

CALL OFF ORDER FORM AND CALL OFF TERMS

**MINISTRY OF JUSTICE ESTATES DIRECTORATE – CONTRACT FOR THE PROVISION OF FM-RELATED
AUDIT & MONITORING SERVICES**

PART 1 – CALL OFF ORDER FORM

SECTION A

This Call Off Order Form is issued in accordance with the provisions of the Framework Agreement **(RM3816)** for the provision of Estates Professional Services dated 22nd August 2017.

The Supplier agrees to supply the Services specified below on and subject to the terms of this Call Off Contract.

This Call Off Contract consists of the terms set out in this Call Off Order Form and the Call Off Terms.

Customer User Agreement Reference Number	EPS_0700_2019	
Order Number	Prj_4313	
From	The Secretary of State for Justice on behalf of the Crown ("CUSTOMER") The "Customer Representative" is George Sarkodie, Associate Commercial Specialist, MoJ Commercial & Contract Management Directorate	
To	W.T. Partnership Limited - Company Number: 01130989 ("SUPPLIER") The "Supplier Representative" is Dean Smith - Joint Managing Director (UK & Europe)	

SECTION B

1. CALL OFF CONTRACT PERIOD

1.1.	<p>Call Off Commencement Date: The Call Off Commencement Date is 9th September 2020</p> <p>Services Commencement Date: The Services Commencement Date is 19th October 2020</p> <p>Mobilisation Period: The Mobilisation Period is the Period between the Call Off Commencement Date and the Services Commencement Date.</p> <p>Call Off Contract Period: The Call Off Contract Period begins on the Call Off Commencement Date and ends on the Expiry Date.</p> <p>Call Off Contract Services Period: The Call Off Contract Services Period begins on the Services Commencement Date and ends on the Expiry Date.</p>	
1.2.	<p>Expiry Date:</p> <p>End date of the Call Off Initial Period: 31 March 2025</p> <p>End date of Extension Period: 31 March 2029 and for the avoidance of doubt the Customer may extend the Call Off Contract beyond the expiry of the Call Off Initial Period on more than one occasion provided that the aggregate duration of such extensions does not exceed four years beyond the expiry of the Call Off Initial Period and provided further that the minimum written notice requirement is met in respect of any such extension (unless waived by the Parties).</p> <p>Minimum written notice to Supplier in respect of extension: 3 Months</p>	

2. SERVICES

2.1	Services Required: Services: The detailed service requirements which the Supplier is required to deliver in accordance with the terms of this Call Off Contract are set out within Call Off Schedule 2 (Services). The clarification questions and responses exchanged between the Supplier and the Customer in respect of the Statement of Requirements prior to receipt of Call Off Tenders are included in Annexe 2 of Schedule 2 (Services) and form part of the specification of the Services in Schedule 2.	
2.2	Mobilisation Services Required: Mobilisation Services: The Mobilisation Services requirements which the Supplier shall deliver as contained and detailed in the Implementation Plan as amended by the Parties from time to time or as amended with the written consent of the Customer. The Supplier shall undertake the Mobilisation Services from the Call Off Commencement Date.	

3. IMPLEMENTATION PLAN

3.1.	Implementation Plan: The Implementation Plan is defined as the documents comprised in Call Off Schedule 4 including: <ul style="list-style-type: none">• MTT Response – 23/01/20• WTP CV's 23/01/20• MTT Project Plan – 07/09/20• MTT Information Management and Protection Procedure – 22/01/20• MTT HR Management Plan – 05/02/20• MTT Plan, including Method Statement, Plan, Risk Log,	
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	<p style="text-align: center;">Assumptions and Dependencies – 05/02/20</p> <p>as amended by the Parties from time to time or as amended with the written consent of the Customer.</p> <p>The Implementation Plan shall cover all necessary steps which the Supplier has to take (including all milestones, deliverables, Customer responsibilities etc) in order to ensure that it is operationally ready to deliver the proposed operation model and Services as required).</p> <p>The Supplier shall update the Implementation Plan to reflect the discussions and agreed position with the Customer.</p>	
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4. CONTRACT PERFORMANCE

<p>4.1.</p>	<p>Standards:</p> <p>As specified and required in accordance with the terms of the Call Off Contract.</p>	
<p>4.2</p>	<p>Service Levels/Service Credits:</p> <p>In Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)</p> <p>Service Credit Cap (Call Off Schedule 1 (Definitions)): Not applied</p> <p>Customer periodic reviews of Service Levels (Clause 13.7.1 of the Call Off Terms): For the purpose of clause 13.7.1 this will be agreed between the Customer and the Supplier in accordance with 13.7.2</p>	
<p>4.3</p>	<p>Critical Service Level Failure:</p> <p>Not applied</p>	
<p>4.4</p>	<p>Performance Monitoring:</p> <p>In Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).</p>	

4.5	<p>Period for providing Rectification Plan:</p> <p>Clause 38.2.1(a) is amended to refer to “5 Working Days or such shorter period as may be specified by the Customer (acting reasonably) from the date of the Customer’s instructions.”</p>	
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5. PERSONNEL

5.1	<p>Key Roles and Key Personnel:</p> <ul style="list-style-type: none"> • Dean Smith, Joint Managing Director, UK & Europe • Jamie Kime, Director – Account Manager • Richard Wilkinson, Senior Associate Director – Service Delivery Lead • Claire Goffin, Health & Safety Consultant & Business Systems Manager • Frankie Wolstenholme, HR Director 	
5.2	<p>Relevant Convictions (Clause 0 of the Call Off Terms):</p> <p>N/A</p>	

6. PAYMENT

6.1	<p>Call Off Contract Charges (including any applicable discount(s), but excluding VAT):</p> <p>In Annex 1 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)</p> <p>The clarification questions and responses exchanged between the Supplier and the Customer in respect of the Call Off Contract Charges prior to receipt of Call Off Tenders are included in Part 2 of Schedule 3 and form part of Schedule 3.</p>	
6.2	<p>Payment Terms/Profile (including method of payment e.g. Government Procurement Card (GPC) or BACS):</p> <p>In Annex 2 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)</p>	
6.3	<p>Reimbursable Expenses:</p> <p>Not Permitted</p>	

6.4	<p>Customer Billing Address (paragraph 7.6 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)):</p> <p>Shared Services Connected Limited (MoJ), Phoenix House, Celtic Springs Business Park, Newport, Gwent, NP10 8FZ</p>	
6.5	<p>Call Off Contract Charges fixed for (paragraph 7.2 of Schedule 3 (Call Off Contract Charges, Payment and Invoicing)):</p> <p>Four Call Off Contract Years and six months from the Services Commencement Date.</p> <p>No Charges shall be applied during the Mobilisation Period.</p>	
6.6	<p>Supplier Periodic Assessment of Call Off Contract Charges (paragraph 8.2 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)) will be carried out on:</p> <p>The Last Working Day of March and September in each Call Off Contract Year during the Call off Contract Period</p>	
6.7	<p>Supplier Request for Increase in the Call Off Contract Charges (paragraph 9 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)):</p> <p>Not Permitted</p>	

7. LIABILITY AND INSURANCE

7.1	<p>Estimated Year 1 Call Off Contract Charges:</p> <p>The sum of £ 900k</p>				
7.2	<p>Supplier's Limitation of Liability (Clause 36.2.1 of the Call Off Terms);</p> <p>In Clause 36.2.1 of the Call Off Terms</p>				
7.3	<p>Insurance (Clause 37.3 of the Call Off Terms):</p> <table border="1" data-bbox="314 1789 874 1859"> <tr> <td data-bbox="320 1798 491 1859"><i>Employers Liability</i></td> <td data-bbox="499 1798 692 1859"><i>Public Liability</i></td> <td data-bbox="700 1798 868 1859"><i>Professional Indemnity</i></td> </tr> </table>	<i>Employers Liability</i>	<i>Public Liability</i>	<i>Professional Indemnity</i>	
<i>Employers Liability</i>	<i>Public Liability</i>	<i>Professional Indemnity</i>			

	£10m in respect of any one occurrence the number of occurrences being unlimited in any annual policy period.	£10m in respect of any one occurrence without limit to the number of occurrences in any annual policy period, but £10 million any one occurrence and in the aggregate per annum in respect of liability arising out of products and pollution or contamination liability (to the extent insured by the relevant policy.	£10m in respect of any one claim and in the aggregate per annum.	
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8. TERMINATION AND EXIT

8.1	Termination on Material Default (Clause 41.2.1(b) of the Call Off Terms): The percentage of "80%" in Clause 41.2.1(b) shall be unamended.	
8.2	Termination without Cause Notice Period (Clause 41.7.1 of the Call Off Terms): In Clause 41.7.1 of the Call Off Terms	
8.3	Undisputed Sums Limit: In Clause 42.1.1 of the Call Off Terms	
8.4	Exit Management: In Call Off Schedule 9 (Exit Management)	

9. SUPPLIER INFORMATION

9.1	Supplier's inspection of Sites, Customer Property and Customer Assets: N/A	
9.2	Commercially Sensitive Information:	(a) the pricing of the Services: contained in Annex 1 Schedule 3; and (b) Information covering the methodology for delivering the Services as contained in Schedule 15: Call Off Tender, which the Supplier has indicated to the Customer that, if disclosed by the Customer, would cause the Supplier significant commercial disadvantage or material financial loss and are not industry standard.

10. OTHER CALL OFF REQUIREMENTS

10.1	Recitals (in preamble to the Call Off Terms): Recitals B to E Recital C - Date of issue of the Statement of Requirements Recital D - Date of receipt of Call Off Tender: 20 th December 2019	
10.2	Call Off Guarantee (Clause 4 of the Call Off Terms): Not Required	
10.3	Security: Security requirements contained at clause 34 in this Call Off Contract	
10.4	Security Policy: The Supplier shall comply with the below policies as amended and updated (contained in Call Off Schedule 14: Alternative And/Or Additional Clauses): <ul style="list-style-type: none"> • MoJ National Security Vetting 27/7/18 • Security Policy Framework • Government Security Classifications 	

10.5	<p>Equality & Diversity Policy:</p> <p>The Supplier shall comply with the Equality Act 2010 and all related documents as amended and updated contained in Call Off Schedule 14: Alternative And/Or Additional Clauses.</p>	
10.6	<p>ICT Policy:</p> <p>The Supplier shall comply with the below policies as amended and updated (contained in Call Off Schedule 14: Alternative And/Or Additional Clauses):</p> <ul style="list-style-type: none"> • IT Incident Management – 8/9/15 • IT Security Guidelines – 1/6/14 • ICT Security Policy in ICT – 5/11/20 • ICT Security Policy – 2/9/15 	
10.7	<p>Testing:</p> <p>Call Off Schedule 5 (Testing) shall be amended to include reference to the Supplier’s provision of the following requirements:</p> <ul style="list-style-type: none"> - All reporting templates defined and agreed with the Customer; - All reporting processes fully defined (end-to-end), agreed with the Customer and tested; - Core and Call-Off Service commissioning process defined (end-to-end), agreed with the Customer and tested; - Access to all IT systems necessary to delivers the Services secured; - All relevant Supplier Personnel familiarised with Call Off Contract; - Forward Planner agreed with the Customer for first 12 months, and - Data security. 	
10.8	<p>Business Continuity & Disaster Recovery:</p> <p>In Call Off Schedule 8 (Business Continuity and Disaster Recovery)</p>	
10.9	<p>Failure of Supplier Equipment (Clause 32.9 of the call off Terms:</p> <p>N/A</p>	
10.10	<p>Protection of Customer Data (Clause 34.2.3 of the Call Off Terms):</p>	

	As may be reasonably specified by the Customer to the Supplier from time to time.	
10.11	<p>Notices (Clause 55.6 of the Call Off Terms):</p> <p>Customer’s postal address and email address:</p> <p>Ministry of Justice, 102 Petty France, Westminster, London, SW1H 9AJ</p> <p>[EMAIL ADDRESS REDACTED]</p> <p>Supplier’s postal address and email address:</p> <p>WT Partnership, AMP House, Dingwall Road, Croydon, CR0 2LX</p>	
10.12	<p>Transparency Reports:</p> <p>In Call Off Schedule 13 (Transparency Reports) and Governance Plan (Schedule 2, Annex 1: The Service, Appendix D).</p>	
10.13	<p>Alternative and/or additional provisions (including any Alternative and/or Additional Clauses under Call Off Schedule 14):</p> <p>(a) All Customer policies which the Supplier is required to comply with when delivering the Services are set out or referenced within Annex 1 of Call Off Schedule 14.</p> <p>(b) See Clause 9 under Call Off Schedule 14.</p> <p>(c) The Supplier shall obtain the Customer’s written approval (in advance) in relation to any proposed sub-contracting of any of its obligations under this Call Off Contract and the provisions of Clause 29 (Supply Chain Rights and Protection) shall apply.</p> <p>(d) The Supplier acknowledges that the Customer acts on behalf of other government departments and agencies (known as “cluster partners”) and it may be required to provide Services to them under this Call Off Contract from time to time. If any such change results in a requirement to amend the Services or is likely to give rise to a transfer of employment to which the Employment Regulations apply then it shall be dealt with as a Variation in accordance with the terms of Clause 22.1 (Variation Procedure).</p>	

10.14	Call Off Tender: In Call Off Schedule 15 (Call Off Tender)	
10.15	Customer's Social Value Priorities: To be provided by the Customer and to be agreed between the Customer and the Supplier within one month of the Service Commencement Date.	

FORMATION OF CALL OFF CONTRACT

BY SIGNING AND RETURNING THIS CALL OFF ORDER FORM (which may be done by electronic means) the Supplier agrees to enter a Call Off Contract with the Customer to provide the Services in accordance with the terms Call Off Order Form and the Call Off Terms.

The Parties hereby acknowledge and agree that they have read the Call Off Order Form and the Call Off Terms and by signing below agree to be bound by this Call Off Contract.

In accordance with paragraph 7 of Framework Schedule 5 (Call Off Procedure), the Parties hereby acknowledge and agree that this Call Off Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of the Call Off Order Form from the Supplier within two (2) Working Days from such receipt.

For and on behalf of the Supplier:

Name and Title	
Signature	
Date	

For and on behalf of the Customer:

Name and Title	
Signature	
Date	

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PART 2 – CALL OFF TERMS TERMS AND CONDITIONS

RECITALS

- A. Where recital A has been selected in the Call Off Order Form, the Customer has followed the call off procedure set out in paragraph 1.2 of Framework Schedule 5 (Call Off Procedure) and has awarded this Call Off Contract to the Supplier by way of direct award.
- B. Where recitals B to E have been selected in the Call Off Order Form, the Customer has followed the call off procedure set out in paragraph 1.3 of Framework Schedule 5 (Call Off Procedure) and has awarded this Call Off Contract to the Supplier by way of further competition.
- C. The Customer issued its Statement of Requirements for the provision of the Services on the date specified at paragraph 10.1 of the Call Off Order Form.
- D. In response to the Statement of Requirements the Supplier submitted a Call Off Tender to the Customer on the date specified at paragraph 10.1 of the Call Off Order form through which it provided to the Customer its solution for providing the Services.
- E. On the basis of the Call Off Tender, the Customer selected the Supplier to provide the Services to the Customer in accordance with the terms of this Call Off Contract.

A. PRELIMINARIES

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Call Off Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Call Off Schedule 1 or the relevant Call Off Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in Call Off Schedule 1 or relevant Call Off Schedule, it shall have the meaning given to it in the Framework Agreement. If no meaning is given to it in the 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.
- 1.3 In this Call Off Contract, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and vice versa;
 - 1.3.2 reference to a gender includes the other gender and the neuter;
 - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - 1.3.5 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**";
 - 1.3.6 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;

- 1.3.7 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 Call Off Contract;
- 1.3.8 references to “**Clauses**” and “**Call Off Schedules**” are, unless otherwise provided, references to the clauses and schedules of this Call Off Contract and references in any Call Off Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Call Off Schedule in which these references appear; and
- 1.3.9 the headings in this Call Off Contract are for ease of reference only and shall not affect the interpretation or construction of this Call Off Contract.
- 1.4 Subject to Clauses 1.7 and 1.8, if there is a conflict between the Call Off Order Form, the Call Off Terms and the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:
 - 1.4.1 the Framework Agreement, except Framework Schedule 21 (Tender);
 - 1.4.2 the Call Off Order Form;
 - 1.4.3 the Call Off Terms, except Call Off Schedule 15 (Call Off Tender);
 - 1.4.4 Call Off Schedule 15 (Call Off Tender);
 - 1.4.5 Framework Schedule 21 (Tender); and
 - 1.4.6 other procurement documents issued by the Customer.
- 1.5 If there is a conflict between Annexe 1 of Schedule 2 and Annexe 2 of Schedule 2, Annexe 2 shall take precedence over Annexe 1.
- 1.6 If there is a conflict between Schedule 3 and Annexe 2 of Schedule 2, Annexe 2 of Schedule 2 shall take precedence over Schedule 3.
- 1.7 Any permitted changes by the Customer to the Template Call Off Terms and the Template Call Off Order Form under Clause 5 (Call Off Procedure) of the Framework Agreement and Framework Schedule 5 (Call Off Procedure) prior to them becoming the Call Off Terms and the Call Off Order Form which comprise this Call Off Contract shall prevail over the Framework Agreement.
- 1.8 Where Call Off Schedule 15 (Call Off Tender) or Framework Schedule 21 (Tender) contain provisions which are more favourable to the Customer in relation to (the rest of) this Call Off Contract, such provisions of the Call Off Tender or the Tender shall prevail. The Customer shall in its absolute and sole discretion determine whether any provision in the Call Off Tender or Tender is more favourable to it in this context.

2. DUE DILIGENCE

- 2.1 The Supplier acknowledges that:
 - 2.1.1 the Customer has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Call Off Contract;
 - 2.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;

- 2.1.3 it has raised all relevant due diligence questions with the Customer before the Call Off Commencement Date;
- 2.1.4 it has undertaken all necessary due diligence and has entered into this Call Off Contract in reliance on its own due diligence alone; and
- 2.1.5 it shall not be excused from the performance of any of its obligations under this Call Off Contract on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges, arising as a result of any:
 - (a) misinterpretation of the requirements of the Customer in the Call Off Order Form or elsewhere in this Call Off Contract;
 - (b) failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information; and/or
 - (c) failure by the Supplier to undertake its own due diligence.

3. REPRESENTATIONS AND WARRANTIES

3.1 Each Party represents and warranties that:

- 3.1.1 it has full capacity and authority to enter into and to perform this Call Off Contract;
- 3.1.2 this Call Off Contract is executed by its duly authorised representative;
- 3.1.3 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 Call Off Contract; and
- 3.1.4 its obligations under this Call Off Contract 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).

3.2 The Supplier represents and warrants that:

- 3.2.1 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
- 3.2.2 it has all necessary consents (including, where its procedures so require, the consent of its Parent Company) and regulatory approvals to enter into this Call Off Contract;
- 3.2.3 its execution, delivery and performance of its obligations under this Call Off Contract 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 Default under any agreement by which it is bound;
- 3.2.4 its performance of its obligations under this Call Off Contract does not and will not result in the Customer being in breach of any Law or obligation;
- 3.2.5 as at the Call Off Commencement Date, all written statements and representations in any written submissions made by the Supplier as part of the procurement process, its Tender, Call Off 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 Call Off Contract;

- 3.2.6 if the Call Off Contract Charges payable under this Call Off Contract exceed or are likely to exceed 5 million pounds, as at the Call Off Contract Commencement Date it has notified the Customer 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;
- 3.2.7 it has and shall continue to have all necessary rights in and to the Third Party IPR, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to the Customer which are necessary for the performance of the Supplier's obligations under this Call Off Contract including the receipt of the Services by the Customer;
- 3.2.8 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 Customer's Confidential Information (held in electronic form) owned by or under the control of, or used by, the Customer;
- 3.2.9 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 Call Off Contract;
- 3.2.10 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, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue; and
- 3.2.11 for the Call Off Contract Period and for a period of twelve (12) months after the termination or expiry of this Call Off Contract, the Supplier shall not employ or offer employment to any staff of the Customer which have been associated with the provision of the Services without Approval or the prior written consent of the Customer which shall not be unreasonably withheld.
- 3.3 Each of the representations and warranties set out in Clauses 3.1 and 3.2 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 Call Off Contract.
- 3.4 If at any time a Party becomes aware that a representation or warranty given by it under Clauses 3.1 and 3.2 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.
- 3.5 For the avoidance of doubt, the fact that any provision within this Call Off Contract is expressed as a warranty shall not preclude any right of termination the Customer may have in respect of breach of that provision by the Supplier which constitutes a material Default.
- 3.6 The Supplier acknowledges that the Customer may choose to award other contracts to other suppliers for services similar to the Services.

