DATED [dd/mm/yyyy]

**CROWN COMMERCIAL SERVICE**

**and**

**[SUPPLIER NAME]**

**FRAMEWORK AGREEMENT**

**FOR THE PROVISION OF**

**CIVIL SERVICE PENSIONS SCHEME MEDICAL ADVICE CONTRACT**

**(Agreement Ref: [insert ref no.])**

**TABLE OF CONTENT**

[1. DEFINITIONS AND INTERPRETATION 5](#_Toc459985229)

[2. DUE DILIGENCE 7](#_Toc459985230)

[3. SUPPLIER’S APPOINTMENT 7](#_Toc459985231)

[4. SCOPE OF FRAMEWORK AGREEMENT 7](#_Toc459985232)

[5. CALL OFF PROCEDURE 8](#_Toc459985233)

[6. ASSISTANCE IN RELATED PROCUREMENTS – NOT USED 8](#_Toc459985234)

[7. REPRESENTATIONS AND WARRANTIES 8](#_Toc459985235)

[8. GUARANTEE – NOT USED 10](#_Toc459985236)

[9. CYBER ESSENTIALS SCHEME CONDITION 10](#_Toc459985237)

[10. FRAMEWORK PERIOD 10](#_Toc459985238)

[11. FRAMEWORK AGREEMENT PERFORMANCE 10](#_Toc459985239)

[12. KEY PERFORMANCE INDICATORS 11](#_Toc459985240)

[13. STANDARDS 11](#_Toc459985241)

[14. MINIMUM STANDARDS OF RELIABILITY – NOT USED 11](#_Toc459985242)

[15. CONTINUOUS IMPROVEMENT 11](#_Toc459985243)

[16. CALL OFF PERFORMANCE – NOT USED 11](#_Toc459985244)

[17. FRAMEWORK AGREEMENT MANAGEMENT 11](#_Toc459985245)

[18. RECORDS, AUDIT ACCESS AND OPEN BOOK DATA 12](#_Toc459985246)

[19. CHANGE 14](#_Toc459985247)

[20. MANAGEMENT CHARGE – NOT USED 15](#_Toc459985248)

[21. PROMOTING TAX COMPLIANCE 15](#_Toc459985249)

[22. BENCHMARKING 16](#_Toc459985250)

[23. FINANCIAL DISTRESS – NOT USED 16](#_Toc459985251)

[24. STAFF TRANSFER – NOT USED 16](#_Toc459985252)

[25. SUPPLY CHAIN RIGHTS AND PROTECTION 16](#_Toc459985253)

[26. INTELLECTUAL PROPERTY RIGHTS 19](#_Toc459985254)

[27. PROVISION AND PROTECTION OF INFORMATION 20](#_Toc459985255)

[28. PUBLICITY AND BRANDING 27](#_Toc459985256)

[29. MARKETING 27](#_Toc459985257)

[30. LIABILITY 27](#_Toc459985258)

[31. INSURANCE 28](#_Toc459985259)

[32. AUTHORITY REMEDIES 28](#_Toc459985260)

[33. AUTHORITY TERMINATION RIGHTS 29](#_Toc459985261)

[34. SUSPENSION OF SUPPLIER’S APPOINTMENT – NOT USED 31](#_Toc459985262)

[35. CONSEQUENCES OF EXPIRY OR TERMINATION 31](#_Toc459985263)

[36. COMPLIANCE 32](#_Toc459985264)

[37. ASSIGNMENT AND NOVATION 33](#_Toc459985265)

[38. WAIVER AND CUMULATIVE REMEDIES 33](#_Toc459985266)

[39. RELATIONSHIP OF THE PARTIES 34](#_Toc459985267)

[40. PREVENTION OF FRAUD AND BRIBERY 34](#_Toc459985268)

[41. CONFLICTS OF INTEREST 35](#_Toc459985269)

[42. SEVERANCE 36](#_Toc459985270)

[43. FURTHER ASSURANCES 36](#_Toc459985271)

[44. ENTIRE AGREEMENT 36](#_Toc459985272)

[45. THIRD PARTY RIGHTS 36](#_Toc459985273)

[46. NOTICES 37](#_Toc459985274)

[47. COMPLAINTS HANDLING 38](#_Toc459985275)

[48. DISPUTE RESOLUTION 39](#_Toc459985276)

[49. GOVERNING LAW AND JURISDICTION 39](#_Toc459985277)

[FRAMEWORK SCHEDULE 1: DEFINITIONS 41](#_Toc459985278)

[FRAMEWORK SCHEDULE 2: GOODS AND/or SERVICES and Key Performance Indicators 57](#_Toc459985279)

[FRAMEWORK SCHEDULE 3: FRAMEWORK prices AND CHARGING STRUCTURE 77](#_Toc459985280)

[FRAMEWORK SCHEDULE 4: TEMPLATE ORDER FORM AND TEMPLATE CALL OFF TERMS NOT USED 80](#_Toc459985282)

[FRAMEWORK SCHEDULE 5: CALL OFF PROCEDURE NOT USED 81](#_Toc459985285)

[FRAMEWORK SCHEDULE 6: AWARD CRITERIA not used 82](#_Toc459985286)

[FRAMEWORK SCHEDULE 7: KEY SUB-CONTRACTORS 83](#_Toc459985287)

[FRAMEWORK SCHEDULE 8: FRAMEWORK MANAGEMENT 84](#_Toc459985288)

[FRAMEWORK SCHEDULE 9: MANAGEMENT INFORMATION 87](#_Toc459985289)

[0.FRAMEWORK SCHEDULE 10: ANNUAL SELF AUDIT CERTIFICATE 88](#_Toc459985291)

[FRAMEWORK SCHEDULE 11: MARKETING 90](#_Toc459985292)

[FRAMEWORK SCHEDULE 12: CONTINUOUS IMPROVEMENT AND BENCHMARKING 91](#_Toc459985293)

[FRAMEWORK SCHEDULE 13: GUARANTEE not used 96](#_Toc459985294)

[FRAMEWORK SCHEDULE 14: INSURANCE REQUIREMENTS 97](#_Toc459985295)

[FRAMEWORK SCHEDULE 15: STAFF TRANSFER not used 104](#_Toc459985298)

[FRAMEWORK SCHEDULE 16: FINANCIAL DISTRESS not used 105](#_Toc459985300)

[FRAMEWORK SCHEDULE 17: COMMERCIALLY SENSITIVE INFORMATION 106](#_Toc459985301)

[FRAMEWORK SCHEDULE 18: DISPUTE RESOLUTION PROCEDURE 107](#_Toc459985302)

[FRAMEWORK SCHEDULE 19: VARIATION FORM 112](#_Toc459985303)

[FRAMEWORK SCHEDULE 20: CONDUCT OF CLAIMS 113](#_Toc459985304)

[FRAMEWORK SCHEDULE 21: TENDER 115](#_Toc459985305)

[FRAMEWORK Schedule 22: Transparency reports not used 116](#_Toc459985308)

 This Agreement is made on ***[insert Framework Commencement Date dd/mm/yyyy]***

**BETWEEN:**

(1) the Minister for the Cabinet Office ("**Cabinet Office**"), whose offices are located at 70 Whitehall, London, SW1A 2AS (the "**Authority**");

(2) ***[Insert COMPANY’S NAME]*** which is a company registered in ***[England and Wales***] under company number ***[insert company no.***] and whose registered office is at ***[insert address]*** (the "**Supplier**").

**RECITALS:**

1. The Authority placed a contract notice ***[Insert the OJEU reference number]*** on ***[Insert date of issue of OJEU dd/mm/yyyy]*** (the **"OJEU Notice"**) in the Official Journal of the European Union seeking tendersfrom providers of civil service pensions scheme medical advice interested in entering into a framework arrangement for the supply of such Services to Contracting Authorities.
2. Not used.
3. On 31/08/2016 the Authority issued an invitation to tender (the "**Invitation to Tender**") for the provision of *Civil Service Pensions Scheme Medical Advice Contract*
4. In response to the Invitation to Tender, the Supplier submitted a tender to the Authority on ***[insert date dd/mm/yyyy]*** (set out in Framework Schedule 14 (Tender)) (the “**Tender**”) through which it represented to the Authority that it is capable of delivering the Goods and/or Services in accordance with the Authority's requirements as set out in the Invitation to Tender and, in particular, the Supplier made representations to the Authority in the Tender in relation to its competence, professionalism and ability to provide the Goods and/or Services in an efficient and cost effective manner.
5. On the basis of the Tender, the Authority selected the Supplier to enter into a framework agreement to provide the Goods and/or Services to Contracting Authorities from time to time on a call off basis in accordance with this Framework Agreement.
6. It is the Parties' intention that there will be no obligation for any Contracting Authority to award any Call Off Agreements under this Framework Agreement during the Framework Period.
7. DEFINITIONS AND INTERPRETATION
	1. Definitions
		1. In this Framework Agreement, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Framework Schedule 1 (Definitions) or the relevant Framework Schedule in which that capitalised expression appears.
		2. If a capitalised expression does not have an interpretation in Framework Schedule 1 (Definitions) or the relevant Framework Schedule, it shall have the meaning given to it in this Framework Agreement. If no meaning is given to it in this Framework Agreement, it shall in the first instance be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
	2. Interpretation
		1. In this Framework Agreement, unless the context otherwise requires:
			1. the singular includes the plural and vice versa;
			2. reference to a gender includes the other gender and the neuter;
			3. references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
			4. a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
			5. the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
			6. references to “**writing**” include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form and expressions referring to writing shall be construed accordingly;
			7. references to “**representations**” shall be construed as references to present facts; to “**warranties**” as references to present and future facts; and to “**undertakings**” as references to obligations under this Framework Agreement;
			8. references to “**Clauses**” and “**Framework Schedules**” are, unless otherwise provided, references to the clauses and schedules of this Framework Agreement and references in any Framework Schedule to paragraphs, parts, annexes and tables are, unless otherwise provided, references to the paragraphs, parts, annexes and tables of the Framework Schedule or the part of the Framework Schedule in which the references appear;
			9. any reference to this Framework Agreement includes Framework Schedule 1 (Definitions) and the Framework Schedules; and
			10. the headings in this Framework Agreement are for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement.
		2. Subject to Clauses 1.2.3 and 1.2.4, in the event and to the extent only of a conflict between any of the provisions of this Framework Agreement, the conflict shall be resolved, in accordance with the following descending order of precedence:
			1. the Clauses and Framework Schedule 1 (Definitions);
			2. Framework Schedules 1 to 13 inclusive;
			3. Framework Schedule 14 (Tender).
		3. Where Framework Schedule 14 (Tender) contains provisions which are more favourable to the Authority in relation to the rest of the Framework Agreement, such provisions of the Tender shall prevail. The Authority shall in its absolute and sole discretion determine whether any provision in the Tender is more favourable to it in relation to this Framework Agreement.
8. DUE DILIGENCE

The Supplier acknowledges that:

* + 1. the Authority has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance or its obligations under this Framework Agreement;
		2. it has made its own enquiries to satisfy itself as to the accuracy of the Due Diligence Information;
		3. it has raised all relevant due diligence questions with the Authority before the Framework Commencement Date, has undertaken all necessary due diligence and has entered into this Call Off Contract in reliance on its own due diligence alone;
		4. it shall not be excused from the performance of any of its obligations under this Framework Agreement on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges, arising as a result of any:
			1. misrepresentation of the requirements of the Supplier in the Invitation to Tender or elsewhere;
			2. failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information; and/or
			3. failure by the Supplier to undertake its own due diligence.
1. SUPPLIER’S APPOINTMENT

The Authority hereby appoints the Supplier as a potential provider of the Goods and/or Services.

In consideration of the Supplier agreeing to enter into this Framework Agreement and to perform its obligations under it the Authority agrees to pay and the Supplier agrees to accept on the signing of this Framework Agreement the sum of one pound (£1.00) sterling (receipt of which is hereby acknowledged by the Supplier).

1. SCOPE OF FRAMEWORK AGREEMENT

Without prejudice to Clause 45 (Third Party Rights), this Framework Agreement governs the relationship between the Authority and the Supplier in respect of the provision of the Goods and/or Services by the Supplier.

The Supplier acknowledges and agrees that:

* + 1. there is no obligation whatsoever on the Authority or on any Other Contracting Authority to invite or select the Supplier to provide any Goods and/or Services and/or to purchase any Goods and/or Services under this Framework Agreement and
		2. in entering into this Framework Agreement no form of volume or value guarantee granted by the Authority and/or Other Contracting Authorities in relation to the provision of the Goods and/or Services by the Supplier and that the Authority and Other Contracting Authorities are at all times entitled to enter into other contracts and agreements with other Supplier’s for the provision of any or all goods and/or services which are the same as or similar to the Goods and/or Services.

In the event that any Other Contracting Authority makes an approach to the Supplier with a request for the supply of Equivalent Goods and/or Services, the Supplier shall promptly and in any event within five (5) Working Days of the request by the Other Contracting Authority, and before any supply of Equivalent Goods and/or Services is made, inform such Other Contracting Authority of the existence of this Framework and the Other Contracting Authority’s ability to award Call Off Agreements for Goods and/or Services pursuant to this Framework Agreement.

1. CALL OFF PROCEDURE

If the Authority or any Other Contracting Authority decides to source any of the Goods and/or Services through this Framework Agreement, then it shall be entitled at any time in its absolute and sole discretion during the Framework Period.

1. ASSISTANCE IN RELATED PROCUREMENTS – NOT USED
2. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants that:

* + 1. it has full capacity and authority to enter into and to perform this Framework Agreement;
		2. this Framework Agreement is executed by its duly authorised representative;
		3. there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the Supplier, any of its Affiliates) that might affect its ability to perform its obligations under this Framework Agreement; and
		4. its obligations under this Framework Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each Party) bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors’ rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law).

The Supplier represents and warrants that:

* + 1. it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
		2. it has obtained and will maintain all licences, authorisations, permits, necessary consents (including, where its procedures so require, the consent of its Parent Company) and regulatory approvals to enter into and perform its obligations under this Framework Agreement;
		3. it has not committed or agreed to commit a Prohibited Act and has no knowledge that an agreement has been reached involving the committal by it or any of its Affiliates of a Prohibited Act, save where details of any such arrangement have been disclosed in writing to the Authority before the Framework Commencement Date;
		4. its execution, delivery and performance of its obligations under this Framework Agreement does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a breach of any agreement by which it is bound;
		5. as at the Framework Commencement Date, all written statements and representations in any written submissions made by the Supplier as part of the procurement process, its Tender, and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Framework Agreement;
		6. if the Charges payable under this Framework Agreement exceed or are likely to exceed five (5) million pounds, as at the Framework Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in connection with any Occasions of Tax Non Compliance;
		7. it has and shall continue to have all necessary Intellectual Property Rights including in and to any materials made available by the Supplier (and/or any Sub-Contractor) to the Authority which are necessaryfor the performance of the Supplier’s obligations under this Framework Agreement;
		8. it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or Trojans, spyware or other malware) into systems, data, software or the Authority’s Confidential Information (held in electronic form) owned by or under the control of, or used by, the Authority and/or Other Contracting Authorities.
		9. it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Framework Agreement;
		10. it is not affected by an Insolvency Event and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, have been or 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;
		11. for the duration of this Framework Agreement and for a period of twelve (12) Months after the termination or expiry of this Framework Agreement the Supplier shall not employ or offer employment to any staff of the Authority or the staff of any Contracting Authority who has been associated with the procurement and/or provision of the Goods and/or Services without Approval or the prior written consent of the relevant Contracting Authority which shall not be unreasonably withheld; and
		12. in performing its obligations under this Framework Agreement the Supplier shall not (to the extent possible in the circumstances) discriminate between Contracting Authorities on the basis of their respective sizes.

Each of the representations and warranties set out in Clauses 7.1 and 7.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in this Framework Agreement.

If at any time a Party becomes aware that a representation or warranty given by it under Clauses 7.1 and 7.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.

For the avoidance of doubt, the fact that any provision within this Framework Agreement is expressed as a warranty shall not preclude any right of termination the Authority may have in respect of the breach of that provision by the Supplier which constitutes a material Default of this Framework Agreement.

1. GUARANTEE – NOT USED
2. CYBER ESSENTIALS SCHEME CONDITION

Where the Authority has notified the Supplier that the award of this Framework Agreement is conditional upon receipt of a valid Cyber Essentials Scheme Basic Certificate and ISO27001 accreditation, then on or prior to the execution of the Framework Agreement, as a condition for the award of this Framework Agreement, the Supplier must have delivered to the Authority evidence of the same.

Where the Supplier continues to Process Cyber Essentials Scheme Data during the Framework Period the Supplier shall deliver to the Authority evidence of renewal of a valid Cyber Essentials Scheme Basic Certificate and ISO27001 accreditation on each anniversary of the first applicable certificate obtained by the Supplier under Clause 9.1.

In the event that the Supplier fails to comply with Clauses 9.2, the Authority reserves the right to terminate this Framework Agreement for material Default.

1. FRAMEWORK PERIOD

This Framework Agreement shall take effect on the Framework Commencement Date and shall expire, unless it is terminated earlier in accordance with the terms of this Framework Agreement or otherwise by operation of Law at the end of the Initial Framework Period.

1. FRAMEWORK AGREEMENT PERFORMANCE

The Supplier shall perform its obligations under this Framework Agreement in accordance with:

* + 1. the requirements of this Framework Agreement, including Framework Schedule 5 (Framework Management);
		2. Good Industry Practice;
		3. all applicable Standards; and
		4. in compliance with all applicable Law.

The Supplier shall bring to the attention of the Authority any conflict between any of the requirements of Clause 11.1 and shall comply with the Authority's decision on the resolution of any such conflict.

1. KEY PERFORMANCE INDICATORS

The Supplier shall at all times during the Framework Period comply with the Key Performance Indicators and achieve the KPI Targets set out in Part B of Framework Schedule 2 (Goods and/or Services and Key Performance Indicators).

1. STANDARDS

The Supplier shall comply with the Standards at all times during the performance by the Supplier of the Framework Agreement including any Standards set out in Part A of Framework Schedule 2 (Goods and/or Services and Key Performance Indicators).

Throughout the Framework Period, the Parties shall notify each other of any new or emergent standards which could affect the Supplier’s provision of the Goods and/or Services. The adoption of any such new or emergent standard, or changes to existing Standards, shall be agreed in accordance with the Variation Procedure.

Where a new or emergent standard is to be developed or introduced by the Authority, the Supplier shall be responsible for ensuring that the potential impact on the Supplier’s provision of the Goods and/or Services is explained to the Authority and the Contracting Authority (within a reasonable timeframe), prior to the implementation of the new or emergent Standard.

