**RM6100 Technology Services 3 Agreement**

**Framework Schedule 4 - Annex 1**

**Lots 2, 3 and 5 Order Form**

**Order Form**

This Order Form is issued in accordance with the provisions of the Technology Services 3 Framework Agreement RM6100 dated 16/06/21 between the Supplier (as defined below) and the Minister for the Cabinet Office (the "**Framework Agreement**") and should be used by Buyers after making a direct award or conducting a further competition under the Framework Agreement.

The Contract, referred to throughout this Order Form, means the contract between the Supplier and the Buyer (as defined below) (entered into pursuant to the terms of the Framework Agreement) consisting of this Order Form and the Call Off Terms. The Call-Off Terms are substantially the terms set out in Annex 2 to Schedule 4 to the Framework Agreement and copies of which are available from the Crown Commercial Service website <http://ccs-agreements.cabinetoffice.gov.uk/contracts/rm1234>. The agreed Call-Off Terms for the Contract being set out as the Annex 1 to this Order Form.

The Supplier shall provide the Services and/or Goods specified in this Order Form (including any attachments to this Order Form) to the Buyer on and subject to the terms of the Contract for the duration of the Contract Period.

In this Order Form, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) of the Call-Off Terms

This Order Form shall comprise:

1. This document headed “Order Form”;
2. Attachment 1 – Services Specification;
3. Attachment 2 – Charges and Invoicing;
4. Attachment 3 – Implementation Plan;
5. Attachment 4 – Service Levels and Service Credits;
6. Attachment 5 – Key Supplier Personnel and Key Sub-Contractors;
7. Attachment 6 – Software;
8. Attachment 7 – Financial Distress;
9. Attachment 8 - Governance
10. Attachment 9 – Schedule of Processing, Personal Data and Data Subjects; and
11. Annex 1 – Call Off Terms and Additional/Alternative Schedules and Clauses.

The Order of Precedence shall be as set out in Clause 2.2 of the Call-Off Terms being:

### the Framework, except Framework Schedule 18 (Tender);

### the Order Form;

### the Call Off Terms; and

### Framework Schedule 18 (Tender).

**Section A**

**General information**

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| --- | --- |
| **Contract Details** | |
| **Contract Reference: SR674805092** |  |

|  |  |
| --- | --- |
| **Contract Title: Intranet Replacement Project Servicenow (ITOM)** |  |

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| --- | --- |
| **Contract Description: The Authority is seeking a supplier to support and deliver ITOM & Integration processes, this will include, but not be limited to:**   * **Design of solutions for each process area to ensure a standardised and strategic approach.** * **Implementation of solutions to realise the benefits of ServiceNow automation opportunities.** * **Identification of, and supported on the job training of, relevant stakeholders within the organisation to ensure that capability to manage the system going forward is achieved.** * **Identification of benefits, appropriate metrics and realisation of those benefits evidenced through appropriate reporting dashboards and governance structures.** * **Change Adoption and Training.** * **Engagement and Communications.** * **Deliverables agreed as part of the Statement of Work and Implementation Plan** |  |

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| **Contract Anticipated Potential Value:** **£160,550** |  |

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| **Estimated Year 1 Charges: £160,550** |  |

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| **Commencement Date: 13/12/2021** |  |

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| **Buyer details** |
| **Buyer organisation name HMRC** |

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| --- |
| **Billing address**  **Teville Gate House, Railway Approach, Worthing BN11 1UR** |

|  |
| --- |
| **Buyer representative name**  The name of your point of contact for this Order. **Lee Corrigan** |

|  |
| --- |
| **Buyer representative contact details**    [lee.corrigan@hmrc.gov.uk](mailto:lee.corrigan@hmrc.gov.uk) |
| **03000 587871** |

|  |
| --- |
| **Buyer Project Reference**  Please provide the customer project reference number.  **SR674805092** |

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| **Supplier details** |
| **Supplier name**  **Computacenter (UK) Ltd** |

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| **Supplier address**  **Hatfield Business Park, Hatfield Ave, Hatfield, Herts AL10 9TW** |

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| **Supplier representative name**  **Deena Watson** |

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| **Supplier representative contact details**  [government@computacenter.com](mailto:government@computacenter.com)  **01707 637000** |

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| **Order reference number or the Supplier’s Catalogue Service Offer Reference Number**  **5680648** |

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| **Guarantor details**  *Guidance Note: Where the additional clause in respect of the guarantee has been selected to apply to this Contract under Part C of this Order Form, include details of the Guarantor immediately below.* |
| **Guarantor Company Name**  The guarantor organisation name  **N/A** |

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| **Guarantor Company Number**  Guarantor’s registered company number  **N/A** |

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| **Guarantor Registered Address**  Guarantor’s registered address  **N/A** |