4. CALL OFF GUARANTEE – NOT REQUIRED

B. DURATION OF CALL OFF CONTRACT

5. CALL OFF CONTRACT PERIOD AND CALL OFF CONTRACT SERVICES PERIOD

- 5.1 This Call Off Contract shall take effect on the Call Off Commencement Date.
- 5.2 The Call Off Contract Period begins on the Call Off Commencement Date and ends on the Expiry Date. The Call Off Contract Services Period begins on the Services Commencement Date and ends on the Expiry Date.
- 5.3 The Supplier shall provide the Mobilisation Services from the Call Off Commencement Date. The Supplier shall complete the Mobilisation Services in the timeframes prescribed with in the Implementation Plan including Milestones and Deliverables.
- 5.4 The Supplier shall provide the Services from the Services Commencement Date.
- 5.5 Where the Customer has specified a Call Off Extension Period in the Call Off Order Form, the Customer may extend this Call Off Contract for the Call Off Extension Period by providing written notice to the Supplier before the end of the Initial Call Off Period. The minimum period for the written notice shall be as specified in the Call Off Order Form.

C. CALL OFF CONTRACT PERFORMANCE

6. IMPLEMENTATION PLAN

6.1 Formation of Implementation Plan

- 6.1.1 Not Used
- 6.1.2 The Supplier will be responsible for updating the Implementation Plan to reflect the discussions and agreed position with the Customer.
- 6.1.3 The Supplier shall perform each of the Deliverables identified in the Implementation Plan by the applicable date assigned to that Deliverable in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.

The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and any other requirements of the Customer as set out in this Call Off Contract and report to the Customer on such performance.

Control of Implementation Plan

- 6.1.4 Subject to Clause 6.1.5, the Supplier shall keep the Implementation Plan under review in accordance with the Customer's instructions and ensure that it is maintained and updated on a regular basis as may be necessary to reflect the then current state of the provision of the Services. The Customer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
- 6.1.5 Changes to the Milestones (if any), shall only be made in accordance with the Variation Procedure and provided that the Supplier shall not attempt to postpone any of the Milestones using the Variation Procedure or otherwise (except in the event of a Customer Cause which affects the Supplier's ability to achieve a Milestone by the relevant Milestone Date).
- 6.1.6 Where so specified by the Customer in the Implementation Plan or elsewhere in this Call Off Contract, time in relation to compliance with a date, Milestone Date or period shall be of the essence and failure of the Supplier to comply with such date, Milestone Date or period shall be a material Default unless the Parties expressly agree otherwise

Rectification of Delay in Implementation

- 6.1.7 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Call Off Contract:
- (a) it shall:
 - (i) notify the Customer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
 - (ii) include in its notification an explanation of the actual or anticipated impact of the Delay;
 - (iii) comply with the Customer's instructions in order to address the impact of the Delay or anticipated Delay; and
 - (iv) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

Not Used

7. PROVISION OF THE SERVICES

Provision of the Services

- 7.1.1 The Supplier acknowledges and agrees that the Customer relies on the skill and judgment of the Supplier in the provision of the Services and the performance of its obligations under this Call Off Contract.
- 7.1.2 The Supplier shall ensure that the Services:
- (a) comply in all respects with the description of the Services in Call Off Schedule 2 (Services) or elsewhere in this Call Off Contract; and
 - (b) are supplied in accordance with the provisions of this Call Off Contract (including the Call Off Tender) and the Tender.
- 7.1.3 The Supplier shall perform its obligations under this Call Off Contract in accordance with:
- (a) all applicable Law;
 - (b) Good Industry Practice;
 - (c) the Standards;
 - (d) the Security Policy;
 - (e) the Accessibility Policy (if so required by the Customer);
 - (f) the Equality and Diversity Policy (if so required by the Customer);
 - (g) the ICT Policy (if so required by the Customer); and
 - (h) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 7.1.3(a) to 7.1.3(g).
- 7.1.4 The Supplier shall:
- (a) at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Services in accordance with this Call Off Contract;
 - (b) subject to Clause 22.1 (Variation Procedure), obtain, and maintain throughout the duration of this Call Off Contract, all the consents, approvals, licences and

permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;

- (c) ensure that any Services recommended or otherwise specified by the Supplier for use by the Customer in conjunction with the Deliverables and/or the Services shall enable the Deliverables and/or the Services to meet the requirements of the Customer;
- (d) ensure that the Supplier Assets will be free of all encumbrances (except as agreed in writing with the Customer);
- (e) ensure that the Services are fully compatible with any Customer Property or Customer Assets described in Call Off Schedule 4 (Implementation Plan) (or elsewhere in this Call Off Contract) or otherwise used by the Supplier in connection with this Call Off Contract;
- (f) minimise any disruption to the Sites and/or the Customer's operations when providing the Services;
- (g) ensure that any Documentation and training provided by the Supplier to the Customer are comprehensive, accurate and prepared in accordance with Good Industry Practice;
- (h) co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Services to any Other Supplier and, on the Call Off Expiry Date for any reason, to enable the timely transition of the supply of the Services (or any of them) to the Customer and/or to any Replacement Supplier;
- (i) assign to the Customer, or if it is unable to do so, shall (to the extent it is legally able to do so) hold on trust for the sole benefit of the Customer, all warranties and indemnities provided by third parties or any Sub-Contractor in respect of any Deliverables and/or the Services. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with any reasonable directions that the Customer may notify from time to time to the Supplier;
- (j) provide the Customer with such assistance as the Customer may reasonably require during the Call Off Contract Period in respect of the supply of the Services;
- (k) deliver the Services in a proportionate and efficient manner;
- (l) ensure that neither it, nor any of its Affiliates, embarrasses the Customer or otherwise brings the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Supplier's obligations under this Call Off Contract; and
- (m) gather, collate and provide such information and co-operation as the Customer may reasonably request for the purposes of ascertaining the Supplier's compliance with its obligations under this Call Off Contract; and
- (n) where requested by the Customer, identify and deliver Social Value benefits that the Supplier believes, and which the customer agrees, are relevant and proportionate to the Customer's requirement under the Call Off Contract

- 7.1.5 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-Contractors and Supplier Personnel also do, or refrain from doing, such act or thing.

8. SERVICES

8.1 General application

- 8.1.1 This Clause 8 shall apply if any Services have been included in Annex 1 of Call Off Schedule 2 (Services).

Time of Delivery of the Services

- 8.1.2 The Supplier shall provide the Services on the date(s) specified in the Call Off Order Form (or elsewhere in this Call Off Contract) and the Milestone Dates (if any).

Location and Manner of Delivery of the Services

- 8.1.3 Except where otherwise provided in this Call Off Contract, the Supplier shall provide the Services to the Customer through the Supplier Personnel at the Sites.
- 8.1.4 The Customer may inspect and examine the manner in which the Supplier provides the Services at the Sites and, if the Sites are not the Customer Premises, the Customer may carry out such inspection and examination during Core Business Hours and on reasonable notice.

Undelivered Services

- 8.1.5 If any of the Services are not Delivered in accordance with Clauses 0 (Provision of the Services), 0 (Time of Delivery of the Services) and 0 (Location and Manner of Delivery of the Services) ("**Undelivered Services**"), the Customer, without prejudice to any other rights and remedies of the Customer howsoever arising, shall be entitled to withhold payment of the applicable Call Off Contract Charges for the Services that were not so Delivered until such time as the Undelivered Services are Delivered.
- 8.1.6 The Customer may, at its discretion and without prejudice to any other rights and remedies of the Customer howsoever arising, deem the failure to comply with Clauses 0, (Provision of the Services), 0 (Time of Delivery of the Services) and 0 (Location and Manner of Delivery of the Services) and meet the relevant Milestone Date (if any) to be a material Default.

Obligation to Remedy of Default in the Supply of the Services

- 8.1.7 Subject to Clauses 33.7.2 and 33.7.3 (IPR Indemnity) and without prejudice to any other rights and remedies of the Customer howsoever arising (including under Clauses 8.1.6 (Undelivered Services) and 38 (Customer Remedies for Default)), the Supplier shall, where practicable:
- (a) remedy any breach of its obligations in Clauses 7 and 8 within 3 Working Days of becoming aware of the relevant Default or being notified of the Default by the Customer or within such other time period as may be agreed with the Customer (taking into account the nature of the breach that has occurred); and
 - (b) meet all the costs of, and incidental to, the performance of such remedial work.

Continuing Obligation to Provide the Services

- 8.1.8 The Supplier shall continue to perform all of its obligations under this Call Off Contract and shall not suspend the provision of the Services, notwithstanding:

- (a) any withholding or deduction by the Customer of any sum due to the Supplier pursuant to the exercise of a right of the Customer to such withholding or deduction under this Call Off Contract;
- (b) the existence of an unresolved Dispute; and/or
- (c) any failure by the Customer to pay any Call Off Contract Charges, unless the Supplier is entitled to terminate this Call Off Contract under Clause 42.1 (Termination on Customer Cause for Failure to Pay) for failure by the Customer to pay undisputed Call Off Contract Charges.

9. GOODS – NOT USED

10. INSTALLATION WORKS – NOT USED

11. STANDARDS AND QUALITY

- 11.1 The Supplier shall at all times during the Call Off Contract Period comply with the Standards and maintain, where applicable, accreditation with the relevant Standards' authorisation body.
- 11.2 Throughout the Call Off Contract Period, the Parties shall notify each other of any new or emergent Standards, which could affect the Supplier's provision, or the receipt by the Customer, of the Services. The adoption of any such new or emergent standard, or changes to existing Standards (including any specified in the Call Off Order Form), shall be agreed in accordance with the Variation Procedure.
- 11.3 Where a new or emergent Standard is to be developed or introduced by the Customer, the Supplier shall be responsible for ensuring that the potential impact on the Supplier's provision, or the Customer's receipt of the Services is explained to the Customer (within a reasonable timeframe), prior to the implementation of the new or emergent Standard.
- 11.4 Where Standards referenced conflict with each other or with best professional or industry practice adopted after the Call Off Commencement Date, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard or Standards shall require Approval (and the written consent of the Customer where the relevant Standard or Standards is/are included in Framework Schedule 2 (Services and Key Performance Indicators) and shall be implemented within an agreed timescale.
- 11.5 Where a Standard, policy or document is referred to 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 Customer and the Parties shall agree the impact of such change.

12. TESTING

- 12.1 This Clause 12 shall apply if so specified by the Customer in the Call Off Order Form.
- 12.2 The Parties shall comply with any provisions set out in Call Off Schedule 5 (Testing).

13. SERVICE LEVELS AND SERVICE CREDITS

- 13.1 This Clause 13 shall apply where the Customer has specified Service Levels and Service Credits in the Call Off Order Form. Where the Customer has specified Service Levels but not Service Credits, only Clauses 13.2, 13.3 and 13.7 shall apply.

- 13.2 When this Clause 13.2 applies, the Parties shall also comply with the provisions of Part A (Service Levels and Service Credits) of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).
- 13.3 The Supplier shall at all times during the Services Contract Period provide the Services to meet or exceed the Service Level Performance Measure for each Service Level Performance Criterion.
- 13.4 The Supplier acknowledges that any Service Level Failure may have a material adverse impact on the business and operations of the Customer and that it shall entitle the Customer to the rights set out in Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) including the right to any Service Credits.
- 13.5 The Supplier acknowledges and agrees that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 13.6 A Service Credit shall be the Customer's exclusive financial remedy for a Service Level Failure except where:
- 13.6.1 the Supplier has over the previous (twelve) 12 Month period accrued Service Credits in excess of the Service Credit Cap;
- 13.6.2 the Service Level Failure:
- (a) exceeds the relevant Service Level Threshold;
 - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier or any Supplier Personnel; and
 - (c) results in:
 - (i) the corruption or loss of any Customer Data (in which case the remedies under Clause 34.2.8 (Protection of Customer Data) shall also be available); and/or
 - (ii) the Customer being required to make a compensation payment to one or more third parties; and/or
- 13.6.3 the Customer is otherwise entitled to or does terminate this Call Off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause).
- 13.7 Not more than once in each Call Off Contract Year, the Customer may, on giving the Supplier at least 3 Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Level Performance Criteria and the Supplier shall not be entitled to object to, or increase the Call Off Contract Charges as a result of such changes, provided that:
- 13.7.1 the total number of Service Level Performance Criteria for which the weighting is to be changed does not exceed the number set out, for the purposes of this Clause 13.7, in the Call Off Order Form;
- 13.7.2 the principal purpose of the change is to reflect changes in the Customer's business requirements and/or priorities or to reflect changing industry standards; and
- 13.7.3 there is no change to the Service Credit Cap.

14. CRITICAL SERVICE LEVEL FAILURE - NOT USED

15. BUSINESS CONTINUITY AND DISASTER RECOVERY

- 15.1 This Clause 14 applies if the Customer has so specified in the Call Off Order Form.
- 15.2 The Parties shall comply with the provisions of Call Off Schedule 8 (Business Continuity and Disaster Recovery).

16. DISRUPTION

- 16.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under this Call Off Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer.
- 16.2 The Supplier shall immediately inform the Customer of any actual or potential industrial action, whether such action be by the Supplier Personnel or others, which affects or might affect the Supplier's ability at any time to perform its obligations under this Call Off Contract.
- 16.3 In the event of industrial action by the Supplier Personnel, the Supplier shall seek Approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under this Call Off Contract.
- 16.4 If the Supplier's proposals referred to in Clause 16.3 are considered insufficient or unacceptable by the Customer acting reasonably then the Customer may terminate this Call Off Contract for material Default.
- 16.5 If the Supplier is temporarily unable to fulfil the requirements of this Call Off Contract owing to disruption of normal business solely due to a Customer Cause, then subject to Clause 17 (Supplier Notification of Customer Cause), an appropriate allowance by way of an extension of time will be Approved by the Customer. In addition, the Customer will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

17. SUPPLIER NOTIFICATION OF CUSTOMER CAUSE

- 17.1 Without prejudice to any other obligations of the Supplier in this Call Off Contract to notify the Customer in respect of a specific Customer Cause (including the notice requirements under Clause 42.1.1 (Termination on Customer Cause for Failure to Pay)), the Supplier shall:
- 17.1.1 notify the Customer as soon as reasonably practicable ((and in any event within 2 Working Days of the Supplier becoming aware)) that a Customer Cause has occurred or is reasonably likely to occur, giving details of:
- (a) the Customer Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Call Off Contract;
 - (b) any steps which the Customer can take to eliminate or mitigate the consequences and impact of such Customer Cause; and
 - (c) use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Customer Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.

18. CONTINUOUS IMPROVEMENT

- 18.1 The Supplier shall have an ongoing obligation throughout the Call Off Contract Period to identify new or potential improvements to the provision of the Services in accordance with this Clause 18 with a view to reducing the Customer's costs (including the Call Off Contract Charges) and/or improving the quality and efficiency of the Services, including the Social Value benefits delivered (where applicable), and their supply to the Customer. As part of this obligation the Supplier shall identify and report to the Customer once every 12 months:

- 18.1.1 the emergence of new and evolving relevant technologies which could improve the Sites and/or the provision of the Services, and those technological advances potentially available to the Supplier and the Customer which the Parties may wish to adopt;
 - 18.1.2 new or potential improvements to the provision of the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support Services in relation to the Services;
 - 18.1.3 changes in business processes and ways of working that would enable the Services to be provided at lower costs and/or at greater benefits to the Customer; and/or
 - 18.1.4 changes to the Sites business processes and ways of working that would enable reductions in the total energy consumed annually in the provision of the Services.
- 18.2 The Supplier shall ensure that the information that it provides to the Customer shall be sufficient for the Customer to decide whether any improvement should be implemented. The Supplier shall provide any further information that the Customer requests.
- 18.3 If the Customer wishes to incorporate any improvement identified by the Supplier, the Customer shall request a Variation in accordance with the Variation Procedure and the Supplier shall implement such Variation at no additional cost to the Customer.

D. CALL OFF CONTRACT GOVERNANCE

19. PERFORMANCE MONITORING

- 19.1 The Supplier shall comply with the monitoring requirements set out in Part B (Performance Monitoring) of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).

20. REPRESENTATIVES

- 20.1 Each Party shall have a representative for the duration of this Call Off Contract who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Call Off Contract.
- 20.2 The initial Supplier Representative shall be the person named as such in the Call Off Order Form. Any change to the Supplier Representative shall be agreed in accordance with Clause 27 (Supplier Personnel).
- 20.3 If the initial Customer Representative is not specified in the Call Off Order Form, the Customer shall notify the Supplier of the identity of the initial Customer Representative within five (5) Working Days of the Call Off Commencement Date. The Customer may, by written notice to the Supplier, revoke or amend the authority of the Customer Representative or appoint a new Customer Representative.

21. RECORDS, AUDIT ACCESS AND OPEN BOOK DATA

- 21.1 The Supplier shall keep and maintain for 7 years after the Call Off Expiry Date (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Call Off Contract including the Services provided under it, any Sub-Contracts and the amounts paid by the Customer.
- 21.2 The Supplier shall:
- 21.2.1 keep the records and accounts referred to in Clause 21.1 in accordance with Good Industry Practice and Law; and

21.2.2 afford any Auditor access to the records and accounts referred to in Clause 21.1 at the Supplier's premises and/or provide records and accounts (including copies of the Supplier's published accounts) or copies of the same, as may be required by any of the Auditors from time to time during the Call Off Contract Period and the period specified in Clause 21.1, in order that the Auditor(s) 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 Call Off Contract including in order to:

- (a) verify the accuracy of the Call Off Contract Charges and any other amounts payable by the Customer under this Call Off Contract (and proposed or actual variations to them in accordance with this Call Off Contract);
- (b) verify the costs of the Supplier (including the costs of all Sub-Contractors and any third-party suppliers) in connection with the provision of the Services;
- (c) verify the Open Book Data;
- (d) verify the Supplier's and each Sub-Contractor's compliance with the applicable Law;
- (e) identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Customer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
- (f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Framework Guarantor and/or the Call Off Guarantor and/or any Sub-Contractors or their ability to perform the Services;
- (g) obtain such information as is necessary to fulfil the Customer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (h) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Call Off Contract;
- (i) carry out the Customer's internal and statutory audits and to prepare, examine and/or certify the Customer's annual and interim reports and accounts;
- (j) 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 Customer has used its resources;
- (k) review any Performance Monitoring Reports provided under Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) and/or other records relating to the Supplier's performance of the provision of the Services and to verify that these reflect the Supplier's own internal reports and records;
- (l) verify the accuracy and completeness of any information delivered or required by this Call Off Contract;
- (m) review the Supplier's quality management systems (including any quality manuals and procedures);
- (n) review the Supplier's compliance with the Standards;

- (o) inspect the Customer Assets, including the Customer's IPRs, equipment and facilities, for the purposes of ensuring that the Customer Assets are secure and that any register of assets is up to date; and/or
 - (p) review the integrity, confidentiality and security of the Customer Data.
- 21.3 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the control of the Customer.
- 21.4 Subject to the Supplier's rights in respect of Confidential Information, the Supplier shall on demand provide the Auditor(s) with all reasonable co-operation and assistance in:
 - 21.4.1 all reasonable information requested by the Customer within the scope of the audit;
 - 21.4.2 reasonable access to sites controlled by the Supplier and to any Supplier Equipment used in the provision of the Services; and
 - 21.4.3 access to the Supplier Personnel.
- 21.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 21, unless the audit reveals a Default by the Supplier in which case the Supplier shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.

22. CHANGE

22.1 Variation Procedure

- 22.1.1 Subject to the provisions of this Clause 22 and Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), either Party may request a variation to this Call Off Contract provided that such variation does not amount to a material change of this Call Off Contract within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a "**Variation**".
- 22.1.2 A Party may request a Variation by completing, signing and sending the Variation Form to the other Party giving sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred.
- 22.1.3 Where the Customer has so specified on receipt of a Variation Form from the Supplier, the Supplier shall carry out an impact assessment of the Variation on the Services (the "**Impact Assessment**"). The Impact Assessment shall be completed in good faith and shall include:
 - (a) details of the impact of the proposed Variation on the Services and the Supplier's ability to meet its other obligations under this Call Off Contract;
 - (b) details of the cost of implementing the proposed Variation;
 - (c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Call Off Contract Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
 - (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and
 - (e) such other information as the Customer may reasonably request in (or in response to) the Variation request.

- 22.1.4 The Parties may agree to adjust the time limits specified in the Variation Form to allow for the preparation of the Impact Assessment.
- 22.1.5 Subject to 22.1.4, the receiving Party shall respond to the request within the time limits specified in the Variation Form. Such time limits shall be reasonable and ultimately at the discretion of the Customer having regard to the nature of the Services and the proposed Variation.
- 22.1.6 If:
- (a) the Supplier is unable to agree to or provide the Variation; and/or
 - (b) the Parties are unable to agree a change to the Call Off Contract Charges that may be included in a request of a Variation or response to it as a consequence thereof,
- the Customer may:
- (i) agree to continue to perform its obligations under this Call Off Contract without the Variation; or
 - (ii) terminate this Call Off Contract with immediate effect, except where the Supplier has already fulfilled part or all of the provision of the Services in accordance with this Call Off Contract or where the Supplier can show evidence of substantial work being carried out to provide the Services under this Call Off Contract, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure.
- 22.1.7 If the Parties agree the Variation, the Supplier shall implement such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in this Call Off Contract.