Where Standards referenced conflict with each other or with best professional or industry practice adopted after the Framework Commencement Date, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard(s) shall require Approval and shall be implemented within an agreed timescale.

Where a standard, policy or document is referred to in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators) by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Authority and the Parties shall agree the impact of such change.

1. MINIMUM STANDARDS OF RELIABILITY – NOT USED
2. CONTINUOUS IMPROVEMENT

The Supplier shall at all times during the Framework Period comply with its obligations to continually improve the Goods and/or Services and the manner in which it provides the Goods and/or Services as set out in Framework Schedule 12 (Continuous Improvement and Benchmarking).

1. CALL OFF PERFORMANCE – NOT USED
2. FRAMEWORK AGREEMENT MANAGEMENT

The Parties shall manage this Framework Agreement in accordance with Framework Schedule 8 (Framework Management).

1. RECORDS, AUDIT ACCESS AND OPEN BOOK DATA

The Supplier shall keep and maintain, until the later of:

* + 1. seven (7) years after the date of termination or expiry of this Framework Agreement; or
		2. seven (7) years after the date of termination or expiry of the last Call Off Agreement to expire or terminate; or
		3. such other date as may be agreed between the Parties,

full and accurate records and accounts of the operation of this Framework Agreement, including the Goods and/or Services provided, and the amounts paid by each Contracting Authority and those supporting tests and evidence that underpin the provision of the annual Self Audit Certificate and supporting Audit Report.

The Supplier shall keep the records and accounts referred to in Clause 18.1 in accordance with Good Industry Practice and Law.

The Supplier shall provide the Authority with a completed and signed annual Self Audit Certificate in respect of each Contract Year. Each Self Audit Certificate shall be completed and signed by an authorised senior member of the Supplier’s management team or by the Supplier’s external auditor and the signatory must be professionally qualified in a relevant audit or financial discipline.

Each Self Audit Certificate should be based on tests completed against a representative sample of 10% of transactions carried out during the period of being audited or 100 transactions (whichever is less) and should provide assurance that:

* + 1. Orders are clearly identified as such in the order processing and invoicing systems and, where required, Orders are correctly reported in the MI Reports;
		2. all related invoices are completely and accurately included in the MI Reports;
		3. all Charges to Contracting Authorities comply with any requirements under this Framework Agreement.

Each Self Audit Certificate should be supported by an Audit Report that provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.

The Supplier shall afford any Auditor access to the records and accounts referred to in Clause 18.1 at the Supplier’s premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Auditors from time to time, in order that the Auditor may carry out an inspection to assess compliance by the Supplier and/or its Sub-Contractors of any of the Supplier’s obligations under this Framework Agreement, including in order to:

* + 1. verify the accuracy of the Charges and any other amounts payable by a Contracting Authority;
		2. verify the costs of the Supplier (including the costs of all Sub-Contractors and any third party Supplier’s) in connection with the provision of the Services;
		3. verify the Open Book Data;
		4. verify the Supplier’s and each Sub-Contractor’s compliance with the applicable Law;
		5. identify or investigate actual or suspected Prohibited Acts, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
		6. identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Sub-Contractors or their ability to perform the Services;
		7. obtain such information as is necessary to fulfil the Authority’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
		8. review any books of account and the internal contract management accounts kept by the Supplier in connection with this Framework Agreement;
		9. carry out the Authority’s internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
		10. enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
		11. verify the accuracy and completeness of any Management Information delivered or required by this Framework Agreement;
		12. review any MI Reports and/or other records relating to the Supplier’s performance of the Services and to verify that these reflect the Supplier’s own internal reports and records;
		13. review the integrity, confidentiality and security of the Authority Personal Data; and/or
		14. receive from the Supplier on request summaries of all central government public sector expenditure placed with the Supplier including through routes outside the Framework in order to verify that the Supplier’s practice is consistent with the Government’s transparency agenda which requires all public sector bodies to publish details of expenditure on common goods and services.

The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Supplier or delay the provision of the Goods and/or Services, save insofar as the Supplier accepts and acknowledges that control over the conduct of Audits carried out by the Auditors is outside of the control of the Authority.

Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Auditors with all reasonable co-operation and assistance in relation to each Audit, including by providing:

* + 1. all information within the scope of the Audit requested by the Auditor;
		2. reasonable access to any sites controlled by the Supplier and to equipment used in the provision of the Goods and/or Services; and
		3. access to the Supplier Personnel.

If an Audit reveals that:

* + 1. a material Default has been committed by the Supplier;

 then the Authority shall be entitled to terminate this Framework Agreement.

The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause, save as specified in Clause 18.9.

1. CHANGE
	1. Variation Procedure
		1. Subject to the provisions of this Clause 19.1 and, in respect of any change to the Framework Prices, subject to the provisions of Framework Schedule 3 (Framework Prices and Charging Structure), the Authority may, at its own instance or where in its sole and absolute discretion it decides to having been requested to do so by the Supplier, request a variation to this Framework Agreement provided always that such variation does not amount to a material change of this Framework Agreement within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a **"Variation**".
		2. The Authority may request a Variation by completing, signing and sending the Variation Form as set out in Framework Schedule 19 (Variation Form) to the Supplier giving sufficient information for the Supplier to assess the extent of the proposed Variation and any additional cost that may be incurred.
		3. The Supplier shall respond to the Authority’s request pursuant to Clause 19.1.2 within the time limits specified in the Variation Form. Such time limits shall be reasonable and ultimately at the discretion of the Authority having regard to the nature of the proposed Variation.
		4. In the event that:
			1. the Supplier is unable to agree to or provide the Variation;
			2. the Authority may:
				1. agree to continue to perform its obligations under this Framework Agreement without the Variation; or
				2. terminate this Framework Agreement with immediate effect.
	2. Legislative Change
		1. The Supplier shall neither be relieved of its obligations under this Framework Agreement nor be entitled to an increase in the Framework Prices as the result of:
			1. a General Change in Law; or
			2. a Specific Change in Law where the effect of that Specific Change in Law on the Goods and/or Services is reasonably foreseeable at the Framework Commencement Date.
		2. If a Specific Change in Law occurs or will occur during the Framework Period (other than as referred to in Clause 19.2.1(b)), the Supplier shall:
			1. notify the Authority as soon as reasonably practicable of the likely effects of that change including whether any Variation is required to the Goods and/or Services, the Framework Prices or this Framework Agreement; and
			2. provide the Authority with evidence:
				1. that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors;
				2. as to how the Specific Change in Law has affected the cost of providing the Goods and/or Services; and
				3. demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Framework Schedule 12 (Continuous Improvement and Benchmarking), has been taken into account in amending the Framework Prices.
		3. Any change in the Framework Prices or relief from the Supplier’s obligations resulting from a Specific Change in Law (other than as referred to in Clause 19.2.1(b) shall be implemented in accordance with Clause 19.1(Variation Procedure).
2. MANAGEMENT CHARGE – NOT USED
3. PROMOTING TAX COMPLIANCE

 This Clause 21 shall apply if the Charges payable under this Framework Agreement are or are likely to exceed five (5) million pounds during the Framework Period.

If, at any point during the Framework Period, an Occasion of Tax Non-Compliance occurs, 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:
			1. details of the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance, together with any mitigating factors that it considers relevant; and
			2. such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

In the event that the Supplier fails to comply with this Clause 21 and/or does not provide details of proposed mitigating factors which in the reasonable opinion of the Authority are acceptable, then the Authority reserves the right to terminate this Framework Agreement for material Default.

1. BENCHMARKING

The Parties shall comply with the provisions of Framework Schedule 12 (Continuous Improvement and Benchmarking) in relation to the benchmarking of any or all of the Goods and/or Services.

1. FINANCIAL DISTRESS – NOT USED
2. STAFF TRANSFER – NOT USED
3. SUPPLY CHAIN RIGHTS AND PROTECTION
	1. Appointment of Key Sub-Contractors
		1. The Authority has consented to the engagement of the Key Sub-Contractors listed in Framework Schedule 7 (Key Sub-Contractors).
		2. Where during the Framework Period the Supplier wishes to enter into a new Key Sub-Contract or replace a Key Sub-Contractor, it must obtain the prior written consent of the Authority and shall at the time of requesting such consent, provide the Authority with the information detailed in Clause 25.1.3. The decision of the Authority to consent or not will not be unreasonably withheld or delayed. The Authority and/or the Contracting Authority may reasonably withhold their consent to the appointment of a Key Sub-Contractor if either of them considers that:
			1. the appointment of a proposed Key Sub-Contractor may prejudice the provision of the Goods and/or Services or may be contrary to its interests;
			2. the proposed Key Sub-Contractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
			3. the proposed Key Sub-Contractor employs unfit persons.
		3. The Supplier shall provide the Authority with the following information in respect of the proposed Key Sub-Contractor:
			1. the proposed Key Sub-Contractor’s name, registered office and company registration number;
			2. the scope/description of any Goods and/or Services to be provided by the proposed Key Sub-Contractor;
			3. where the proposed Key Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Key Sub-Contract has been agreed on "arm’s-length" terms; and
			4. Credit Rating Threshold (as defined in Framework Schedule 16 (Financial Distress)) of the Key Sub-Contractor.
		4. If requested by the Authority, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Clause 25.1.3, the Supplier shall also provide:
			1. a copy of the proposed Key Sub-Contract; and
			2. any further information reasonably requested by the Authority and/or the Contracting Authority with whom the Supplier has entered into a Call Off Agreement.
		5. The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
			1. provisions which will enable the Supplier to discharge its obligations under this Framework Agreement;
			2. a right under CRTPA for the Authority to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Authority;
			3. a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Authority;
			4. obligations no less onerous on the Key Sub-Contractor than those imposed on the Supplier under this Framework Agreement in respect of:
				1. the data protection requirements set out in Clause 27.5 (Protection of Personal Data);
				2. the FOIA requirements set out in Clause 27.4 (Freedom of Information);
				3. the obligation not to embarrass the Authority or otherwise bring the Authority into disrepute set out in Clause 28 (Publicity and Branding);
				4. the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
				5. the conduct of audits set out in Clause 18 (Records, Audit Access and Open Book Data);
			5. provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Authority under Clauses 33 (Authority Termination Rights) and 35 (Consequences of Expiry or Termination) of this Framework Agreement;
			6. a provision restricting the ability of the Key Sub-Contractor to Sub-Contract all or any part of the provision of the Goods and/or Services provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Authority;
	2. Supply Chain Protection
		1. The Supplier shall ensure that all Sub-Contracts contain a provision:
			1. requiring the Supplier to pay any undisputed sums which are due from the Supplier to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice;
			2. requiring that any invoices submitted by a Sub-Contractor shall be considered and verified by the Supplier in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
			3. requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards suitable provisions to impose, as between the parties to that Sub-Contract, requirements to the same effect as those required by sub-clauses (a) and (b) above; and
			4. conferring a right to the Authority to publish the Supplier’s compliance with its obligation to pay undisputed invoices within the specified payment period.
		2. The Supplier shall ensure that all Sub-Contracts with Sub-Contractors who Process Cyber Essentials / ISO 27001 Data contain provisions no less onerous on the Sub-Contractors than those imposed on the Supplier under this Framework Agreement in respect of the Cyber Essentials Scheme / ISO 27001 under Clause 9.
		3. The Supplier shall pay any undisputed sums which are due from the Supplier to a Sub-Contractor within thirty (30) days from the receipt of a valid invoice.
		4. Any invoices submitted by a Sub-Contractor to the Supplier shall be considered and verified by the Supplier in a timely fashion. Undue delay in doing so shall not be sufficient justification for the Supplier failing to regard an invoice as valid and undisputed.
		5. Notwithstanding any provision of Clauses 27.2 (Confidentiality) and 28 (Publicity and Branding) if the Supplier notifies the Authority that the Supplier has failed to pay an undisputed Sub-Contractor’s invoice within thirty (30) days of receipt, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late payment or non-payment (including on government websites and in the press).
	3. Termination of Sub-Contracts
		1. The Authority may require the Supplier to terminate:
			1. a Sub-Contract where:
				1. the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Authority's right of termination pursuant to any of the termination events in Clause 33 (Authority Termination Rights) except Clause 33.7 (Termination Without Cause); and/or
				2. the relevant Sub-Contractor or its Affiliates embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-Contractor’s obligations in relation to the Goods and/or Services or otherwise; and/or
			2. a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:
				1. the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
				2. the Authority has not served its notice of objection within six (6) Months of the later of the date the Change of Control took place or the date on which the Authority was given notice of the Change of Control.
		2. Where the Authority requires the Supplier to terminate a Sub-Contract or a Key Sub-Contract pursuant to Clause 25.3.1 above, the Supplier shall remain responsible for fulfilling all its obligations under this Framework Agreement including the provision of the Goods and/or Services.
	4. Competitive Terms
		1. If the Authority is able to obtain from any Sub-Contractor or any other third party more favourable commercial terms with respect to the supply of any materials, equipment, software, goods or services used by the Supplier or the Supplier Personnel in the supply of the Goods and/or Services, then the Authority may:
			1. require the Supplier to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Authority in respect of the relevant item; or
			2. subject to Clause 25.3 (Termination of Sub-Contracts), enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.
		2. If the Authority exercises either option pursuant to Clause 25.4.1, then the Framework Prices shall be reduced by an amount that is agreed in accordance with Clause 19.1 (Variation Procedure).
	5. Retention of Legal Obligations
		1. Notwithstanding the Supplier’s right to sub-contract pursuant to this Clause 25.5, the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.
4. INTELLECTUAL PROPERTY RIGHTS
	1. Allocation of title to IPR
		1. Save as granted under this Framework Agreement, neither Party shall acquire any right, title or interest in or to the Intellectual Property Rights of the other Party.
		2. Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 26.1.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).
		3. Subject to Clauses 26.1.4, neither Party shall have any right to use any of the other Party's names, logos or trademarks on any of its products or services without the other Party's prior written consent.
		4. Subject to full compliance with the Branding Guidance, the Supplier shall be entitled to use the Authority’s logo exclusively in connection with the provision of the Goods and/or Services during the Framework Period and for no other purpose.
	2. IPR Indemnity
		1. The Supplier shall ensure and procure that the availability, provision and use of the Goods and/or Services and the performance of the Supplier’s responsibilities and obligations hereunder shall not infringe any Intellectual Property Rights of any third party.
		2. The Supplier shall, during and after the Framework Period, on written demand, indemnify the Authority against all Losses incurred by, awarded against, or agreed to be paid by the Authority (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.
		3. If an IPR Claim is made, or the Supplier anticipates that an IPR Claim might be made, the Supplier may, at its own expense and sole option, either:
			1. procure for the Authority the right to continue using the relevant item which is subject to the IPR Claim; or
			2. replace or modify the relevant item with non-infringing substitutes provided that:
				1. the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
				2. the replaced or modified item does not have an adverse effect on any other Goods and/or Services;
				3. there is no additional cost to the Authority; and
				4. the terms and conditions of this Framework Agreement shall apply to the replaced or modified Goods and/or Services.
		4. If the Supplier elects to procure a licence in accordance with Clause 26.2.3(a) or to modify or replace an item pursuant to Clause 26.2.3(b), but this has not avoided or resolved the IPR Claim, then:
			1. the Authority may terminate this Framework Agreement by written notice with immediate effect; and
			2. without prejudice to the indemnity set out in Clause 26.2.2, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute items and/or services including the additional costs of procuring, implementing and maintaining the substitute items.
5. PROVISION AND PROTECTION OF INFORMATION
	1. Provision of Management Information – Not Used
	2. Confidentiality
		1. For the purposes of this Clause 27.2, the term **“Disclosing Party”** shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and **“Recipient”** shall mean the Party which receives or obtains directly or indirectly Confidential Information.
		2. Except to the extent set out in this Clause 27.2 or where disclosure is expressly permitted elsewhere in this Framework Agreement, the Recipient shall:
			1. treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials); and
			2. not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Framework Agreement or without obtaining the Disclosing Party's prior written consent;
			3. not use or exploit the Disclosing Party’s Confidential Information in any way except for the purposes anticipated under this Framework Agreement; and
			4. immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party’s Confidential Information.
		3. The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
			1. the Recipient is required to disclose the Confidential Information by Law, provided that Clause 27.4 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;
			2. the need for such disclosure arises out of or in connection with:
				1. any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Framework Agreement;
				2. the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of its resources; or
				3. the conduct of a Central Government Body review in respect of this Framework Agreement; or
			3. the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.
		4. If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
		5. Subject to Clauses 27.2.2 and 27.2.3, the Supplier may only disclose the Confidential Information of the Authority on a confidential basis to:
			1. Supplier Personnel who are directly involved in the provision of theGoods and/or Services and need to know the Confidential Information to enable the performance of the Supplier’s obligations under this Framework Agreement; and
			2. its professional advisers for the purposes of obtaining advice in relation to this Framework Agreement.
		6. Where the Supplier discloses the Confidential Information of the Authority pursuant to Clause 27.2.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Framework Agreement by the persons to whom disclosure has been made.
		7. The Authority may disclose the Confidential Information of the Supplier:
			1. to any Central Government Body or Other Contracting Authority on the basis that the information may only be further disclosed to Central Government Bodies or Other Contracting Authorities;
			2. to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
			3. to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
			4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 27.2.7(a) (including any benchmarking organisation) for any purpose relating to or connected with this Framework Agreement;
			5. on a confidential basis for the purpose of the exercise of its rights under this Framework Agreement; or
			6. to a proposed Transferee, assignee or novatee of, or successor in title to the Authority,
			7. and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 27.2.7.
		8. For the avoidance of doubt, the Confidential Information that the Authority may disclose under Clause 27.2.7 shall include information relating to Call Off Agreements, including service levels, pricing information (which includes information on prices tendered in a Further Competition Procedure, even where such a Further Competition Procedure does not result in the award of a Call Off Agreement) and the terms of any Call Off Agreement may be shared with any Central Government Body or Other Contracting Authority from time to time.
		9. Nothing in this Clause 27.2 shall prevent a Recipient from using any techniques, ideas or Know-How which the Recipient has gained during the performance of this Framework Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party’s Confidential Information or an infringement of Intellectual Property Rights.
		10. In the event that the Supplier fails to comply with Clauses 27.2.2 to 27.2.5, the Authority reserves the right to terminate this Framework Agreement for material Default.
	3. Transparency
		1. The Parties acknowledge and agree that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Framework Agreement and any Transparency Reports under it is not Confidential Information and shall be made available in accordance with the procurement policy note 13/15 <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/458554/Procurement_Policy_Note_13_15.pdf> and the Transparency Principles referred to therein. The Authority shall determine whether any of the content of this Framework Agreement is exempt from disclosure in accordance with the provisions of the FOIA. The Authority may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
		2. Notwithstanding any other provision of this Framework Agreement, the Supplier hereby gives its consent for the Authority to publish this Framework Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Framework Agreement agreed from time to time.
		3. The Supplier acknowledges and agrees that publication of this Framework Agreement will include the publication of the name and contact details of the Supplier Representative (including its successors). Such details will not be redacted.
		4. By executing this Framework Agreement, the Supplier confirms that it has obtained the Supplier Representative’s consent and shall, prior to the appointment of any successor Supplier Representative obtain the successor’s consent, permitting the publication of their name and contact details under this Clause 27.3 or otherwise, the Supplier shall take all necessary steps to ensure that publication will not cause the Authority, a Contracting Authority or the Supplier to breach the Data Protection Act 1998.
		5. The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Framework Agreement.
	4. Freedom of Information
		1. The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Supplier shall:
			1. provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its Information disclosure obligations under the FOIA and EIRs;
			2. transfer to the Authority all Requests for Information relating to this Framework Agreement that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
			3. provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in the Supplier’s possession or control in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and
			4. not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
		2. The Supplier acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Authority shall take reasonable steps to notify the Supplier of a Request for Information (in accordance with the Secretary of State’s Section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Framework Agreement) for the purpose of this Framework Agreement, the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.
	5. Protection of Personal Data
		1. Where any Personal Data are Processed in connection with the exercise of the Parties’ rights and obligations under this Framework Agreement, the Parties acknowledge that the Authority is the Data Controller and that the Supplier is the Data Processor.
		2. The Supplier shall:
			1. Process the Personal Data only in accordance with instructions from the Authority to perform its obligations under this Framework Agreement;
			2. ensure that at all times it has in place appropriate technical and organisational measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction, or damage to the Personal Data;
			3. not disclose or transfer the Personal Data to any third party or Supplier Personnel unless necessary for the provision of the Goods and/or Services and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the Authority (save where such disclosure or transfer is specifically authorised under this Framework Agreement);
			4. take reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:
				1. are aware of and comply with the Supplier’s duties under this Clause 27.5.2 and Clause 27.2 (Confidentiality);
				2. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Framework Agreement; and
				3. have undergone adequate training in the use, care, protection and handling of personal data (as defined in the DPA);
			5. notify the Authority within five (5) Working Days if it receives:
				1. from a Data Subject (or third party on their behalf) a Data Subject Access Request (or purported Data Subject Access Request), a request to rectify, block or erase any Personal Data or any other request, complaint or communication relating to the Authority's obligations under the DPA;
				2. any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data; or
				3. a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
			6. provide the Authority with full cooperation and assistance (within the timescales reasonably required by the Authority) in relation to any complaint, communication or request made (as referred to at Clause 27.5.2(e), including by promptly providing:
				1. the Authority with full details and copies of the complaint, communication or request;
				2. where applicable, such assistance as is reasonably requested by the Authority to enable the Authority to comply with the Data Subject Access Request within the relevant timescales set out in the DPA; and
				3. the Authority, on request by the Authority, with any Personal Data it holds in relation to a Data Subject; and
			7. if requested by the Authority, provide a written description of the measures that the Supplier has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to this Clause 27.5.2  and provide to the Authority copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals.
		3. The Supplier shall not Process or otherwise transfer any Personal Data in or to any country outside the European Economic Area or any country which is not determined to be adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC (together “**Restricted Countries**”). If, after the Framework Commencement Date, the Supplier or any Sub-Contractor wishes to Process and/or transfer any Personal Data in or to anywhere outside the European Economic Area, the following provisions shall apply:
			1. the Supplier shall propose a variation to the Authority which, if it is agreed by the Authority, shall be dealt with in accordance with Clause 19.1 (Variation Procedure) and Clauses 27.5.3(b) to 27.5.3(d);
			2. the Supplier shall set out in its proposal to the Authority for a Variation, details of the following:
				1. the Personal Data which will be transferred to and/or Processed in or to any Restricted Countries;
				2. the Restricted Countries to which the Personal Data will be transferred and/or Processed; and
				3. any Sub-Contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries;
				4. how the Supplier will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Authority’s compliance with the DPA;
			3. in providing and evaluating the Variation, the Parties shall ensure that they have regard to and comply with the Authority, Central Government Bodies and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing in and/or transfers of Personal Data to any Restricted Countries; and
			4. the Supplier shall comply with such other instructions and shall carry out such other actions as the Authority may notify in writing, including:
				1. incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the DPA) into this Framework Agreement or a separate data processing agreement between the Parties; and
				2. procuring that any Sub-Contractor or other third party who will be Processing and/or receiving or accessing the Personal Data in any Restricted Countries either enters into:

a direct data processing agreement with the Authority on such terms as may be required by the Authority; or

a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Authority and the Supplier relating to the relevant Personal Data transfer,

and the Supplier acknowledges that in each case, this may include the incorporation of model contract provisions (which are approved by the European Commission as offering adequate safeguards under the DPA) and technical and organisation measures which the Authority deems necessary for the purpose of protecting Personal Data.

* + 1. The Supplier shall use its reasonable endeavours to assist the Authority to comply with any obligations under the DPA and shall not perform its obligations under this Framework Agreement in such a way as to cause the Authority to breach any of the Authority’s obligations under the DPA to the extent the Supplier is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.
1. PUBLICITY AND BRANDING

Subject to Clause 29 (Marketing), the Supplier shall not:

* + 1. make any press announcements or publicise this Framework Agreement in any way; or
		2. use the Authority's name or brand in any promotion or marketing or announcement of Orders,

without Approval (the decision of the Authority to Approve or not shall not be unreasonably withheld or delayed).

Each Party acknowledges to the other that nothing in this Framework Agreement either expressly or by implication constitutes an approval and/or endorsement of any products or services of the other Party (including the Goods and/or Services) and each Party agrees not to conduct itself in such a way as to imply or express any such approval and/or endorsement.

The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation upon the Authority, including any examination of this Framework Agreement by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

1. MARKETING

The Supplier shall undertake marketing of this Framework Agreement and the Goods and/or Services on behalf of the Authority to Other Contracting Authorities in accordance with the provisions of Framework Schedule 11 (Marketing).

The Supplier shall obtain the Authority's Approval prior to publishing any content in relation to this Framework Agreement using any media, including on any electronic medium, and the Supplier will ensure that such content is regularly maintained and updated. In the event that the Supplier fails to maintain or update the content, the Authority may give the Supplier notice to rectify the failure and if the failure is not rectified to the reasonable satisfaction of the Authority within one (1) Month of receipt of such notice, the Authority shall have the right to remove such content itself or require that the Supplier immediately arranges the removal of such content.

1. LIABILITY

Neither Party excludes or limits its liability for:

* + 1. death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
		2. bribery or Fraud by it or its employees; or
		3. any liability to the extent it cannot be excluded or limited by Law.

The Supplier does not exclude or limit its liability in respect of the indemnity in Clause 26.2 (IPR Indemnity) and in each case whether before or after the making of a demand pursuant to the indemnity therein.

Subject to Clause 30.1, neither Party shall be liable to the other Party for any:

* + 1. indirect, special or consequential Loss;
		2. loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

Subject to Clause 30.3, and notwithstanding Clause 30.4, the Supplier acknowledges that the Authority may, amongst other things, recover from the Supplier the following Losses incurred by the Authority to the extent that they arise as a result of a Default by the Supplier:

* + 1. any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
		2. any wasted expenditure or charges;
		3. the additional cost of procuring Replacement Goods and/or Services for the remainder of the Framework Period, which shall include any incremental costs associated with such Replacement Goods and/or Services above those which would have been payable under this Framework Agreement;
		4. any compensation or interest paid to a third party by the Authority;
		5. any fine, penalty or costs incurred by the Authority pursuant to Law.

Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Framework Agreement.

1. INSURANCE

The Supplier shall effect and maintain insurances in relation to the performance of its obligations under this Framework Agreement and shall procure that Sub-Contractor’s shall effect and maintain insurances in relation to the performance of their obligations under any Sub-Contract, in accordance with Schedule 14 (Insurance Requirements).

The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities arising under this Framework Agreement.

1. AUTHORITY REMEDIES

Without prejudice to any other rights or remedies arising under this Framework Agreement, including under Clause 33.2 (Termination on Material Default), if the Supplier fails to achieve a KPI Target on two or more occasions within any twelve (12) Month rolling period, the Supplier acknowledges and agrees that the Authority shall have the right to exercise (in its absolute and sole discretion) all or any of the following remedial actions:

* + 1. The Authority shall be entitled to require the Supplier, and the Supplier agrees to prepare and provide to the Authority, an Improvement Plan within ten (10) Working Days of a written request by the Authority for such Improvement Plan. Such Improvement Plan shall be subject to Approval and the Supplier will be required to implement any Approved Improvement Plan, as soon as reasonably practicable.
		2. The Authority shall be entitled to require the Supplier, and the Supplier agrees to attend, within a reasonable time one (1) or more meetings at the request of the Authority in order to resolve the issues raised by the Authority in its notice to the Supplier requesting such meetings.
		3. The Authority shall be entitled to serve an Improvement Notice on the Supplier and the Supplier shall implement such requirements for improvement as set out in the Improvement Notice.
		4. In the event that the Authority has, in its absolute and sole discretion, invoked one or more of the remedies set out above and the Supplier either:
			1. fails to implement such requirements for improvement as set out in the Improvement Notice; and/or
			2. fails to implement an Improvement Plan Approved by the Authority;

then (without prejudice to any other rights and remedies of termination provided for in this Framework Agreement), the Authority shall be entitled to terminate this Framework Agreement for material Default.

1. AUTHORITY TERMINATION RIGHTS
	1. Termination in Relation To Guarantee – Not Used
	2. Termination on Material Default
		1. The Authority may terminate this Framework Agreement for material Default by issuing a Termination Notice to the Supplier where:
			1. the Authority conducts an assessment pursuant to Clause 14.2 and concludes that the Supplier has not demonstrated that it meets the Minimum Standards of Reliability;
			2. the Supplier refuses or fails to comply with its obligations as set out in Framework Schedule 12 (Continuous Improvement and Benchmarking);
			3. in the event of two or more failures by the Supplier to meet the KPI Targets whether the failures relate to the same or different KPI targets, in any rolling period of three (3) Months;
			4. the Authority expressly reserves the right to terminate this Framework Agreement for material Default including pursuant to:
				1. Clause 9.4 (Cyber Essentials Scheme Condition & ISO27001)
				2. Clause 19.1.4(c)(ii) (Variation Procedure);
				3. Clause 32.1.4 (Authority Remedies);
				4. Clause 27.2.10 (Confidentiality);
				5. Clause 40.6.2 (Prevention of Fraud and Bribery);
				6. Clause 36.1.2 (Compliance with the Law);
				7. Clause  41.3 (Conflicts of Interest); and/or
				8. anywhere that is stated in this Framework Agreement that the Supplier by its act or omission will have committed a material Default;
			5. the Supplier commits a material Default of any of the following Clauses or Framework Schedules:
				1. Clause 7 (Representations and Warranties) except Clause 7.2.6;
				2. Clause 11 (Framework Agreement Performance);
				3. Clause 14 (Minimum Standards of Reliability);
				4. Clause 18 (Records, Audit Access and Open Book Data);
				5. Clause 21 (Promoting Tax Compliance);
				6. Clause 25 (Supply Chain Rights and Protection);
				7. Clause 27.4 (Freedom of Information);
				8. Clause 27.5 (Protection of Personal Data); and/or
				9. paragraph 1.2 of Part B of Framework Schedule 2 (Goods and/or Services and Key Performance Indicators).
			6. the representation and warranty given by the Supplier pursuant to Clause 7.2.6 is materially untrue or misleading, and the Supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of the Authority are acceptable;
			7. the Supplier commits any material Default which is not, in the reasonable opinion of the Authority, capable of remedy; and/or
			8. the Supplier commits a Default, including a material Default, which in the opinion of the Authority is remediable but has not remedied such Default to the satisfaction of the Authority within twenty (20) Working Days, or such other period as may be specified by the Authority, after issue of a written notice from the Authority to the Supplier specifying the remediable Default and requesting it to be remedied in accordance with any instructions of the Authority.
	3. Termination in Relation to Financial Standing
		1. [The Authority may terminate this Framework Agreement by issuing a Termination Notice to the Supplier where in the reasonable opinion of the Authority there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:
			1. adversely impacts on the Supplier’s ability to supply the Goods and/or Services under this Framework Agreement; or
			2. could reasonably be expected to have an adverse impact on the Supplier’s ability to supply the Goods and/or Services under this Framework Agreement;
	4. Termination on Insolvency
		1. The Authority may terminate this Framework Agreement by issuing a Termination Notice to the Supplier where an Insolvency Event affecting the Supplier occurs.
	5. Termination on Change of Control
		1. The Supplier shall notify the Authority immediately in writing and as soon as the Supplier is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law.
		2. The Supplier shall ensure that any notification made pursuant to Clause 33.5.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.
		3. The Authority may terminate this Framework Agreement under Clause 33.5 by issuing a Termination Notice to the Supplier within six (6) Months of:
			1. being notified in writing that a Change of Control is anticipated or is in contemplation or has occurred; or
			2. where no notification has been made, the date that the Authority becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

* 1. Termination for breach of Regulations
		1. The Authority may terminate this Framework Agreement by issuing a Termination Notice to the Supplier on the occurrence of any of the statutory provisos contained in Regulation 73 (1) (a) to (c).
	2. Termination Without Cause
		1. The Authority shall have the right to terminate this Framework Agreement with effect from at any time following nine (9) Months after the Framework Commencement Date by giving at least three (3) Months written notice to the Supplier.
	3. Partial Termination – Not Used
1. SUSPENSION OF SUPPLIER’S APPOINTMENT – NOT USED
2. CONSEQUENCES OF EXPIRY OR TERMINATION

Notwithstanding the service of a notice to terminate this Framework Agreement, the Supplier shall continue to fulfil its obligations under this Framework Agreement until the date of expiry or termination of this Framework Agreement or such other date as required under this Clause 35.

If the Authority terminates this Framework Agreement under Clause  33.2 (Termination on Material Default) and then makes other arrangements for the supply of the Goods and/or Services to Contracting Authorities, the Supplier shall indemnify the Authority in full upon demand for the cost of procuring, implementing and operating any alternative or replacement goods and/or services to the Goods and/or Services and no further payments shall be payable by the Authority until the Authority has established and recovered from the Supplier the full amount of such cost.

Within ten (10) Working Days of the date of termination or expiry of this Framework Agreement, the Supplier shall return to the Authority any and all of the Authority’s Confidential Information in the Supplier’s possession, power or control, either in its then current format or in a format nominated by the Authority, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information to the extent reasonably necessary to comply with its obligations under this Framework Agreement or under any Law, for a period of up to twelve (12) Months (or such other period as Approved by the Authority and is reasonably necessary for such compliance).

Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement prior to termination or expiry.

Termination or expiry of this Framework Agreement shall be without prejudice to the survival of any provision of this Framework Agreement which expressly (or by implication) is to be performed or observed notwithstanding termination or expiry of this Framework Agreement, including the provisions of:

* + 1. Clauses 1 (Definitions and Interpretation), 7 (Representations and Warranties), 9 (Cyber Essentials Scheme Condition & ISO27001), 11 (Framework Agreement Performance), 18 (Records, Audit Access and Open Book Data), 20 (Management Charge) ,26 (Intellectual Property Rights), 27.1 (Provision of Management Information), 27.2 (Confidentiality), 27.3 (Transparency), 27.4 (Freedom of Information), 27.5 (Protection of Personal Data), 30 (Liability), 31 (Insurance), 35 (Consequences of Expiry or Termination), 36 (Compliance), 38 (Waiver and Cumulative Remedies), 40 (Prevention of Fraud and Bribery), 42 (Severance), 44 (Entire Agreement), 45 (Third Party Rights), 46 (Notices), 47 (Complaints Handling), 48 (Dispute Resolution) and 49 (Governing Law and Jurisdiction); and
		2. Framework Schedules 2 (Goods and/or Services and Key Performance Indicators), 3 (Framework Prices and Charging Structure), 7 (Key Sub-Contractors), 8 (Framework Management), 9 (Management Information), 10 (Annual Self Audit Certificate), 12 (Continuous Improvement and Benchmarking), 14 (Insurance Requirements), 17 (Commercially Sensitive Information) and 21 (Tender).
1. COMPLIANCE
	1. Compliance with Law
		1. The Supplier shall comply with all applicable Law in connection with the performance of this Framework Agreement.
		2. In the event that the Supplier or the Supplier Personnel fails to comply with Clause 36.1.1, this shall be deemed to be a material Default and the Authority reserves the right to terminate this Framework Agreement by giving notice in writing to the Supplier.
	2. Equality and Diversity
		1. The Supplier shall:
			1. perform its obligations under this Framework Agreement (including those in relation to the provision of the Goods and/or Services) in accordance with:
				1. all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
				2. any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law;
			2. take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).
	3. Official Secrets Act and Finance Act
		1. The Supplier shall comply with the provisions of:
			1. the Official Secrets Acts 1911 to 1989; and
			2. section 182 of the Finance Act 1989.
2. ASSIGNMENT AND NOVATION

The Supplier shall not assign, novate, or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Framework Agreement or any part of it without Approval.

The Authority may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Framework Agreement or any part thereof to:

* + 1. any Other Contracting Authority; or
		2. any Central Government Body or other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
		3. any private sector body which substantially performs the functions of the Authority,

and the Supplier shall, at the Authority’s request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 37.2.

A change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to Clause 37.4 affect the validity of this Framework Agreement and this Framework Agreement shall be binding on any successor body to the Authority.

If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Framework Agreement to a body which is not a Contracting Authority or if a body which is not a Contracting Authority succeeds the Authority (both “**Transferee**” in the rest of this Clause) the right of termination of the Authority in Clause 33.4 (Termination on Insolvency) shall be available to the Supplier in the event of the insolvency of the Transferee (as if the references to Supplier in Clause 33.4 (Termination on Insolvency)) and to Supplier or the Framework Guarantor or Call Off Guarantor in the definition of Insolvency Event were references to the Transferee.