**Section B**

**Part A – Framework Lot**

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| **Framework Lot under which this Order is being placed**  *Tick one box below as applicable (unless a cross-Lot Further Competition or Direct Award, which case, tick Lot 1 also where the buyer is procuring technology strategy & Services Design in addition to Lots 2, 3 and/or 5. Where Lot 1 is also selected then this Order Form and corresponding Call-Off Terms shall apply and the Buyer is not required to complete the Lot 1 Order Form.* | |
| 1. TECHNOLOGY STRATEGY & SERVICES DESIGN | ☐ |
| 1. TRANSITION & TRANSFORMATION | X |
| 1. OPERATIONAL SERVICES |  |
| a: End User Services | ☐ |
| b: Operational Management | ☐ |
| c: Technical Management | ☐ |
| d: Application and Data Management | ☐ |
| 1. SERVICE INTEGRATION AND MANAGEMENT | ☐ |

**Part B – The Services Requirement**

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| **Commencement Date 13/12/2021** |

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| **Contract Period**  **12 months** | | |
| **Initial Term** Months  **12** | **Extension Period (Optional)** Months  **0** | |
| **Minimum Notice Period for exercise of Termination Without Cause**  (Calendar days) *Insert right (see Clause 35.1.9 of the Call-Off Terms)* | | **30** |

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| **Sites for the provision of the Services**  The Supplier shall provide the Services from the following Sites**:**  **Buyer Premises:**  **Newcastle Benton Park/Telford Offices as required**.  **Supplier Premises:**  n/a – contract will be carried out remotely    **Third Party Premises:**  n/a |

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| **Buyer Assets**  *Guidance Note: see definition of Buyer Assets in Schedule 1 of the Call-Off Terms*  Buyers Assets - means the Buyer’s infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Services details of which shall be set out in the Order Form.  This includes but is not limited to the ServiceNow Instances and Licences which are in use and have been purchased for use by HMRC and it’s partners / suppliers to deliver their services on Service Central (HMRC’s ServiceNow Instance(s)). HMRC may also provide access to or provision of equipment and licences as required to carry out the delivery of any services included within the contract, which could include end user devices and access to appropriate systems and accounts. Any items provided will remain the property of HMRC and will be required to be released / returned at the end of the provision of work or contract whichever is sooner. Any items that are built or provided as a result of the contract will become the property of HMRC, this includes but is not limited to configuration and customisation on the Service Central platform, and any documentation provided to support the ongoing development or usage of the solutions provided. HMRC will have no ongoing responsibility to licence or pay for items which have been provided by the supplier as a result of this contract unless explicitly outlined and agreed prior to provision. All Data held within Service Central and HMRC systems is and will remain the property of HMRC. |

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| **Additional Standards**  Guidance *Note: see Clause 13 (Standards) and the definition of Standards in Schedule 1 of the Contract. Schedule 1 (Definitions). Specify any particular standards that should apply to the Contract over and above the Standards.*  The Technical Service and Platform Support Team, responsible for Service Central have developed governance and standards documentation, including the Service Central Platform Governance Framework and Service Central Platform Design Principles, which have been produced with the support of the ServiceNow Success Architects and will need to be adhered during any configuration and customisation of HMRC’s Service Central platform. |

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| **Buyer Security Policy**  *Guidance Note: where the Supplier is required to comply with the Buyer’s Security Policy then append to this Order Form below.*  As outlined in the HMRC Tendering Instructions – Security Requirements 6.6 -6.21.  Additionally at, https://www.gov.uk/government/publications/security-policy-framework/hmg-security-policy-framework  Any further Security requirements TBC as part of implementation. |

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| **Buyer ICT Policy**  *Guidance Note: where the Supplier is required to comply with the Buyer’s ICT Policy then append to this Order Form below.*  **N/A** |

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| **Insurance**  *Guidance Note: if the Call Off Contract requires a higher level of insurance cover than the £1m default in Framework Agreement or the Buyer requires any additional insurances please specify the details below.*  Third Party Public Liability Insurance (£) – **N/A**  Professional Indemnity Insurance (£) – **N/A** |

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| **Buyer Responsibilities**  *Guidance Note: list any applicable Buyer Responsibilities below.*  **The Buyer shall provide appropriate infrastructure and facilities as required/agreed.**  **The Buyer shall review documents produced by The Supplier in an appropriate timeframe that does not delay the agreed project timelines.**  **The Buyer shall provide appropriate resource in a timely manner that does not delay the agreed project timelines.**  **Further Buyer responsibilities are set out in the ITT documentation** |

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| **Goods**  *Guidance Note: list any Goods and their prices.*  **N/A** |

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| **Governance – Option Part A or Part B**  *Guidance Note: the Call-Off Terms has two options in respect of governance. Part A is the short form option and Part B is the long form option. The short form option should only be used where there is limited project governance required during the Contract Period.*   |  |  | | --- | --- | | **Governance Schedule** | **Tick as applicable** | | Part A – Short Form Governance Schedule | X | | Part B – Long Form Governance Schedule |  |   The Part selected above shall apply this Contract. |