22.2 Legislative Change

- 22.2.1 The Supplier shall neither be relieved of its obligations under this Call Off Contract nor be entitled to an increase in the Call Off Contract Charges as the result of a:
- (a) General Change in Law;
 - (b) Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Call Off Commencement Date.
- 22.2.2 If a Specific Change in Law occurs or will occur during the Call Off Contract Period (other than as referred to in Clause 22.2.1(b)), the Supplier shall:
- (a) notify the Customer as soon as reasonably practicable of the likely effects of that change including:
 - (i) whether any Variation is required to the provision of the Services, the Call Off Contract Charges or this Call Off Contract; and
 - (ii) whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Service Level Performance Measures; and
 - (b) provide to the Customer with evidence:
 - (i) 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;

- (ii) as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (iii) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 18 (Continuous Improvement), has been taken into account in amending the Call Off Contract Charges.
- 22.2.3 Any change in the Call Off Contract Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 22.2.1(b)) shall be implemented in accordance with the Variation Procedure.

E. PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS

23. CALL OFF CONTRACT CHARGES AND PAYMENT

23.1 Call Off Contract Charges

- 23.1.1 In consideration of the Supplier carrying out its obligations under this Call Off Contract, including the provision of the Services, the Customer shall pay the undisputed Call Off Contract Charges in accordance with the pricing and payment profile and the invoicing procedure in Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing).
- 23.1.2 Except as otherwise provided, each Party shall bear its own costs and expenses incurred in respect of compliance with its obligations under Clauses 12 (Testing), 21 (Records, Audit Access and Open Book Data), 34.4 (Transparency and Freedom of Information) and 34.5 (Protection of Personal Data).
- 23.1.3 If the Customer fails to pay any undisputed Call Off Contract Charges properly invoiced under this Call Off Contract, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgement.
- 23.1.4 If at any time during this Call Off Contract Period the Supplier reduces its Framework Prices for any Services which are provided under the Framework Agreement (whether or not such Services are offered in a catalogue, if any, which is provided under the Framework Agreement) in accordance with the terms of the Framework Agreement, the Supplier shall immediately reduce the Call Off Contract Charges for such Services under this Call Off Contract by the same amount.

23.2 VAT

- 23.2.1 The Call Off Contract Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Customer following delivery of a Valid Invoice.
- 23.2.2 The Supplier shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Customer at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Call Off Contract. Any amounts due under Clause 23.2 shall be paid in cleared funds by the Supplier to the Customer not less than 5 Working Days before the date upon which the tax or other liability is payable by the Customer.

23.3 Retention and Set Off

- 23.3.1 The Customer may retain or set off any amount owed to it by the Supplier against any amount due to the Supplier under this Call Off Contract or under any other agreement between the Supplier and the Customer.
- 23.3.2 If the Customer wishes to exercise its right pursuant to Clause 23.3 it shall give notice to the Supplier within 30 days of receipt of the relevant invoice, setting out the Customer's reasons for retaining or setting off the relevant Call Off Contract Charges.
- 23.3.3 The Supplier shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has obtained a sealed court order requiring an amount equal to such deduction to be paid by the Customer to the Supplier.

23.4 Foreign Currency

- 23.4.1 Any requirement of Law to account for the Services in any currency other than Sterling, (or to prepare for such accounting) instead of and/or in addition to Sterling, shall be implemented by the Supplier free of charge to the Customer.
- 23.4.2 The Customer shall provide all reasonable assistance to facilitate compliance with Clause 23.4 by the Supplier.

23.5 Income Tax and National Insurance Contributions

- 23.5.1 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Call Off Contract, the Supplier shall:
- (a) at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
 - (b) indemnify the Customer against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Services by the Supplier or any Supplier Personnel.
- 23.5.2 If any one of the Supplier Personnel is a Worker as defined in Call Off Schedule 1 (Definitions) who receives consideration relating to the Services, then, in addition to its obligations under Clause 23.5, the Supplier shall ensure that its contract with the Worker contains the following requirements:
- (a) that the Customer may, at any time during the Call Off Contract Period, request that the Worker provides information which demonstrates how the Worker complies with the requirements of Clause 23.5, or why those requirements do not apply to it. In such case, the Customer may specify the information which the Worker must provide and the period within which that information must be provided;
 - (b) that the Worker's contract may be terminated at the Customer's request if:
 - (i) the Worker fails to provide the information requested by the Customer within the time specified by the Customer under Clause 23.5.2(a); and/or

- (ii) the Worker provides information which the Customer considers is inadequate to demonstrate how the Worker complies with Clause 23.5 or confirms that the Worker is not complying with those requirements; and
- (c) that the Customer may supply any information it receives from the Worker to HMRC for the purpose of the collection and management of revenue for which they are responsible.

24. PROMOTING TAX COMPLIANCE

- 24.1 This Clause 24 shall apply if the Call Off Contract Charges payable under this Call Off Contract exceed or are likely to exceed 5 million pounds during the Call Off Contract Period.
- 24.2 If, at any point during the Call Off Contract Period, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- 24.2.1 notify the Customer in writing of such fact within 5 Working Days of its occurrence; and
 - 24.2.2 promptly provide to the Customer:
 - (a) details of the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (b) such other information in relation to the Occasion of Tax Non-Compliance as the Customer may reasonably require.
- 24.3 If the Supplier fails to comply with this Clause 24 and/or does not provide details of proposed mitigating factors which in the reasonable opinion of the Customer are acceptable, then the Customer reserves the right to terminate this Call Off Contract for material Default.

25. BENCHMARKING

- 25.1 Notwithstanding the Supplier's obligations under Clause 18 (Continuous Improvement), the Customer shall be entitled to regularly benchmark the Call Off Contract Charges and level of performance by the Supplier of the supply of the Services, against other suppliers providing Services substantially the same as the Services during the Call Off Contract Services Period.
- 25.2 The Customer, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking evaluation referred to in Clause 25.1.
- 25.3 The Customer may disclose the results of any benchmarking of the Call Off Contract Charges and provision of the Services to the Authority and any Contracting Authority (subject to the Contracting Authority entering into reasonable confidentiality undertakings).
- 25.4 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the Customer in order to undertake the benchmarking and such information requirements shall be at the discretion of the Customer.
- 25.5 Where, as a consequence of any benchmarking carried out by the Customer, the Customer decides improvements to the Services should be implemented such improvements shall be implemented by way of the Variation Procedure at no additional cost to the Customer.
- 25.6 The benefit of any work carried out by the Supplier at any time during the Call Off Contract Period to update, improve or provide the Services, facilitate their delivery to any other Contracting Authority and/or any alterations or variations to the Charges or the provision of the Services, which are identified in the Continuous Improvement Plan produced by the

Supplier and/or as a consequence of any benchmarking carried out by the Authority pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking), shall be implemented by the Supplier in accordance with the Variation Procedure and at no additional cost to the Customer.

F. SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS

26. KEY PERSONNEL

- 26.1 This Clause 26 shall apply where the Customer has specified Key Personnel in the Call Off Order Form.
- 26.2 The Call Off Order Form lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Call Off Commencement Date.
- 26.3 The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Call Off Contract Period.
- 26.4 The Customer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.
- 26.5 The Supplier shall not remove or replace any Key Personnel (including when carrying out its obligations under Call Off Schedule 9 (Exit Management) unless:
- 26.5.1 requested to do so by the Customer;
 - 26.5.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
 - 26.5.3 the person’s employment or contractual arrangement with the Supplier or a Sub-Contractor is terminated for material breach of contract by the employee; or
 - 26.5.4 the Supplier obtains the Customer’s prior written consent (such consent not to be unreasonably withheld or delayed). For the avoidance of doubt written consent does not need to be in accordance with Clause 22 (Variation Procedure). Written consent can be in written form by the Customer Representative.
- 26.6 The Supplier shall:
- 26.6.1 notify the Customer promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of 2 weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - 26.6.2 ensure that any Key Role is not vacant for any longer than 10 Working Days;
 - 26.6.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel’s employment contract, this will mean at least three (3) Months’ notice;
 - 26.6.4 ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Services; and
 - 26.6.5 ensure that any replacement for a Key Role:
 - (a) has a level of qualifications and experience appropriate to the relevant Key Role; and

- (b) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

26.6.6 shall and shall procure that any Sub-Contractor shall not remove or replace any Key Personnel during the Call Off Contract Period without Approval.

26.7 The Customer may require the Supplier to remove any Key Personnel that the Customer considers in any respect unsatisfactory. The Customer shall not be liable for the cost of replacing any Key Personnel.

27. SUPPLIER PERSONNEL

Supplier Personnel

27.1.1 The Supplier shall:

- (a) provide a list of the names of all Supplier Personnel requiring admission to Customer Premises, specifying the capacity in which they require admission and giving such other particulars as the Customer may reasonably require;
- (b) ensure that all Supplier Personnel:
 - (i) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
 - (ii) are vetted in accordance with Good Industry Practice and, where applicable, the Security Policy and the Standards;
 - (iii) obey all lawful instructions and reasonable directions of the Customer (including, if so required by the Customer, the ICT Policy) and provide the Services to the reasonable satisfaction of the Customer; and
 - (iv) comply with all reasonable requirements of the Customer concerning conduct at the Customer Premises, including the security requirements set out in Call Off Schedule 7 (Security);
- (c) subject to Call Off Schedule 10 (Staff Transfer), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of the Customer;
- (d) be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Call Off Contract shall be a Default by the Supplier;
- (e) use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
- (f) replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;
- (g) bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
- (h) procure that the Supplier Personnel shall vacate the Customer Premises immediately upon the Call Off Expiry Date.

27.1.2 If the Customer reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Call Off Contract, it may:

- (a) refuse admission to the relevant person(s) to the Customer Premises; and/or

- (b) direct the Supplier to end the involvement in the provision of the Services of the relevant person(s).

27.1.3 The decision of the Customer as to whether any person is to be refused access to the Customer Premises shall be final and conclusive.

Relevant Convictions

27.1.4 This Clause 0 shall apply if the Customer has specified Relevant Convictions in the Call Off Order Form.

27.1.5 The Supplier shall ensure that no person who discloses that he has a Relevant Conviction, or who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Services without Approval.

27.1.6 Notwithstanding Clause 27.1.5, for each member of Supplier Personnel who, in providing the Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Customer owes a special duty of care, the Supplier shall (and shall procure that the relevant Sub-Contractor shall):

- (a) carry out a check with the records held by the Department for Education;
- (b) conduct thorough questioning regarding any Relevant Convictions; and
- (c) ensure a police check is completed and such other checks as may be carried out through the DBS,

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Services any person who has a Relevant Conviction or an inappropriate record.

28. STAFF TRANSFER

28.1 This Clause 28 shall not apply if there are Goods but no Services under this Call Off Contract.

28.2 The Parties agree that:

28.2.1 where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Call Off Schedule 10 (Staff Transfer) shall apply as follows:

- (a) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Call Off Schedule 10 (Staff Transfer) shall apply; and
- (b) Part C of Call Off Schedule 10 (Staff Transfer) shall not apply;

28.2.2 where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Call Off Schedule 10 (Staff Transfer) shall apply and Part B of Call Off Schedule 10 (Staff Transfer) shall not apply; and

28.2.3 Part D of Call Off Schedule 10 (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services.

28.3 The Supplier shall both during and after the Call Off Contract Period indemnify the Customer against all Employee Liabilities that may arise as a result of any claims brought against the Customer by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel.

29. SUPPLY CHAIN RIGHTS AND PROTECTION

Appointment of Sub-Contractors

- 29.1.1 The Supplier shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Supplier is able to:
- (a) manage any Sub-Contractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Call Off Contract in the Delivery of the Services; and
 - (c) assign, novate or otherwise transfer to the Customer or any Replacement Supplier any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Call Off Contract.
- 29.1.2 Prior to sub-contacting any of its obligations under this Call Off Contract, the Supplier shall notify the Customer and provide the Customer with:
- (a) the proposed Sub-Contractor's name, registered office and company registration number;
 - (b) the scope of any Services to be provided by the proposed Sub-Contractor; and
 - (c) where the proposed Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Customer that the proposed Sub-Contract has been agreed on "arm's-length" terms.
- 29.1.3 If requested by the Customer within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 29.1.2, the Supplier shall also provide:
- (a) a copy of the proposed Sub-Contract; and
 - (b) any further information reasonably requested by the Customer.
- 29.1.4 The Customer may, within 10 Working Days of receipt of the Supplier's notice issued pursuant to Clause 29.1.2 (or, if later, receipt of any further information requested pursuant to Clause 29.1.3), object to the appointment of the relevant Sub-Contractor if they consider that:
- (a) the appointment of a proposed Sub-Contractor may prejudice the provision of the Services or may be contrary to the interests respectively of the Customer under this Call Off Contract;
 - (b) the proposed Sub-Contractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - (c) the proposed Sub-Contractor employs unfit persons,
- in which case, the Supplier shall not proceed with the proposed appointment.
- 29.1.5 If:
- (a) the Customer has not notified the Supplier that it objects to the proposed Sub-Contractor's appointment by the later of 10 Working Days of receipt of:
 - (i) the Supplier's notice issued pursuant to Clause 29.1.2; and
 - (ii) any further information requested by the Customer pursuant to Clause 29.1.3; and
 - (b) the proposed Sub-Contract is not a Key Sub-Contract which shall require the written consent of the Authority and the Customer in accordance with Clause 0 (Appointment of Key Sub-Contractors),

the Supplier may proceed with the proposed appointment.

Appointment of Key Sub-Contractors

- 29.1.6 The Authority and the Customer have consented to the engagement of the Key Sub-Contractors listed in Framework Schedule 7 (Key Sub-Contractors).
- 29.1.7 Where 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 the Customer (the decision to consent or otherwise not to be unreasonably withheld or delayed). The Authority and/or the Customer may reasonably withhold its consent to the appointment of a Key Sub-Contractor if any of them considers that:
- (a) the appointment of a proposed Key Sub-Contractor may prejudice the provision of the Services or may be contrary to its interests;
 - (b) the proposed Key Sub-Contractor is unreliable and/or has not provided reliable goods and/or reasonable services to its other customers; and/or
 - (c) the proposed Key Sub-Contractor employs unfit persons.
- 29.1.8 Except where the Authority and the Customer have given their prior written consent under Clause 29.1.6, the Supplier shall ensure that each Key Sub-Contract shall include:
- (a) provisions which will enable the Supplier to discharge its obligations under this Call Off Contract;
 - (b) a right under CRTPA for the Customer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Customer;
 - (c) a provision enabling the Customer to enforce the Key Sub-Contract as if it were the Supplier;
 - (d) 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 Customer or any Replacement Supplier;
 - (e) obligations no less onerous on the Key Sub-Contractor than those imposed on the Supplier under this Call Off Contract in respect of:
 - (i) data protection requirements set out in Clauses 34.1 (Security Requirements), 34.2 (Protection of Customer Data) and 34.5 (Protection of Personal Data);
 - (ii) FOIA requirements set out in Clause 34.4 (Transparency and Freedom of Information);
 - (iii) the obligation not to embarrass the Customer or otherwise bring the Customer into disrepute set out in Clause 7.1.4(l) (Provision of Services);
 - (iv) the keeping of records in respect of the Services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
 - (v) the conduct of audits set out in Clause 21 (Records, Audit Access & Open Book Data);
 - (f) 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 Customer under Clauses 41 (Customer Termination Rights), 43 (Termination by Either Party) and 45 (Consequences of Expiry or Termination) of this Call Off Contract;

- (g) a provision restricting the ability of the Key Sub-Contractor to Sub-Contract all or any part of the provision of the Services provided to the Supplier under the Sub-Contract without first seeking the written consent of the Customer;
- (h) a provision, where a provision in Call Off Schedule 10 (Staff Transfer) imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, requiring the Key Sub-Contractor to provide such indemnity, undertaking or warranty to the Customer, Former Supplier or the Replacement Supplier as the case may be.

Supply Chain Protection

29.1.9 The Supplier shall ensure that all Sub-Contracts contain a provision:

- (a) requiring the Supplier to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding 30 days from the receipt of a Valid Invoice;
- (b) 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;
- (c) conferring a right to the Customer to publish the Supplier's compliance with its obligation to pay undisputed invoices to the Sub-Contractor within the specified payment period;
- (d) giving the Supplier a right to terminate the Sub-Contract if the Sub-Contractor fails to comply in the performance of the Sub-Contract with legal obligations in the fields of environmental, social or labour law; and
- (e) 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 this Clause 29.1.9.

29.1.10 The Supplier shall:

- (a) pay any undisputed sums which are due from it to a Sub-Contractor within 30 days from the receipt of a Valid Invoice;
- (b) include within the Performance Monitoring Reports required under Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) a summary of its compliance with this Clause 29.1.10 (a), such data to be certified each quarter by a director of the Supplier as being accurate and not misleading.

29.1.11 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.

29.1.12 Notwithstanding any provision of Clauses 34.3 (Confidentiality) and 35 (Publicity and Branding) if the Supplier notifies the Customer that the Supplier has failed to pay an undisputed Sub-Contractor's invoice within 30 days of receipt, or the Customer otherwise discovers the same, the Customer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

Termination of Sub-Contracts

- 29.1.13 The Customer may require the Supplier to terminate:
- (a) a Sub-Contract where:
 - (i) the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Customer's right of termination pursuant to any of the termination events in Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); and/or
 - (ii) the relevant Sub-Contractor or its Affiliates embarrassed the Customer or otherwise brought the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Services or otherwise;
 - (b) a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:
 - (i) the Customer has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Customer has not served its notice of objection within 6 months of the later of the date the Change of Control took place or the date on which the Customer was given notice of the Change of Control.

Competitive Terms

- 29.1.14 If the Customer 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 Services, then the Customer may:
- (a) require the Supplier to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Customer in respect of the relevant item; or
 - (b) subject to Clause 0 (Termination of Sub-Contracts), enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.
- 29.1.15 If the Customer exercises the option pursuant to Clause 29.1.14, then the Call Off Contract Charges shall be reduced by an amount that is agreed in accordance with the Variation Procedure.
- 29.1.16 The Customer's right to enter into a direct agreement for the supply of the relevant items is subject to:
- (a) the Customer making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Services; and
 - (b) any reduction in the Call Off Contract Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.

Retention of Legal Obligations

- 29.1.17 Notwithstanding the Supplier's right to Sub-Contract pursuant to Clause 29 (Supply Chain Rights and Protection), 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.

G. PROPERTY MATTERS

30. CUSTOMER PREMISES

30.1 Licence to occupy Customer Premises

30.1.1 Any Customer Premises shall be made available to the Supplier on a non-exclusive licence basis free of charge and shall be used by the Supplier solely for the purpose of performing its obligations under this Call Off Contract. The Supplier shall have the use of such Customer Premises as licensee and shall vacate the same immediately upon completion, termination, expiry or abandonment of this Call Off Contract and in accordance with Call Off Schedule 9 (Exit Management).

30.1.2 The Supplier shall limit access to the Customer Premises to such Supplier Personnel as is necessary to enable it to perform its obligations under this Call Off Contract and the Supplier shall co-operate (and ensure that the Supplier Personnel co-operate) with such other persons working concurrently on such Customer Premises as the Customer may reasonably request.

30.1.3 Save in relation to such actions identified by the Supplier in accordance with Clause 2 (Due Diligence) and set out in the Call Off Order Form (or elsewhere in this Call Off Contract), should the Supplier require modifications to the Customer Premises, such modifications shall be subject to Approval and shall be carried out by the Customer at the Supplier's expense. The Customer shall undertake any modification work which it approves pursuant to this Clause 30.1.3 without undue delay. Ownership of such modifications shall rest with the Customer.

30.1.4 The Supplier shall observe and comply with such rules and regulations as may be in force at any time for the use of such Customer Premises and conduct of personnel at the Customer Premises as determined by the Customer, and the Supplier shall pay for the full cost of making good any damage caused by the Supplier Personnel other than fair wear and tear. For the avoidance of doubt, damage includes without limitation damage to the fabric of the buildings, plant, fixed equipment or fittings therein.

30.1.5 The Parties agree that there is no intention on the part of the Customer to create a tenancy of any nature whatsoever in favour of the Supplier or the Supplier Personnel and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Call Off Contract, the Customer retains the right at any time to use any Customer Premises in any manner it sees fit.

30.2 Security of Customer Premises

30.2.1 The Customer shall be responsible for maintaining the security of the Customer Premises in accordance with the Security Policy. The Supplier shall comply with the Security Policy and any other reasonable security requirements of the Customer while on the Customer Premises.

30.2.2 The Customer shall afford the Supplier upon Approval (the decision to Approve or not will not be unreasonably withheld or delayed) an opportunity to inspect its physical security arrangements.