1. WAIVER AND CUMULATIVE REMEDIES

The rights and remedies under this Framework Agreement may be waived only by notice in accordance with Clause 46 (Notices) and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Framework Agreement or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise thereof.

Unless otherwise provided in this Framework Agreement, rights and remedies under this Framework Agreement are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

1. RELATIONSHIP OF THE PARTIES

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

1. PREVENTION OF FRAUD AND BRIBERY

The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Framework Commencement Date:

* + 1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
		2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

The Supplier shall not during the Framework Period:

* + 1. commit a Prohibited Act; and/or
		2. do or suffer anything to be done which would cause the Authority or any of the Authority’s employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

The Supplier shall during the Framework Period:

* + 1. establish, maintain and enforce policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
		2. require that its Sub-Contractors establish, maintain and enforce the policies and procedures referred to in Clause 40.3.1;
		3. keep appropriate records of its compliance with its obligations under Clause 40.3.1 and make such records available to the Authority on request;
		4. if so required by the Authority, within twenty (20) Working Days of the Framework Commencement Date, and annually thereafter, certify in writing to the Authority, the compliance with this Clause 40.3 of all persons associated with the Supplier or its Sub-Contractors who are responsible for supplying the Goods and/or Services in connection with this Framework Agreement. The Supplier shall provide such supporting evidence of compliance as the Authority may reasonably request; and
		5. have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent it and any Supplier Personnel or any person acting on the Supplier’s behalf from committing a Prohibited Act.

The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of Clauses 40.1, 40.2 and 40.3.2, or has reason to believe that it has or any of the Supplier Personnel has:

* + 1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
		2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
		3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Framework Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Framework Agreement has committed or attempted to commit a Prohibited Act.

If the Supplier makes a notification to the Authority pursuant to Clause 40.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with Clause 18 (Records, Audit Access and Open Book Data).

If the Supplier breaches Clause 40.1,the Authority may by notice:

* + 1. require the Supplier to remove from the performance of this Framework Agreement any Supplier Personnel whose acts or omissions have caused the Supplier’s breach; or
		2. immediately terminate this Framework Agreement for material Default.

Any notice served by the Authority under Clause 40.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Framework Agreement shall terminate).

1. CONFLICTS OF INTEREST

The Supplier shall take appropriate steps to ensure that neither the Supplier nor the Supplier Personnel are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or the Supplier Personnel and the duties owed to the Authority and Other Contracting Authorities under the provisions of this Framework Agreement or any Call Off Agreement.

The Supplier shall promptly notify and provide full particulars to the Authority or the relevant Other Contracting Authority if such conflict referred to in Clause 41.1 arises or may reasonably been foreseen as arising.

The Authority reserves the right to terminate this Framework Agreement immediately by giving notice in writing to the Supplier and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Framework Agreement or any Call Off Agreement. The action of the Authority pursuant to this Clause 41.3 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

1. SEVERANCE

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

In the event that any deemed deletion under Clause 42.1 is so fundamental as to prevent the accomplishment of the purpose of this Framework Agreement or materially alters the balance of risks and rewards in this Framework Agreement, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Framework Agreement so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Framework Agreement and, to the extent that is reasonably practicable, achieves the Parties' original commercial intention.

If the Parties are unable to resolve any Dispute arising under this Clause 42 within twenty (20) Working Days of the date of the notice given pursuant to Clause 42.2, this Framework Agreement shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Framework Agreement is terminated pursuant to this Clause 42.3.

1. FURTHER ASSURANCES

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of this Framework Agreement.

1. ENTIRE AGREEMENT

This Framework Agreement constitutes the entire agreement between the Parties in respect of the subject matter and supersedes and extinguishes all prior negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

Neither Party has been given, nor entered into this Framework Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Framework Agreement.

Nothing in this Clause 44 shall exclude any liability in respect of misrepresentations made fraudulently.

1. THIRD PARTY RIGHTS

The provisions of:

* + 1. Clauses: 4 (Scope of Framework Agreement), 6 (Assistance in Related Procurements), 7 (Representations and Warranties), 18 (Records, Audit Access and Open Book Data), 27.5 (Protection of Personal Data), 31 (Insurance), 36.2 (Equality and Diversity) and 45 (Third Party Rights); and
		2. Framework Schedules 3 (Framework Prices and Charging Structure ), 14 (Insurance Requirements) and 21 (Tender),

(together “**Third Party Provisions**”) confer benefits on persons named in such provisions other than the Parties (each such person a “**Third Party Beneficiary**”) and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

Subject to Clause 45.1, a person who is not Party to this Framework Agreement has no right to enforce any term of this Framework Agreement under the CRTPA but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA.

No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without Approval, which may, if given, be given on and subject to such terms as the Authority may determine.

Any amendments or modifications to this Framework Agreement may be made, and any rights created under Clause 45.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

The Authority may act as agent and trustee for each Third Party Beneficiary and/or enforce on behalf of that Third Party Beneficiary any Third Party Provision and/or recover any Loss suffered by that Third Party Beneficiary in connection with a breach of any Third Party Provision.

1. NOTICES

Except as otherwise expressly provided within this Framework Agreement, any notices issued under this Framework Agreement must be in writing. For the purpose of this Clause 46, an e-mail is accepted as being "in writing".

Subject to Clause 46.3, the following table sets out the method by which notices may be served under this Framework Agreement and the respective deemed time and proof of service:

|  |  |  |
| --- | --- | --- |
| Manner of delivery | Deemed time of delivery | Proof of Service |
| Email (Subject to Clause 46.3) | 9.00am on the first Working Day after sending | Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message  |
| Personal delivery | On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day | Properly addressed and delivered as evidenced by signature of a delivery receipt |
| Royal Mail Signed For™ 1st Class or other prepaid, next Working Day service providing proof of delivery | At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm) | Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt |

The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or Royal Mail Signed For™ 1st Class or other prepaid in the manner set out in the table in Clause 46.2 within twenty four (24) hours of transmission of the email:

* + 1. any Termination Notice under Clause 33 (Authority Termination Rights), including in respect of partial termination;
		2. any notice in respect of;
			1. Waiver (Clause 38);
			2. Default or Authority Cause; and
		3. any Dispute Notice.

Failure to send any original notice in accordance with Clause 46.3 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in Clause 46.2) or, if earlier, the time of response or acknowledgement by the receiving Party to the email attaching the notice.

This Clause 46 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under Framework Schedule 18 (Dispute Resolution Procedure).

For the purposes of this Clause 46, the address of each Party shall be:

* + 1. For the Authority:

Insert address

For the attention of: [insert contact name]

* + 1. For the Supplier:

[insert name of supplier]

Address: [insert address of supplier]

For the attention of: [insert supplier contact name]

Either Party may change its address for service by serving a notice in accordance with this Clause 46.

This Clause 46 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution (other than the service of a Dispute Notice under the Dispute Resolution Procedure)

1. COMPLAINTS HANDLING

Either Party shall notify the other Party of any Complaints made by Other Contracting Authorities, which are not resolved by operation of the Supplier’s usual complaints handling procedure within five (5) Working Days of becoming aware of that Complaint and, if the Supplier is the Party providing the notice, such notice shall contain full details of the Supplier’s plans to resolve such Complaint.

Without prejudice to any rights and remedies that a complainant may have at Law, and without prejudice to any obligation of the Supplier to take remedial action under the provisions of this Framework Agreement, the Supplier shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

Within two (2) Working Days of a request by the Authority, the Supplier shall provide full details of a Complaint to the Authority, including details of steps taken to achieve its resolution.

1. DISPUTE RESOLUTION

The Parties shall resolve Disputes arising out of or in connection with this Framework Agreement in accordance with the Dispute Resolution Procedure.

The Supplier shall continue to provide the Goods and/or Services in accordance with the terms of this Framework Agreement until a Dispute has been resolved.

1. GOVERNING LAW AND JURISDICTION

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

Subject to Clause 48 (Dispute Resolution) and Framework Schedule 18 (Dispute Resolution Procedure) (including the Authority’s right to refer the Dispute to arbitration), the Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Framework Agreement or its subject matter or formation.

**IN WITNESS** of which this Framework Agreement has been duly executed by the Parties.

Signed duly authorised for and on behalf of the SUPPLIER

Signature: ……………………………………………….

Name: ……………………………………………….

Position: ……………………………………………….

Date ……………………………………………….

Signed for and on behalf of the AUTHORITY

Signature: ……………………………………………….

Name: ……………………………………………….

Position: ……………………………………………….

Date ……………………………………………….

FRAMEWORK SCHEDULE 1: DEFINITIONS

1. In accordance with Clause 1.1 (Definitions), in this Framework Agreement including its Recitals the following expressions shall have the following meanings:

|  |  |
| --- | --- |
|  |  |
| "Affiliates" | 1. means 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 of that body corporate from time to time;
 |
| "Approval" | 1. means the prior written consent of the Authority and "**Approve**" and "**Approved**" shall be construed accordingly;
 |
| "Audit" | 1. means an audit carried out pursuant to Clause 18 (Records, Audit Access and Open Book Data);
 |
| "Audit Report" | 1. means a report summarising the testing completed and the actions arising following an Audit;
 |
| "Auditor"“Auditor General" | 1. means the Authority, and/or Other Contracting Authority who is a party to a Call Off Agreement, and/or the National Audit Office and/or any auditor appointed by the Audit Commission, and /or the representatives of any of them;

means currently the body that scrutinises central government expenditure; |
| "Authority" | 1. means **THE MINISTER FOR THE CABINET OFFICE** ("**Cabinet Office**");
 |
| “Authority Cause” | 1. means any breach of the obligations of the Authority (including but not limited to any fundamental breach or breach of a fundamental term) or any other default, act, omission, misrepresentation, negligence or negligent statement of the Authority in connection with or in relation to this Framework Agreement or the subject matter of this Framework Agreement and in respect of which the Authority is liable to the Supplier;
 |
| "Authority Personal Data" | 1. means any Personal Data supplied for the purposes of or in connection with this Framework Agreement by the Authority to the Supplier;
 |
| "Authority Representative" | 1. means the representative appointed by the Authority from time to time in relation to this Framework Agreement;
 |
| "Authority's Confidential Information" | 1. means all Authority Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know How, personnel, and Supplier’s of the Authority and/or Other Contracting Authorities, including all IPR, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably to be considered to be confidential;
 |
| "Branding Guidance" | 1. means the Authority's guidance in relation to the use of branding available at http://gcloud.civilservice.gov.uk/files/2012/10/supplier-guides-April-2012.pdf
 |
|  |  |
|  |  |
|  |  |
|  |  |
| "CEDR" | 1. means the Centre for Effective Dispute Resolution;
 |
| "Central Government Body" | 1. means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:
	1. Government Department;
	2. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
	3. Non-Ministerial Department; or
	4. Executive Agency;
 |
| "Change in Law" | 1. means any change in Law which impacts on the supply of the Goods and/or Services and performance of the Template Call Off Terms which comes into force after the Framework Commencement Date;
 |
| "Change of Control" | 1. means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
 |
| "Charges" | 1. means the charges raised under which Charges shall be calculated in a manner which is consistent with the Charging Structure;
 |
| "Charging Structure" | 1. means the structure to be used in the establishment of the charging model which is set out in Framework Schedule 3 (Framework Prices and Charging Structure);
 |
| "Commercially Sensitive Information" | 1. means the Supplier’s Confidential Information listed in Framework Schedule 17 (Commercially Sensitive Information) comprised of commercially sensitive information:
	1. relating to the Supplier, its IPR or its business or information which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss; and
	2. that constitutes a trade secret;
 |
| "Comparable Supply" | 1. means the supply of Goods and/or Services to another customer of the Supplier that are the same or similar to the Goods and/or Services;
 |
| "Complaint"“Comptroller” | 1. means any formal written complaint raised by a Contracting Authority in relation to the performance of this Framework Agreement in accordance with Clause 47 (Complaints Handling);
2. means currently is an officer of the [House of Commons](https://en.wikipedia.org/wiki/British_House_of_Commons) who is the head of the [National Audit Office](https://en.wikipedia.org/wiki/National_Audit_Office_%28United_Kingdom%29);
 |
| "Confidential Information" | 1. means the Authority's Confidential Information and/or the Supplier’s Confidential Information, as the context requires;
 |
| "Continuous Improvement Plan" | 1. means a plan for improving the provision of the Goods and/or Services and/or reducing the Charges produced by the Supplier pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking);
 |
| "Contract Year" | 1. means a consecutive period of twelve (12) Months commencing on the Framework Commencement Date or each anniversary thereof;
 |
| "Contracting Authorities" | 1. means the bodies listed in the OJEU Notice and “**Contracting Authority**” shall be construed accordingly;
 |
| "Control" | 1. means control in either of the senses defined in sections  450 and 1124 of the Corporation Tax Act 2010 and "**Controlled**" shall be construed accordingly;
 |
| "CPI" | 1. means the **Consumer Prices Index** as published by the Office of National Statistics ( [http://www.statistics.gov.uk/instantfigures.asp)](http://www.statistics.gov.uk/instantfigures.asp%29);
 |
| "Costs" | 1. means costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Goods and/or Services:
	1. costs incurred in respect of those Supplier Assets which are detailed on the Registers (“Supplier Assets” and “Register” shall have the meaning given to them under Call Off Schedule 1 (Definitions)) and which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Contracting Authorities or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;
	2. operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Goods and/or Services;
2. but excluding:
	* 1. Overhead;
		2. financing or similar costs;
		3. maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Framework Period and term of any Call Off Agreements whether in relation to Supplier Assets or otherwise;
		4. taxation;
		5. fines and penalties;
		6. amounts payable under the benchmarking provisions of Framework Schedule 12  (Continuous Improvement and Benchmarking); and
		7. non-cash items (including depreciation, amortisation, impairments and movements in provisions);
 |
| "Crown" | 1. means 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 from time to time carrying out functions on its behalf;
 |
| "Crown Body" | 1. means any department, office or executive agency of the Crown;
 |
| "CRTPA" | 1. means the Contracts (Rights of Third Parties) Act 1999;
 |
| “Cyber Essentials Scheme” | 1. means the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats. Details of the Cyber Essentials Scheme can be found here:

https://www.gov.uk/government/publications/cyber-essentials-scheme-overview; |
| “Cyber Essentials Scheme Basic Certificate” | means the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance; |
| “Cyber Essentials Scheme Data” | means sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; |
|  |  |
| "Data Controller" | 1. has the meaning given to it in the Data Protection Act 1998, as amended from time to time;
 |
| "Data Processor" | 1. has the meaning given to it in the Data Protection Act 1998, as amended from time to time;
 |
| "Data Protection Legislation" | 1. means the Data Protection Act 1998, as amended from time to time and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
 |
| "Data Subject" | 1. has the meaning given to it in the Data Protection Act 1998, as amended from time to time;
 |
| "Data Subject Access Request" | 1. means a request made by a Data Subject in accordance with rights granted pursuant to the DPA to access his or her Personal Data;
 |
| "Default" | 1. means any breach of the obligations of the Supplier (including but not limited to any fundamental breach or breach of a fundamental term) or any other default, act, omission, misrepresentation, negligence or negligent statement of the Supplier or the Supplier Personnel in connection with or in relation to this Framework Agreement or the subject matter of this Framework Agreement and in respect of which the Supplier is liable to the Authority;
 |
| "Default Management Charge" | 1. has the meaning given to it in paragraph 6.2 of Framework Schedule 9 (Management Information);
 |
| “Disclosing Party” | 1. shall mean a Party which discloses or makes available directly or indirectly its Confidential Information;
 |
| "Dispute" | 1. means any dispute, difference or question of interpretation arising out of or in connection with this Framework Agreement, including any dispute, difference or question of interpretation relating to the Goods and/or Services, failure to agree in accordance with the procedure for variations in Clause 16.1 (Variation Procedure) or any matter where this Framework Agreement directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
 |
| "Dispute Notice" | 1. means a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute;
 |
| "Dispute Resolution Procedure" | 1. means the dispute resolution procedure set out in Framework Schedule 18 (Dispute Resolution);
 |
| "DOTAS" | 1. means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in 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 section 132A of the Social Security Administration Act 1992;
 |
| "DPA" | 1. means the Data Protection Act 1998 as amended from time to time;
 |
| "Due Diligence Information" | 1. means any information supplied to the Supplier by or on behalf of the Authority prior to the Framework Commencement Date;
 |
| "Environmental Information Regulations or EIRs" | 1. means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;
 |
| "Equivalent Goods and/or Services" | 1. means goods and/or services which the Supplier can supply which are the same or similar to the Goods and/or Services;
 |
|  |  |
|  |  |
| "Financial Distress Event" | 1. means the occurrence or one or more of the events listed in paragraph 3 of Schedule 16 (Financial Distress);
 |
|  |  |
| "FOIA" | 1. means the Freedom of Information Act 2000 as amended from time to time and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
 |
| "Framework" | 1. means the framework arrangements established by the Authority for the provision of the Goods and/or Services to Contracting Authorities by Supplier’s (including the Supplier) pursuant to the OJEU Notice;
 |
| "Framework Agreement" | 1. means this agreement consisting of the Clauses together with the Framework Schedules and any appendices and annexes to the same;
 |
| "Framework Commencement Date" | 1. means 01/07/2017;
 |
|  |  |
|  |  |
| "Framework Period" | 1. means the period from the Framework Commencement Date until the expiry or earlier termination of this Framework Agreement;
 |
| "Framework Price(s)" | 1. means the price(s) applicable to the provision of the Goods and/or Services set out in Framework Schedule 3 (Framework Prices and Charging Structure);
 |
| "Framework Schedules" | 1. means the schedules to this Framework Agreement;
 |
| "Framework Supplier’s" | 1. means theSupplier’s (including the Supplier) appointed under this Framework Agreement or agreements on the same or similar terms to this Framework Agreement as part of the Framework;
 |
| "Fraud" | 1. means any offence under any Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts offorgery;
 |
|  |  |
|  |  |
| "General Anti-Abuse Rule" | 1. 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;
 |
| "General Change in Law" | 1. means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
 |
| "Good Industry Practice" | 1. means standards, practices, methods and procedures conforming to the Law and the exercise of the 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 within the relevant industry or business sector;
 |
| "Goods" | 1. means the goods described in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators) which the Supplier shall make available to Contracting Authorities;
 |
| "Goods and/or Services Requirements" | 1. means the requirements of the Authority or any other Contracting Authority (as appropriate) for the Goods and/or Services from time to time;
 |
| "Government" | 1. means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
 |
|  |  |
|  |  |
| "Improvement Plan" | 1. means the plan required by the Authority from the Supplier which shall detail how the Supplier will improve the provision of the Goods and/or Services pursuant to Clause 32.1.1 (Authority Remedies);
 |
| "Improvement Notice" | 1. means the notice issued by the Authority to the Supplier pursuant to Clause 32.1.3 (Authority Remedies) which will detail how the Supplier shall improve the provision of the Goods and/or Services;
 |
| "Information" | 1. has the meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time;
 |
|  |  |
| "Insolvency Event" | 1. means, in respect of the Supplier:
	1. a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
	2. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
	3. a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or
	4. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
	5. an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
	6. it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
	7. being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
	8. where the Supplier or Framework Guarantor is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or
	9. any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;
 |
| "Intellectual Property Rights" or "IPR" | 1. means:
	1. copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;
	2. 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; and
	3. all other rights having equivalent or similar effect in any country or jurisdiction;
 |
| "Invitation to Tender" or “ITT” | 1. has the meaning given to it in Recital C to this Framework Agreement;
 |
| "Key Sub-Contract" | 1. means each Sub-Contract with a Key Sub-Contractor;
 |
| "Key Sub-Contractor" | 1. means any Sub-Contractor which is listed in Framework Schedule 7 (Key Sub-Contractors), that 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 Goods and/or Services;
 |
| "IPR Claim" | 1. means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Authority in the fulfilment of its obligations under this Framework Agreement;
 |
| "Key Performance Indicators" or "KPIs" | 1. means the performance measurements and targets set out in Part B of Framework Schedule 2 (Goods and/or Services and Key Performance Indicators);
 |
| "Know-How" | 1. means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Goods and/or Services but excluding know-how already in the other Party's possession before the Framework Commencement Date;
 |
| "KPI Target" | 1. means the acceptable performance level for a KPI as set out in relation to each KPI;
 |
| "Law" | 1. means 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 Supplier is bound to comply;
 |
| "Legacy Goods and/or Services" | 1. means goods and/or services similar to the New Goods and/or Services and/or goods and/or services which interface with or are intended to interface with or be replaced by the New Goods and/or Services;
 |
| "Losses" | 1. means 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 on otherwise and **“Loss”** shall be interpreted accordingly;
 |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
| “Minimum Standards of Reliability” | means the minimum standards of reliability as set out in the OJEU Notice; |
|  |  |
|  |  |
| "Ministry of Justice Code" | 1. means 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 as amended from time to time;
 |
|  |  |
| "Month" | 1. means a calendar month and "**Monthly**" shall be interpreted accordingly;
 |
| "New Goods and/or Services" | 1. means goods and/or services which a Contracting Authority wishes to procure from a third party which are the same or similar to the Goods and/or Services;
 |
|  |  |
| "Occasion of Tax Non –Compliance" | 1. means where:
	1. any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:
		1. a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax abuse principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax abuse principle;
		2. the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or
	2. any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Framework Commencement Date or to a civil penalty for fraud or evasion;
 |
| "OJEU Notice" | 1. has the meaning given to it in Recital A to this Framework Agreement;
 |
| "Open Book Data" | 1. means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Charges already paid or payable and Charges forecast to be paid during the Framework Period and term of any Call Off Agreements, including details and all assumptions relating to:
	1. the Supplier’s Costs broken down against each Good and/or Service and/or deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all goods and/or services;
	2. operating expenditure relating to the provision of the Goods and/or Services including an analysis showing:
		1. the unit costs and quantity of Goods and any other consumables and bought-in goods and services;
		2. manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;
		3. a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and
	3. Overheads;
	4. all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
	5. the Supplier Profit achieved over the Framework Period and term of any Call Off Agreements and on an annual basis;
	6. confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
	7. an explanation of the type and value of risk and contingencies associated with the provision of the Goods and/or Services, including the amount of money attributed to each risk and/or contingency; and
	8. the actual Costs profile for each Service Period under any Call Off Agreements;
 |
| "Order" | 1. means an order for the provision of the Goods and/or Services placed by a Contracting Authority with the Supplier;
 |
| "Other Contracting Authorities" | 1. means all Contracting Authorities except the Authority and **“Other Contracting Authority”** shall be construed accordingly;
 |
| "Overhead" | 1. means those amounts which are intended to recover a proportion of the Supplier’s or the Key Sub-Contractor’s (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Personnel and accordingly included within limb (a) of the definition of “Costs”;
 |
| "Party" | 1. means the Authority or the Supplier and **"Parties"** shall mean both of them;
 |
| "Personal Data" | 1. has the meaning given to it in the Data Protection Act 1998 as amended from time to time;
 |
|  |  |
| "Processing" | 1. has the meaning given to it in the Data Protection Legislation but, for the purposes of this Framework Agreement, it shall include both manual and automatic processing and “**Process**” and “**Processed**” shall be interpreted accordingly;
 |
| "Prohibited Act" | 1. means any of the following:
	1. to directly or indirectly offer, promise or give any person working for or engaged by a Contracting Authority and/or the Authority a financial or other advantage to:
		1. induce that person to perform improperly a relevant function or activity; or
		2. reward that person for improper performance of a relevant function or activity;
	2. to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; or
	3. committing any offence:
		1. under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or
		2. under legislation creating offences concerning Fraud; or
		3. at common law concerning Fraud; or
		4. committing (or attempting or conspiring to commit) Fraud;
 |
| "Regulations" | 1. means the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2012 (as the context requires) as amended from time to time;
 |
| "Relevant Person" | 1. means any employee, agent, servant, or representative of the Authority, or of any Other Contracting Authority or other public body;
 |
| "Relevant Requirements" | 1. means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
 |
| "Relevant Tax Authority" | 1. means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
 |
| "Relevant Supplier" | 1. means a third party bidding to provide New Goods and/or Services;
 |
| "Replacement Goods and/or Services" | 1. means any goods and/or services which are substantially similar to any of the Goods and/or Services and which are received in substitution for the Goods and/or Services following the expiry or termination of this Framework Agreement;
 |
|  |  |
|  |  |
| "Requests for Information" | 1. means a request for information relating to this Framework Agreement or the provision of the Goods and/or Services or an apparent request for such information under the Code of Practice on Access to Government Information, FOIA or the EIRs;
 |
|  |  |
| "Self Audit Certificate" | 1. means the certificate in the form as set out in Framework Schedule 10 (Annual Self Audit Certificate) to be provided to the Authority in accordance with Clause 18 (Records, Audit Access and Open Book Data);
 |
|  |  |
| "Services" | 1. means the services described in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators) which the Supplier shall make available to Contracting Authorities;
 |
| "Specific Change in Law" | 1. means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
 |
| "Standards" | 1. means:
	1. any standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;
	2. any standards detailed in the specification in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators);
	3. any Standards detailed by a Contracting Authority in a Call Off Agreement following a Further Competition Procedure;
	4. any relevant Government codes of practice and guidance applicable from time to time.
 |
|  |  |
| "Sub-Contract" | 1. means any contract or agreement (or proposed contract or agreement), other than this Framework, pursuant to which a third party:
2. (a) provides the Goods and/or Services (or any part of them);
3. (b) provides facilities or services necessary for the provision of the Goods and/or Services (or any part of them); and/or
4. (c) is responsible for the management, direction or control of the provision of the Goods and/or Services (or any part of them);
 |
| "Sub-Contractor" | 1. means any person other than the Supplier who is a party to a Sub-Contract and the servants or agents of that person;
 |
| "Supplier" | 1. means the person, firm or company stated in the preamble to this Framework Agreement;
 |
| "Supplier Action Plan" | 1. means a document, maintained by the Authority, capturing information about the relationship between the Parties including, but not limited to strategic objectives, actions, initiatives, communication channels, risks and supplier performance;
 |
| "Supplier Personnel" | 1. means all persons employed or engaged by the Supplier together with the Supplier’s servants, agents, Supplier’s, consultants and Sub-Contractors (and all persons employed by any Sub-Contractor together with the Sub-Contractor’s servants, consultants, agents, Supplier’s and sub-contractors) used in the performance of its obligations under this Framework Agreement or any Call Off Agreements;
 |
|  |  |
|  |  |
| "Supplier Representative" | 1. means the representative appointed by the Supplier from time to time in relation to this Framework Agreement;
 |
| "Supplier’s Confidential Information" | 1. means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and Supplier’s of the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
 |
|  |  |
|  |  |
| "Tender" | 1. means the tender submitted by the Supplier to the Authority on a copy of which is set out in Framework Schedule 21 (Tender);
 |
| "Termination Notice"“Third Party Beneficiaries”“Transferee” | 1. means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Agreement on a specified date and setting out the grounds for termination;

 has the meaning given to it in Clause 45.1.1;means a body which is not a Contracting Authority succeeds the Authority; |
| “Transparency Principles” | 1. means the principles set out at https://www.gov.uk/government/publications/transparency-of-Supplier’s-and-government-to-the-public (and as may be amended from time to time) detailing the requirement for the proactive release of information under the Government’s transparency commitment to publish contract information;
 |
| “Transparency Reports” | 1. means the information relating to the Services and performance of this Framework Agreement which the Supplier is required to provide to the Authority in accordance with the reporting requirements in Framework Schedule 22;
 |
| "TUPE" | 1. means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations or UK legislation implementing the Acquired Rights Directive;
 |
| "Variation" | 1. has the meaning given to it in Clause 19.1.1 (Variation Procedure);
 |
| "Variation Form" | 1. means the form that will be completed and signed by the Parties to effect a Variation which shall be in the form set out in Framework Schedule 19 (Variation Form);
 |
| "Variation Procedure" | 1. means the procedure for carrying out a Variation as set out in Clause 19.1 (Variation Procedure);
 |
| "VAT"“Waiver and Cumulative Remedies” | 1. means value added tax in accordance with the provisions of the Value Added Tax Act 1994;

has the meaning given to it in Clause 38 (Waiver and Cumulative Remedies).  |
| "Working Days" | 1. means any day other than a Saturday, Sunday or public holiday in England and Wales.
 |

FRAMEWORK SCHEDULE 2: GOODS AND/or SERVICES and Key Performance Indicators

Part A – Goods and/or Services

GENERAL

The purpose of this Part A of Framework Schedule 2 (Goods and/or Services and Key Performance Indicators) is to lay down the characteristics of the Goods and/or Services that the Supplier will be required to make available to all Contracting Authorities under this Framework Agreement (including, if applicable, in each Lot) together with any specific Standards applicable to the Goods and/or Services.

The Goods and/or Services and any Standards set out in paragraph 2.2 below may be refined (to the extent permitted and set out in Framework Schedule 5 (Call Off Procedure)) by a Contracting Authority during a Further Competition Procedure to reflect its Goods and/or Services Requirements for entering a particular Call Off Agreement.

SPECIFICATION

1. This Specification sets out the requirements for the provision of medical and associated administrative services to the Principal Civil Service Pension Scheme, the Civil Service Compensation Scheme, the Civil Service Injury Benefits Scheme, the Partnership Pension Account Ill Health Benefits Scheme, and the Alpha scheme – hereafter collectively known as ‘the Schemes’.

2. The following is a brief description of each of the current Schemes:

**Principal Civil Service Pension Scheme (PCSPS)** – This is one of the occupational pension scheme for civil servants. It is a salary-related pension scheme, and is divided into three sections

* **2002 Section (Section I)** – This section of the scheme is known as **premium** membership, this generally covers employees who commenced employment between 01st October 2002 and 29th July 2007, together with former members of either Section I, II or Section III or the 1972 section, who returned to civil service employment after a break of less than five years. Also, members who were in service on 20 September 2002 have the option to transfer into premium; remain in the 1972 section (see below); or join the 2002 section but have their service before 01 October 2002 provide benefits similar to those in the 1972 section.
* **1972 Section (Section II)** – This section of the scheme, known as **classic**, covers member who commenced employment before 01 October 2002, and who did not opt to join the 2002 section. Deferred and pensioner members of the PCSPS whose service ended before 01 October 2002 are all covered by the 1972 section.
* **2007 Section (Section III)** – This section of the scheme, known as **Nuvos**, generally covers members who commenced employment on or after 30 July 2007. It provides pension benefits calculated on a ‘whole career’ basis with a pension age of 65. In contracts, to 2002 and 1972 sections provide ‘final salary’ pensions and have a pension age of 60.

**Civil Service Compensation Scheme (CSCS)** – This scheme provides compensation for early severance and early retirement (other than medical retirement). In addition it covers compensation for personal injury.

**Civil Service Injury Benefits Scheme (CSIBS)** – This scheme provides injury benefit for civil servants, those employed by organisations covered by the PCSPS, people employed for the purposes of HM Government, and Government Ministers, who are injured or killed on duty. Before 01 October 2002, the injury benefit provisions formed part of the PCSPS (1972 section).

**Partnership Pension Account** – This is a stakeholder scheme into which the employer makes a significant contribution, and is open to those whose service commenced on or after 01 October 2002 and who opted not to or were unable to join the PCSPS 2002 section or PCSPS 2007 section. This Contract does not cover the Partnership Pension Account, however it does incorporate the following associated scheme:

**Partnership Pension Account Ill Health Benefits Scheme (PPAIHBS)** – This scheme provides lump sum benefits to individuals with a Partnership Pension Account who are medically retired.

**Public Service (Civil Service and Others) Pension Scheme Regulation (Alpha)** – This is a relatively new scheme which was launched in April 2015, and covers all civil servants who were/are in active service when or after the scheme was launched. Civil servants who were previously part of the PCSPS will have dual membership of their previous scheme and their new Alpha scheme. Civil servants starting employment after April 2015 will hold their pension solely in the Alpha scheme.

**Full guidance for all the above schemes can be found here:** [**http://www.civilservicepensionscheme.org.uk/about-us/scheme-rules/**](http://www.civilservicepensionscheme.org.uk/about-us/scheme-rules/)**.**

**BACKGROUND**

1. The Civil Service Pensions Team within the Cabinet Office are responsible for managing the Schemes outlined above on behalf of the Civil Service. This is done through the management of the PCSPS provider, MyCSP (a private company).
2. The Schemes outlined above are provided to all Civil Service employees as part of Schedule 1 of the Superannuation Act 1972. These are therefore statutory schemes, and therefore both membership and benefit entitlement is governed by the scheme rules. Alongside, however separate, is the Civil Service Management Code, which sets out the mandatory retirement policy.
3. MyCSP, as scheme administrator, has responsibility for administering all the Schemes within the PCSPS for current and past employees of the Civil Service.
4. The contract is to provide these services on a UK wide basis to ensure that all pension scheme members are able to access the services. The services being delivered are of a specialist nature and are fully outlined below under the ‘Scope’ section of this Specification. PCSPS employers (government departments, their agencies, non-departmental bodies and any other organisation involved in administering the schemes) will be able to call off any or all of these services from the contract provider.

**SCOPE**

1. This contract is for the provision of medical advice and recommendations using specialist professional skills and judgement regarding entitlement to the Schemes benefits in accordance with the Schemes rules, by:
	1. Examining occupational health case papers, other medical papers and any other documents relevant to the case;
	2. Arranging any additional essential medical examinations or reports and payment of fees for these, as described in 7a above;
	3. Providing the employer with information regarding the progression of cases;
	4. Notifying or advising the employer as appropriate as to whether the qualifying criteria are met;
	5. Advising on cost effective procedures, referral and report forms design;
	6. Dealing with appeals against a refusal to support an application;
	7. Maintaining statistics and records required by the client and;
	8. Providing further information to the client as they may reasonably require.
2. The contractor shall ensure that any medical advice and recommendations given are representative of the consensus of the published evidence.
3. The contractor shall ensure that all practitioners providing medical advice in relation to this contract are qualified in accordance with the provisions of this Specification.
4. The contractor shall develop and maintain an effective working relationship with occupational health advisers within each employer, so to avoid any unnecessary duplication of effort and costs.
	1. The contractor will have in place prior to contract commencement a protocol for developing such relationships and establishing responsibilities of the provider.
5. If the contractor provides occupational health advice to an employer through a separate contract, the contractor must demonstrate how any such advice will be independent of advice given under this contract.
	1. Prior to contract commencement the contractor will have in place a framework of how advice given on the Scheme Medical Advice contract will remain independent.
6. The contractor shall ensure that the service provided to members and employers is consistent, regardless of their location.
7. The contractor must maintain integrity and impartiality at all times when delivering these services, and must be in accordance with the rules of natural justice, i.e. that no one should be a judge on their own cause, and those who are subject to decisions which affect their interest have a right to be heard before those decisions are taken.
8. The contractor shall provide advice and services on a case-by-case basis in consultation with the Contracting Authority.
9. The contractor shall deliver the contracted services with the professionalism, skill, care and diligence in accordance with the best professional practices. The contractor shall continuously review its practices, to ensure that procedures are reasonable and appropriate to the circumstances, keeping abreast of best practice, legislative and other requirements. Throughout the contract term, the contractor shall endeavour to continuously improve its professional and administrative activities.
10. The contractor shall deliver the services through a digital solution, removing the need to post hard copy forms from employer to the contractor.
11. The contractor shall provide a detailed plan for delivering a smooth transition of service from the incumbent provider, including adapting existing process’s as necessary, should the service change hands. This plan must pay particular attention to how a digital solution will be implemented and rolled out to employers.
12. The contractor shall provide a detailed strategy for engaging with the employer base to facilitate buy-in and support the establishment of the digital solution.

1. **Services**

**General**

1. The contractor shall develop an digital platform for medical information to be uploaded to by the employer, for review by the contractor. Such a platform should be sufficiently tailored to the requirements on this contract so that employers are easily able to upload such information.
2. The contractor shall take all steps necessary to secure the evidence required in order to facilitate the decision making process or provide advice on each case as appropriate. Such steps may include, but not limited to;
	1. Arranging or conducting further medical examinations and;
	2. Obtaining further medical reports.

**Ill-health retirement benefits**

1. The contract will make assessments on whether a scheme’s member meets the criteria for the payment of ill health retirement benefits as follows
	1. For members of PCSPS 2002 section, the criteria is set out in rule D.14;
	2. For members of PCSPS 1972 section, the criteria is set out in rule 1.12;
	3. For members of PCSPS 2007 section, the criteria is set out in rule E.7;
	4. For members of the Alpha scheme, the criteria is set out in Chapter 6, and;
	5. For those covered by the PPAIHBS, the criteria is set out in rule B.1.

The contractor shall issue a medical retirement certificate and explanatory report in a form agreed with the client.