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| **Change Control Procedure – Option Part A or Part B**  *Guidance Note: the Call-Off Terms has two options in respect of change control. Part A is the short form option and Part B is the long form option. The short form option should only be used where there is no requirement to include a complex change control procedure where operational and fast track changes will not be required.*   |  |  | | --- | --- | | **Change Control Schedule** | **Tick as applicable** | | Part A – Short Form Change Control Schedule | X | | Part B – Long Form Change Control Schedule |  |   The Part selected above shall apply this Contract. Where Part B is selected, the following information shall be incorporated into Part B of Schedule 5 (Change Control Procedure):   * for the purpose of Paragraph 1.3.2 (a), the figure shall be £ N/A; and * for the purpose of Paragraph 8.2.2, the figure shall be £ N/A. |

**Section C**

**Part A - Additional and Alternative Buyer Terms**

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| **Additional Schedules and Clauses** *(see Annex 3 of Framework Schedule 4)*  *This Annex can be found on the RM6100 CCS webpage. The document is titled RM6100 Additional and Alternative Terms and Conditions Lots 2, 3 and 5.*  **Part A – Additional Schedules**  *Guidance Note: Tick any applicable boxes below*   |  |  | | --- | --- | | **Additional Schedules** | **Tick as applicable** | | S1: Implementation Plan | ☐ | | S2: Testing Procedures | ☐ | | S3: Security Requirements (either Part A or Part B) | Part A ☐ or Part B ☐ | | S4: Staff Transfer | ☐ | | S5: Benchmarking | ☐ | | S6: Business Continuity and Disaster Recovery | ☐ | | S7: Continuous Improvement | ☐ | | S8: Guarantee | ☐ | | S9: MOD Terms | ☐ |   **Part B – Additional Clauses**  *Guidance Note: Tick any applicable boxes below*   |  |  | | --- | --- | | **Additional Clauses** | **Tick as applicable** | | C1: Relevant Convictions | ☐ | | C2: Security Measures | ☐ | | C3: Collaboration Agreement | ☐ |   Where selected above the Additional Schedules and/or Clauses set out in document RM6100 Additional and Alternative Terms and Conditions Lots 2, 3 and 5 shall be incorporated into this Contract.  **Part C - Alternative Clauses**  *Guidance Note: Tick any applicable boxes below*  The following Alternative Clauses will apply:   |  |  | | --- | --- | | **Alternative Clauses** | **Tick as applicable** | | Scots Law | ☐ | | Northern Ireland Law | ☐ | | Joint Controller Clauses | ☐ |   Where selected above the Alternative Clauses set out in document RM6100 Additional and Alternative Terms and Conditions Lots 2, 3 and 5 shall be incorporated into this Contract. |

**Part B - Additional Information Required for Additional Schedules/Clauses Selected in Part A**

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| **Additional Schedule S3 (Security Requirements)**  *Guidance Note: where Schedule S3 (Security Requirements) has been selected in Part A of Section C above, then for the purpose of the definition of “Security Management Plan” insert the Supplier’s draft security management plan below.*  **N/A** |

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| **Additional Schedule S4 (Staff Transfer)**  *Guidance Note: where Schedule S4 (Staff Transfer) has been selected in Part A of Section C above, then for the purpose of the definition of “Fund” in Annex D2 (LGPS) of Part D (Pension) insert details of the applicable fund below.*  **N/A** |

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| **Additional Clause C1 (Relevant Convictions)**  *Guidance Note: where Clause C1 (Relevant Convictions) has been selected in Part A of Section C above, then for the purpose of the definition of “Relevant Convictions” insert any relevant convictions which shall apply to this contract below.*  **N/A** |

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| **Additional Clause C3 (Collaboration Agreement)**  *Guidance Note: where Clause C3 (Collaboration Agreement) has been selected in Part A of Section C above, include details of organisation(s) required to collaborate immediately below.*  **N/A**  An executed Collaboration Agreement shall be delivered from the Supplier to the Buyer within the stated number of Working Daysfrom the Commencement Date:  **N/A** |

**Section D**

**Supplier Response**

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| **Commercially Sensitive information**  Any confidential information that the Supplier considers sensitive for the duration of an awarded Contract should be included here. Please refer to definition of Commercially Sensitive Information in the Contract – *use specific references to sections rather than copying the relevant information here.*   * Supplier’s pricing and/or any Supplier specific solution(s) for the period of the Call-Off Term +2 years |

**Section E**

**Contract Award**

This Call Off Contract is awarded in accordance with the provisions of the Technology Services 3 Framework Agreement RM6100.