31. CUSTOMER PROPERTY

- 31.1 Where the Customer issues Customer Property free of charge to the Supplier such Customer Property shall be and remain the property of the Customer and the Supplier irrevocably licences the Customer and its agents to enter upon any premises of the Supplier during Core Business Hours on reasonable notice to recover any such Customer Property.
- 31.2 The Supplier shall not in any circumstances have a lien or any other interest on the Customer Property and at all times the Supplier shall possess the Customer Property as fiduciary agent and bailee of the Customer.
- 31.3 The Supplier shall take all reasonable steps to ensure that the title of the Customer to the Customer Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Customer's request, store the Customer Property separately and securely and ensure that it is clearly identifiable as belonging to the Customer.
- 31.4 The Customer Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies the Customer otherwise within five (5) Working Days of receipt.
- 31.5 The Supplier shall maintain the Customer Property in good order and condition (excluding fair wear and tear) and shall use the Customer Property solely in connection with this Call Off Contract and for no other purpose without Approval.
- 31.6 The Supplier shall ensure the security of all the Customer Property whilst in its possession, either on the Sites or elsewhere during the supply of the Services, in accordance with the Customer's Security Policy and the Customer's reasonable security requirements from time to time.
- 31.7 The Supplier shall be liable for all loss of, or damage to the Customer Property, (excluding fair wear and tear), unless such loss or damage was solely caused by a Customer Cause. The Supplier shall inform the Customer immediately of becoming aware of any defects appearing in or losses or damage occurring to the Customer Property.

32. SUPPLIER EQUIPMENT

- 32.1 Unless otherwise stated in the Call Off Order Form (or elsewhere in this Call Off Contract), the Supplier shall provide all the Supplier Equipment necessary for the provision of the Services.
- 32.2 In line with the requirements of Article 6 of the Energy Efficiency Directive Article 2012/27/EU (the EED) Central Government shall purchase only products, services and buildings with high- energy efficient performance. Article 5 of the EED obliges public buildings to fulfil an exemplary role in energy efficiency. The Supplier shall ensure that they take all appropriate action, in association with the delivery of the Service, to ensure the Customer complies with their obligations in association with Articles 5 and 6 of the EED.
- 32.3 The Supplier shall not deliver any Supplier Equipment nor begin any work on the Customer Premises without obtaining Approval.
- 32.4 The Supplier shall be solely responsible for the cost of carriage of the Supplier Equipment to the Sites and/or any Customer Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise, on the Call Off Expiry Date the Supplier shall be responsible for the removal of all relevant Supplier Equipment from the Sites and/or any Customer Premises, including the cost of packing, carriage and making good the Sites and/or the Customer Premises following removal.
- 32.5 All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Customer shall be liable for loss of or damage

to any of the Supplier's property located on Customer Premises which is due to the negligent act or omission of the Customer.

- 32.6 Subject to any express provision of the BCDR Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Services in accordance with this Call Off Contract, including the Service Level Performance Measures.
- 32.7 The Supplier shall maintain all Supplier Equipment within the Sites and/or the Customer Premises in a safe, serviceable and clean condition.
- 32.8 The Supplier shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:
- 32.8.1 remove from the Customer Premises any Supplier Equipment or any component part of Supplier Equipment which in the reasonable opinion of the Customer is either hazardous, noxious or not in accordance with this Call Off Contract; and
- 32.8.2 replace such Supplier Equipment or component part of Supplier Equipment with a suitable substitute item of Supplier Equipment.
- 32.9 For the purposes of this Clause 32.9, 'X' shall be the number of Service Failures, and 'Y' shall be the period in months, as respectively specified for 'X' and 'Y' in the Call Off Order Form. If this Clause 32.9 has been specified to apply in the Call Off Order Form, and there are no values specified for 'X' and/or 'Y', in default, 'X' shall be 2 and 'Y' shall be 12. Where a failure of Supplier Equipment or any component part of Supplier Equipment causes X or more Service Failures in any Y Month period, the Supplier shall notify the Customer in writing and shall, at the Customer's request (acting reasonably), replace such Supplier Equipment or component part thereof at its own cost with a new item of Supplier Equipment or component part thereof (of the same specification or having the same capability as the Supplier Equipment being replaced).

H. **INTELLECTUAL PROPERTY AND INFORMATION**

33. INTELLECTUAL PROPERTY RIGHTS

33.1 Allocation of Title to IPR

- 33.1.1 Save as expressly granted elsewhere under this Call Off Contract:
- (a) the Customer shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:
- (i) the Supplier Background IPR; and
- (ii) the Third Party IPR.
- (b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Customer or its licensors, including the:
- (i) Customer Background IPR;
- (ii) Customer Data; and
- (iii) Project Specific IPRs.
- 33.1.2 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 33.1.1, 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).

- 33.1.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
- 33.1.4 Unless the Customer otherwise agrees in advance in writing (and subject to Clause 33.8.3):
- (a) Project Specific IPR Items shall be created in a format, or able to be converted into a format, which is:
 - (i) suitable for publication by the Customer as Open Source; and
 - (ii) based on Open Standards (where applicable);
 - (b) where the Project Specific IPR Items are written in a format that requires conversion before publication as Open Source or before complying with Open Standards, the Supplier shall also provide the converted format to the Customer.

Assignments granted by the Supplier: Project Specific IPR

- 33.1.5 The Supplier hereby assigns to the Customer with full guarantee (or shall procure from the first owner the assignment to the Customer), title to and all rights and interest in the Project Specific IPRs. The assignment under this Clause 33.1.5 shall take effect as a present assignment of future rights that will take effect immediately on the coming into existence of the relevant Project Specific IPRs.
- 33.1.6 The Supplier shall promptly execute all such assignments as are required to ensure that any rights in the Project Specific IPRs are properly transferred to the Customer.
- 33.1.7 To the extent that it is necessary to enable the Customer to obtain the full benefits of ownership of the Project Specific IPRs, the Supplier hereby grants to the Customer and shall procure that any relevant third party licensor shall grant to the Customer a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit any Supplier Background IPRs or Third Party IPRs that are embedded in or which are an integral part of the Project Specific IPR Items.

Licences granted by the Supplier: Supplier Background IPR

- 33.1.8 The Supplier hereby grants to the Customer a perpetual, royalty-free and non-exclusive licence to use the Supplier Background IPR for any purpose relating to the Services (or substantially equivalent Services) or for any purpose relating to the exercise of the Customer's (or, if the Customer is a Central Government Body, any other Central Government Body's) business or function.
- 33.1.9 At any time during the Call Off Contract Period or following the Call Off Expiry Date, the Supplier may terminate a licence granted in respect of the Supplier Background IPR under Clause 33.1.8 by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if there is a Customer Cause which constitutes a material breach of the terms of 33.1.8 which, if the breach is capable of remedy, is not remedied within 20 Working Days after the Supplier gives the Customer written notice specifying the breach and requiring its remedy.
- 33.1.10 If the licence of the Supplier Background IPR is terminated pursuant to Clause 33.1.9, the Customer shall:
- (a) immediately cease all use of the Supplier Background IPR;
 - (b) at the discretion of the Supplier, return or destroy documents and other tangible materials that contain any of the Supplier Background IPR, provided

that if the Supplier has not made an election within 6 months of the termination of the licence, the Customer may destroy the documents and other tangible materials that contain any of the Supplier Background IPR; and

- (c) ensure, so far as reasonably practicable, that any Supplier Background IPR that is held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Customer) from any computer, word processor, voicemail system or any other device containing such Supplier Background IPR.

33.2 Customer's right to sub-license

33.2.1 The Customer may sub-license:

- (a) the rights granted under Clause 33.1.8 (Licence granted by the Supplier: Supplier Background IPR) to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:
 - (i) the sub-license is on terms no broader than those granted to the Customer; and
 - (ii) the sub-license only authorises the third party to use the rights licensed in Clause 33.1.8 (Licence granted by the Supplier: Supplier Background IPR) for purposes relating to the Services (or substantially equivalent Services) or for any purpose relating to the exercise of the Customer's (or, if the Customer is a Central Government Body, any other Central Government Body's) business or function; and
- (b) the rights granted under Clause 33.1.8 (Licence granted by the Supplier: Supplier Background IPR) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Project Specific IPR provided that the sub-license is on terms no broader than those granted to the Customer.

33.3 Customer's right to assign/novate licences

33.3.1 The Customer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to Clause 0 (Licence granted by the Supplier: Supplier Background IPR) to:

- (a) a Central Government Body; or
- (b) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer.

33.3.2 Where the Customer is a Central Government Body, any change in the legal status of the Customer which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 0 (Licences granted by the Supplier: Supplier Background IPR). If the Customer ceases to be a Central Government Body, the successor body to the Customer shall still be entitled to the benefit of the licences granted in Clause 0 (Licence granted by the Supplier: Supplier Background IPR).

33.3.3 If a licence granted in Clause 0 is novated under Clause 33.5.1 or there is a change of the Customer's status pursuant to Clause 33.3.2 (both such bodies being referred to as the "Transferee"), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Customer.

33.4 Third Party IPR

- 33.4.1 The Supplier shall procure that the owners or the authorised licensors of any Third Party IPR grant a direct licence to the Customer on terms at least equivalent to those set out in Clause 0 (Licence granted by the Supplier: Supplier Background IPR) and Clause 33.3.1 (Customer's right to assign/novate licences). If the Supplier cannot obtain for the Customer a licence in accordance with the licence terms set out in Clause 0 (Licences granted by the Supplier: Supplier Background IPR) and Clause 33.3.1 (Customer's right to assign/novate licences) in respect of any such Third Party IPR, the Supplier shall:
- (a) notify the Customer in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative providers which the Supplier could seek to use; and
 - (b) only use such Third Party IPR if the Customer Approves the terms of the licence from the relevant third party.
- 33.4.2 Should the Supplier become aware at any time, including after termination, that the Project Specific IPRs contain any Intellectual Property Rights for which the Customer does not have a licence, then the Supplier must notify the Customer within 10 days of what those rights are and which parts of the Project Specific IPRs they are found in.
- 33.4.3 Without prejudice to any other right or remedy of the Customer, if the Supplier becomes aware at any time, including after termination, that any Intellectual Property Rights for which the Customer does not have a licence in accordance with Clause 33.1.7 subsist in the Project Specific IPR Items, then the Supplier must notify the Customer within 10 days of what those rights are and which parts of the Project Specific IPR Items they are found in.

33.5 Licence granted by the Customer

- 33.5.1 The Customer hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call Off Contract Period to use the Customer Background IPR, the Project Specific IPRs and the Customer Data solely to the extent necessary for providing the Services in accordance with this Call Off Contract, including (but not limited to) the right to grant sub-licences to Sub-Contractors provided that:
- (a) any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 34.3 (Confidentiality); and
 - (b) the Supplier shall not without Approval use the licensed materials for any other purpose or for the benefit of any person other than the Customer.

33.6 Termination of licenses

- 33.6.1 Subject to Clause 0, all licences granted pursuant to Clause 33 (other than those granted pursuant to Clause 33.4 and 33.5 shall survive the Call Off Expiry Date.
- 33.6.2 The Supplier shall, if requested by the Customer in accordance with Call Off Schedule 9 (Exit Management), grant (or procure the grant) to the Replacement Supplier of a licence to use any Supplier Background IPR and/or Third Party IPR on terms equivalent to those set out in Clause 0 subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
- 33.6.3 The licence granted pursuant to Clause 33.5 and any sub-licence granted by the Supplier in accordance with Clause 33.5.1 shall terminate automatically on the Call Off Expiry Date and the Supplier shall:
- (a) immediately cease all use of the Customer Background IPR and the Customer Data (as the case may be);

- (b) at the discretion of the Customer, return or destroy documents and other tangible materials that contain any of the Customer Background IPR and the Customer Data, provided that if the Customer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Customer Background IPR and the Customer Data (as the case may be); and
- (c) ensure, so far as reasonably practicable, that any Customer Background IPR and Customer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Customer Background IPR and/or Customer Data.

33.7 IPR Indemnity

- 33.7.1 The Supplier shall, during and after the Call Off Contract Period, on written demand, indemnify the Customer against all Losses incurred by, awarded against, or agreed to be paid by the Customer (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.
- 33.7.2 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:
- (a) procure for the Customer the right to continue using the relevant item which is subject to the IPR Claim; or
 - (b) replace or modify the relevant item with non-infringing substitutes provided that:
 - (i) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
 - (ii) the replaced or modified item does not have an adverse effect on any other Services;
 - (iii) there is no additional cost to the Customer; and
 - (iv) the terms and conditions of this Call Off Contract shall apply to the replaced or modified Services.
- 33.7.3 If the Supplier elects to procure a licence in accordance with Clause 33.7.2(a) or to modify or replace an item pursuant to Clause 33.7.2(b), but this has not avoided or resolved the IPR Claim, then:
- (a) the Customer may terminate this Call Off Contract by written notice with immediate effect; and
 - (b) without prejudice to the indemnity set out in Clause 33.9.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute Services including the additional costs of procuring, implementing and maintaining the substitute items.

33.8 Open Source Publication

- 33.8.1 Subject to Clause 33.8.3, the Supplier agrees that the Customer may at its sole discretion publish as Open Source all or part of the Project Specific IPR Items after the Operational Services Commencement Date (such date to be notified by the Customer to the Supplier).

- 33.8.2 Subject to Clause 33.8.3, the Supplier hereby warrants that the Project Specific IPR Items:
- (a) are suitable for release as Open Source and that the Supplier has used reasonable endeavours when developing the same to ensure that publication by the Customer will not enable a third party to use the published Project Specific IPRs or Project Specific IPR Items in any way, which could reasonably be foreseen to compromise the operation, running or security of the Project Specific IPRs or the Customer System;
 - (b) have been developed by the Supplier using reasonable endeavours to ensure that publication by the Customer of the same shall not cause any harm or damage to any party using the published Project Specific IPRs;
 - (c) do not contain any material which would bring the Customer into disrepute upon publication as Open Source;
 - (d) do not contain any IPRs which have not been licensed to the Customer under licence terms which permit the publication of the Project Specific IPR Items as Open Source by the Customer;
 - (e) will be supplied in a format suitable for publication as Open Source (“the Open Source Publication Material”) no later than the date notified to the Supplier under Clause 33.8.1; and
 - (f) do not contain any Malicious Software.

33.8.3 The Supplier hereby acknowledges and agrees that any Supplier Background IPRs which it includes in the Open Source Publication Material supplied to the Customer pursuant to Clause 33.8.2(e) and which have not been Approved for exclusion under Clause 33.8.4 will become Open Source and will hereby be licensed to the Customer under the Open Source licence terms adopted by the Customer and treated as such following publication by the Customer.

33.8.4 Where the Customer has Approved a request by the Supplier under Clause 33.1.4, for any part of the Project Specific IPRs to be excluded from the requirement to be in an Open Source format due to the intention to embed or integrate Supplier Background IPRs and/or Third Party IPRs (and where the Parties agree that such IPRs are not intended to be published as Open Source), the Supplier shall:

- (a) as soon as reasonably practicable, provide written details of the nature of the IPRs and items or Deliverables based on IPRs which are to be excluded from Open Source publication; and
- (b) include in the written details provided under Clause 33.8.4 (a) information about the impact that inclusion of such IPRs and items or Deliverables based on such IPRs will have on any other Project Specific IPRs Items and the Customer’s ability to publish such other items or Deliverables as Open Source.

34. SECURITY AND PROTECTION OF INFORMATION

34.1 Security Requirements

34.1.1 The Supplier shall comply with the Security Policy and the requirements of Call Off Schedule 7 (Security) including the Security Management Plan (if any) and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.

- 34.1.2 The Customer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 34.1.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Services it may propose a Variation to the Customer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Call Off Contract Charges shall then be subject to the Variation Procedure.
- 34.1.4 Until and/or unless a change to the Call Off Contract Charges is agreed by the Customer pursuant to the Variation Procedure the Supplier shall continue to provide the Services in accordance with its existing obligations.

34.2 Protection of Customer Data

- 34.2.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- 34.2.2 The Supplier shall not store, copy, disclose, or use the Customer Data:
- (a) except as necessary for the performance by the Supplier of its obligations under this Call Off Contract or as otherwise Approved by the Customer; and
 - (b) outside the European Economic Area.
- 34.2.3 To the extent that the Customer Data is held and/or Processed by the Supplier, the Supplier shall supply that Customer Data to the Customer as requested by the Customer and in the format (if any) specified by the Customer in the Call Off Order Form and, in any event, as specified by the Customer from time to time in writing.
- 34.2.4 The Supplier shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.
- 34.2.5 The Supplier shall perform secure back-ups of all Customer Data and shall ensure that up-to-date back-ups are stored off-site at an Approved location in accordance with any BCDR Plan or otherwise. The Supplier shall ensure that such back-ups are available to the Customer (or to such other person as the Customer may direct) at all times upon request and are delivered to the Customer at no less than 6 Monthly intervals (or such other intervals as may be agreed in writing between the Parties).
- 34.2.6 The Supplier shall ensure that any system on which the Supplier holds any Customer Data, including back-up data, is a secure system that complies with the Security Policy and the Security Management Plan (if any).
- 34.2.7 If at any time the Supplier suspects or has reason to believe that the Customer Data is corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Customer immediately and inform the Customer of the remedial action the Supplier proposes to take.
- 34.2.8 If the Customer Data is corrupted, lost or sufficiently degraded as a result of a Default so as to be unusable, the Customer may:
- (a) require the Supplier (at the Supplier's expense) to restore or procure the restoration of Customer Data to the extent and in accordance with the requirements specified in Call Off Schedule 8 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer, and the Supplier shall do so as soon as practicable but not later than 5 Working Days from the date of receipt of the Customer's notice; and/or

- (b) itself restore or procure the restoration of Customer Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Call Off Schedule 8 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer.

34.3 Confidentiality

34.3.1 For the purposes of Clause 34.3, 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.

34.3.2 Except to the extent set out in Clause 34.3 or where disclosure is expressly permitted elsewhere in this Call Off Contract, the Recipient shall:

- (a) 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
- (b) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Call Off Contract or without obtaining the owner's prior written consent;
- (c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Call Off Contract; and
- (d) 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.

34.3.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 34.4 shall apply to disclosures required under the FOIA or the EIRs;
- (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Customer arising out of or in connection with this Call Off Contract;
 - (ii) the examination and certification of the Customer'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 Customer is making use of any Services provided under this Call Off Contract; or
 - (iii) the conduct of a Central Government Body review in respect of this Call Off Contract; or
- (c) 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;
- (d) such information was in the possession of the Disclosing Party without obligation of confidentiality prior to its disclosure by the information owner;

- (e) such information was obtained from a third party without obligation of confidentiality;
- (f) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract or breach of a duty of confidentiality; and
- (g) the information is independently developed without access to the Disclosing Party's Confidential Information.

34.3.4 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.

34.3.5 Subject to Clause 34.3.2, the Supplier may only disclose the Confidential Information of the Customer on a confidential basis to:

- (a) Supplier Personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Call Off Contract; and
- (b) its professional advisers for the purposes of obtaining advice in relation to this Call Off Contract.

34.3.6 Where the Supplier discloses Confidential Information of the Customer pursuant to Clause 34.3.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Call Off Contract by the persons to whom disclosure has been made.

34.3.7 The Customer may disclose the Confidential Information of the Supplier:

- (a) to any Central Government Body on the basis that the information may only be further disclosed to Central Government Bodies;
- (b) to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 34.3.7(a) (including any benchmarking organisation) for any purpose relating to or connected with this Call Off Contract;
- (e) on a confidential basis for the purpose of the exercise of its rights under this Call Off Contract; or
- (f) to a proposed transferee, assignee or novatee of, or successor in title to the Customer,

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 Customer under Clause 34.3.

34.3.8 Nothing in Clause 34.3 shall prevent a Recipient from using any techniques, ideas or Know-How gained during the performance of this Call Off Contract 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.

34.3.9 If the Supplier fails to comply with Clauses 34.3.2 to 34.3.5, the Customer reserves the right to terminate this Call Off Contract for material Default.

34.4 Transparency and Freedom of Information

34.4.1 The Parties acknowledge that

- (a) the Transparency Reports; and
- (b) the content of this Call Off Contract, including any changes to this Call Off Contract agreed from time to time, except for –
 - (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Customer; and
 - (ii) Commercially Sensitive Information;

(together the "Transparency Information") are not Confidential Information.

34.4.2 Notwithstanding any other provision of this Call Off Contract, the Supplier hereby gives its consent for the Customer to publish to the general public the Transparency Information in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted). The Customer shall, prior to publication, consult with the Supplier on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

34.4.3 The Supplier shall assist and co-operate with the Customer to enable the Customer to publish the Transparency Information, including the preparation of the Transparency Reports in accordance with Call Off Schedule 13 (Transparency Reports).

34.4.4 If the Customer believes that publication of any element of the Transparency Information would be contrary to the public interest, the Customer shall be entitled to exclude such information from publication. The Customer acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Customer acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Supplier.

34.4.5 The Customer shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Call Off Contract is being performed, having regard to the context of the wider commercial relationship with the Supplier.

34.4.6 The Supplier agrees that any Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Customer on request unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of the FOIA. The Customer may disclose such information under the FOIA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to Clause 34.3.7(c)) and Open Book Data) publish such Information. The Supplier shall provide to the Customer within 5 working days (or such other period as the Customer may reasonably specify) any such Information requested by the Customer.

- 34.4.7 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the EIRs. The Supplier shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its Information disclosure obligations under the FOIA and EIRs;
 - (b) transfer to the Customer all Requests for Information relating to this Call Off Contract that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - (c) provide the Customer with a copy of all Information held on behalf of the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - (d) not respond directly to a Request for Information addressed to the Customer unless authorised in writing to do so by the Customer.
- 34.4.8 The Supplier acknowledges that the Customer may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Customer 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 Call Off Contract) the Customer 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 EIRs.