1. Additionally for members of PCSPS 2002 and 2007 sections and the Alpha scheme, the contractor will make assessments on whether the member meets the criteria for:
	1. Lower tier ill health retirement, as set out in PCSPS 2002 section rule D.4(3)(a); PCSPS 2007 section rule E.7(4); Alpha scheme Chapter 6 clause 72; or;
	2. Upper tier ill health retirement, as set out in PCSPS 2002 section rule D.4(3)(b); PCSPS 2007 section rule E.7(5); Alpha scheme Chapter 6 clause 73, or;
2. If the contractor is unable to advise whether the member meets the upper or lower tier criteria, they should advise on whether a provisional ill health award is appropriate, as set out in rule D.4 of the 2002 section; E11 of the 2007 section or Alpha scheme Chapter 6 part 75. If this is the case, the contractor should also recommend which level is most appropriate based on the members current condition and when the case should be reviewed (no more than five years from the date of the provisional recommendation). If the provisional recommendation is lower tier, the member may ask for a review earlier than the date the contractor has given, if they have fresh medical evidence that shows deterioration in their health.
3. If a member meets the upper tier criteria the contractor shall also recommend the frequency with which the case should be reviewed (a maximum interval of five years), reviews do not continue beyond pension age.
4. For the circumstances outlined in paragraphs 5 and 6, the contractor will conduct a review of the member’s medical condition at the appropriate time, and advice on what level (upper or lower tier) the member’s ill health pension should come.
5. The contractor shall acknowledge all applications for ill health retirement benefits uploaded to the digital platform from the employer within two (2) working days of receipt.
6. If additional information is required for the contractor to be able to advice on the outcome of the assessment, the contractor shall notify the employer of this within 15 working days of receiving the application. This notification will inform the employer of the reason for the delay and outline when a full response to the application will be issued.
7. If a member is determined to meet the relevant criteria for ill health retirement the contractor shall notify the employer and provide a medical retirement certificate (indicating if upper or lower tier, and any review recommendations). If a member does not meet the criteria for ill health retirement the contractor shall notify the employer providing a medical refusal certificate.
	1. In both circumstances the contractor shall provide an explanatory report;
	2. The final determination notification to the employer shall be made by the digital platform, however on-going progress will be able to be reviewed in real time by the employer
8. Where required the contractor will assess a member under the HMRC serious ill health, criteria, providing the outcome on a certificate.

N.B. HM Revenue and Customs (HMRC) issued guidance that gives a member exemption from the Annual Allowance tax charge to individuals who meet the HMRC ‘severe ill health’ criteria. There severe ill health criteria does not match the Schemes criteria for ill health retirement meaning that to gain exemption status an additional assessment is required.

**Early Payment of Preserved Awards (PCSPS 1972 Section only)**

1. The contractor will provide advice on whether deferred members of the 1972 sections may have preserved benefits brought into payment before pension age on the grounds of ill health, as set out in PCSPS rule 3.14. The contractor will consider each application and supporting evidence to determine whether it is established that the illness would have led to retirement on medical grounds had the member remained in the Civil Service.

**Ill Health Retirement Appeals (including Early Payment of Preserved Awards and retrospective Ill Health Retirement)**

1. The contractor will deal with appeals from scheme members against a decision that; the criteria for ill health retirement are not met; or the tier of benefits that is awarded.
2. The contractor will follow the procedure for reviewing appeals that is outlined below. This is to ensure and demonstrate that consideration of the appeal has been made independently of any stage in the procedures which precede it.

**Stage 1** – The contractor will comprehensively review the medical evidence relating to the appeal (including any new medical evidence the individual has provided) and determine whether the original decision was correct. The contractor will notify the employer of the outcome of the appeal via the digital platform that is being used for the delivery of this contract.

**Stage 2** – If the appeal is rejected at Stage 1 then, where fresh medical evidence has been provided by the individual, the contractor will arrange for the case to be considered by another physician, and notify the employer of the outcome.

**Stage 3** – The contractor shall, on the further appeal of the Schemes member against the decision to retire or not retire them on ill health grounds, consider whether a prima facie case has been made. If so, the contractor shall convene an independent medical review board which shall prepare and issue a report.

**Stage 4 -** On receipt of the review board report the contractor will notify the employer the outcome of the appeal. The notification will detail the outcome of the appeal at that point giving reasons why the original decision has been upheld or changed.

**Injury Benefits**

1. The contractor shall provide advice so the employer or client can decide whether a person has suffered a qualifying injury as defined by CSIBS rule 1.3 or (if the injury occurred before 01 October 2002) former rule 11.3 of the PCSPS, and whether there is a causal link between a specified injury and the Schemes member’s official duty.
2. Where the Schemes member becomes entitled to be considered for the payment of injury benefit the contractor will provide an assessment of the degree to which the qualifying injury has impaired earning capacity. Any assessment will be placed in one of the categories contained in CSIBS rule 1.7 (or former rule 11.7 of the PCSPS as the case may be).
3. In addition, where the injury was sustained on or after 01 April 2003, the contractor will advise whether the injury is ‘wholly’ (more than 90%) or ‘mainly’ (between 50% and 90%) attributed to the nature of the duty. Where the injury is mainly but not wholly attributed to the nature of the duty, the contractor will advise whether attribution is ‘low’ (50%70%) or ‘medium’ (71%-90%).
4. The contractor will give advice on appeals from an injury benefit beneficiary against a decision that there is no causal link between a specified injury and the Schemes member’s official duty, or against assessments of impairment of earning capacity and (where appropriate) apportionment, reviewing the medical evidence.
5. The contractor will give advice in accordance with CSIBS rule 1.10 (or former PCSPS rule 11.10 as the case may be) on the beneficiary’s request for a review of benefit following a deterioration of their condition (does not apply to injuries sustained on or after 01 April 2003).

**Personal Injury Compensation**

1. The contractor will provide the employer with advice on the permanency of disability and prospects of future employment for the purposes of determining the level of payment under the personal injury compensation arrangements in section 10 of the CSCS.

**Allocation of Benefits**

1. The contractor shall, upon request by the employer, provide the employer with a medical assessment of the good health of a scheme member based on a medical examination and in accordance with rule D.13 (members of the 2002 section), rule E.21 (members of the 2007 section), rules 5.1-5.11 and appendix 8 to the rules (members of the 1972 section) or Part 6 Chapter 6 (Alpha scheme).
2. The medical assessment described at paragraph 20 above shall be used by the employer to decide whether the scheme member can allocate part of their PCSPS pension to a dependent in accordance with the relevant rules.
3. The contractor will be required to give advice to the client and employer in resolving disputes under the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 and cases investigated by the Pensions Ombudsman.

**Disputes**

1. The client or employer will specify the nature of the advice required on a case by case basis and shall require that the advice is provided by the contractor’s senior physician or, when absent, by their deputy.
2. Where there is need to obtain further evidence which is likely to prevent the contractor from issuing notification of advice within 10 days of receiving the referral, the contractor shall issue an interim reply to the client of employer describing the reasons for the delay and explaining when a full reply to the referral is likely to be issued.

**Ad Hoc Medical Issues**

1. The contractor will give advice to the client or an employer on ad hoc medical issues relating to the PCSPS, Alpha scheme or CSCS requiring professional consideration.
2. The contractor will give advice to the client on any medical issue pertaining to the MEP scheme and the FSSU.
3. **Service Standards**

**Introduction**

1. The Contractor's obligations are conditional upon the client/employer complying with a requirement to ensure that referrals to the contractor are submitted in the appropriate format and that all necessary information is supplied in accordance with the guidance provided to employers by the client, in consultation with the contractor where appropriate.
2. The contractor will, from the outset of the contract, commit to delivering administrative excellence, including using:
* A secure electronic digital platform for the movement of casework and other sensitive material for use by Clients and the Scheme Administrator
* A file tracking and management system
* Clear management support and dedicated point(s) of escalation for Clients
* Provision of management information
1. Except where specified below at clause 4 and 5, the contractor will acknowledge all referrals within two (2) working days of receipt.
2. Except where specified below at clause 5, in any case where the contractor requires additional information from a third party in order to complete the referral, the contractor will within five (5) working days of receipt of the referral inform the employer of the need to obtain additional information.
3. In providing these services, the contractor shall bear in mind at all times the need to balance quality of decision making with the speed of response. For each referral the contractor will provide a submission to the clients and/or employer, which:
	1. Is legible;
	2. Is clear, unambiguous and free of complex medical terminology;
	3. Can be readily understood by a non-medical audience;
	4. Gives full consideration to all available evidence;
	5. Provides cogent reasons for not accepting professional advice in support of the application; and
	6. Indicates whether the medical advice provided contains any harmful information if disclosed to the member

**Ill Health Retirement Benefits (including Early Payment of Preserved Awards)**

1. Where no further medical information is required, the contractor shall issue a notification of assessment under the relevant scheduled services within ten (10) working days of receiving the application in order to receive 100% of the fee.
	1. If the decision is made between eleven (11) and thirty (30) working days following receipt of the application, the fee shall be reduced by 25%;
	2. If the decision is made between thirty-one (31) and forty (40) working days following receipt of the application, the fee shall be reduced by 50%;
	3. If the decision is made after forty (40) working days following receipt of the application, no fee shall be levied.

The contractor shall meet the time limit for receiving 100% of the fee in 95% of the cases as a minimum.

Where the contractor is requested they will assess the member against the HMRCs severe ill health criteria, at the same time as the ill health retirement assessment.

The contractor will notify the Client the outcome via the digital platform and provide a certificate.

Included in bid proposals should be outline recommendations for how the following cases will operate:

* Timescales for returning inadequate referrals
* Provision of a 72 hour fast track service for exceptional cases of terminal illness, where the member’s life expectancy is less than the timescales specified in the service standards.

**Injury Benefits**

1. Where no further medical information is required, the contractor shall within fifteen (15) working days of receiving the application, issue the relevant advice to the employer to receive 100% of the fee.
	1. If the decision is made between sixteen (16) and thirty (30) working days following receipt of the application, the fee shall be reduced by 25%;
	2. If the decision is made between thirty-one (31) and forty (40) working days following receipt of the application, the fee shall be reduced by 50%;
	3. If the decision is made after forty (40) working days following receipt of the application, no fee shall be levied.

The contractor shall meet the time limit for receiving 100% of the fee in 95% of the cases as a minimum.

Included in bid proposals should be outline recommendations for how the following cases will operate:

* Timescales for returning inadequate referrals

**Third Party Reports (All categories of work)**

1. Where a report from a third party is required, the contractor shall:
	1. Request the report within five (5) working days of receiving the referral from the employer;
	2. Send a reminder to the third party if further medical evidence report has not been received within twenty (20) working days from the date of the initial request;
	3. Issue a further reminder if the medical evidence report has not been received within five (5) working days from the first reminder;
	4. If five (5) working days have passed from the second reminder and the further medical evidence report has not been received, the case shall be returned to the employer, and the reasons explained;
	5. Upon receipt of the medical evidence report the contractor shall issue a notification of decision to the service standards set out for a Health Standard Questionnaire, Ill Health Retirement Case, or an Injury Benefit Application where no further medical information is required;
	6. The cost and fee associated with obtaining the medical evidence report shall not be subject to any rebate.
2. The contractor shall not return an application to the employer until the actions represented by 8a, 8b and 8c have been carried out.
3. Where an application is returned to the employer under 8d the full charge of the relevant primary referral product shall be levied.
4. Where an application is re-referred with the relevant medical information (third party report) now in place, the fee for advice provided by the contractor shall from the outset be reduced by 25%. The notification of decision shall be made as set out in the relevant service standard where no further medical information is required, with the final fee reflecting the timing of the contractor’s response in the normal way.

**Consultations (All categories of work)**

1. Where a ‘face-to-face’ consultation is required the contractor shall:
	1. Issue an appointment letter to the applicant within ten (10) working days of the receipt of the case;
	2. The appointment date shall be within twelve (12) working days of notifying the applicant that a consultation is required;
	3. If further medical information is required the case shall be processed in accordance with the service standards details in the appropriate part of this Specification;
	4. If the case is complete following the consultation the contractor shall issue a notification of decision to the service standards set out for an Ill Health Retirement Case, or an Injury Benefit Application where no further medical information is required;
	5. The fee associated with the consultation shall not be subject to any rebate.

**Do Not Attend (DNA) and Cancellations**

1. In the vent that the member or former member cancels or does not attend two (2) appointments offered giving either no notice or less than 72 hours’ notice:

The contractor shall return the referral to the employer and charge the relevant fees as disclosed in this schedule, as follows:

* + No notice given = 100% of Appointment Fee
	+ Less than 24 hours’ notice given = 90% of Appointment Fee
	+ Between 24 and 71 hours’ notice given = 50% of Appointment Fee

**Ill Health Retirement Upper Tier Reviews**

1. Before considering whether the member continues to meet the criteria for upper tier, the contractor will send a letter, in a form agreed with the client, to the member within five (5) working days of receipt of the member’s details from the Schemes paying authority. Should the member not reply within fifth teen (15) working days, a reminder by recorded delivery will be issued on the day following the 15th working day.
2. All upper tier review cases should be dealt with in the manner specified as the service requirement for Ill Health Retirement, except that:
	1. Before recommending that upper tier benefits are reduced to lower tier the contractor shall offer a face-to-face consultation to the member.

**Ill Health Retirement Appeals**

1. The contractor will conduct an initial review (stage 1) of the papers submitted on appeal within 10 working days of receipt in 95% of cases.
2. Where the appeal cannot be resolved at the initial stage, the contractor will complete a further review (stage 2) and any other action needed, and notify the employer, within 20 working days in 95% of cases.
3. Where a further appeal (stage 3) if made following the action above, the contractor will within 5 working days appoint the Chair of a Medical Appeal Board providing all data necessary to enable them to convene the Appeal Board.
4. The contractor shall use all reasonable efforts and means to ensure that the Appeal Board is convened and that the Board’s decision is taken as soon as is practicable. The client will keep the employer informed of progress on a regular basis.
5. On receipt of the Appeal Board’s decision the contractor will in 95% of cases report the finding to the employer within 10 working days.

Included in bid proposals should be outline recommendations for how the following cases will operate:

* Timescales for returning inadequate referrals

**Complaints under the Internal Dispute Resolution (IDR) procedures and cases referred by the Pensions Ombudsman**

1. The contractor shall provide a response to all cases referred by the client/employer under the Occupational Pensions Scheme IDR Regulations 1996 within ten (10) workings days of receipt. Any difficulties in meeting this requirement must be notified to the client/employer immediately.
2. The contractor shall provide a response to all cases referred by the client which are the subject of an investigation by the Pensions Ombudsman within five (5) working days of receipt. Any difficulties in meeting this requirement must be notified to the client immediately.

**Ad Hoc Referrals**

1. The contractor shall provide a substantive response to ad hoc medical issues, including referrals under the MEP scheme and FSSU, and other correspondence within:
	1. The timescales agreed with the client/employer in 95% of cases;
	2. Fifteen (15) working days from receipt in 95% of cases where no specific timescale is agreed with the client/employer; and
	3. Twenty (20) working days from receipt in 99% of cases.
2. **Management Information**
3. The Contractor shall provide the following management information to the Client at no additional cost to the fees listed.
4. On a **monthly** basis the contractor will provide the client with a report containing the following information:
	1. Numbers of Ill Health Retirement Cases received, completed and outstanding;
	2. Numbers of Injury Benefit Cases received, completed and outstanding;
	3. The prescribed standards met per individual Service Standard for (i) to (ii) above.
5. On a **quarterly** basis the contractor will provide the Client with a report containing the following information:

Ill health retirement cases (PCSPS 2002 and 2007 sections and Alpha scheme):

* 1. Number of cases where ‘upper tier’ medical retirement approved (broken down on a monthly basis);
	2. Number of cases where ‘lower tier’ medical retirement approved (broken down on a monthly basis);
	3. Number of cases where medical retirement was rejected (broken down on a monthly basis);
	4. Number of cases where HMRC Severe Ill Health criteria has not been met (broken down on a monthly basis).
	5. Ill Health Retirement cases (PCSPS 1972 section and PPAIHBS)
	6. Number of cases where medical retirement approved (broken down on a monthly basis);
	7. Number of cases where medical retirement is rejected (broken down on a monthly basis);
	8. Number of cases where HMRC Severe Ill Health criteria has not been met (broken down on a monthly basis).

Medical Appeals:

* 1. Number of appeals received;
	2. Number of appeals upheld after review;
	3. Number of appeals upheld and rejected by the independent Medical Appeals Board;
	4. Number of cases where time limits met at review;
	5. Number of Medical Appeals Board cases where time limit met.

Injury Benefits:

1. Number of cases referred for advice by employers to enable them to decide whether injury qualified for benefits;
2. Number of cases where advice given to employers recommends that qualifying injury should be accepted;
3. Number of cases meeting each level of impairment of earnings capacity.

Early payment of preserved awards (PCSPS 1972 section only):

* 1. Number of cases where early payment is supported (by month);
	2. Number of cases where early payment is not supported (by month);

The prescribed standards met per individual Service Standard for clause A & B above.

