to guarantee all of the Supplier's obligations under the Call-Off Contract.

* + 1. It is the intention of the Parties that this document be executed and take effect as a deed.

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

Suggested headings are as follows:

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

|  |  |
| --- | --- |
| **Guarantor company** | [**Enter Company name**] **‘Guarantor’** |
| **Guarantor company address** | [**Enter Company address**] |
| **Account manager** | [**Enter Account Manager name]** |
| Address: [**Enter Account Manager address]** |
| Phone: [**Enter Account Manager phone number]** |
| Email: [**Enter Account Manager email**] |
| Fax: [**Enter Account Manager fax** if applicable] |

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

## Definitions and interpretation

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

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

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

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

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

The words ‘other’ and ‘otherwise’ are not to be construed as confining the meaning of any following words to the class of thing previously stated if a wider construction is possible.

Unless the context otherwise requires:

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

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

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

## Guarantee and indemnity

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

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

* fully perform or buy performance of the guaranteed obligations to the Buyer

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

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

## Obligation to enter into a new contract

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

## Demands and notices

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

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

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

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

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

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

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

In proving Service of a notice or demand on the Guarantor or the Buyer, it will be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the fax message was properly addressed and despatched.

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

Beneficiary’s protections

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

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

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

* it will not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Buyer in exercising its rights under this Deed of Guarantee
* it will not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Buyer, the Guarantor or any other person
* if, for any reason, any of the Guaranteed Obligations is void or unenforceable against the Supplier, the Guarantor will be liable for that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor
* the rights of the Buyer against the Guarantor under this Deed of Guarantee are in addition to, will not be affected by and will not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Buyer

The Buyer will be entitled to exercise its rights and to make demands on the Guarantor under this

Deed of Guarantee as often as it wishes. The making of a demand (whether effective, partial or defective) relating to the breach or non-performance by the Supplier of any Guaranteed Obligation will not preclude the Buyer from making a further demand relating to the same or some other Default regarding the same Guaranteed Obligation.

The Buyer will not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to:

* obtain judgment against the Supplier or the Guarantor or any third party in any court
* make or file any claim in a bankruptcy or liquidation of the Supplier or any third party
* take any action against the Supplier or the Guarantor or any third party
* resort to any other security or guarantee or other means of payment

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

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

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

## Representations and warranties

The Guarantor hereby represents and warrants to the Buyer that:

* the Guarantor is duly incorporated and is a validly existing company under the Laws of its place of incorporation
* has the capacity to sue or be sued in its own name
* the Guarantor has power to carry on its business as now being conducted and to own its Property and other assets
* the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee
* the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including entry into and performance of a Call-Off Contract following Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:

○ the Guarantor's memorandum and articles of association or other equivalent constitutional documents, any existing Law, statute, rule or Regulation or any judgment, decree or permit to which the Guarantor is subject

○ the terms of any agreement or other document to which the Guarantor is a party or which is binding upon it or any of its assets

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

This Deed of Guarantee is the legal valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

## Payments and set-off

All sums payable by the Guarantor under this Deed of Guarantee will be paid without any set-off, lien or counterclaim, deduction or withholding, except for those required by Law. If any deduction or withholding must be made by Law, the Guarantor will pay that additional amount to ensure that the Buyer receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.

The Guarantor will pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

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

## Guarantor’s acknowledgement

The Guarantor warrants, acknowledges and confirms to the Buyer that it has not entered into this

Deed of Guarantee in reliance upon the Buyer nor been induced to enter into this Deed of

Guarantee by any representation, warranty or undertaking made by, or on behalf of the Buyer, (whether express or implied and whether following statute or otherwise) which is not in this Deed of Guarantee.

## Assignment

The Buyer will be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer will not release the Guarantor from its liability under this Guarantee.

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

## Severance

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision will be severed and the remainder of the provisions will continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

## Third-party rights

A person who is not a Party to this Deed of Guarantee will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than following that Act.

## Governing law

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

The Guarantor irrevocably agrees for the benefit of the Buyer that the courts of England will have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

Nothing contained in this Clause will limit the rights of the Buyer to take proceedings against the Guarantor in any other court of competent jurisdiction, nor will the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable Law).