34.5 Protection of Personal Data

- 34.5.1 Where any Personal Data is Processed in connection with the exercise of the Parties' rights and obligations under this Call Off Contract, the Parties acknowledge that the Customer is the Data Controller and that the Supplier is the Data Processor. The only processing which the Customer has authorised the Supplier to do is set out in Clause 34.5.2.
- 34.5.2 The Supplier shall:
- (a) Process the Personal Data only in accordance with instructions from the Customer to perform its obligations under this Call Off Contract;
 - (b) 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, including the measures as are set out in Clauses 34.1 and 34.2;
 - (c) not disclose or transfer the Personal Data to any third party or Supplier Personnel unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the Customer (save where such disclosure or transfer is specifically authorised under this Call Off Contract)
 - (d) notify the Authority immediately if it:
 - (i) receives a Data Subject Access Request (or purported Data Subject Access Request);

- (ii) receives a request to rectify, block or erase any Personal Data;
 - (iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under the Call Off Contract;
 - (v) receives 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; or
 - (vi) becomes aware of a Data Loss Event.
- (e) provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to starting any processing. Such assistance may, at the Authority's discretion, include:
- (i) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (iii) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data
- (f) in relation to any Personal Data processed in connection with its obligations under the Call Off Contract:
- (i) process that Personal Data only in accordance with Clause 34.5 of this Call Off Contract unless the Supplier is required to do otherwise by law. If it is so required the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by law;
 - (ii) ensure that it has in place Protective Measures which have been approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the nature of the data to be protected, harm that might result from a Data Loss Event, the state of technological development and the cost of implementing any measures
- (g) 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:
- (i) are aware of and comply with the Supplier's duties under this Clause 34.5.2;
 - (ii) 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 Customer or as otherwise permitted by this Call Off Contract; and
 - (iii) have undergone adequate training in the use, care, protection and handling of personal data (as defined in the Data Protection Legislation);

- (h) notify the Customer within 5 Working Days if it receives:
 - (i) 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 Customer's obligations under the DPA;
 - (ii) any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data; or
 - (iii) 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;
- (i) provide the Customer with full cooperation and assistance (within the timescales reasonably required by the Customer) in relation to any complaint, communication or request made (as referred to at Clause 34.5.2 (h)) including by promptly providing:
 - (i) the Customer with full details and copies of the complaint, communication or request;
 - (ii) where applicable, such assistance as is reasonably requested by the Customer to enable the Customer to comply with the Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation and
 - (iii) the Customer, on request by the Customer, with any Personal Data it holds in relation to a Data Subject; and
- (j) if requested by the Customer, provide a written description of the measures it has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to Clause 34.5.2 and provide to the Customer copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals.

34.5.3 The Supplier shall not Process or otherwise transfer any Personal Data in or to a Restricted Country. If, after the Call Off Commencement Date, the Supplier or any Sub-Contractor wishes to Process and/or transfer any Personal Data in or to any outside the European Economic Area, the following provisions shall apply:

- (a) the Supplier shall propose a Variation to the Customer which, if it is agreed by the Customer, shall be dealt with in accordance with the Variation Procedure and Clauses 34.5.3(b) to 34.5.3(c);
- (b) the Supplier shall set out in its proposal to the Customer for a Variation details of the following:
 - (i) the Personal Data which will be transferred to and/or Processed in or to any Restricted Countries;
 - (ii) the Restricted Countries to which the Personal Data will be transferred and/or Processed; and
 - (iii) any Sub-Contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries;
 - (iv) 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 Customer's compliance with the Data Protection Laws including in accordance with GDPR Article 46);

- (c) in providing and evaluating the Variation, the Parties shall ensure that they have regard to and comply with then-current Customer, 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
- (d) the Supplier shall comply with such other instructions and shall carry out such other actions as the Customer may notify in writing, including:
 - (i) incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Call Off Contract or a separate data processing agreement between the Parties; and
 - (ii) 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) a direct data processing agreement with the Customer on such terms as may be required by the Customer; or
 - (B) a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Customer and the Sub-Contractor relating to the relevant Personal Data transfer, and
 - (iii) in each case which the Supplier acknowledges may include the incorporation of model contract provisions (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) and technical and organisation measures which the Customer deems necessary for the purpose of protecting Personal Data.

- 34.5.4 Taking into account the nature of the processing, the Supplier shall provide the Customer with all reasonable assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request made to the extent those obligations and any complaint, communication or request made is directly in connection with this Call Off Contract (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
- (a) the Customer with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Customer following any Data Loss Event; and
 - (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office or any consultation by the Customer with the Information Commissioner's Office.

- 34.5.5 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 34.5.
- 34.5.6 If the Customer has a genuine belief that the Supplier is in breach of its obligations under this Clause 34.5, the Supplier shall subject to the Customer serving reasonable prior written notice allow for audits of its Data Processing activity directly in connection with this Call Off Contract by the Customer or the Customer’s designated auditor and provided that the Customer or its designated auditor shall observe and comply with the reasonable directions of the Supplier in relation to any access of the Supplier’s premises and shall cause minimum disruption to the Suppliers ordinary business operations.
- 34.5.7 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 34.5.8 Before allowing any Sub-processor to process any Personal Data in connection with the Call Off Contract, the Supplier shall:
- (a) notify the Customer in writing of the intended Sub-processor and processing;
 - (b) obtain the Customer’s approval;
 - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in in this Clause 34.5 such that they apply to the Sub-processor; and
 - (d) provide the Authority with such information regarding the Sub-processor as the Authority reasonably requires.
- 34.5.9 The Supplier remains fully liable for the acts and omissions of any Sub-processor.
- 34.5.10 The Customer may, at any time on not less than 30 Working Days’ notice, revise this Clause 34.5 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Call Off Contract).
- 34.5.11 The Parties shall take account of any guidance published by the Information Commissioner’s Office. The Customer may on not less than 30 Working Days’ notice to the Supplier amend the Call Off Contract to ensure that it complies with any guidance published by the Information Commissioner’s Office.
- 34.5.12 The Supplier shall use its reasonable endeavours to assist the Customer to comply with any obligations under the Data Protection Legislation and shall not perform its obligations under this Call Off Contract in such a way as to cause the Customer to breach any of the Customer’s obligations under the Data Protection Legislation to the extent the Supplier is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

Description	Details
Subject matter of the processing	Any Personal Data concerning the Customer’s staff or the staff of other suppliers to the Customer will be collected to support the provision of the Supplier’s obligations under this Call Off Contract.
Duration of the processing	Total duration of processing: For the term of this Call Off Contract. Retention of individual subject records: As specified in the Customer’s Data Retention Policy.

Nature and purposes of the processing	<p>Personal Data processed by the Supplier shall be that which is required for the purposes outlined in the table below:</p> <table border="1"> <thead> <tr> <th>Purpose</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>Contract and performance management</td> <td>Ensure that the Supplier can discharge its contractual obligations and allow for the monitoring of its performance against contractual requirements.</td> </tr> <tr> <td>Equality obligations Act</td> <td>Assist the Customer and the Supplier meet their obligations under the Equality Act 2010.</td> </tr> </tbody> </table>	Purpose	Description	Contract and performance management	Ensure that the Supplier can discharge its contractual obligations and allow for the monitoring of its performance against contractual requirements.	Equality obligations Act	Assist the Customer and the Supplier meet their obligations under the Equality Act 2010.
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Equality obligations Act	Assist the Customer and the Supplier meet their obligations under the Equality Act 2010.						
Type of Personal Data	<p>The Supplier shall process the types of Personal Data described in the table below.</p> <table border="1"> <thead> <tr> <th>Personal Data Category</th> <th>Personal Data Types</th> </tr> </thead> <tbody> <tr> <td rowspan="2">Customer personnel and the personnel of other Customer suppliers</td> <td>Name</td> </tr> <tr> <td>Contact Details</td> </tr> </tbody> </table>	Personal Data Category	Personal Data Types	Customer personnel and the personnel of other Customer suppliers	Name	Contact Details	
Personal Data Category	Personal Data Types						
Customer personnel and the personnel of other Customer suppliers	Name						
	Contact Details						
Categories of Data Subject	<p>The Supplier shall process Personal Data about the following categories of Data Subject:</p> <table border="1"> <thead> <tr> <th>Category of Data Subject</th> <th>Notes</th> </tr> </thead> <tbody> <tr> <td>Customer personnel and the personnel of other Customer suppliers</td> <td>Required to ensure the Supplier has the necessary contacts to be able to provide its obligations under this Call Off Contract.</td> </tr> </tbody> </table>	Category of Data Subject	Notes	Customer personnel and the personnel of other Customer suppliers	Required to ensure the Supplier has the necessary contacts to be able to provide its obligations under this Call Off Contract.		
Category of Data Subject	Notes						
Customer personnel and the personnel of other Customer suppliers	Required to ensure the Supplier has the necessary contacts to be able to provide its obligations under this Call Off Contract.						
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<p>At the end of the term of this Call Off Contract, any Personal Data to be retained in line with the Customer's Data Retention Policy shall be securely transferred to the Customer or other nominated party in accordance with any requirements provided to the Supplier from time to time.</p> <p>For Personal Data where the data retention period defined in the Customer's Data Retention Policy has expired, Personal Data shall be destroyed.</p>						

35. PUBLICITY AND BRANDING

35.1 The Supplier shall not:

35.1.1 make any press announcements or publicise this Call Off Contract in any way; or

35.1.2 use the Customer's name or brand in any promotion or marketing or announcement of orders,

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

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

I. LIABILITY AND INSURANCE

36. LIABILITY

36.1 Unlimited Liability

- 36.1.1 Neither Party excludes or limits its liability for:
- (a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
 - (b) bribery or Fraud by it or its employees;
 - (c) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - (d) any liability to the extent it cannot be excluded or limited by Law.
- 36.1.2 The Supplier does not exclude or limit its liability in respect of the indemnity in Clauses 33.7 (IPR Indemnity) and in each case whether before or after the making of a demand pursuant to the indemnity therein.

36.2 Financial Limits

- 36.2.1 Subject to Clause 36.1, the Supplier's total aggregate liability:
- (a) in respect of all Service Credits incurred in any rolling 12 Months shall be subject in aggregate to the Service Credit Cap;
 - (b) in respect of all other Losses incurred by the Customer under or in connection with this Call Off Contract as a result of Defaults by the Supplier shall in no event exceed:
 - (i) in relation to any Defaults occurring from the Call Off Commencement Date to the end of the first Call Off Contract Year which for the avoidance of doubt shall also include the Mobilisation Period, the higher of ten million pounds (£10,000,000) or a sum equal to one hundred and fifty per cent (150%) of the Estimated Year 1 Call Off Contract Charges;
 - (ii) in relation to any Defaults occurring in each subsequent Call Off Contract Year that commences during the remainder of the Call Off Contract Period, the higher of ten million pounds (£10,000,000) in each such Call Off Contract Year or a sum equal to one hundred and fifty per cent (150%) of the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the previous Call Off Contract Year; and
 - (iii) in relation to any Defaults occurring in each Call Off Contract Year that commences after the end of the Call Off Contract Period, the higher of ten million pounds (£10,000,000) in each such Call Off Contract Year or a sum equal to one hundred and fifty per cent (150%) of the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the last Call Off Contract Year commencing during the Call Off Contract Period,unless the Customer has specified different financial limits in the Call Off Order Form.
- 36.2.2 Subject to Clauses 36.1 (Unlimited Liability) and 36.2 (Financial Limits) and without prejudice to its obligation to pay the undisputed Call Off Contract Charges as and when they fall due for payment, the Customer's total aggregate liability in respect of all Losses as a result of Customer Causes shall be limited to:
- (a) in relation to any Customer Causes occurring from the Call Off Commencement Date to the end of the first Call Off Contract Year for the avoidance of doubt this period is the first Call Off Contract year together with the Mobilisation Period, a sum equal to the Estimated Year 1 Call Off Contract Charges;

- (b) in relation to any Customer Causes occurring in each subsequent Call Off Contract Year that commences during the remainder of the Call Off Contract Period, a sum equal to the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the previous Call Off Contract Year; and
- (c) in relation to any Customer Causes occurring in each Call Off Contract Year that commences after the end of the Call Off Contract Period, a sum equal to the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the last Call Off Contract Year commencing during the Call Off Contract Period.

36.3 Non-recoverable Losses

36.3.1 Subject to Clause 36.1 (Unlimited Liability) neither Party shall be liable to the other Party for any:

- (a) indirect, special or consequential Loss;
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

36.4 Recoverable Losses

36.4.1 Subject to Clause 36.2 (Financial Limits), and notwithstanding Clause 36.3 (Non-recoverable Losses), the Supplier acknowledges that the Customer may, amongst other things, recover from the Supplier the following Losses incurred by the Customer to the extent that they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Customer, including costs relating to time spent by or on behalf of the Customer in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional cost of procuring Replacement Services for the remainder of the Call Off Contract Period and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Services and/or replacement Deliverables above those which would have been payable under this Call Off Contract;
- (d) any compensation or interest paid to a third party by the Customer; and
- (e) any fine, penalty or costs incurred by the Customer pursuant to Law.

36.5 Miscellaneous

36.5.1 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Call Off Contract.

36.5.2 Any Deductions shall not be taken into consideration when calculating the Supplier's liability under Clause 36.2 (Financial Limits).

36.5.3 Subject to any rights of the Customer under this Call Off Contract (including in respect of an IPR Claim), any claims by a third party where an indemnity is sought by that third party from a Party to this Call Off Contract shall be dealt with in accordance with the provisions of Framework Schedule 20 (Conduct of Claims).

37. INSURANCE

37.1 This Clause 37 will only apply where specified in the Call Off Order Form or elsewhere in this Call Off Contract.

- 37.2 Notwithstanding any benefit to the Customer of the policy or policies of insurance referred to in Clause 31 (Insurance) of the Framework Agreement, the Supplier shall effect and maintain such further policy or policies of insurance or extensions to such existing policy or policies of insurance procured under the Framework Agreement in respect of all risks which may be incurred by the Supplier arising out of its performance of its obligations under this Call Off Contract.
- 37.3 Without limitation to the generality of Clause 37.2 the Supplier shall ensure that it maintains the policy or policies of insurance as stipulated in the Call Off Order Form.
- 37.4 The Supplier shall effect and maintain the policy or policies of insurance referred to in Clause 37 for the period of the Call Off Contract and in respect of the Professional Indemnity Insurance only 6 years after the Call Off Expiry Date.
- 37.5 The Supplier shall give the Customer, on request, copies of all insurance policies referred to in Clause 37 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 37.6 If, for whatever reason, the Supplier fails to give effect to and maintain the insurance policies required under Clause 37 the Customer may make alternative arrangements to protect its interests and may recover the premium and other costs of such arrangements as a debt due from the Supplier.
- 37.7 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liability under this Call Off Contract. It shall be the responsibility of the Supplier to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability in relation to the performance of its obligations under this Call Off Contract.
- 37.8 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Customer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

J. REMEDIES AND RELIEF

38. CUSTOMER REMEDIES FOR DEFAULT

38.1 Remedies

- 38.1.1 Without prejudice to any other right or remedy of the Customer howsoever arising (including under Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)) and subject to the exclusive financial remedy provisions in Clauses 13.6 (Service Levels and Service Credits) and 6.4.1 (b) (Delay Payments), if the Supplier commits any Default of this Call Off Contract then the Customer may (whether or not any part of the Services have been Delivered) do any of the following:
- (a) at the Customer's option, give the Supplier the opportunity (at the Supplier's expense) to remedy the Default together with any damage resulting from such Default (where such Default is capable of remedy) or to supply Replacement Services and carry out any other necessary work to ensure that the terms of this Call Off Contract are fulfilled, in accordance with the Customer's instructions;

- (b) carry out, at the Supplier's expense, any work necessary to make the provision of the Services comply with this Call Off Contract;
- (c) if the Default is a material Default that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults - whether of the same or different obligations and regardless of whether such Defaults are remedied - which taken together constitute a material Default):
 - (i) instruct the Supplier to comply with the Rectification Plan Process;
 - (ii) suspend this Call Off Contract (whereupon the relevant provisions of Clause 44 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) the Services; and
 - (iii) without terminating or suspending the whole of this Call Off Contract, terminate or suspend this Call Off Contract in respect of part of the provision of the Services only (whereupon the relevant provisions of Clause 44 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) such part of the Services;

38.1.2 Where the Customer exercises any of its step-in rights under Clauses 38.1.1(c)(ii) or 38.1.1(c)(iii), the Customer shall have the right to charge the Supplier for and the Supplier shall on demand pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Services by the Customer or a third party and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining Replacement Services.

38.2 Rectification Plan Process

38.2.1 Where the Customer has instructed the Supplier to comply with the Rectification Plan Process pursuant to Clause 38.1.1(c)(i):

- (a) the Supplier shall submit a draft Rectification Plan to the Customer for it to review as soon as possible and in any event within 10 Working Days (or such other period as may be agreed between the Parties) from the date of Customer's instructions. The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Default giving rise to the Customer's request for a draft Rectification Plan.
- (b) the draft Rectification Plan shall set out:
 - (i) full details of the Default that has occurred, including a cause analysis;
 - (ii) the actual or anticipated effect of the Default; and
 - (iii) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable).

38.2.2 The Supplier shall promptly provide to the Customer any further documentation that the Customer requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with paragraph 5 of this Call Off Schedule 11.

- 38.2.3 The Customer may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
- (a) is insufficiently detailed to be capable of proper evaluation;
 - (b) will take too long to complete;
 - (c) will not prevent reoccurrence of the Default; and/or
 - (d) will rectify the Default but in a manner which is unacceptable to the Customer.
- 38.2.4 The Customer shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Customer rejects the draft Rectification Plan, the Customer shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Customer for review within 5 Working Days (or such other period as agreed between the Parties) of the Customer's notice rejecting the first draft.
- 38.2.5 If the Customer consents to the Rectification Plan, the Supplier shall immediately start work on the actions set out in the Rectification Plan.

39. SUPPLIER RELIEF DUE TO CUSTOMER CAUSE

39.1 If the Supplier has failed to:

- 39.1.1 Achieve a Milestone by its Milestone Date;
- 39.1.2 provide the Services in accordance with the Service Levels;
- 39.1.3 comply with its obligations under this Call Off Contract, (each a "Supplier Non-Performance"), and can demonstrate that the Supplier Non-Performance would not have occurred but for a Customer Cause, then (subject to the Supplier fulfilling its obligations in Clause 17 (Supplier Notification of Customer Cause)):
 - (a) the Supplier shall not be treated as being in breach of this Call Off Contract to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Customer Cause;
 - (b) the Customer shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance to terminate this Call Off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause);
 - (c) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:
 - (i) the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Customer Cause;
 - (ii) if the Customer, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Customer Cause;
 - (iii) if failure to Achieve a Milestone attracts a Delay Payment, the Supplier shall have no liability to pay any such Delay Payment associated with the

Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Customer Cause; and/or

- (d) where the Supplier Non-Performance constitutes a Service Level Failure:
 - (i) the Supplier shall not be liable to accrue Service Credits; and
 - (ii) the Supplier shall be entitled to invoice for the Call Off Contract Charges for the provision of the relevant Services affected by the Customer Cause,
- in each case, to the extent that the Supplier can demonstrate that the Service Level Failure was caused by the Customer Cause.

39.2 In order to claim any of the rights and/or relief referred to in Clause 39.1, the Supplier shall:

39.2.1 comply with its obligations under Clause 17 (Notification of Customer Cause); and

39.2.2 within 10 Working Days of becoming aware that a Customer Cause has caused, or is likely to cause, a Supplier Non-Performance, give the Customer notice (a “**Relief Notice**”) setting out details of:

- (a) the Supplier Non-Performance;
- (b) the Customer Cause and its effect on the Supplier’s ability to meet its obligations under this Call Off Contract; and
- (c) the relief claimed by the Supplier.

39.3 Following the receipt of a Relief Notice, the Customer shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Customer Cause and whether it agrees with the Supplier’s assessment set out in the Relief Notice as to the effect of the relevant Customer Cause and its entitlement to relief, consulting with the Supplier where necessary.

39.4 Without prejudice to Clause 0 (Continuing obligation to provide the Services), if a Dispute arises as to:

39.4.1 whether a Supplier Non-Performance would not have occurred but for a Customer Cause; and/or

39.4.2 the nature and/or extent of the relief claimed by the Supplier, either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.

39.5 Any Variation that is required to the Implementation Plan or to the Call Off Contract Charges pursuant to Clause 39 shall be implemented in accordance with the Variation Procedure.

40. FORCE MAJEURE

40.1 Subject to the remainder of Clause 40 (and, in relation to the Supplier, subject to its compliance with any obligations in Clause 14 (Business Continuity and Disaster Recovery)), a Party may claim relief under Clause 40 from liability for failure to meet its obligations under this Call Off Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Call Off Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.