Upper tier reviews:

1. Number of cases reviewed;
2. Number of cases where advice is that the conditions for upper tier are no longer satisfied.
3. The performance of the contract shall be reviewed on a monthly basis between the Client and Contractor in order to maintain performance against Key Performance Indicators (KPI’s) as detailed within this Specification. Once a quarter a face to face meeting will be held for an in-depth review of: performance; service standards; trends revealed by referrals; management of ill health retirement related issues; any other relevant matters as they arise.
4. The digital platform developed by the contractor for the delivery of this contract shall allow for the following information (as a minimum) the be stored and maintained by the contractor for each case:
	1. Age / date of birth;
	2. Gender;
	3. Employer;
	4. Work location / region;
	5. Type of job;
	6. ICD code;
	7. Whether or not an application was successful;
	8. Type of application (i.e. in service or early payment of preserved award);
	9. Date of decision;
	10. Whether upper or lower tier was recommended (for PCSPS 2002 and 2007 sections only);
	11. Whether a provisional recommendation was made (for PCSPS 2002 and 2007 sections only).
5. The contractor will produce an Annual Report (in a format to be agreed with the client) reporting on all aspects of medical advice provided by the contractor in the previous financial year, including any trends identified. The contractor shall also give the client access to the database described in paragraph 5, in a useable format. This report shall be produced within two (2) calendar months from the end of the financial year to which the report refers. The report shall be produced at no additional cost to the client.
	1. The Annual Report shall also include a breakdown of performance against all service standards, including requests for advice on complaints, allocation of benefits and ad hoc referrals. Statistics on injury benefit cases shall be broken down by medical condition and employing department.
6. The contractor shall, upon request by the client, supply the client with such other management information and statistics in relation to the services as the client may reasonably require.
7. The contractor shall provide the information outlined within this Management Information section, following the end of the period to which the information relates as follows, unless otherwise specified:
	1. Monthly within 10 working days from the 1st of the month;
	2. Quarterly within 20 working days from the 1st of the reporting month;
	3. Annually within 40 working days from 1st April.
8. The contractor shall use their professional judgement to bring to the clients’ attention at any time any incidences of problem, or potential problems in meeting the deadlines specified in paragraph 8.
9. The digital platform developed for the delivery of these services shall allow for a tracking and retrieval system which will allow employers to know immediately the status of any case referred. On a **quarterly** basis the contractor shall inform employers, at no cost, of outstanding cases and, where delay has occurred and the anticipated date of completion.
10. The contractor shall be responsible for monitoring performance of the contract and provide the client with full detail of any aspects of performance which fail to meet the requirements of the contract, unless otherwise notified by the client.
11. **MANAGEMENT OF MEDICAL ISSUES**
12. The contractor shall ensure that the only persons advancing medical advice and recommendations to the client or employer in relation to the contract are, as a minimum, Associates of the Faculty of Occupational Medicine, or have achieved an equivalent European qualification. The contractor will provide the client with a list of the names of all such qualified personnel who it is intended will provide services under the contract.
13. All advice under the contract is to be given by Medical Doctors who are familiar with the provisions of the PCSPS and Civil Service employment.
14. Only persons qualified as in paragraph 1 above may act as authorised signatories for the purpose of completing certificates for medical retirement and early payment of preserved awards.
15. Wherever possible, the contractor shall also ensure that the persons advancing medical advice and recommendations to the client in relation to the contract:
	1. Have experience in providing medical advice recommendations similar to those required under the contract, e.g. under the provisions of an occupational or personal pension scheme; and
	2. Are prepared to attend any expert working groups established by the client or the client’s policy advisers to consider the issues posed by any difficult medical conditions.
16. All persons providing medical advice under the contract will maintain and continue their professional education and development in accordance with best practice as identified by the Faculty of Occupational Medicine.

Part B – Key Performance Indicators

General

The purpose of this Part B is to set out the KPIs by which the Supplier’s overall performance under this Framework Agreement shall be monitored and managed. The Authority reserves the right to adjust, introduce new, or remove KPIs throughout the Framework Period, however any significant changes to KPIs shall be agreed between the Authority and the Supplier in accordance with Clause 19.1 (Variation Procedure).

The Supplier shall comply with all its obligations related to KPIs set out in this Framework Agreement including Framework Schedule 2 (Specification) and shall use all reasonable endeavours to meet the KPI Targets identified in the table below.

The KPIs from which performance by the Supplier of this Framework Agreement will be reported against are set out in Schedule 2, part A, Framework Specification:

FRAMEWORK SCHEDULE 3: FRAMEWORK prices AND CHARGING STRUCTURE

General Provisions

The Framework Prices set out in Annex 3 to this Framework Schedule 3 are the maximum that the Supplier may charge.

The Supplier acknowledges and agrees that, subject to paragraph 6 of this Framework Schedule 3 (Adjustment of the Framework Prices), the Framework Prices cannot be increased during the Framework Period.

Pricing mechanism for the caLculation of framework prices – NOT USED

The Framework Prices shall include all costs and expenses relating to the Goods and/or Services provided to Contracting Authorities and/or the Supplier’s performance of its obligations under any Call Off Agreements and no further amounts shall be payable by a Contracting Authority to the Supplier in respect of such performance, including in respect of matters such as:

* + 1. any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs required by the Supplier Personnel, network or data interchange costs or other telecommunications charges; or
		2. any amount for any services provided or costs incurred by the Supplier prior to the commencement date of any Call Off Agreement.

Adjustment of the Framework Prices

The Framework Prices shall only be varied:

* + 1. due to a Specific Change in Law in relation to which the Parties agree that a change is required to all or part of the Framework Prices in accordance with Clause 19.2 of this Framework Agreement (Legislative Change);
		2. where all or part of the Framework Prices are reviewed and reduced in accordance with Framework Schedule 12 (Continuous Improvement and Benchmarking);
		3. where all or part of the Framework Prices are reviewed and reduced in accordance with paragraph 7 of this Framework Schedule 3 (Supplier Periodic Assessment of Framework Prices);

Subject to paragraphs 6.1.1 to 6.1.3 of this Framework Schedule, the Framework Prices will remain fixed for the duration of the Framework Agreement.

SUPPLIER PERIODIC ASSESSMENT OF FRAMEWORK PRICES

Every six (6) Months during the Framework Period, the Supplier shall assess the level of the Framework Prices to consider whether it is able to reduce them.

Such assessments by the Supplier under paragraph 7.1 shall be carried out on 1 July and 1 January in each Contract Year (or in the event that such dates do not, in any Contract Year, fall on a Working Day, on the next Working Day following such dates). To the extent that the Supplier is able to decrease all or part of the Framework Prices it shall promptly notify the Authority in writing and such reduction shall be implemented in accordance with paragraph 10.1.3 below.

5.  E-commerce transactions with Central Government Bodies

5.1. The Supplier acknowledges and agrees that the Government’s wide strategy of ‘Digital by Default’(<https://www.gov.uk/government/publications/government-digital-strategy>)  endorses a commitment to implement e-commerce systems, including, for example, purchase-to-pay (P2P) automated systems, as the preferred transacting model for all Government’s purchasing transactions. The intent is to migrate, wherever practically possible, all Government’s purchasing to an e-commerce environment.

5.2. The Supplier acknowledges and agrees that when contracting with Central Government Bodies, the latter may use a specific e-commerce application and the Supplier shall be required to comply with the relevant requirements set out by the relevant Central Government Body in their Statement of Requirements during the Further Competition Procedure and/or terms of the relevant Call Off Agreement.

ANNEX 3: FRAMEWORK PRICES

[Guidance Note: Prior to the commencement of the Framework Agreement, the Authority will incorporate here, the Supplier’s tendered Framework Prices including any discounts. Where a Fixed Price only pricing mechanism has been used, the Authority may cross refer to the information to be populated in Table 2 of Annex 2]

FRAMEWORK SCHEDULE 4: KEY SUB-CONTRACTORS

1. In accordance with Clause 25.1 (Appointment of Key Sub-Contractors), the Supplier is entitled to sub-contract its obligations under this Framework Agreement and any Call Off Agreements entered into pursuant to this Framework Agreement, to the Key Sub-Contractors listed below.

**FRAMEWORK SCHEDULE 5: FRAMEWORK MANAGEMENT**

INTRODUCTION

The following definitions shall apply in addition to the definitions contained in the Framework Schedule 1 (Definitions):

|  |  |
| --- | --- |
| "Supplier Framework Manager" | 1. has the meaning given to it in paragraph 2.1.1 of this Framework Schedule 8; and
 |
| "Supplier Review Meetings" | 1. has the meaning given to it in paragraph 2.2.1 of this Framework Schedule 8.
 |

The successful delivery of this Framework Agreement will rely on the ability of the Supplier and the Authority in developing a strategic relationship immediately following the conclusion of this Framework Agreement with the Supplier and maintaining this relationship throughout the Framework Period.

To achieve this strategic relationship, there will be a requirement to adopt proactive framework management activities which will be informed by quality Management Information, and the sharing of information between the Supplier and the Authority.

This Framework Schedule 8 outlines the general structures and management activities that the Parties shall follow during the Framework Period.

FRAMEWORK MANAGEMENT

* 1. Framework Management Structure:
		1. The Supplier shall provide a suitably qualified nominated contact (the “**Supplier** **Framework Manager**”) who will take overall responsibility for delivering the Goods and/or Services required within this Framework Agreement, as well as a suitably qualified deputy to act in their absence.
		2. The Supplier shall put in place a structure to manage the Framework in accordance with Framework Schedule 2 (Goods and/or Services and Key Performance Indicators).
		3. A full governance structure for the Framework will be agreed between the Parties during the Framework Agreement implementation stage.
		4. Following discussions between the Parties following the Framework Commencement Date, the Authority shall produce and issue to the Supplier a draft Supplier Action Plan. The Supplier shall not unreasonably withhold its agreement to the draft Supplier Action Plan. The Supplier Action Plan shall, unless the Authority otherwise Approves, be agreed between the Parties and come into effect within two weeks from receipt by the Supplier of the draft Supplier Action Plan.
		5. The Supplier Action Plan shall be maintained and updated on an ongoing basis by the Authority. Any changes to the Supplier Action Plan shall be notified by the Authority to the Supplier. The Supplier shall not unreasonably withhold its agreement to any changes to the Supplier Action Plan. Any such changes shall, unless the Authority otherwise Approves, be agreed between the Parties and come into effect within two weeks from receipt by the Supplier of the Authority’s notification.
	2. Supplier Review Meetings
		1. Regular performance review meetings will take place at the Authority’s premises throughout the Framework Period and thereafter until the Framework Expiry Date **(“Supplier Review Meetings”**).
		2. The exact timings and frequencies of such Supplier Review Meetings will be determined by the Authority following the conclusion of the Framework Agreement. It is anticipated that the frequency of the Supplier Review Meetings will be once every month or less. The Parties shall be flexible about the timings of these meetings.
		3. The purpose of the Supplier Review Meetings will be to review the Supplier’s performance under this Framework Agreement and, where applicable, the Supplier’s adherence to the Supplier Action Plan. The agenda for each Supplier Review Meeting shall be set by the Authority and communicated to the Supplier in advance of that meeting.
		4. The Supplier Review Meetings shall be attended, as a minimum, by the Authority Representative(s) and the Supplier Framework Manager.

KEY PERFORMANCE INDICATORS

The KPIs applicable to this Framework Agreement are set out in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators).

The Supplier shall establish processes to monitor its performance against the agreed KPIs. The Supplier shall at all times ensure compliance with the standards set by the KPIs.

The Authority shall review progress against these KPIs to evaluate the effectiveness and efficiency of which the Supplier performs its obligations to fulfil this Framework Agreement.

The Supplier’s achievement of KPIs shall be reviewed during the Supplier Review Meetings, in accordance with paragraph 2.2 above, and the review and ongoing monitoring of KPIs will form a key part of the framework management process as outlined in this Framework Schedule 8.

The Authority reserves the right to adjust, introduce new, or remove KPIs throughout the Framework Period, however any significant changes to KPIs shall be agreed between the Authority and the Supplier.

The Authority reserves the right to use and publish the performance of the Supplier against the KPIs without restriction.

EFFICIENCY TRACKING PERFORMANCE MEASURES

The Supplier shall cooperate in good faith with the Authority to develop efficiency tracking performance measures for this Framework Agreement. This shall include but is not limited to:

* + 1. developing additional KPIs to ensure that the Framework Agreement supports the emerging target operating model across central government (particularly in line with centralised sourcing and category management, procurement delivery centres and payment processing systems and shared service centres).

The list in paragraph 4.1 is not exhaustive and may be developed during the Framework Period.

The metrics that are to be implemented to measure efficiency shall be developed and agreed between the Authority and the Supplier. Such metrics shall be incorporated into the list of KPIs set out in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators).

The ongoing progress and development of the efficiency tracking performance measures shall be reported through framework management activities as outlined in this Framework Schedule 8.

ESCALATION PROCEDURE

In the event that the Authority and the Supplier are unable to agree the performance score for any KPI during a Supplier Review Meeting, the disputed score shall be recorded and the matter shall be referred to the Authority Representative and the Supplier Representative in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).

In cases where the Authority Representative and the Supplier Representative fail to reach a solution within a reasonable period of time, the matter shall be dealt with in accordance with the procedure set out in Clause 48 (Dispute Resolution).

FRAMEWORK SCHEDULE 6: MANAGEMENT INFORMATION

GENERAL REQUIREMENTS

The Supplier shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver timely and accurate Management Information to the Authority in accordance with the provisions of this Framework Schedule 9.

MANAGEMENT INFORMATION AND FORMAT – NOT USED

FREQUENCY AND COVERAGE – NOT USED

SUBMISSION OF THE MONTHLY MI REPORT – NOT USED

DEFECTIVE MANAGEMENT INFORMATION – NOT USED

DEFAULT MANAGEMENT CHARGE – NOT USED

FRAMEWORK SCHEDULE 6: ANNUAL SELF AUDIT CERTIFICATE

Dear Sirs

In accordance with the Framework Agreement entered into on [insert Framework Commencement Date dd/mm/yyyy] between [insert name of Supplier] and the Authority, we confirm the following:

1. In our opinion based on the testing undertaken [name of Supplier] has in place suitable systems for identifying and recording the transactions taking place under the provisions of the above Framework Agreement.

2. We have tested the systems for identifying and reporting on framework activity and found them to be operating satisfactorily.

3. We have tested a sample of [ ] [insert number of sample transactions tested] Orders and related invoices during our audit for the financial year ended [insert financial year] and confirm that they are correct and in accordance with the terms and conditions of the Framework Agreement.

4. We have also attached an Audit Report which provides details of the methodology applied to complete the review, the sampling techniques applied, details of any issues identified and remedial action taken.

Name:………………………………………………………

Signed:…………………………………………………….

Head of Internal Audit/ Finance Director/ External Audit firm (delete as applicable)

Date:……………………………………………………….

Professional Qualification held by Signatory:............................................................

FRAMEWORK SCHEDULE 7: MARKETING

INTRODUCTION

This Framework Schedule 11 describes the activities that the Supplier will carry out as part of its ongoing commitment to the marketing of the Goods and/or Services to Contracting Authorities.

MARKETING

Marketing contact details:

* + 1. [NAME]
		2. [ADDRESS]
		3. [Telephone and email]

AUTHORITY PUBLICATIONS

The Authority will periodically update and revise marketing materials. The Supplier shall supply current information for inclusion in such marketing materials when required by the Authority.

Such information shall be provided in the form of a completed template, supplied by the Authority together with the instruction for completion and the date for its return.

Failure to comply with the provisions of paragraphs 3.1 and 3.2 may result in the Supplier’s exclusion from the use of such marketing materials.

SUPPLIER PUBLICATIONS

Any marketing materials in relation to this Framework Agreement that the Supplier produces must comply in all respects with the Branding Guidance. The Supplier will periodically update and revise such marketing materials.

The Supplier shall be responsible for keeping under review the content of any information which appears on the Supplier’s website and which relates to this Framework Agreement and ensuring that such information is kept up to date at all times.

FRAMEWORK SCHEDULE 8: CONTINUOUS IMPROVEMENT AND BENCHMARKING

DEFINITIONS

In this Framework Schedule 12, the following expressions shall have the following meanings:

|  |  |
| --- | --- |
| "Benchmarked Rates" | 1. means the Framework Prices for the Benchmarked Goods and/or Services
 |
| "Benchmark Review" | 1. means a review of the Goods and/or Services carried out in accordance with this Framework Schedule 12 to determine whether those Goods and/or Services represent Good Value
 |
| "Benchmarked Goods and/or Services" | 1. means any Goods and/or Services included within the scope of a Benchmark Review pursuant to this Framework Schedule 12
 |
| "Comparable Rates" | 1. means rates payable by the Comparison Group for Comparable Goods and/or Services that can be fairly compared with the Framework Prices
 |
| "Comparable Supply" | 1. means the supply of Goods and/or Services to another customer of the Supplier that are the same or similar to the Goods and/or Services
 |
| "Comparable Goods and/or Services" | 1. means Goods and/or Services that are identical or materially similar to the Benchmarked Goods and/or Services (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Goods and/or Services exist in the market, the Supplier shall propose an approach for developing a comparable Goods and/or Services benchmark
 |
| "Comparison Group" | 1. means a sample group of organisations providing Comparable Goods and/or Services which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Supplier or which, are best practice organisations
 |
| "Equivalent Data" | 1. means data derived from an analysis of the Comparable Rates and/or the Comparable Goods and/or Services (as applicable) provided by the Comparison Group
 |
| "Good Value" | 1. means that the Benchmarked Rates are within the Upper Quartile
 |
| "Upper Quartile" | 1. means, in respect of Benchmarked Rates, that based on an analysis of Equivalent Data, the Benchmarked Rates, as compared to the range of prices for Comparable Goods and/or Services, are within the top 25% in terms of best value for money for the recipients of Comparable Goods and/or Services.
 |

BACKGROUND

The Supplier acknowledges that the Authority wishes to ensure that the Goods and/or Services, represent value for money to the taxpayer throughout the Framework Period.

This Framework Schedule 12 (Continuous Improvement and Benchmarking) sets out the following processes to ensure this Framework Agreement represents value for money throughout the Framework Period and subsequently while any Call Off Agreements remain in force:

* + 1. Benchmarking;
		2. Continuous Improvement;

BENCHMARKING

* 1. Frequency Purpose and Scope of Benchmark Review
		1. The Supplier shall carry out Benchmark Reviews of the Goods and/or Services when so requested by the Authority.
		2. The Authority shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Framework Commencement Date nor at intervals of less than twelve (12) Months after any previous Benchmark Review.
		3. The purpose of a Benchmark Review will be to establish whether the Benchmarked Goods and/or Services are, individually and/or as a whole, Good Value.
		4. The Goods and/or Services that are to be the Benchmarked Goods and/or Services will be identified by the Authority in writing.
	2. Benchmarking Process
		1. The Supplier shall produce and send to the Authority for Approval, a draft plan for the Benchmark Review.
		2. The plan must include:
			1. a proposed timetable for the Benchmark Review;
			2. a description of the benchmarking methodology to be used;
			3. a description that demonstrates objectively and transparently that the benchmarking methodology to be used is capable of fulfilling the benchmarking purpose; and
			4. a description of how the Supplier will scope and identify the Comparison Group.
		3. The Authority must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan. The Authority may not unreasonably withhold or delay its Approval of the draft plan and any suggested amendments must be reasonable.
		4. Where the Authority suggests amendments to the draft plan under paragraph 3.2.3, the Supplier must produce an amended draft plan. Paragraph 3.2.2 shall apply to any amended draft plan.
		5. Once it has received the Approval of the draft plan, the Supplier shall:
			1. finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Supplier’s professional judgment using:
				1. market intelligence;
				2. the Supplier’s own data and experience;
				3. relevant published information; and
				4. pursuant to paragraph 3.2.7 below, information from other Supplier’s or purchasers on Comparable Rates;
			2. by applying the adjustment factors listed in paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
			3. using the Equivalent Data to calculate the Upper Quartile;
			4. determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
		6. The Supplier agrees to use its reasonable endeavours to obtain information from other Supplier’s or purchasers on Comparable Rates.
		7. In carrying out the benchmarking analysis the Supplier may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:
			1. the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
			2. exchange rates;
			3. any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier’s pricing to appear non-competitive.
	3. Benchmarking Report:
		1. For the purposes of this Framework Schedule 12 **“Benchmarking Report”** shall mean the report produced by the Supplier following the Benchmark Review and as further described in this Framework Schedule 12;
		2. The Supplier shall prepare a Benchmarking Report and deliver it to the Authority, at the time specified in the plan Approved pursuant to paragraph 3.2.3 of this Schedule 12, setting out its findings. Those findings shall be required to:
			1. include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Goods and/or Services as a whole are, Good Value;
			2. if any of the Benchmarked Goods and/or Services are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Goods and/or Services as a whole Good Value; and
			3. include sufficient detail and transparency so that the Authority can interpret and understand how the Supplier has calculated whether or not the Benchmarked Goods and/or Services are, individually or as a whole, Good Value.
		3. The Parties agree that any changes required to this Framework Agreement identified in the Benchmarking Report may be implemented at the direction of the Authority in accordance with Clause 19.1 (Variation Procedure).
		4. The Authority shall be entitled to publish the results of any benchmarking of the Framework Prices to Other Contracting Authorities.