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| **SIGNATURES** |

**For and on behalf of the Supplier**

|  |  |
| --- | --- |
| Name |  |
| Job role/title |  |
| Signature |  |
| Date |  |

**For and on behalf of the Buyer**

|  |  |
| --- | --- |
| Name |  |
| Job role/title |  |
| Signature |  |
| Date |  |

**Attachment 1 – Services Specification**



**Attachment 2 – Charges and Invoicing**

**Part A – Supplier Personnel Rate Card for Calculation of Time and Materials Charges**

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| **Staff Grade** | **Day Rate (£)** |
| **To be agreed as part of the Statement of Work and Implementation Plan.** |  |
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**Part D – Risk Register**

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| **Column 1** | **Column 2** | **Column 3** | **Column 4** | **Column 5** | **Column 6** | **Column 7** | **Column 8** | **Column 9** | **Column 10** | **Column 12** |
| **Risk Number** | **Risk Name** | **Description of risk** | **Timing** | **Likelihood** | **Impact (£)** | **Impact (description)** | **Mitigation (description)** | **Cost of mitigation** | **Post-mitigation impact (£)** | **Owner** |
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**Part E – Early Termination Fee(s)**

**Attachment 3 – Outline Implementation Plan**

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**Attachment 4 – Service Levels and Service Credits**

Not applicable

**Attachment 5 – Key Supplier Personnel and Key Sub-Contractors**

### The Parties agree that they will update this Attachment 5 periodically to record any changes to Key Supplier Personnel and/or any Key Sub-Contractors appointed by the Supplier after the Commencement Date for the purposes of the delivery of the Services.

**Part A – Key Supplier Personnel**

|  |  |  |
| --- | --- | --- |
| **Key Supplier Personnel** | **Key Role(s)** | **Duration** |
| Solution Architect |  | Requirements and Design Phase |
| Lead Consultant |  | Whole Project |
| Senior Implementation Consultant |  | Whole Project |
| Implementation Consultant |  | Whole Project |
| Senior Project Manager |  | Whole Project |

**Part B – Key Sub-Contractors**

Not applicable

**Attachment 6 – Software**

### The Software below is licensed to the Buyer in accordance with Clauses 20 (*Intellectual Property Rights*) and 21 (*Licences Granted by the Supplier*).

### The Parties agree that they will update this Attachment 6 periodically to record any Supplier Software or Third Party Software subsequently licensed by the Supplier or third parties for the purposes of the delivery of the Services.

**Part A – Supplier Software**

Not applicable

**Part B – Third Party Software**

Not applicable

**Attachment 7 – Financial Distress**

For the purpose of Schedule 7 (Financial Distress) of the Call-Off Terms, the following shall apply:

**PART A – CREDIT RATING THRESHOLD**

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| --- | --- | --- |
| **Entity** | **Credit Rating (long term)**  *(insert credit rating issued for the entity at the Commencement Date)* | **Credit Rating Threshold**  *(insert the actual rating (e.g. AA-) or the Credit Rating Level (e.g. Credit Rating Level 3)* |
| ***Supplier*** | Dun & Bradstreet |  |
|  | [Rating Agency 2] – [insert rating for Rating Agency 2] | [Rating Agency 2] – [insert threshold for Rating Agency 2] |
| ***[Key Sub-contractor 1]*** | [etc.] | [etc.] |
| ***[Key Sub-contractor 2]*** | [etc.] | [etc.] |

**PART B – RATING AGENCIES**

* [Rating Agency 1 (e.g Standard and Poors)]
  + Credit Rating Level 1 = [AAA]
  + Credit Rating Level 2 = [AA+]
  + Credit Rating Level 3 = [AA]
  + Credit Rating Level 4 = [AA-]
  + Credit Rating Level 5 = [A+]
  + Credit Rating Level 6 = [A]
  + Credit Rating Level 7 = [A-]
  + Credit Rating Level 8 = [BBB+]
  + Credit Rating Level 9 = [BBB]
  + Credit Rating Level 10 = [BBB-]
  + Etc.
* [Rating Agency 2 (e.g Moodys) ]
  + Credit Rating Level 1 = [Aaa]
  + Credit Rating Level 2 = [Aa1]
  + Credit Rating Level 3 = [Aa2]
  + Credit Rating Level 4 = [Aa3]
  + Credit Rating Level 5 = [A1]
  + Credit Rating Level 6 = [A2]
  + Credit Rating Level 7 = [A3]
  + Credit Rating Level 8 = [Baa1]
  + Credit Rating Level 9 = [Baa2]
  + Credit Rating Level 10 = [Baa3]
  + Etc.
* [Rating Agency 3 (etc.) ]
  + Credit Rating Level 1 = [XXX]
  + Etc.
* Attachment 8 – Governance

**PART A – SHORT FORM GOVERNANCE**

For the purpose of Part A of Schedule 7 (Short Form Governance) of the Call-Off Terms, the following board shall apply:

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| --- | --- |
| Operational Board | |
| Buyer Members for the Operational Board | **N/A** |
| Supplier Members for the Operational Board | **N/A** |
| Frequency of the Operational Board | **N/A** |
| Location of the Operational Board | **N/A** |

**Attachment 9 – Schedule of Processing, Personal Data and Data Subjects**

This Attachment 9 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 Schedule shall be with the Buyer at its absolute discretion.