- 40.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 40.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under Clause 40 to the extent that consequences of the relevant Force Majeure Event:
- 40.3.1 are capable of being mitigated by any of the provision of any Services, including any BCDR Services, but the Supplier has failed to do so; and/or
- 40.3.2 should have been foreseen and prevented or avoided by a prudent provider of Services similar to the Services, operating to the standards required by this Call Off Contract.
- 40.4 Subject to Clause 40.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 40.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 40.6 Where, as a result of a Force Majeure Event:
- 40.6.1 an Affected Party fails to perform its obligations in accordance with this Call Off Contract, then during the continuance of the Force Majeure Event:
- (a) the other Party shall not be entitled to exercise any rights to terminate this Call Off Contract in whole or in part as a result of such failure unless the provision of the Services is materially impacted by a Force Majeure Event which endures for a continuous period of more than 90 days; and
- (b) the Supplier shall not be liable for any Default and the Customer shall not be liable for any Customer Cause arising as a result of such failure;
- 40.6.2 the Supplier fails to perform its obligations in accordance with this Call Off Contract:
- (a) the Customer shall not be entitled:
- (i) during the continuance of the Force Majeure Event to exercise its step-in rights under Clause 38.1.1(b) and 38.1.1(c) (Customer Remedies for Default) as a result of such failure; and
- (ii) to receive Delay Payments pursuant to Clause 6.4 (Delay Payments) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and
- (b) the Supplier shall be entitled to receive payment of the Call Off Contract Charges (or a proportional payment of them) only to the extent that the Services (or part of the Services) continue to be provided in accordance with the terms of this Call Off Contract during the occurrence of the Force Majeure Event.
- 40.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Call Off Contract.

40.8 Relief from liability for the Affected Party under Clause 40 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Call Off Contract and shall not be dependent on the serving of notice under Clause 40.7.

K. TERMINATION AND EXIT MANAGEMENT

41. CUSTOMER TERMINATION RIGHTS

41.1 Termination in Relation to Call Off Guarantee

41.1.1 Where this Call Off Contract is conditional upon the Supplier procuring a Call Off Guarantee pursuant to Clause 4 (Call Off Guarantee), the Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where:

- (a) the Call Off Guarantor withdraws the Call Off Guarantee for any reason whatsoever;
- (b) the Call Off Guarantor is in breach or anticipatory breach of the Call Off Guarantee;
- (c) an Insolvency Event occurs in respect of the Call Off Guarantor; or
- (d) the Call Off Guarantee becomes invalid or unenforceable for any reason whatsoever,

and in each case the Call Off Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Customer; or

- (e) the Supplier fails to provide the documentation required by the date so specified by the Customer.

41.2 Termination on Material Default

41.2.1 The Customer may terminate this Call Off Contract for material Default by issuing a Termination Notice to the Supplier where:

- (a) the representation and warranty given by the Supplier pursuant to Clause 3.2.6 (Representations and Warranties) is materially untrue or misleading, and the Supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of the Customer are acceptable;
- (b) as a result of any Defaults, the Customer incurs Losses in any Contract Year which exceed 80% (unless stated differently in the Call Off Order Form) of the value of the Supplier's aggregate annual liability limit for that Contract Year as set out in Clauses 36.2.1(a) and 36.2.1(b) (Liability);
- (c) the Customer expressly reserves the right to terminate this Call Off Contract for material Default, including pursuant to any of the following Clauses: 6.1.6 (Implementation Plan), 8.1.6 (Services), 16.4 (Disruption), 21.5 (Records, Audit Access and Open Book Data), 24 (Promoting Tax Compliance), 34.3.9 (Confidentiality), 50.6.2 (Prevention of Fraud and Bribery), paragraph 1.2.4 of the Annex to Part A and paragraph 1.2.4 of the Annex to Part B of Call Off Schedule 10 (Staff Transfer);
- (d) the Supplier commits any material Default of this Call Off Contract which is not, in the reasonable opinion of the Customer, capable of remedy; and/or

- (e) the Supplier commits a Default, including a material Default, which in the opinion of the Customer is remediable but has not remedied such Default to the satisfaction of the Customer in accordance with the Rectification Plan Process.

41.2.2 For the purpose of Clause 41.2.1, a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default.

41.3 Termination in Relation to Financial Standing

41.3.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where in the reasonable opinion of the Customer there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:

- (a) adversely impacts on the Supplier's ability to supply the Services under this Call Off Contract; or
- (b) could reasonably be expected to have an adverse impact on the Suppliers ability to supply the Services under this Call Off Contract.

41.4 Termination on Insolvency

41.4.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where an Insolvency Event affecting the Supplier occurs.

41.5 Termination on Change of Control

41.5.1 The Supplier shall notify the Customer 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.

41.5.2 The Supplier shall ensure that any notification made pursuant to Clause 41.5.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

41.5.3 The Customer may terminate this Call Off Contract by issuing a Termination Notice under Clause 41.5 to the Supplier within 6 Months of:

- (a) being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or
- (b) where no notification has been made, the date that the Customer 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.

41.6 Termination for breach of Regulations

41.6.1 The Customer may terminate this Call Off Contract 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).

41.7 Termination Without Cause

41.7.1 The Customer shall have the right to terminate this Call Off Contract at any time by issuing a Termination Notice to the Supplier giving at least 30 Working Days written notice (unless stated differently in the Call Off Order Form).

41.8 Termination in Relation to Framework Agreement

41.8.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier if the Framework Agreement is terminated for any reason whatsoever.

41.9 Termination in Relation to Benchmarking

41.9.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in paragraphs 1 and 2 of Framework Schedule 12 (Continuous Improvement and Benchmarking).

41.10 Termination in Relation to Variation

41.10.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier for failure of the Parties to agree or the Supplier to implement a Variation in accordance with the Variation Procedure.

42. SUPPLIER TERMINATION RIGHTS

42.1 Termination on Customer Cause for Failure to Pay

42.1.1 The Supplier may, by issuing a Termination Notice to the Customer, terminate this Call Off Contract if the Customer fails to pay an undisputed sum due to the Supplier under this Call Off Contract which in aggregate exceeds an amount equal to one month's average Call Off Contract Charges (unless a different amount has been specified in the Call Off Order Form), for the purposes of this Clause 42.1.1 (the "**Undisputed Sums Limit**"), and the said undisputed sum due remains outstanding for 40 Working Days (the "**Undisputed Sums Time Period**") after the receipt by the Customer of a written notice of non-payment from the Supplier specifying:

- (a) the Customer's failure to pay;
- (b) the correct overdue and undisputed sum;
- (c) the reasons why the undisputed sum is due;
- (d) the requirement on the Customer to remedy the failure to pay; and
- (e) this Call Off Contract shall terminate on the date specified in the Termination Notice (which shall not be less than 20 Working Days from the date of the issue of the Termination Notice), save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under this Call Off Contract including Clause 23.3 (Retention and Set off).

42.1.2 The Supplier shall not suspend the supply of the Services for failure of the Customer to pay undisputed sums of money (whether in whole or in part).

43. TERMINATION BY EITHER PARTY

43.1 Termination for continuing Force Majeure Event

43.1.1 Either Party may, by issuing a Termination Notice to the other Party, terminate this Call Off Contract in accordance with Clause 40.6.1(a) (Force Majeure).

44. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION

44.1 Where the Customer has the right to terminate this Call Off Contract, the Customer shall be entitled to terminate or suspend all or part of this Call Off Contract provided always that, if the Customer elects to terminate or suspend this Call Off Contract in part, the parts of this

Call Off Contract not terminated or suspended can, in the Customer's reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Call Off Contract.

44.2 Any suspension of this Call Off Contract under Clause 44.1 shall be for such period as the Customer may specify and without prejudice to any right of termination, which has already accrued, or subsequently accrues, to the Customer.

44.3 The Parties shall seek to agree the effect of any Variation necessitated by a partial termination, suspension or partial suspension in accordance with the Variation Procedure, including the effect that the partial termination, suspension or partial suspension may have on the provision of any other Services and the Call Off Contract Charges, provided that the Supplier shall not be entitled to:

44.3.1 an increase in the Call Off Contract Charges in respect of the provision of the Services that have not been terminated if the partial termination arises due to the exercise of any of the Customer's termination rights under Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); and/or

44.3.2 reject the Variation.

45. CONSEQUENCES OF EXPIRY OR TERMINATION

45.1 Consequences of termination under Clauses 41.1 (Termination in Relation to Guarantee), 41.2 (Termination on Material Default), 41.3 (Termination in Relation to Financial Standing), 41.8 (Termination in Relation to Framework Agreement), 41.9 (Termination in Relation to Benchmarking) and 41.10 (Termination in Relation to Variation)

45.1.1 Where the Customer:

(a) terminates (in whole or in part) this Call Off Contract under any of the Clauses referred to in Clause 45.1; and

(b) then makes other arrangements for the supply of the Services,

the Customer may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Call Off Contract Period provided that Customer shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by the Customer to the Supplier until the Customer has established the final cost of making those other arrangements.

45.2 Consequences of termination under Clauses 41.7 (Termination without Cause) and 42.1 (Termination on Customer Cause for Failure to Pay)

45.2.1 Where:

(a) the Customer terminates (in whole or in part) this Call Off Contract under Clause 41.7 (Termination without Cause); or

(b) the Supplier terminates this Call Off Contract pursuant to Clause 42.1 (Termination on Customer Cause for Failure to Pay),

the Customer shall indemnify the Supplier against any reasonable and proven Losses which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call Off Contract, provided that the Supplier takes all reasonable steps to mitigate such Losses. The Supplier shall submit a fully itemised and costed list of such Losses, with supporting evidence including such further evidence as the

Customer may require, reasonably and actually incurred by the Supplier as a result of termination under Clause 41.7 (Termination without Cause).

- 45.2.2 The Customer shall not be liable under Clause 45.2.1 to pay any sum which:
- (a) was claimable under insurance held by the Supplier, and the Supplier has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
 - (b) when added to any sums paid or due to the Supplier under this Call Off Contract, exceeds the total sum that would have been payable to the Supplier if this Call Off Contract had not been terminated.

45.3 Consequences of termination under Clause 43.1 (Termination for Continuing Force Majeure Event)

- 45.3.1 The costs of termination incurred by the Parties shall lie where they fall if either Party terminates or partially terminates this Call Off Contract for a continuing Force Majeure Event pursuant to Clause 43.1 (Termination for Continuing Force Majeure Event).

45.4 Consequences of Termination for Any Reason

- 45.4.1 Save as otherwise expressly provided in this Call Off Contract:
- (a) termination or expiry of this Call Off Contract shall be without prejudice to any rights, remedies or obligations accrued under this Call Off Contract prior to termination or expiration and nothing in this Call Off Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and
 - (b) termination of this Call Off Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Supplier under Clauses 21 (Records, Audit Access & Open Book Data), 33 (Intellectual Property Rights), 34.3 (Confidentiality), 34.4 (Transparency and Freedom of Information), 34.5 (Protection of Personal Data), 36 (Liability), 45 (Consequences of Expiry or Termination), 51 (Severance), 53 (Entire Agreement), 54 (Third Party Rights), 56 (Dispute Resolution) and 57 (Governing Law and Jurisdiction), and the provisions of Call Off Schedule 1 (Definitions), Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), Call Off Schedule 9 (Exit Management), Call Off Schedule 10 (Staff Transfer), Call Off Schedule 11 (Dispute Resolution Procedure) and, without limitation to the foregoing, any other provision of this Call Off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the Call Off Expiry Date.

45.5 Exit management

- 45.5.1 The Parties shall comply with the exit management provisions set out in Call Off Schedule 9 (Exit Management).

L. MISCELLANEOUS AND GOVERNING LAW

46. COMPLIANCE

46.1 Health and Safety

- 46.1.1 The Supplier shall perform its obligations under this Call Off Contract (including those in relation to the Services) in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Customer's health and safety policy (as provided to the Supplier from time to time) whilst at the Customer Premises.

46.1.2 Each Party shall promptly notify the other of as soon as possible of any health and safety incidents or material health and safety hazards at the Customer Premises of which it becomes aware and which relate to or arise in connection with the performance of this Call Off Contract

46.1.3 While on the Customer Premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of Supplier Personnel and other persons working there and any instructions from the Customer on any necessary associated safety measures.

46.2 Equality and Diversity

46.2.1 The Supplier shall:

- (a) perform its obligations under this Call Off Contract (including those in relation to provision of the Services) in accordance with:
 - (i) all applicable equality Law, including, where appropriate, the Public Sector Equality Duty (PSED) ; and
 - (ii) any other requirements and instructions which the Customer reasonably imposes in connection with any equality obligations imposed on the Customer at any time under applicable equality Law;
- (b) take all necessary steps, and inform the Customer 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).
- (c) Support the Contracting Authority in delivering a public estate, and associated services, which supports diversity and inclusion in line with the Equality Act, the Public Sector Equality Duty and any diversity and inclusion policy or strategy held by the Contracting Authority Government Property Unit, Homes and Communities Regulatory Framework, Government Property Agency, (GPA) (GPU) wide Civil Estate Coordination issues and GPU advice and guidance or other Policy which the Customer may advise.

46.3 Modern Slavery and Labour Standards

46.3.1 Comply, and procure and ensure that it's named Subcontractors comply with, the ILO Core Conventions and the requirements of the Modern Slavery Act where applicable.

46.4 Energy Efficiency Directive

46.4.1 In line with the requirements of Article 6 of the Energy Efficiency Directive Article 2012/27/EU (the EED) Central Government shall purchase only products, services and buildings with high- energy efficient performance.

46.4.2 Article 5 of the EED obliges public buildings to fulfil an exemplary role in energy efficiency.

46.4.3 The Supplier shall ensure that they take all appropriate action, in association with the delivery of the Service, to ensure the Customer complies with their obligations in association with Articles 5 and 6 of the EED.

46.5 Official Secrets Act and Finance Act

- 46.5.1 The Supplier shall comply with the provisions of:
- (a) the Official Secrets Acts 1911 to 1989; and
 - (b) section 182 of the Finance Act 1989.

46.6 Environmental Requirements

- 46.6.1 The Supplier shall, when working on the Sites, perform its obligations under this Call Off Contract in accordance with the Environmental Policy of the Customer.
- 46.6.2 The Customer shall provide a copy of its written Environmental Policy (if any) to the Supplier upon the Supplier's written request.

47. ASSIGNMENT AND NOVATION

- 47.1 The Supplier shall not assign, novate, Sub-Contract or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Call Off Contract or any part of it without Approval.
- 47.2 The Customer may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Call Off Contract or any part thereof to:
- 47.2.1 any other Contracting Authority; or
 - 47.2.2 any 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 Customer; or
 - 47.2.3 any private sector body which substantially performs the functions of the Customer, and the Supplier shall, at the Customer's request, enter into a novation agreement in such form as the Customer shall reasonably specify in order to enable the Customer to exercise its rights pursuant to this Clause 47.2.
- 47.3 A change in the legal status of the Customer shall not, subject to Clause 47.4 affect the validity of this Call Off Contract and this Call Off Contract shall be binding on any successor body to the Customer.
- 47.4 If the Customer assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Call Off Contract to a private sector body in accordance with Clause 47.2.3 (the "Transferee" in the rest of this Clause 47.4) the right of termination of the Customer in Clause 41.4 (Termination on Insolvency) shall be available to the Supplier in the event of insolvency of the Transferee (as if the references to Supplier in Clause 41.4 (Termination on Insolvency) and to Supplier or Framework Guarantor or Call Off Guarantor in the definition of Insolvency Event were references to the Transferee).

48. WAIVER AND CUMULATIVE REMEDIES

- 48.1 The rights and remedies under this Call Off Contract may be waived only by notice in accordance with Clause 55 (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 Call Off Contract or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that right or remedy.
- 48.2 Unless otherwise provided in this Call Off Contract, rights and remedies under this Call Off Contract are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

49. RELATIONSHIP OF THE PARTIES

49.1 Except as expressly provided otherwise in this Call Off Contract, nothing in this Call Off Contract, nor any actions taken by the Parties pursuant to this Call Off Contract, 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.

50. PREVENTION OF FRAUD AND BRIBERY

50.1 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 Call Off Commencement Date:

50.1.1 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

50.1.2 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.

50.2 The Supplier shall not during the Call Off Contract Period:

50.2.1 commit a Prohibited Act; and/or

50.2.2 do or suffer anything to be done which would cause the Customer or any of the Customer'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.

50.3 The Supplier shall during the Call Off Contract Period:

50.3.1 establish, maintain and enforce, and require that its Sub-Contractors 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;

50.3.2 keep appropriate records of its compliance with its obligations under Clause 50.3.1 and make such records available to the Customer on request;

50.3.3 if so required by the Customer, within 20 Working Days of the Call Off Commencement Date, and annually thereafter, certify to the Customer in writing that the Supplier and all persons associated with it or its Sub-Contractors or other persons who are supplying the Services in connection with this Call Off Contract are compliant with the Relevant Requirements. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request; and

50.3.4 have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Customer on request) to prevent it and any Supplier Personnel or any person acting on the Supplier's behalf from committing a Prohibited Act.

50.4 The Supplier shall immediately notify the Customer in writing if it becomes aware of any breach of Clause 50.1, or has reason to believe that it has or any of the Supplier Personnel have:

50.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

50.4.2 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

- 50.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Call Off Contract or otherwise suspects that any person or Party directly or indirectly connected with this Call Off Contract has committed or attempted to commit a Prohibited Act.
- 50.5 If the Supplier makes a notification to the Customer pursuant to Clause 50.4, the Supplier shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit any books, records and/or any other relevant documentation in accordance with Clause 21 (Records, Audit Access and Open Book Data).
- 50.6 If the Supplier breaches Clause 50.3, the Customer may by notice:
- 50.6.1 require the Supplier to remove from performance of this Call Off Contract any Supplier Personnel whose acts or omissions have caused the Supplier's breach; or
- 50.6.2 immediately terminate this Call Off Contract for material Default.
- 50.7 Any notice served by the Customer under Clause 50.4 shall specify the nature of the Prohibited Act, the identity of the Party who the Customer believes has committed the Prohibited Act and the action that the Customer has elected to take (including, where relevant, the date on which this Call Off Contract shall terminate).

51. SEVERANCE

- 51.1 If any provision of this Call Off Contract (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 Call Off Contract are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Call Off Contract shall not be affected.
- 51.2 If any deemed deletion under Clause 51.1 is so fundamental as to prevent the accomplishment of the purpose of this Call Off Contract or materially alters the balance of risks and rewards in this Call Off Contract, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Call Off Contract so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Call Off Contract and, to the extent that is reasonably practicable, achieves the Parties' original commercial intention.
- 51.3 If the Parties are unable to resolve the Dispute arising under Clause 51 within twenty (20) Working Days of the date of the notice given pursuant to Clause 51.2, this Call Off Contract shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Call Off Contract is terminated pursuant to Clause 51.

52. FURTHER ASSURANCES

- 52.1 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 Call Off Contract.

53. ENTIRE AGREEMENT

- 53.1 This Call Off Contract and the documents referred to in it constitute the entire agreement between the Parties in respect of the matter and supersede and extinguish all prior

negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

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

53.3 Nothing in Clause 53 shall exclude any liability in respect of misrepresentations made fraudulently.

54. THIRD PARTY RIGHTS

54.1 The provisions of paragraphs 2.1 and 2.6 of Part A, paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, paragraphs 2.1 and 2.3 of Part C and paragraphs and 1.4, 2.3 and 2.8 of Part D of Call Off Schedule 10 (Staff Transfer) and the provisions of paragraph 9.9 of Call Off Schedule 9 (Exit Management) (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.

54.2 Subject to Clause 54.1, a person who is not a Party to this Call Off Contract has no right under the CTRPA to enforce any term of this Call Off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

54.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Customer, which may, if given, be given on and subject to such terms as the Customer may determine.

54.4 Any amendments or modifications to this Call Off Contract may be made, and any rights created under Clause 54.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

55. NOTICES

55.1 Except as otherwise expressly provided within this Call Off Contract, any notices sent under this Call Off Contract must be in writing. For the purpose of Clause 55, an e-mail is accepted as being "in writing".

55.2 Subject to Clause 55.3, the following table sets out the method by which notices may be served under this Call Off Contract and the respective deemed time and proof of service:

Manner of delivery	Deemed time of delivery	Proof of Service
Email (Subject to Clauses 55.3 and 55.4)	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™ 1 st Class or other prepaid, next Working	At the time recorded by the delivery service, provided that delivery is	Properly addressed prepaid and delivered as evidenced

Day service providing proof of delivery	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)	by signature of a delivery receipt
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55.3 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 55.2:

55.3.1 any Termination Notice (Clause 41 (Customer Termination Rights));

55.3.2 any notice in respect of:

- (a) partial termination, suspension or partial suspension (Clause 44 (Partial Termination, Suspension and Partial Suspension));
- (b) waiver (Clause 48 (Waiver and Cumulative Remedies)); and
- (c) Default or Customer Cause; and

55.3.3 any Dispute Notice.

55.4 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 55.3 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 55.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

55.5 Clause 55 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).

55.6 For the purposes of Clause 55, the address and email address of each Party shall be as specified in the Call Off Order Form.