CONTINUOUS IMPROVEMENT

The Supplier shall adopt a policy of continuous improvement in relation to the Goods and/or Services pursuant to which it will regularly review with the Authority the Goods and/or Services and the manner in which it is providing the Goods and/or Services with a view to reducing the Authority's costs, the costs of Contracting Authorities (including the Framework Prices) and/or improving the quality and efficiency of the Goods and/or Services. The Supplier and the Authority will provide to each other any information which may be relevant to assisting the objectives of continuous improvement and in particular reducing costs.

Without limiting paragraph 4.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Goods and/or Services and/or reducing the Charges produced by the Supplier pursuant to this Schedule 12 and reducing the Framework Prices (without adversely affecting the performance of the Framework Agreement) during that Contract Year (**"Continuous Improvement Plan"**) for the Approval of the Authority. The Continuous Improvement Plan shall include, as a minimum, proposals in respect of the following:

* + 1. identifying the emergence of new and evolving technologies which could improve the Goods and/or Services;
		2. identifying changes in behaviour at Contracting Authorities that result in a cost saving and a reduction in the Framework Prices;
		3. improving the way in which the Goods and/or Services are sold via the Framework Agreement that may result in reduced Framework Prices;
		4. identifying and implementing efficiencies in the Supplier’s internal processes and administration that may lead to cost savings and reductions in the Framework Prices;
		5. identifying and implementing efficiencies in the way the Authority and/or Contracting Authorities interact with the Supplier that may lead to cost savings and reductions in the Framework Prices;
		6. identifying and implementing efficiencies in the Supplier’s supply chain that may lead to cost savings and reductions in the Framework Prices;
		7. baselining the quality of the Supplier’s Goods and/or Services and its cost structure and demonstrating the efficacy of its Continuous Improvement Plan on each element during the Framework Period; and
		8. measuring and reducing the sustainability impacts of the Supplier’s operations and supply-chains pertaining to the Goods and/or Services, and identifying opportunities to assist Contracting Authorities in meeting their sustainability objectives.

The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Authority for Approval within ninety (90) Working Days of the first Order or six (6) Months following the Framework Commencement Date, whichever is earlier.

The Authority shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. Within ten (10) Working Days of receipt of the Authority's notice of rejection and of the deficiencies of the proposed Continuous Improvement Plan, the Supplier shall submit to the Authority a revised Continuous Improvement Plan reflecting the changes required. Once Approved by the Authority, the programme shall constitute the Continuous Improvement Plan for the purposes of this Agreement.

Once the first Continuous Improvement Plan has been Approved in accordance with paragraph 4.4:

* + 1. the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
		2. the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Authority and the Supplier) to review the Supplier’s progress against the Continuous Improvement Plan.

The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in paragraph 4.2.

All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Framework Prices.

Should the Supplier’s costs in providing the Goods and/or Services to Contracting Authorities be reduced as a result of any changes implemented by the Authority and/or Contracting Authorities, all of the cost savings shall be passed on to Contracting Authorities by way of a consequential and immediate reduction in the Framework Prices for the Goods and/or Services.

**FRAMEWORK SCHEDULE 9: INSURANCE REQUIREMENTS**

1. OBLIGATION TO MAINTAIN INSURANCES

Without prejudice to its obligations to the Authority under this Framework Agreement, including its indemnity obligations, the Supplier shall for the periods specified in this Schedule 14 take out and maintain, or procure the taking out and maintenance of the insurances as set out in Appendix 1 (Required Insurances) and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Framework Commencement Date.

The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.

The Insurances shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international insurance market.

The Supplier shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Goods and/or Services and for which the Supplier is legally liable.

GENERAL OBLIGATIONS

Without limiting the other provisions of this Framework Agreement, the Supplier shall:

* + 1. take or procure the taking of all reasonable risk management and risk control measures in relation to the Goods and/or Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
		2. promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
		3. hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

FAILURE TO INSURE

The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

EVIDENCE OF POLICIES

The Supplier shall upon the Framework Commencement Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of this Framework Schedule 14. Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Supplier of any of its liabilities and obligations under this Agreement.

AGGREGATE LIMIT OF INDEMNITY

Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":

* + 1. if a claim or claims which do not relate to this Framework Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Supplier shall immediately submit to the Authority:
			1. details of the policy concerned; and
			2. its proposed solution for maintaining the minimum limit of indemnity specified; and
		2. if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Framework Agreement are paid by insurers, the Supplier shall:
			1. ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Framework Agreement; or
			2. if the Supplier is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Authority full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

CANCELLATION

The Supplier shall notify the Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.

INSURANCE CLAIMS

The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Goods and/or Services and/or this Framework Agreement for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Goods and/or Services or this Framework Agreement, the Supplier shall co-operate with the Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

Except where the Authority is the claimant party, the Supplier shall give the Authority notice within twenty (20) Working Days after any insurance claim in excess of **£1000** relating to or arising out of the provision of the Goods and/or Services or this Framework Agreement on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.

Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.

Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Framework Agreement or otherwise.

ANNEX 1: REQUIRED INSURANCES

Part A: Third Party Public & Products Liability Insurance

Insured

The Supplier

Interest

To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

* + 1. death or bodily injury to or sickness, illness or disease contracted by any person;
		2. loss of or damage to property;

happening during the period of insurance (as specified in Paragraph 5 of this Annex 1 to this Schedule 14) and arising out of or in connection with the provision of the Goods and/or Services and in connection with this Framework Agreement.

Limit of indemnity

Not less than £5,000,000in respect of any one occurrence, the number of occurrences being unlimited, but £5,000,000any one occurrence and in the aggregate per annum in respect of products and pollution liability.

Territorial limits – NOT USED

Period of insurance

From the Framework Commencement Date for the Framework Period and renewable on an annual basis unless agreed otherwise by the Authority in writing.

Cover features and extensions

Indemnity to principals clause.

Principal exclusions

War and related perils.

Nuclear and radioactive risks.

Liability for death, illness, disease or bodily injury sustained by employees of the Insured during the course of their employment.

Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.

Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.

Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.

Liability arising from the ownership, possession or use of any aircraft or marine vessel.

Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

Maximum deductible threshold

Not to exceed £5,000,000 for each and every third party property damage claim (personal injury claims to be paid in full).

Part B: Professional Indemnity Insurance

Insured

The Supplier

Interest

To indemnify the Insured for all sums which the Insured shall become legally liable to pay (including claimants’ costs and expenses) as a result of claims first made against the Insured during the Period of Insurance by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Goods and/or Services.

Limit of indemnity

 Not less than *£5,000,000* in respect of any one claim and in the aggregate per annum.

Territorial Limits – NOT USED

Period of insurance

From the date of this Framework Agreement and renewable on an annual basis unless agreed otherwise by the Authority in writing (a) throughout the Framework Period or until earlier termination of this Framework Agreement and (b) for a period of 6 years thereafter.

Cover features and extensions

Retroactive cover to apply to any claims made policy wording in respect of this Framework Agreement or retroactive date to be no later than the Framework Commencement Date.

Principal exclusions

War and related perils

Nuclear and radioactive risks

Maximum deductible threshold

Not to exceed £5,000,000 each and every claim.

Part C: United Kingdom Compulsory Insurances

General

The Supplier shall meet its insurance obligations under applicable Law in full, including, UK employers' liability insurance and motor third party liability insurance.

FRAMEWORK SCHEDULE 10: COMMERCIALLY SENSITIVE INFORMATION

INTRODUCTION

In this Framework Schedule 17 (Commercially Sensitive Information) the Parties have sought to identify the Supplier’s Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA.

Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Framework Schedule 17 applies.

Without prejudice to the Authority's obligation to disclose Information in accordance with FOIA or Clause 27.4 (Freedom of Information), the Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

| **No.** | **Date** | **Item(s)** | **Duration of Confidentiality** |
| --- | --- | --- | --- |
|  | [insert date]  | [insert details] | [insert duration] |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

FRAMEWORK SCHEDULE 11: DISPUTE RESOLUTION PROCEDURE

DEFINITIONS

In this Framework Schedule 18, the following definitions shall apply:

|  |  |
| --- | --- |
| "CEDR" | 1. means the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
 |
| "Counter Notice" | 1. has the meaning given to it in paragraph 6.2;
 |
| "Exception" | 1. means a deviation of project tolerances in accordance with PRINCE2 methodology in respect of this Framework Agreement or in the supply of the Goods and/or Services;
 |
| "Expedited Dispute Timetable" | 1. means the accelerated timetable for the resolution of disputes as set out in paragraph 2.6;
 |
| "Expert" | 1. means the person appointed by the Parties in accordance with paragraph 5.2 of this Framework Schedule 18;
 |
| "Mediation Notice" | 1. has the meaning given to it in paragraph 3.2; and
 |
| "Mediator" | 1. means the independent third party appointed in accordance with paragraph 4.2 of this Framework Schedule 18.
 |

INTRODUCTION

If a Dispute arises then:

* + 1. the Authority Representative and the Supplier Representative shall attempt in good faith to resolve the Dispute; and
		2. if such attempts are not successful within a reasonable time either Party may give to the other a Dispute Notice.

The Dispute Notice shall set out:

* + 1. the material particulars of the Dispute;
		2. the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
		3. if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable as set out in paragraph 2.6, the reason why.

Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Framework Agreement regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure set out in this Framework Schedule 18.

Subject to paragraph 3.2, the Parties shall seek to resolve Disputes:

* + 1. first by commercial negotiation (as prescribed in paragraph 3);
		2. then by mediation (as prescribed in paragraph 4); and
		3. lastly by recourse to arbitration (as prescribed in paragraph 6) or litigation (in accordance with Clause 49 (*Governing Law and Jurisdiction*)).

Specific issues shall be referred to Expert Determination (as prescribed in paragraph 5) where specified under the provisions of this Framework Agreement and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 5 (Expert Determination).

In exceptional circumstances where the use of the times in this Framework Schedule 18 would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use of the Expedited Dispute Timetable within five (5) Working Days of the issue of the Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Authority.

If the use of the Expedited Dispute Timetable is determined in accordance with paragraph 2.5 or is otherwise specified under the provisions of this Framework Agreement, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs of this Framework Schedule 18:

* + 1. in paragraph 3.2.3, ten (10) Working Days;
		2. in paragraph 4.2, ten (10) Working Days;
		3. in paragraph 5.2, five (5) Working Days; and
		4. in paragraph 6.2, ten (10) Working Days.

If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension.

COMMERCIAL NEGOTIATIONS

Following the service of a Dispute Notice, the Authority and the Supplier shall use reasonable endeavours to resolve the Dispute as soon as possible, by discussion between the Authority and the Supplier, such discussions being commercial negotiations.

If:

* + 1. either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiations, will not result in an appropriate solution; or
		2. the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiations in accordance with this paragraph 3; or
		3. the Parties have not settled the Dispute in accordance with paragraph 3.1 within thirty (30) Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation (a “**Mediation Notice”**) in accordance with paragraph 4.

MEDIATION

If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with CEDR's Model Mediation Agreement which shall be deemed to be incorporated by reference into this Framework Agreement.

If the Parties are unable to agree on the joint appointment of a Mediator within thirty (30) Working Days from service of the Mediation Notice then either Party may apply to CEDR to nominate the Mediator.

If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if the Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.

Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the procedure for variations under Clause 16.1 (Variation Procedure) where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

EXPERT DETERMINATION

If a Dispute relates to any aspect of the technology underlying the provision of the Goods and/or Services or otherwise relates to an ICT technical, financial technical or other aspect of a technical nature (as the Parties may agree) and the Dispute has not been resolved by discussion or mediation, then either Party may request (which request will not be unreasonably withheld or delayed) by written notice to the other that the Dispute is referred to an Expert for determination.

The Expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days, or if the person appointed is unable or unwilling to act, the Expert shall be appointed on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society).

The Expert shall act on the following basis:

* + 1. he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
		2. the Expert's determination shall (in the absence of a material failure by either Party to follow the agreed procedures) be final and binding on the Parties;
		3. the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his/her appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
		4. any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
		5. the process shall be conducted in private and shall be confidential; and
		6. the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

ARBITRATION

The Authority may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of paragraph 6.4.

Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Authority of its intentions and the Authority shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a “**Counter Notice**”) on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with paragraph 6.4 or be subject to the jurisdiction of the courts in accordance with Clause 49 (Governing Law and Jurisdiction). The Supplier shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.

If:

* + 1. the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 6.4shall apply;
		2. the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts in accordance with Clause 49 (Governing Law and Jurisdiction), the Dispute shall be so referred to the courts and the Supplier shall not commence arbitration proceedings;
		3. the Authority does not serve a Counter Notice within the fifteen (15) Working Day period referred to in paragraph 6.2, the Supplier may either commence arbitration proceedings in accordance with paragraph 6.4 or commence court proceedings in the courts in accordance with Clause 49 (Governing Law and Jurisdiction) which shall (in those circumstances) have exclusive jurisdiction.

In the event that any arbitration proceedings are commenced pursuant to paragraphs 6.1 to 6.3, the Parties hereby confirm that:

* + 1. all disputes, issues or claims arising out of or in connection with this Framework Agreement (including as to its existence, validity or performance) shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to paragraphs 6.4.5, 6.4.6 and 6.4.7);
		2. the arbitration shall be administered by the LCIA;
		3. the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Framework Agreement and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
		4. if the Parties fail to agree the appointment of the arbitrator within ten (10) days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
		5. the chair of the arbitral tribunal shall be British;
		6. the arbitration proceedings shall take place in London and in the English language; and
		7. the seat of the arbitration shall be London.

URGENT RELIEF

Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

* + 1. for interim or interlocutory remedies in relation to this Framework Agreement or infringement by the other Party of that Party’s Intellectual Property Rights; and/or
		2. where compliance with paragraph 2.1 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

FRAMEWORK SCHEDULE 12: VARIATION FORM

Variation Form No:

……………………………………………………………………………………

BETWEEN:

|  |
| --- |
| **[**insert name of Authority**]** ("**the Authority"**)and**[**insert name of Supplier**]** (**"the Supplier"**) |

1. This Framework Agreement is varied as follows and shall take effect on the date signed by both Parties:

[Guidance Note: Insert details of the Variation]

1. Words and expressions in this Variation shall have the meanings given to them in the Framework Agreement.
2. The Framework Agreement, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Authority

|  |  |
| --- | --- |
| Signature |  |
| Date |  |
| Name (in Capitals) |  |
| Address |  |
|  |  |

Signed by an authorised signatory to sign for and on behalf of the Supplier

|  |  |
| --- | --- |
| Signature |  |
| Date |  |
| Name (in Capitals) |  |
| Address |  |
|  |  |

FRAMEWORK SCHEDULE 13: CONDUCT OF CLAIMS

INDEMNITIES

This Schedule shall apply to the conduct by a Party from whom an indemnity is sought under this Framework Agreement (the “**Indemnifier**”), of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity (the “Beneficiary”).

If the Beneficiary receives any notice of any claim for which it appears that the Beneficiary is, or may become, entitled to indemnification under this Framework Agreement (a “**Claim**”), the Beneficiary shall give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within 10 Working Days of receipt of the same.

Subject to Paragraph 1.5, on the giving of a notice by the Beneficiary, where it appears that the Beneficiary is or may be entitled to indemnification from the Indemnifier in respect of all (but not part only) of the liability arising out of the Claim, the Indemnifier shall (subject to providing the Beneficiary with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Beneficiary at the Indemnifier’s own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Indemnifier does elect to conduct the Claim, the Beneficiary shall give the Indemnifier all reasonable cooperation, access and assistance for the purposes of such Claim, and the Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Indemnifier.

 With respect to any Claim conducted by the Indemnifier pursuant to Paragraph 1.3:

* + 1. the Indemnifier shall keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Claim;
		2. the Indemnifier shall not bring the name of the Beneficiary into disrepute;
		3. the Indemnifier shall not pay or settle such Claim without the prior written consent of the Beneficiary, such consent not to be unreasonably withheld or delayed; and
		4. the Indemnifier shall conduct the Claim with all due diligence.

The Beneficiary shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Framework Agreement if:

* + 1. the Indemnifier is not entitled to take conduct of the Claim in accordance with Paragraph 1.3;
		2. the Indemnifier fails to notify the Beneficiary in writing of its intention to take conduct of the relevant Claim within 10 Working Days of the notice from the Beneficiary or if the Indemnifier notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or
		3. the Indemnifier fails to comply in any material respect with the provisions of Paragraph 1.4.

RECOVERY OF SUMS

If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Beneficiary shall forthwith repay to the Indemnifier whichever the lesser is of:

* + 1. an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Beneficiary in recovering or obtaining the same; and
		2. the amount paid to the Beneficiary by the Indemnifier in respect of the Claim under the relevant indemnity.

MITIGATION

Each of the Authority or Contracting Authority and the Supplier shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Schedule.

FRAMEWORK SCHEDULE 14: TENDER

1. General

This Framework Schedule 21 sets out a copy of the Supplier’s Tender including the Supplier’s responses to the whole non-financial evaluation in accordance with section 8 of the ITT.

Subject to Clauses 1.2.2 and 1.2.3, in addition to any other obligations on the Supplier under this Framework Agreement the Supplier shall provide the Goods and/or Services to Contracting Authorities in accordance with the Tender.