* + - 1. The contact details of the Buyer’s Data Protection Officer are: Nicholas Delacy-Brown
      2. The contact details of the Supplier’s Data Protection Officer are: Mark Goddard, Group Data Protection Officer, [mark.goddard@computacenter.com](mailto:mark.goddard@computacenter.com)
      3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
      4. Any such further instructions shall be incorporated into this Attachment 9.

|  |  |
| --- | --- |
| **Description** | **Details** |
| Identity of Controller for each Category of Personal Data | [**The Authority is Controller and the Supplier is Processor**  The Parties acknowledge that in accordance with Clause 34.2 to 34.15 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:   * The scope of processing activity (including details of data categories will be subject to design choices during the project lifecycle, and will be subject to multiple integrations with data including: System event data; System interface credentials; Resolver group data. |
| Duration of the processing | **Contractual Period.** |
| Nature and purposes of the processing | For the purposes of this contract and work area the scope of processing activity (including details of data categories will be subject to design choices during the project lifecycle, and will be subject to multiple integrations with data including: System event data; System interface credentials; Resolver group data. However, the platform has additional information within it which is not part of this contract and is considered to be highly sensitive as follows:  HR Profile/attributes data, ‘free text’ information which, depending on the case it pertains too, could be of a sensitive nature. This could include but is not limited to information such as; occupational health reports, manager notes on behaviour and performance, grievance case notes, employees family data. It’s likely that given the number of employees we have, the type of sensitive data stored will cover an extensive range of issues and personal data. |
| Type of Personal Data | Personnel and Personal data related to the creation, maintenance and fulfilment of HR Knowledge and Case Management including (but not limited to):  • PID  • Government Department  • Employment start date  • Employment end date  • Employment type  • DOB  • Nationality  • Ethnicity  • Disability  • Sexual orientation |
| Categories of Data Subject | For the purposes of this contract and work area the scope of processing activity (including details of data categories will be subject to design choices during the project lifecycle, and will be subject to multiple integrations with data including: System event data; System interface credentials; Resolver group data.  **Sensitive data within the system which is not part of this contract may include, but is not limited to:**  Personnel and Personal data related to the creation, maintenance and fulfilment of HR Knowledge and Case Management including (but not limited to):  • HMRC employee records including other departments for example, VOA and RCDTS  • Employment types including Employees, Contingent Labour and Contractors |
| Plan for return and destruction of the data once the processing is complete  UNLESS requirement under union or member state law to preserve that type of data | The processing and use of all data must be captured and maintained within HMRC systems this includes the transition of data from legacy systems to ServiceNow and the maintenance of any data in the platform. |

## HMRC MANDATORY CLAUSES TO ADD TO ALL CCS CALL-OFF TEMPLATES



**Annex 1**

**AUTHORITY’S MANDATORY TERMS**

1. For the avoidance of doubt, references to ‘the Agreement’ mean the attached Call-Off Contract between the Supplier and the Authority. References to ‘the Authority’ mean ‘the Buyer’ (the Commissioners for Her Majesty’s Revenue and Customs).
2. The Agreement incorporates the Authority’s mandatory terms set out in this Schedule 8.
3. In case of any ambiguity or conflict, the Authority’s mandatory terms in this Schedule 8 will supersede any other terms in the Agreement.
4. **Definitions**

|  |  |
| --- | --- |
| **“Affiliate”** | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time; |
| **“Authority Data”** | 1. the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:    * + 1. supplied to the Supplier by or on behalf of the Authority; and/or        2. which the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or 2. any Personal Data for which the Authority is the Controller, or any data derived from such Personal Data which has had any designatory data identifiers removed so that an individual cannot be identified; |
| **“Charges”** | the charges for the Services as specified in Schedule 6 |
| **“Connected Company”** | means, in relation to a company, entity or other person, the Affiliates of that company, entity or other person or any other person associated with such company, entity or other person; |
| **“Control”** | the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “Controls” and “Controlled” shall be interpreted accordingly; |
| **“Controller”, “Processor”, “Data Subject”,** | take the meaning given in the UK GDPR; |
| **“Data Protection Legislation”** | * 1. "the data protection legislation" as defined in section 3(9) of the Data Protection Act 2018; and;   2. all applicable Law about the processing of personal data and privacy; |
| **“Key Subcontractor”** | any Subcontractor:   1. which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or 2. with a Subcontract with a contract value which at the time of appointment exceeds (or would exceed if appointed) ten per cent (10%) of the aggregate Charges forecast to be payable under this Call-Off Contract; |
| **“Law”** | any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply; |
| **“Personal Data”** | has the meaning given in the UK GDPR; |
| **“Purchase Order Number”** | the Authority’s unique number relating to the supply of the Services; |
| **“Services”** | the services to be supplied by the Supplier to the Authority under the Agreement, including the provision of any Goods; |
| **“Subcontract”** | any contract or agreement (or proposed contract or agreement) between the Supplier (or a Subcontractor) and any third party whereby that third party agrees to provide to the Supplier (or the Subcontractor) all or any part of the Services, or facilities or services which are material for the provision of the Services, or any part thereof or necessary for the management, direction or control of the Services or any part thereof; |
| **“Subcontractor”** | any third party with whom:   1. the Supplier enters into a Subcontract; or 2. a third party under (a) above enters into a Subcontract,   or the servants or agents of that third party; |
| **“Supplier Personnel”** | all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement; |
| **“Supporting Documentation”** | sufficient information in writing to enable the Authority to reasonably verify the accuracy of any invoice; |
| **“Tax”** | 1. all forms of tax whether direct or indirect; 2. national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction; 3. all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions. levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and 4. any penalty, fine, surcharge, interest, charges or costs relating to any of the above,   in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction; |
| **“Tax Non-Compliance”** | where an entity or person under consideration meets all 3 conditions contained in the relevant excerpt from HMRC’s “Test for Tax Non-Compliance”, as set out in Annex 1, where:   1. the “Economic Operator” means the Supplier or any agent, supplier or Subcontractor of the Supplier requested to be replaced pursuant to Clause 4.3; and 2. any “Essential Subcontractor” means any Key Subcontractor; |
| **“UK GDPR”** | the UK General Data Protection Regulation, the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679); |
| **“VAT”** | value added tax as provided for in the Value Added Tax Act 1994. |