56. DISPUTE RESOLUTION

56.1 The Parties shall resolve Disputes arising out of or in connection with this Call Off Contract in accordance with the Dispute Resolution Procedure.

56.2 The Supplier shall continue to provide the Services in accordance with the terms of this Call Off Contract until a Dispute has been resolved.

57. GOVERNING LAW AND JURISDICTION

57.1 This Call Off Contract 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.

57.2 Subject to Clause 56 (Dispute Resolution) and Call Off Schedule 12 (Dispute Resolution Procedure) (including the Customer's right to refer the Dispute to arbitration), the Parties agree that the courts of England and Wales (unless stated differently in the Call Off Order Form) shall have exclusive jurisdiction to settle any Dispute or claim (whether contractual or

non-contractual) that arises out of or in connection with this Call Off Contract or its subject matter or formation.

58. CONFLICTS OF INTEREST

- 58.1 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 Contracting Authority) there is an actual or potential Conflict of Interest.
- 58.2 The Supplier shall promptly notify and provide full particulars to the Contracting Authority if such a Conflict of Interest referred to in Clause 58.1 arises or may reasonably be foreseen as arising. The Supplier shall promptly notify the Contracting Authority and provide the Contracting Authority with the details of such a Conflict of Interest and a description of the steps it shall take, if any, to remedy such Conflict of Interest.
- 58.3 The Contracting Authority shall consider the information provided by the Supplier and promptly notify the Supplier that it:
- 58.3.1 is satisfied that the steps proposed by the Supplier are sufficient to remedy the Conflict of Interest;
 - 58.3.2 requires the Supplier to comply with the Contracting Authority's reasonable instructions to remedy the Conflict of Interest; or
 - 58.3.3 is not satisfied that the Conflict of Interest can be remedied.
- 58.4 The Supplier shall follow any reasonable instructions of the Contracting Authority to mitigate the actual or potential Conflict of Interest.
- 58.5 The Authority reserves the right to terminate this Call Off Contract 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 Contracting Authority;
- 58.5.1 there is, or may be, a Conflict of Interest in the circumstances under clause 41.2.1 of the Framework Agreement;
 - 58.5.2 the Supplier is unable to remedy the actual or potential Conflict of Interest; or
 - 58.5.3 the Supplier fails to comply with any reasonable instructions of the Contracting Authority to address a Conflict of Interest.
- 58.6 The action of the Contracting Authority pursuant to Clause 58.5 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Contracting Authority.

CALL OFF SCHEDULE 1: DEFINITIONS

In accordance with Clause 1 of this Call Off Contract including its recitals the following expressions shall have the following meanings:

"Achieve"	means in respect of a Test, to successfully pass such Test without any Test Issues in accordance with the Test Strategy Plan and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly;
"Acquired Rights Directive"	means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
"Additional Clauses"	means the additional Clauses in Call Off Schedule 14 (Alternative and/or Additional Clauses) and any other additional Clauses set out in the Call Off Order Form or elsewhere in this Call Off Contract;
"Affected Party"	means the party seeking to claim relief in respect of a Force Majeure;
"Affiliates"	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;
"Alternative Clauses"	means the alternative Clauses in Call Off Schedule 14 (Alternative and/or Additional Clauses) and any other alternative Clauses set out in the Call Off Order Form or elsewhere in this Call Off Contract;
"Approval"	means the prior written consent of the Customer and "Approve" and "Approved" shall be construed accordingly;
"Approved Sub-Licensee"	means any of the following: <ul style="list-style-type: none">a) a Central Government Body;b) any third party providing Services to a Central Government Body; and/orc) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer;
"Auditor"	means: <ul style="list-style-type: none">a) the Customer's internal and external auditors;b) the Customer's statutory or regulatory auditors;c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;

- d) HM Treasury or the Cabinet Office;
- e) any party formally appointed by the Customer to carry out audit or similar review functions; and
- f) successors or assigns of any of the above;

"Authority"	means THE MINISTER FOR THE CABINET OFFICE ("Cabinet Office") as represented by Crown Commercial Service, a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP;
"BACS"	means the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
"BCDR Services"	means the Business Continuity Services and Disaster Recovery Services;
"BCDR Plan"	means the plan prepared pursuant to paragraph 2 of Call Off Schedule 8 (Business Continuity and Disaster Recovery), as may be amended from time to time;
"Business Continuity Services"	has the meaning given to it in paragraph 4.2.2 of Call Off Schedule 8 (Business Continuity and Disaster Recovery);
"Call Off Commencement Date"	means the date of commencement of this Call Off Contract set out in the Call Off Order Form;
"Call Off Contract"	means this contract between the Customer and the Supplier (entered into pursuant to the provisions of the Framework Agreement), which consists of the terms set out in the Call Off Order Form and the Call Off Terms;
"Call Off Contract Charges"	means the prices (inclusive of any Milestone Payments and exclusive of any applicable VAT), payable to the Supplier by the Customer under this Call Off Contract, as set out in Annex 1 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), for the full and proper performance by the Supplier of its obligations under this Call Off Contract less any Deductions;
"Call Off Contract Period"	means the term of this Call Off Contract from the Call Off Contract Commencement Date until the Call Off Expiry Date;
"Call Off Contract Year"	means a consecutive period of twelve (12) Months commencing on the Services Commencement Date or each anniversary thereof;
"Call Off Expiry Date"	means: <ul style="list-style-type: none"> (a) the end date of the Call Off Initial Period or any Call Off Extension Period; or (b) if this Call Off Contract is terminated before the date specified in (a) above, the earlier date of termination of this Call Off Contract;

"Call Off Extension Period"	means such period or periods up to a maximum of the number of years in total as may be specified by the Customer, pursuant to Clause 5.5 and in the Call Off Order Form;
"Call Off Guarantee"	means a deed of guarantee that may be required under this Call Off Contract in favour of the Customer in the form set out in Framework Schedule 13 (Guarantee) granted pursuant to Clause 4 (Call Off Guarantee);
"Call Off Guarantor"	means the person acceptable to the Customer to give a Call Off Guarantee;
"Call Off Initial Period"	means the initial term of this Call Off Contract from the Services Commencement Date to the end date of the initial term stated in the Call Off Order Form;
"Call Off Order Form"	means the order form applicable to and set out in Part 1 of this Call Off Contract;
"Call Off Procedure"	means the process for awarding a call off contract pursuant to Clause 5 (Call Off Procedure) of the Framework Agreement and Framework Schedule 5 (Call Off Procedure);
"Call Off Schedule"	means a schedule to this Call Off Contract;
"Call Off Tender"	means the tender submitted by the Supplier in response to the Customer's Statement of Requirements following a Further Competition Procedure and set out at Call Off Schedule 15 (Call Off Tender);
"Call Off Terms"	means the terms applicable to and set out in Part 2 of this Call Off Contract;
"Central Government Body"	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: <ul style="list-style-type: none"> a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;
"Change of Control"	means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Charges"	means the charges raised under or in connection with this Call Off Contract from time to time, which shall be calculated in a manner that is consistent with the Charging Structure;
"Charging Structure"	means the structure to be used in the establishment of the charging model which is applicable to the Call Off Contract, which is set out in Framework Schedule 3 (Framework Prices and Charging Structure);

"Commercially Sensitive Information"	means the commercially sensitive information listed in the Call Off Order Form - ;
"Comparable Supply"	means the supply of Services to another customer of the Supplier that are the same or similar to the Services;
"Competitor"	means any organisation which is a party to any framework agreement identified in paragraph 6.1.1 of Framework Schedule 2 (Services and Key Performance Indicators);
"Confidential Information"	means the Customer's Confidential Information and/or the Supplier's Confidential Information, as the context specifies;
"Conflict of Interest"	shall mean where any of the following situations exist: <ul style="list-style-type: none"> a) the pecuniary or personal interests of the Supplier or the Supplier Personnel conflict with the duties owed to the Contracting Authority under the provisions of this Call Off Contract; b) a situation arises, or may arise, pursuant to regulations 24(2) and (3) of the Regulations; c) the Supplier shall, or may, be placed in a commercially advantageous position over its Competitors as a result of the participation by the Supplier, or any member of the Supplier's Group of Companies, on a framework agreement identified in paragraph 6.1.1 of Framework Schedule 2 (Services and Key Performance Indicators);
"Continuous Improvement Plan"	means a plan for improving the provision of the Services and/or reducing the Charges produced by the Supplier pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking);
"Contracting Authority"	means the Authority, the Customer and any other bodies listed in the OJEU Notice;
"Control"	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;
"Controller"	means as it is defined in GDPR;
"Conviction"	means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order, or being placed on a list kept pursuant to section 1 of the Protection of Children Act 1999 or being placed on a list kept pursuant to the Safeguarding Vulnerable Groups Act 2006;

“Core Business Hours”

means during the times of 0800-1730 on Monday to Friday, excluding Bank Holidays

"Costs"

the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Services:

- a) the cost to the Supplier or the Key Sub-Contractor (as the context requires), calculated per Man Day, of engaging the Supplier Personnel, including:
 - i) base salary paid to the Supplier Personnel;
 - ii) employer’s national insurance contributions;
 - iii) pension contributions;
 - iv) car allowances;
 - v) any other contractual employment benefits;
 - vi) staff training;
 - vii) work place accommodation;
 - viii) work place IT equipment and tools reasonably necessary to provide the Services (but not including items included within limb (b) below); and
 - ix) reasonable recruitment costs, as agreed with the Customer;
- b) costs incurred in respect of those Supplier Assets which are detailed on the Registers 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 Customer 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;
- c) 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 Services;
- d) Reimbursable Expenses to the extent these have been specified as allowable in the Call Off Order Form and are incurred in delivering any Services where the Call Off Contract Charges for those Services are to be calculated on a Fixed Price or Firm Price pricing mechanism (as set out in Framework Schedule 3 (Framework Prices and Charging Structure));

but excluding:

- a) Overhead;
- b) financing or similar costs;

- c) maintenance and support costs to the extent that these relate to maintenance and/or support Services provided beyond the Call Off Contract Period whether in relation to Supplier Assets or otherwise;
- d) taxation;
- e) fines and penalties;
- f) amounts payable under Clause 25 (Benchmarking); and
- g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

"Crown"	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"	means any department, office or executive agency of the Crown;
"CRTPA"	means the Contracts (Rights of Third Parties) Act 1999;
"Customer"	means the customer(s) identified in the Call Off Order Form;
"Customer Assets"	means the Customer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Customer and which is or may be used in connection with the provision of the Services;
"Customer Background IPR"	means: <ul style="list-style-type: none"> a) IPRs owned by the Customer before the Call Off Commencement Date, including IPRs contained in any of the Customer's Know-How, documentation, software, processes and procedures; b) IPRs created by the Customer independently of this Call Off Contract; and/or c) Crown Copyright which is not available to the Supplier otherwise than under this Call Off Contract;
"Customer Cause"	means any breach of the obligations of the Customer or any other default, act, omission, negligence or statement of the Customer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Customer is liable to the Supplier;
"Customer Data"	means: <ul style="list-style-type: none"> a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical

or tangible media, including any Customer's Confidential Information, and which:

- i) are supplied to the Supplier by or on behalf of the Customer; or
 - ii) the Supplier is required to generate, process, store or transmit pursuant to this Call Off Contract; or
- b) any Personal Data for which the Customer is the Data Controller;

"Customer Premises"	means premises owned, controlled or occupied by the Customer which are made available for use by the Supplier or its Sub-Contractors for the provision of the Services (or any of them);
"Customer Property"	means the property, other than real property and IPR, including any equipment issued or made available to the Supplier by the Customer in connection with this Call Off Contract;
"Customer Representative"	means the representative appointed by the Customer from time to time in relation to this Call Off Contract;
"Customer Responsibilities"	means the responsibilities of the Customer set out in Call Off Schedule 4 (Implementation Plan) and any other responsibilities of the Customer in the Call Off Order Form or agreed in writing between the Parties from time to time in connection with this Call Off Contract;
"Customer's Confidential Information"	means: <ul style="list-style-type: none">a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Customer (including all Customer Background IPR and Project Specific IPR);b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably to be considered confidential which comes (or has come) to the Customer's attention or into the Customer's possession in connection with this Call Off Contract; andc) information derived from any of the above;
"Data Loss Event"	means any event which results, or may result, in unauthorised access to Personal Data held by the Supplier under the Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of the Contract, including any Personal Data.
"Data Protection Impact Assessment"	means an assessment by the Controller of the effect of the envisaged processing on the protection of Personal Data.

"Data Protection Legislation" or "DPA"	<ul style="list-style-type: none"> (a) means the GDPR and applicable implementing laws; (b) the DPA 2018 to the extent that it relates to the processing of Personal Data and privacy; (c) all applicable laws relating to the processing of Personal Data and privacy.
"Data Protection Officer"	means as it is defined in the GDPR
"Data Subject"	has the meaning given to it in the GDPR;
"Data Subject Access Request"	means a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.;
"Deductions"	means all Service Credits, Delay Payments or any other deduction which the Customer is paid or is payable under this Call Off Contract;
"Default"	means any breach of the obligations of the Supplier (including but not limited to including abandonment of this Call Off Contract in breach of its terms) or any other default (including material Default), act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Supplier is liable to the Customer;
"Delay"	means: <ul style="list-style-type: none"> a) a delay in the Achievement of a Milestone by its Milestone Date; or b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
"Delay Payments"	means the amounts payable by the Supplier to the Customer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
"Delay Period Limit"	shall be the number of days specified in Call Off Schedule 4 (Implementation Plan) for the purposes of Clause 6.4.1 (b) ii);
"Deliverable"	means an item or feature in the supply of the Services delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan (if any) or at any other stage during the performance of this Call Off Contract;
"Delivery"	means delivery in accordance with the terms of this Call Off Contract as confirmed by the issue by the Customer of a Satisfaction Certificate in respect of the relevant Milestone

thereof (if any) or otherwise in accordance with this Call Off Contract and accepted by the Customer and "**Deliver**" and "**Delivered**" shall be construed accordingly;

"Disaster"	means the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
"Disaster Recovery Services"	means the Services embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster, as detailed further in Call Off Schedule 8 (Business Continuity and Disaster Recovery);
"Disclosing Party"	means a Party which discloses or makes available directly or indirectly its Confidential Information to the Recipient;
"Dispute"	means any dispute, difference or question of interpretation arising out of or in connection with this Call Off Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Variation Procedure or any matter where this Call Off Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Dispute Notice"	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"	means the dispute resolution procedure set out in Call Off Schedule 11 (Dispute Resolution Procedure);
"Documentation"	means descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) as: <ul style="list-style-type: none">a) is required to be supplied by the Supplier to the Customer under this Call Off Contract;b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Customer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Services;c) is required by the Supplier in order to provide the Services; and/ord) has been or shall be generated for the purpose of providing the Services;
"DOTAS"	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 2018"

means the Data Protection Act 2018

"Due Diligence Information"

means any information supplied to the Supplier by or on behalf of the Customer prior to the Call Off Commencement Date;

"Employee Liabilities"

means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Customer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-Contractor if such payment should have been made prior to the Service Transfer Date;
- f) claims whether in tort, contract or statute or otherwise;
- g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

"Employment Regulations"

means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or

	replaced or any other Regulations implementing the Acquired Rights Directive;
"Environmental Policy"	means a policy to promote sustainable production and consumption and minimise harm to health and the environment, including any written environmental policy of the Customer;
"Environmental Information Regulations or EIRs"	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;
"Estimated Year 1 Call Off Contract Charges"	means the sum in pounds estimated by the Customer to be payable by it to the Supplier as the total aggregate Call Off Contract Charges from the Services Commencement Date until the end of the first Call Off Contract Year stipulated in the Call Off Order Form;
"Exit Plan"	means the exit plan described in paragraph 5 of Call Off Schedule 9 (Exit Management);
"Expedited Dispute Timetable"	means the timetable set out in paragraph 5 of Call Off Schedule 11 (Dispute Resolution Procedure);
"FOIA"	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;
"Force Majeure"	means any event, occurrence, circumstance, matter or cause affecting the performance by either the Customer or the Supplier of its obligations arising from: <ul style="list-style-type: none"> a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under this Call Off Contract; b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; c) acts of the Crown, local government or Regulatory Bodies; d) fire, flood or any disaster; and e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> i) any industrial dispute relating to the Supplier, the Supplier Personnel (including any subsets of them) or any other failure in the Supplier or the Sub-Contractor's supply chain; and

	<ul style="list-style-type: none"> ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;
"Force Majeure Notice"	means a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Former Supplier"	means a supplier supplying the Services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
"Framework Agreement"	means the framework agreement between the Authority and the Supplier referred to in the Call Off Order Form;
"Framework Commencement Date"	means insert date 22/08/2017;
"Framework Period"	means the period from the Framework Commencement Date until the expiry or earlier termination of the Framework Agreement;
"Framework Price(s)"	means the price(s) applicable to the provision of the Services set out in Framework Schedule 3 (Framework Prices and Charging Structure);
"Framework Schedule"	means a schedule to the Framework Agreement;
"Fraud"	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 of forgery;
"Further Competition Procedure"	means the further competition procedure described in paragraph 3 of Framework Schedule 5 (Call Off Procedure);
"GDPR"	means the General Data Protection Regulation (Regulation (EU) 2016/679).
"General Anti-Abuse Rule"	means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
"General Change in Law"	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"	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;

"Government"	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;
"Government Procurement Card"	means the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Group of Companies"	shall have the meaning given to it in section 42(1) of the Landlord and Tenant Act 1954;
"Halifax Abuse Principle"	means the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	means Her Majesty's Revenue and Customs;
"Holding Company"	has the meaning given to it in section 1159 of the Companies Act 2006;
"ICT Policy"	means the Customer's policy in respect of information and communications technology, referred to in the Call Off Order Form, which is in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	has the meaning given to it in Clause 22.1.3 (Variation Procedure);
"Implementation Plan"	means the plan set out in the Call Off Schedule 4 and other documents in Call Off Schedule 4 (Implementation Plan);
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time;
"Insolvency Event"	means, in respect of the Supplier or Framework Guarantor or Call Off Guarantor (as applicable): <ol style="list-style-type: none">a) 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; orb) 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

- c) 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
- d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- e) 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
- f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- g) 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
- h) where the Supplier or Framework Guarantor or Call Off 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
- i) 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"

means

- a) 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 or business names, designs, Know-How, trade secrets and other rights in Confidential Information;
- b) 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
- c) all other rights having equivalent or similar effect in any country or jurisdiction;

"IPR Claim"

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 Customer (including any claims arising from the publication of the Project Specific IPRs as Open Source) in the fulfilment of its obligations under this Call Off Contract;
"Key Performance Indicators" or "KPIs"	means the performance measurements and targets in respect of the Supplier's performance of the Framework Agreement set out in Part B of Framework Schedule 2 (Services and Key Performance Indicators);
"Key Personnel"	means the individuals (if any) identified as such in the Call Off Order Form;
"Key Role(s)"	has the meaning given to it in Clause 26.1 (Key Personnel);
"Key Sub-Contract"	means each Sub-Contract with a Key Sub-Contractor;
"Key Sub-Contractor"	means any Sub-Contractor: <ul style="list-style-type: none"> a) listed in Framework Schedule 7 (Key Sub-Contractors); b) which, in the opinion of the Authority and the Customer, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Call Off Contract Charges forecast to be payable under this Call Off Contract;
"Know-How"	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know-how already in the other Party's possession before the Call Off Commencement Date;
"Law"	means any: <ul style="list-style-type: none"> a) law; b) subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978; c) bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972; d) regulation; e) order; f) regulatory policy; e) mandatory guidance or code of practice; f) judgment of a relevant court of law; e) directives or requirements with which the Supplier is bound to comply; or

g) any of the above (a) to (e) which are comparable in any jurisdiction not referred to in Clause 57 (Governing Law and Jurisdiction);

"Losses"	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 or otherwise and " Loss " shall be interpreted accordingly;
"Man Day"	means 7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Man Hours"	means the hours spent by the Supplier Personnel properly working on the provision of the Services including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Milestone"	means an event or task described in the Implementation Plan which, if applicable, must be completed by the relevant Milestone Date;
"Milestone Date"	means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Milestone Payment"	means a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
"Mobilisation Period"	means the period between the Call Off Commencement Date and the Services Commencement Date
"Mobilisation Services"	Means Mobilisation Services requirements which the Supplier is required to deliver as contained and detailed in the Implementation Plan (documents in Call Off Schedule 4) as amended by the Parties from time to time or as amended with the written consent of the Customer.
"Month"	means a calendar month and " Monthly " shall be interpreted accordingly;
"Occasion of Tax Non-Compliance"	means: <ul style="list-style-type: none">a) 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:<ul style="list-style-type: none">i) 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;

- ii) 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 DOTAS or any equivalent or similar regime in any jurisdiction; and/or
- b) 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 Call Off Commencement Date or to a civil penalty for fraud or evasion;

"Open Book Data "

means complete and accurate financial and non-financial information which is sufficient to enable the Customer to verify the Call Off Contract Charges already paid or payable and Call Off Contract Charges forecast to be paid during the remainder of this Call Off Contract, including details and all assumptions relating to:

- a) 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 Services;
- b) operating expenditure relating to the provision of the Services including an analysis showing:
 - i) the unit costs and quantity of consumables and bought-in Services;
 - ii) 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;
 - iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin; and
 - iv) Reimbursable Expenses, if allowed under the Call Off Order Form;
- c) Overheads;
- d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
- e) the Supplier Profit achieved over the Call Off Contract Period and on an annual basis;
- f) 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;

- g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and
- h) the actual Costs profile for each Service Period.