The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

[The Guarantor hereby irrevocably designates, appoints and empowers [**enter the Supplier name**] [or a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on fax number [**insert fax number**] from time to time to act as its authorised agent to receive notices, demands, Service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Buyer in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the Service of notices and demands, Service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by

### [Insert name of the Guarantor] acting by [Insert names]

Director

Director/Secretary

# Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

|  |  |
| --- | --- |
| Expression | Meaning |
| **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** | For each Party, IPRs:   * 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 KnowHow, documentation and processes * created by the Party independently of this Call-Off Contract, or   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. |
| **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:   * 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:   1. the GDPR, the LED and any applicable national implementing Laws as amended from time to time 2. the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy 3. 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** | Default is any:   * 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   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. |
| **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** | A force Majeure event means anything affecting either Party's performance of their obligations arising from any:   * 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   The following do not constitute a Force Majeure event:   * 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:   * 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:   * 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, KnowHow, 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:   * the supplier's own limited company * a service or a personal service company * a partnership   It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency). |
| **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** | 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:   * 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: o under the Bribery Act 2010   + under legislation creating offences concerning Fraud o 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. |
| **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-ifyou-need-approval-to-spend-money-on-a-service](https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service) |
| **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. |
| **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]@mod.gov.uk

1.2 The contact details of the Supplier’s Data Protection Officer are:

[REDACTED]@c3iasolutions.co.uk

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 | **The Buyer is Controller and the Supplier is Processor**  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. |
| Duration of the Processing | Contract Duration |
| Nature and purposes of the Processing | To understand patterns of life, trends and anomalies |
| Type of Personal Data | Names, email address, username, profile avatar, IP Address |
| Categories of Data Subject | Employees, workers, contractors, consultants, directors |

Schedule 8: Exit Plan

Please refer to Annex E of Schedule 1b – Supplier Response [REDACTED]

Schedule 9: Statement of Good Standing

Please refer to Annex I of Schedule 1b – Supplier Response

# Schedule 10: Cyber Implementation Plan

|  |  |
| --- | --- |
| Contract Title: | Provision of EC2SPHD Operational Cloud Delivery. |
| MOD Contract Number: | 702695452 (DInfoCom/0209) |
| CSM Risk Acceptance Reference: | RAR- **310848731** |
| CSM Cyber Risk Level: | Moderate |
| Name of Supplier (to be shared with the MOD only): | C3IA Solutions Ltd |
| Current Level of Supplier Compliance: | Cyber Essentials Plus (SAQ-184281241) |
| Reasons why Supplier is unable to achieve full compliance: | N/A |
| Measures planned to achieve compliance/ mitigate the risk with associated dates: | N/A |
| Anticipated date of compliance/mitigations will be in place: | N/A |
| Current Cyber Essential Plus Certification No: | IASME-CEP-005593 |
| Expiry Date: | 22 September 2022 |
| Renewal certification to be issued to the Authority: | Annually until expiration of the Contract |
| Name: | [REDACTED] |
| Position: | Delivery and Security Director |
| Date: | 21 Jan 2022 |

**Sub-Contractors** - Information to be included

|  |  |
| --- | --- |
| Contract Title: | Provision of EC2SPHD Operational Cloud Delivery. |
| MOD Contract Number: | 702695452 (DInfoCom/0209) |
| CSM Risk Acceptance Reference: | RAR- **310848731** |
| CSM Cyber Risk Level: | Medium |
| Name of Supplier (to be shared with the MOD only): | C3 Systems Consulting Ltd |
| Current Level of Supplier Compliance: | Cyber Essentials Plus (SAQ-TBC) |
| Reasons why Supplier is unable to achieve full compliance: | N/A. In accordance with guidance from the DCPP team (, and due to the cyber risk level being below  ‘High’, the sub-contractor will not be required to complete an SAQ. DEFCON 658 (or equivalent) will be included in the sub-contract. When the new DCPP tool is available, the flow-down of RA and SAQ will be completed. |
| Measures planned to achieve compliance/ mitigate the risk with associated dates: | TBC |
| Anticipated date of compliance/mitigations will be in place: | TBC |
| Current Cyber Essential Plus Certification No: | TBC |
| Expiry Date: | TBC |
| Renewal certification to be issued to the Authority: | Annually until expiration of the Contract |
| Name: | TBC |
| Position: | TBC |
| Date: | TBC |

# Schedule 11: Monthly Statement of Work Template

**Key Performance Indicators**

|  |  |
| --- | --- |
| **1** | **2** |
| **3** | **4** |

**Service xxx – Date from.............Date to...........**

**Deliverables**

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | |  |  | Days booked per role | |  | | |  | | |
| **Ser** | **Task** | **Description/Deliverable** | **Timescale** | **Role A** | **Days used** | **Completion** | **Benefits delivered** | **Cost of task** | **% com-**  **pleted** |  |  |
| **1** |  |  |  |  | **0** |  |  | **£0.00** |  |  |
| **2** |  |  |  |  | **0** |  |  | **£0.00** |  |
| **3** |  |  |  |  | **0** |  |  | **£0.00** |  |