1. **Payment and Recovery of Sums Due**

## The Supplier shall invoice the Authority as specified in schedule 6 of the Agreement. Without prejudice to the generality of the invoicing procedure specified in the Agreement, the Supplier shall procure a Purchase Order Number from the Authority prior to the commencement of any Services and the Supplier acknowledges and agrees that should it commence Services without a Purchase Order Number:

### the Supplier does so at its own risk; and

### the Authority shall not be obliged to pay any invoice without a valid Purchase Order Number having been provided to the Supplier.

* 1. Each invoice and any Supporting Documentation required to be submitted in accordance with the invoicing procedure specified in the Agreement shall be submitted by the Supplier, as directed by the Authority from time to time via the Authority’s electronic transaction system.
  2. If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Authority from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Authority.  The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any such amount in whole or in part.

1. **Warranties**
   1. The Supplier represents and warrants that:
      1. in the three years prior to the Effective Date, it has been in full compliance with all applicable securities and Laws related to Tax in the United Kingdom and in the jurisdiction in which it is established;
      2. it has notified the Authority in writing of any Tax Non-Compliance it is involved in; and
      3. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier’s assets or revenue and the Supplier has notified the Authority of any profit warnings issued in respect of the Supplier in the three years prior to the Effective Date.
   2. If at any time the Supplier becomes aware that a representation or warranty given by it under Clause 3.1.1, 3.1.2 and/or 3.1.3 has been breached, is untrue, or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.
   3. In the event that the warranty given by the Supplier pursuant to Clause 3.1.2 is materially untrue, the Authority shall be entitled to terminate the Agreement pursuant to the Call-Off clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).
2. **Promoting Tax Compliance**
   1. All amounts stated are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.
   2. To the extent applicable to the Supplier, the Supplier shall at all times comply with all Laws relating to Tax and with the equivalent legal provisions of the country in which the Supplier is established.
   3. The Supplier shall provide to the Authority the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or self-assessment reference of any agent, supplier or Subcontractor of the Supplier prior to the provision of any material Services under the Agreement by that agent, supplier or Subcontractor. Upon a request by the Authority, the Supplier shall not contract, or will cease to contract, with any agent, supplier or Subcontractor supplying Services under the Agreement.
   4. If, at any point during the Term, there is Tax Non-Compliance, the Supplier shall:
      1. notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
      2. promptly provide to the Authority:
3. details of the steps which the Supplier is taking to resolve the Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
4. such other information in relation to the Tax Non-Compliance as the Authority may reasonably require.
   1. The Supplier shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any Tax relating to payments made to the Supplier under this Agreement. Any amounts due under this Clause 4.5 shall be paid in cleared funds by the Supplier to the Authority not less than five (5) Working Days before the date upon which the Tax or other liability is payable by the Authority.
   2. Upon the Authority’s request, the Supplier shall provide (promptly or within such other period notified by the Authority) information which demonstrates how the Supplier complies with its Tax obligations.
   3. If the Supplier:
      1. fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with Clauses 4.2, 4.4.1 and/or 4.6 this may be a material breach of the Agreement;
      2. fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with a reasonable request by the Authority that it must not contract, or must cease to contract, with any agent, supplier or Subcontractor of the Supplier as required by Clause 4.3 on the grounds that the agent, supplier or Subcontractor of the Supplier is involved in Tax Non-Compliance this shall be a material breach of the Agreement; and/or
      3. fails to provide details of steps being taken and mitigating factors pursuant to Clause 4.4.2 which in the reasonable opinion of the Authority are acceptable this shall be a material breach of the Agreement;

and any such material breach shall allow the Authority to terminate the Agreement pursuant to the Call-Off Clause which provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

* 1. The Authority may internally share any information which it receives under Clauses 4.3 to 4.4 (inclusive) and 4.6, for the purpose of the collection and management of revenue for which the Authority is responsible.

1. **Use of Off-shore Tax Structures**
   1. Subject to the principles of non-discrimination against undertakings based either in member countries of the European Union or in signatory countries of the World Trade Organisation Agreement on Government Procurement, the Supplier shall not, and shall ensure that its Connected Companies, Key Subcontractors (and their respective Connected Companies) shall not, have or put in place (unless otherwise agreed with the Authority) any arrangements involving the use of off-shore companies or other off-shore entities the main purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom Tax of any description which would otherwise be payable by it or them on or in connection with the payments made by or on behalf of the Authority under or pursuant to this Agreement or (in the case of any Key Subcontractor and its Connected Companies) United Kingdom Tax which would be payable by it or them on or in connection with payments made by or on behalf of the Supplier under or pursuant to the applicable Key Subcontract (**“Prohibited Transactions”**). Prohibited Transactions shall not include transactions made between the Supplier and its Connected Companies or a Key Subcontractor and its Connected Companies on terms which are at arms-length and are entered into in the ordinary course of the transacting parties’ business.
   2. The Supplier shall notify the Authority in writing (with reasonable supporting detail) of any proposal for the Supplier or any of its Connected Companies, or for a Key Subcontractor (or any of its Connected Companies), to enter into any Prohibited Transaction. The Supplier shall notify the Authority within a reasonable time to allow the Authority to consider the proposed Prohibited Transaction before it is due to be put in place.
   3. In the event of a Prohibited Transaction being entered into in breach of Clause 5.1 above, or in the event that circumstances arise which may result in such a breach, the Supplier and/or the Key Subcontractor (as applicable) shall discuss the situation with the Authority and, in order to ensure future compliance with the requirements of Clauses 5.1 and 5.2, the Parties (and the Supplier shall procure that the Key Subcontractor, where applicable) shall agree (at no cost to the Authority) timely and appropriate changes to any such arrangements by the undertakings concerned, resolving the matter (if required) through the escalation process in the Agreement.
   4. Failure by the Supplier (or a Key Subcontractor) to comply with the obligations set out in Clauses 5.2 and 5.3 shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).
2. Data Protection and off-shoring
   1. The parties agree that the Supplier shall, whether it is the Controller or Processor, in relation to any Personal Data processed in connection with its obligations under the Agreement:
      1. not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
   2. the Supplier or any applicable Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or, where relevant, section 75 of the Data Protection Act 2018) as determined by either the Authority or the Supplier when it is the Controller;
   3. the Data Subject has enforceable rights and effective legal remedies;
   4. the Supplier or any applicable Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist either the Authority or the Supplier when it is the Controller in meeting its obligations); and
   5. the Supplier or any applicable Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
   6. Failure by the Supplier or any applicable Processor to comply with the obligations set out in Clause 6.1 shall allow the Authority to terminate the Agreement pursuant to the Clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).
3. **Commissioners for Revenue and Customs Act 2005 and related Legislation** 
   1. The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 18 of the Commissioners for Revenue and Customs Act 2005 (‘CRCA’) to maintain the confidentiality of Authority Data. Further, the Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the aforesaid obligations may lead to a prosecution under Section 19 of CRCA.
   2. The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 123 of the Social Security Administration Act 1992, which may apply to the fulfilment of some or all of the Services. The Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the Supplier’s obligations under Section 123 of the Social Security Administration Act 1992 may lead to a prosecution under that Act.
   3. The Supplier shall regularly (not less than once every six (6) months) remind all Supplier Personnel who will have access to, or are provided with, Authority Data in writing of the obligations upon Supplier Personnel set out in Clause 7.1 above. The Supplier shall monitor the compliance by Supplier Personnel with such obligations.
   4. The Supplier shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data sign (or have previously signed) a Confidentiality Declaration, in the form provided at Annex 2. The Supplier shall provide a copy of each such signed declaration to the Authority upon demand.
   5. In the event that the Supplier or the Supplier Personnel fail to comply with this Clause 7, the Authority reserves the right to terminate the Agreement with immediate effect pursuant to the clause that provides the Authority the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

**Annex 1**

**Excerpt from HMRC’s “Test for Tax Non-Compliance”**

*Condition one (An in-scope entity or person)*

1. There is a person or entity which is either: (“X”)
2. The Economic Operator or Essential Subcontractor (EOS)
3. Part of the same Group of companies of EOS. An entity will be treated as within the same Group of EOS where that entities’ financial statements would be required to be consolidated with those of EOS if prepared in accordance with *IFRS 10 Consolidated Financial Accounts[[1]](#footnote-1)*;
4. Any director, shareholder or other person (P) which exercises control over EOS. ‘Control’ means P can secure, through holding of shares or powers under articles of association or other document that EOS’s affairs are conducted in accordance with P’s wishes.