**Signatures and Approvals**

## **Agreement of this SOW**

BY e-SIGNING this Statement of Work, the Parties agree that it shall be legally binding on the Parties:

|  |  |  |  |
| --- | --- | --- | --- |
| **For and on behalf of the Supplier:** | | **For and on behalf of the Buyer:** | |
| **Signature:** |  | **Signature:** |  |
| **Name:** |  | **Name:** |  |
| **Role:** |  | **Role:** |  |
| **Date:** |  | **Date:** |  |

**Schedule 12: Expenses Policy**

**Accommodation**

**Service Mess**

If your business travel has taken you onto a base and you need overnight accommodation, it may be that staying in the Service Mess is more cost efficient than a hotel; and should be considered. All military personnel should refer to **JSP 752** Pt 2 Chapter 3 for occasions in which any other form of accommodation may be considered. For civilian staff, the availability and suitability criteria for Mess accommodation is being further developed and will be included in policy guidance shortly.

**Hotel**

All hotel bookings must be made using the **GBT Online Portal**.

Civilian staff must comply with the approvals processes (Chapter 2). Service Personnel must have both line management and budgetary written or verbal authority before making subsistence arrangements and should note that Night Subsistence (NS) is paid for an overnight absence where there is no suitable Service accommodation provision.

All staff must consult the MOD **capped hotel rates** for spend limits in each location. The Booking Service website will raise a warning if you select a hotel exceeding the capped rate. To proceed with such a booking, you must have line manager written approval of Band D/ OF2/OR7 or above (or locally delegated budget management staff).

Exceptional circumstances where you might exceed a cap rate include: the only hotel available; an overall saving; concern as a ‘lone traveller’.

**Travel & Subsistence**

Spend taxpayers’ money responsibly.

If in doubt about what to claim, seek advice from your line manager, budget manager, or from Unit HR/Admin Staff and/ or DBS – it is best to check before you commit to expenditure. Details for military personnel is in **JSP 752**, and for civilian staff in the **Policy Rules and Guidance**.

You cannot claim for alcohol purchased whilst undertaking business travel, either as part of a meal or consumed in isolation.

**Subsistence cost limits**: You can claim for actual receipted expenditure, within the subsistence limits detailed below, (**not** at a flat rate). You must obtain and retain itemised receipts for all claims. If you do not have a receipt you will need auditable line manager approval, e.g. by email, before you claim, and you must keep the approval.

Over 5 hours **£5.00**

Over 10 hours **£10.00**

Over 12 hours **£15.00**

Evening Meal **£22.50** (overnight stay)

Breakfast\* **£10.00**

\* when not included in the hotel/B&B rate

Motor Mileage Allowance (MMA) – UK

There are a number of different rates which are related to UK vehicle travel:

* Motor Mileage Allowance (up to 10,000 miles) 30p per mile • Motor Mileage Allowance (over 10,000 miles) 25p per mile
* Motorcycle 24p per mile
* Pedal cycle 15p per mile
* Passenger Supplement 3p per mile for first

passenger; 2p per mile for second and additional passengers

* Equipment Supplement 2p per mile (taxable)
* Excess Fares Allowance 30p per mile

**Home to Duty Liability**

1. The Home To Duty Liability (HTDL) is the travel cost incurred getting to/from your normal place of work. This should be deducted from expenses incurred when undertaking business travel to/from the home and a business location. This deduction does not apply to travel between business locations.

1. Using a Private Vehicle is probably the easiest application. If you normally drive to work and use your vehicle for business travel, then your Motor Mileage Allowance claim should have a deduction commensurate with the normal mileage to work. So, if you normally travel 10 miles to/from your normal place of work (total 20 miles) and drive 30 miles to/from a business location (total 60 miles), the claim should be reduced by 20 miles. This results in a net MMA claim of 40 miles. The deduction only applies to travel to/from the home and business location; not between your normal work place and business location(s).

**Air Travel.**

1. Economy class must be selected for all air travel.

1. For an international flight over 4 hours, there may be exceptional cases for which Premium Economy can be considered by a Director of Resources, including:

* 1. Staff required to work throughout flight;
  2. On disability/medical grounds;
  3. Other exceptional circumstances.

1. There may be rare occasions for which international Business Class travel may be considered, by a Director of Resources, including:

1. Overnight flight requiring work upon arrival;
2. Schedules considered particularly arduous by the approving authority;
3. Other exceptional circumstances.

**UK Rail Travel.**

1. Standard Class must be selected, unless there are exceptional circumstances, including, for example:

1. On disability/medical grounds;
2. If travelling single occupancy on a sleeper – please refer to Defence Travel;
3. Other exceptional circumstances approved by a Director of Resources.