*Condition two (Arrangements involving evasion, abuse or tax avoidance)*

1. X has been engaged in one or more of the following:
   1. Fraudulent evasion[[2]](#footnote-2);
   2. Conduct caught by the General Anti-Abuse Rule[[3]](#footnote-3);
   3. Conduct caught by the Halifax Abuse principle[[4]](#footnote-4);
   4. Entered into arrangements caught by a DOTAS or VADR scheme[[5]](#footnote-5);
   5. Conduct caught by a recognised ‘anti-avoidance rule’[[6]](#footnote-6) being a statutory provision which targets arrangements where either a main purpose, or an expected benefit, is to obtain a tax advantage or where the arrangement is not effected for commercial purposes. ‘Targeted Anti-Avoidance Rules’ (TAARs). It may be useful to confirm that the Diverted Profits Tax is a TAAR for these purposes;
   6. Entered into an avoidance scheme identified by HMRC’s published Spotlights list[[7]](#footnote-7);
   7. Engaged in conduct which falls under rules in other jurisdictions which are equivalent or similar to (a) to (f) above.

*Condition three (Arrangements are admitted, or subject to litigation/prosecution or identified in a published list (Spotlights))*

1. X’s activity in *Condition 2* is, where applicable, subject to dispute and/or litigation as follows:
   1. In respect of (a), either X:
      1. Has accepted the terms of an offer made under a Contractual Disclosure Facility (CDF) pursuant to the Code of Practice 9 (COP9) procedure[[8]](#footnote-8); or,
      2. Has been charged with an offence of fraudulent evasion.
   2. In respect of (b) to (e), once X has commenced the statutory appeal process by filing a Notice of Appeal and the appeal process is ongoing including where the appeal is stayed or listed behind a lead case (either formally or informally). NB Judicial reviews are not part of the statutory appeal process and no supplier would be excluded merely because they are applying for judicial review of an HMRC or HMT decision relating to tax or national insurance.
   3. In respect of (b) to (e), during an HMRC enquiry, if it has been agreed between HMRC and X that there is a pause with the enquiry in order to await the outcome of related litigation.
   4. In respect of (f) this condition is satisfied without any further steps being taken.
   5. In respect of (g) the foreign equivalent to each of the corresponding steps set out above in (i) to (iii).

### For the avoidance of doubt, any reference in this Annex 1 to any Law includes a reference to that Law as amended, extended, consolidated or re‑enacted from time to time including any implementing or successor legislation.

**Annex 2 Form**

**CONFIDENTIALITY DECLARATION**

CONTRACT REFERENCE: SR674805092 Intranet Replacement Project Servicenow (‘the Agreement’)

DECLARATION:

I solemnly declare that:

1. I am aware that the duty of confidentiality imposed by section 18 of the Commissioners for Revenue and Customs Act 2005 applies to Authority Data (as defined in the Agreement) that has been or will be provided to me in accordance with the Agreement.
2. I understand and acknowledge that under Section 19 of the Commissioners for Revenue and Customs Act 2005 it may be a criminal offence to disclose any Authority Data provided to me.

|  |
| --- |
| SIGNED: |
| FULL NAME: |
| POSITION: |
| COMPANY: |
| DATE OF SIGNITURE: |

1. <https://www.iasplus.com/en/standards/ifrs/ifrs10> [↑](#footnote-ref-1)
2. ‘Fraudulent evasion’ means any ‘UK tax evasion offence’ or ‘UK tax evasion facilitation offence’ as defined by section 52 of the Criminal Finances Act 2017 or a failure to prevent facilitation of tax evasion under section 45 of the same Act. [↑](#footnote-ref-2)
3. “General Anti-Abuse Rule” means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any

   future legislation introduced into Parliament to counteract tax advantages arising from abusive

   arrangements to avoid national insurance contributions [↑](#footnote-ref-3)
4. “Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others [↑](#footnote-ref-4)
5. A Disclosure of Tax Avoidance Scheme (DOTAS) or VAT Disclosure Regime (VADR) scheme caught by rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Section 19 and Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Section 19 and Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992. [↑](#footnote-ref-5)
6. The full definition of ‘Anti-avoidance rule’ can be found at Paragraph 25(1) of Schedule 18 to the Finance Act 2016 and Condition 2 (a) above shall be construed accordingly. [↑](#footnote-ref-6)
7. Targeted list of tax avoidance schemes that HMRC believes are being used to avoid paying tax due and which are listed on the Spotlight website: <https://www.gov.uk/government/collections/tax-avoidance-schemes-currently-in-the-spotlight> [↑](#footnote-ref-7)
8. The Code of Practice 9 (COP9) is an investigation of fraud procedure, where X agrees to make a complete and accurate disclosure of all their deliberate and non-deliberate conduct that has led to irregularities in their tax affairs following which HMRC will not pursue a criminal investigation into the conduct disclosed. [↑](#footnote-ref-8)