"Open Source"	means computer software, computer program, and any other material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open source licence;
"Open Standards"	means the open standards principles as described by Government and further detailed at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles (as may be updated from time to time);
"Order"	means the order for the provision of the Services placed by the Customer with the Supplier in accordance with the Framework Agreement and under the terms of this Call Off Contract;
"Other Supplier"	means any supplier to the Customer (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;
"Overhead"	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";
"Parent Company"	means any company which is the ultimate Holding Company of the Supplier and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged by the same or similar business to the Supplier. The term "Holding or Parent Company" shall have the meaning ascribed by the Companies Act 2006 or any statutory re-enactment or amendment thereto;
"Party"	means the Customer or the Supplier and " Parties " shall mean both of them;
"Performance Monitoring System"	has the meaning given to it in paragraph 1.1.2 in Part B of Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Performance Monitoring Reports"	has the meaning given to it in paragraph 3.1 of Part B of Schedule 6 (Service Level, Service Credits and Performance Monitoring);

"Personal Data"	means as it is defined in the GDPR;
"Personal Data Breach"	means as it is defined in the GDPR;
"Processor"	means as it is defined in GDPR;
"Processing"	has the meaning given to it in the Data Protection Legislation but, for the purposes of this Call Off Contract, it shall include both manual and automatic processing and " Process " and " Processed " shall be interpreted accordingly;
"Protective Measures"	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted;
"Prohibited Act"	means any of the following: <ul style="list-style-type: none"> a) to directly or indirectly offer, promise or give any person working for or engaged by a Contracting Authority or any other public body a financial or other advantage to: <ul style="list-style-type: none"> i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity; b) 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; c) committing any offence: <ul style="list-style-type: none"> i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or ii) under legislation or common law concerning fraudulent acts; or iii) defrauding, attempting to defraud or conspiring to defraud a Contracting Authority or other public body; or iv) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK.
"Project Specific IPR"	means:

	<ul style="list-style-type: none"> a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract and updates and amendments of these items including (but not limited to) database schema; and/or b) IPR in or arising as a result of the performance of the Supplier's obligations under this Call Off Contract and all updates and amendments to the same;
	but shall not include the Supplier Background IPR;
"Project Specific IPR Items"	means the items in which the Project Specific IPRs subsist;
"Recipient"	mean the Party which receives or obtains directly or indirectly Confidential Information from the Disclosing Party;);
"Rectification Plan"	means the rectification plan pursuant to the Rectification Plan Process;
"Rectification Plan Process"	means the process set out in Clause 38.2 (Rectification Plan Process);
"Registers"	has the meaning given to in Call Off Schedule 9 (Exit Management);
"Regulations"	means the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2012 (as the context requires) as amended from time to time;
"Regulator Correspondence"	means any correspondence from the Information Commissioner's Office, or any successor body, in relation to the processing of Personal Data under the Contract.
"Reimbursable Expenses"	has the meaning given to it in Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing);
"Related Supplier"	means any person who provides Services to the Customer which are related to the Services from time to time;
"Relevant Conviction"	means a Conviction that is relevant to the nature of the Services to be provided or as specified in the Call Off Order Form;
"Relevant Requirements"	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"	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Relevant Transfer"	means a transfer of employment to which the Employment Regulations applies;
"Relevant Transfer Date"	means, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
"Relief Notice"	has the meaning given to it in Clause 39.2.2 (Supplier Relief Due to Customer Cause);

"Replacement Services"	means any services which are substantially similar to any of the Services and which the Customer receives in substitution for any of the Services following the Call Off Expiry Date, whether those services are provided by the Customer internally and/or by any third party;
"Replacement Sub-Contractor"	means a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
"Replacement Supplier"	means any third party provider of Replacement Services appointed by or at the direction of the Customer from time to time or where the Customer is providing Replacement Services for its own account, shall also include the Customer;
"Request for Information"	means a request for information or an apparent request relating to this Call Off Contract or the provision of the Services or an apparent request for such information under the FOIA or the EIRs;
"Restricted Countries"	means a 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;
"Satisfaction Certificate"	means the certificate materially in the form of the document contained in Call Off Schedule 5 (Testing) granted by the Customer when the Supplier has Achieved a Milestone or a Test;
"Security Management Plan"	means the Supplier's security management plan prepared pursuant to paragraph 4 of Call Off Schedule 7 (Security) a draft of which has been provided by the Supplier to the Customer in accordance with paragraph 4 of Call Off Schedule 7 (Security) and as updated from time to time;
"Security Policy"	means the Customer's security policy, referred to in the Call Off Order Form, in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Security Policy Framework"	the current HMG Security Policy Framework that can be found at https://www.gov.uk/government/publications/security-policy-framework ;
"Service Credit Cap"	has the meaning given to it in the Call Off Order Form;
"Service Credits"	means any service credits specified in Annex 1 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) being payable by the Supplier to the Customer in respect of any failure by the Supplier to meet one or more Service Levels;

"Service Failure"	means an unplanned failure and interruption to the provision of the Services, reduction in the quality of the provision of the Services or event which could affect the provision of the Services in the future;
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level Performance Criterion;
"Service Level Performance Criteria"	has the meaning given to it in paragraph 4.2 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Performance Measure"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Threshold"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Levels"	means any service levels applicable to the provision of the Services under this Call Off Contract specified in Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Period"	has the meaning given to it in Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Transfer"	means any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
"Service Transfer Date"	means the date of a Service Transfer;
"Services"	means the services to be provided by the Supplier to the Customer as referred to in Annex 1 of Call Off Schedule 2 (Services);
"Sites"	means any premises (including the Customer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> a) the Services are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Services.
"Social Value"	shall have the meaning as described in the Public Services (Social Value) Act 2012 as amended from time to time. Environmental, social and economic benefits associated with, relevant and proportionate to the subject matter of the contract and accruing to the area in which the procuring body is operating;

"Specific Change in Law"	means a Change in Law that relates specifically to the business of the Customer and which would not affect a Comparable Supply;
"Staffing Information"	has the meaning give to it in Call Off Schedule 10 (Staff Transfer);
"Standards"	means any: <ul style="list-style-type: none"> a) 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; b) standards detailed in the specification in Framework Schedule 2 (Services and Key Performance Indicators) and the Statement of Requirements set out in Schedule 2 (Services), Annex 1 (The Services); c) standards detailed by the Customer in the Call Off Order Form or agreed between the Parties from time to time; d) relevant Government codes of practice and guidance applicable from time to time.
"Statement of Requirements"	means a statement issued by the Customer detailing its requirements in respect of Services issued in accordance with the Call Off Procedure;
"Sub-Contract"	means any contract or agreement (or proposed contract or agreement) pursuant to which a third party: <ul style="list-style-type: none"> a) provides the Services (or any part of them); b) provides facilities or services necessary for the provision of the Services (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Services (or any part of them);
"Sub-Contractor"	means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Sub-processor"	means any third party appointed to process Personal Data on behalf of the Supplier related to the Contract.
"Supplier"	means the person, firm or company with whom the Customer enters into this Call Off Contract as identified in the Call Off Order Form;
"Supplier Assets"	means all assets and rights used by the Supplier to provide the Services in accordance with this Call Off Contract but excluding the Customer Assets;

"Supplier Background IPR"	<p>means</p> <ul style="list-style-type: none"> a) Intellectual Property Rights owned by the Supplier before the Call Off Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or b) Intellectual Property Rights created by the Supplier independently of this Call Off Contract,
"Supplier Equipment"	<p>means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Customer) in the performance of its obligations under this Call Off Contract;</p>
"Supplier Non-Performance"	<p>has the meaning given to it in Clause 39.1 (Supplier Relief Due to Customer Cause);</p>
"Supplier Personnel"	<p>means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier's obligations under this Call Off Contract;</p>
"Supplier Profit"	<p>means, in relation to a period or a Milestone (as the context requires), the difference between the total Call Off Charges (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) for the relevant period or in relation to the relevant Milestone;</p>
"Supplier Profit Margin"	<p>means, in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Call Off Contract Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;</p>
"Supplier Representative"	<p>means the representative appointed by the Supplier named in the Call Off Order Form;</p>
"Supplier's Confidential Information"	<p>means</p> <ul style="list-style-type: none"> a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Background IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) 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 and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Call Off Contract; c) information derived from any of the above.

"Template Call Off Order Form"	means the template Call Off Order Form in Annex 1 of Framework Schedule 4 (Template Call Off Order Form and Template Call Off Terms);
"Template Call Off Terms"	means the template terms and conditions in Annex 2 of Framework Schedule 4 (Template Call Off Order Form and Template Call Off Terms);
"Tender"	means the tender submitted by the Supplier to the Authority, a copy of which is annexed or referred to in Framework Schedule 21;
"Termination Notice"	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 Call Off Contract on a specified date and setting out the grounds for termination;
"Test Issue"	means any variance or non-conformity of the Services or Deliverables from their requirements as set out in the Call Off Contract;
"Test Plan"	means a plan: <ul style="list-style-type: none"> a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones, as described further in paragraph 4 of Call of Schedule 5 (Testing);
"Test Strategy"	means a strategy for the conduct of Testing as described further in paragraph 3 of Call Off Schedule 5 (Testing);
"Tests and Testing"	means any tests required to be carried out pursuant to this Call Off Contract as set out in the Test Plan or elsewhere in this Call Off Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	means Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Services;
"Transferring Customer Employees"	those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Supplier Employees"	means those employees of the Supplier and/or the Supplier's Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.
"Transparency Reports"	means the information relating to the Services and performance of this Call Off Contract which the Supplier is required to provide to the Customer in accordance with the reporting requirements in Schedule 13;

"Undelivered Services"	has the meaning given to it in Clause 8.1.5 (Services);
"Undisputed Sums Time Period"	has the meaning given to it Clause 42.1.1 (Termination of Customer Cause for Failure to Pay);
"Valid Invoice"	means an invoice issued by the Supplier to the Customer that complies with the invoicing procedure in paragraph 6 (Invoicing Procedure) of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing);
"Variation"	has the meaning given to it in Clause 22.1 (Variation Procedure);
"Variation Form"	means the form set out in Call Off Schedule 12 (Variation Form);
"Variation Procedure"	means the procedure set out in Clause 22.1 (Variation Procedure);
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Worker"	means any one of the Supplier Personnel which the Customer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees applies in respect of the Services.
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by Parties in this Call Off Contract.

CALL OFF SCHEDULE 2: SERVICES

1. INTRODUCTION

- 1.1 Annex 1 to this Call Off Schedule 2 specifies the Services to be provided under this Call Off Contract.

ANNEX 1: THE SERVICES
Statement of Requirements to be provided under Call Off Contract

1. GENERAL

1.1. The specification is divided into five (5) key areas:

1.1.1. Asset Verification

1.1.2. Technical Support

1.1.3. FM Performance Management, Analysis & Reporting

1.1.4. Business Management & Project Support

1.1.5. Account Management & Reporting

1.2. The Services set out under the five (5) key areas above are identified as either:

1.2.1. Core Services;

1.2.2. Call-Off Services, or

1.2.3. Additional Services

1.3. A Core Service means a service that represents a core area of delivery and that is required on an ongoing basis, notwithstanding that the Customer's requirement for it may be temporarily paused or adjusted in volume.

1.4. If the Customer's requirement for the Core Service is temporarily paused or reduced, the Customer may divert the resources used to deliver the Core Services, and that have been freed up, to other services which the Customer considers at the time to be of higher priority for the same price or pay a reduced fee accordingly.

1.5. If the Customer requires a higher volume of any Core Service temporarily and all Core Services are operating at the Standard Service Level (as defined below), then this shall be managed as a Call-Off Service if no Flexible Technical Resource is available.

1.6. A Call-Off Service means a service that doesn't represent a core area of delivery and may only be required on an ad hoc basis from time to time.

1.7. An Additional Service means a service not specifically defined within this Schedule 2 but nonetheless included within the scope of the CCS EPS Framework (RM3816) Lot 4 Statement of Requirements.

1.8. Upon each Request for a Proposal (RFP) for a Call-Off Service or Additional Service by the Customer, and within five (5) working days of receipt, the Supplier must provide a detailed cost breakdown and expected delivery timescale to complete the Call-Off Service requested. The Customer will advise the Supplier provider whether or not it wishes to accept the RFP within five (5) working days.

1.9. Service Levels are defined as:

1.9.1. **Minimum Service Level** – This service level represents the minimum volume of any Core service required by the Customer anticipated to be required under the Call Off Contract for the Call Off Contract Period to be employed by the Customer.

1.9.2. **Standard Service Level** - This service level represents the standard volume of all Core Services offered by the Supplier in Call Off Schedule 15 – Call Off Tender and Call Off Schedule 3, Annex 1 – Call Off Charges accepted by the Customer for the duration of the Call Off Contract Period, unless otherwise instructed by the Customer as per para

1.10. The level of resource required to undertake the Core Services at the Standard Service Level agreed between the Supplier and the Customer shall constitute the intended level of the A&M service deliverable at the Target Price. The service levels will effectively provide the Customer with the ability to switch to a reduced level of service, for whatever reason if and when required, without any risk to the operational or commercial stability of the Call Off Contract.

1.11. Call-Off and Additional Services shall be delivered by the Supplier on an ad hoc basis, as requested by the Customer, and, if Core Services resource (including Flexible Technical Resource) is not being diverted in order to undertake these requests, Call-Off/Additional Services resource may be required to deliver them.

1.12. The Services Summary Table at Appendix A sets out the key service requirements, reports and service level information.

1.13. The Supplier acknowledges that the Customer acts on behalf of other government departments and agencies (known as “cluster partners”) and it may be required to provide Services to them under this Call Off Contract from time to time.

1.14. The Call Off Contract relates to the provision of services in England, Scotland and Wales.

1.15. The Supplier shall:

1.15.1. ensure that each in-scope property is operational and available for business during Core Business Hours at all times;

1.15.2. provide a flexible and proactive approach to the delivery of the services and any changes in service requirements (location and scope) which recognises the environment in which the Customer operates;

1.15.3. ensure that all visits undertaken shall be arranged to ensure that the end users are inconvenienced as little as possible during the services.

1.15.4. actively offer advice and demonstrate innovative ways of delivering the Services and eliminating inefficiencies throughout the Call Off Contract Period including new ways of working. This shall include regular reviews of Service delivery methods to eliminate inefficiencies, introduce innovation, realise cost savings and improve Value for Money. This shall be achieved at no detriment to the quality of Service delivered;

- 1.15.5. provide advice on improvements to ancillary interface services outside its direct control and deliver proposals for interfacing with third parties in the most efficient manner possible;
- 1.15.6. at all times seek to optimise its staffing arrangements to take advantage of any synergies between other Services delivered at each Affected Property, therefore demonstrating Value for Money to the Customer provided this shall not detract from the performance of any of the individual Services themselves.

2. ASSET VERIFICATION AUDITS

2.1. Asset Verification Audits - Core Service

- 2.1.1. The Supplier shall support the Asset Verification (AV) exercise carried out by Engie or its successor ("**Engie**") pursuant to its facilities management contract with the Customer completed in 2020 (the "**Engie Contract**").
- 2.1.2. The Supplier may be required to support the Customer by providing technical support and expertise to clarify the description and number of assets and asset types, in accordance with the Uniclass 2015 asset categorisation process, to ensure that the number and type of assets in the Affected Properties is fairly determined
- 2.1.3. Following the completion of the AV exercise, the Supplier may be required to support the Customer in discussions with Engie to agree the final asset register
- 2.1.4. If required, the Supplier will support the Customer in agreeing either or both of the Gross Internal Area and the Net Internal Area of any or all of the Affected Properties, in accordance the Royal Institution of Chartered Surveyors code of measuring practice.

3. TECHNICAL SUPPORT

- 3.1. The Supplier shall provide technical support and expertise to the Customer in support of the operational management of the Engie Contract.
- 3.2. Throughout all technical activities, the Supplier shall secure value for money for the Customer and help the Customer ensure that statutory compliance is achieved and maintained throughout all in-scope estate.
- 3.3. Technical support shall be provided across various disciplines including, but not limited to:
 - Mechanical
 - Electrical
 - Fire
 - Water
 - Asbestos
 - Lifts
 - Fire Risk Assessments
 - Equality Act Audits
 - Health and Safety Audits

- Environment and Sustainability Reports
- Technical completion audits for projects and works undertaken by suppliers of facilities management services to the Customer (“**FM Suppliers**”) pursuant to their facilities management contracts with the Customer (“**FM Contracts**”)
- Listed Building and heritage and/or conservation assurance services
- Additional Building Condition Surveys
- Listed Building Quadrennial Surveys
- Forensic building and technical audits
- Investigations in relation to service and asset failures including in relation to Health and Safety issues
- Audits of Cleaning Audits

3.4. Technical Site Audits - Core Service

- 3.4.1. The Supplier shall undertake Technical Site Audits structured on a process of collecting independent information on the efficiency, effectiveness and reliability of the total health and safety management system and drawing plans for corrective action.
- 3.4.2. The Supplier shall complete the Standard Service Level of **[REDACTED]** (unless otherwise directed by the Customer) **Technical Site Audits per Calendar Month** (spread equally across the regions), as notified by the Customer, seeking coverage across the whole in-scope estate.
- 3.4.3. The Technical Site Audits must be conducted by a suitably trained and competent person with technical knowledge and expertise in the disciplines documented in paragraph 3.3.
- 3.4.4. Prior to conducting any Technical Site Audit, the auditor will have reviewed Engie’s computer aided facilities management (“**CAFM**”) system to obtain relevant information from previous reports and other data that may assist the Site Audit.
- 3.4.5. The Technical Site Audits will require site attendance in all instances to review site documentation held by Engie.

3.4.6. Reporting the Technical Site Audit:

- 3.4.6.1. Upon completion of a Technical Site Audit, the Supplier will produce a full and comprehensive report within seven (7) days (unless otherwise approved by the Customer). The reports must detail and reflect the agreed level of detail agreed with the Customer prior to commencement using recognised terminology and wording. The format of the reporting template will be agreed between the Supplier and Customer.
- 3.4.6.2. The report will be sent to a designated person(s) within the Customer for review.
- 3.4.6.3. Any clarification questions raised by the Customer following the review of the Technical Site Audit must be answered promptly within three (3) working days.

3.4.7. Actions arising from the Technical Site Audit:

- 3.4.7.1. The Supplier shall own and resolve any actions and requirements arising from the Technical Site Audit and ensure they are accepted and resolved by Engie in a timely fashion.
- 3.4.7.2. The Supplier shall resolve any technical specification questions or issues with Engie. The Customer will support and assist, where required.
- 3.4.7.3. The Supplier shall highlight and report on any deficiencies identified by each Technical Site Audit and will report on the progress of any remedial close out actions monthly.
- 3.4.7.4. The **Technical Site Audit Reports** and the findings will be discussed at the national Monthly Contract Performance Review (CPR) and national Monthly Technical Review.

3.5. Flexible Technical Resource – Core Service

- 3.5.1. The Supplier shall provide the Standard Service Level of **[REDACTED] Working Hours per Calendar Month** (unless otherwise directed by the Customer) of desk-based and in-person Flexible Technical Resource to assist the Customer's FM Technical Team across all seven (7) regions within the in-scope estate. The hours will be utilised during Core Business Hours.
- 3.5.2. The activities required to be delivered by this resource will be advised by the Customer's FM Technical Team four (4) weeks in advance to ensure that the Supplier is able to provide the required resource, although the Customer may make reasonable changes to these activities within the 4-week period.
- 3.5.3. The Flexible Technical Resource will be required to provide expertise in the disciplines listed in paragraph 3.3 above.
- 3.5.4. The Supplier shall have multiple staff available, if required, with the necessary skills and expertise, such that issues occurring on multiple sites can be addressed quickly and simultaneously.
- 3.5.5. The Customer will require flexibility such that the hours allocated to a calendar month may be used in a single week, although this will generally be avoided where possible.
- 3.5.6. The Customer shall be able to carry unused hours over to a new calendar month.
- 3.5.7. The Customer requires the Flexible Technical Resource to:
 - 3.5.7.1. provide evidence-based solutions for feasibility and scoping documents;
 - 3.5.7.2. ensure a cost and benefits analysis is applied to decision making;
 - 3.5.7.3. consider the forward maintenance costs and PPM requirements out of scope from SFG20.
- 3.5.8. The Supplier shall ensure that the Flexible Technical Resource reports findings to the FM Technical Team within five (5) working days of task order receipt. Issues of a serious nature shall be escalated to the Customer's FM Technical Team immediately.
- 3.5.9. Each Month, the Supplier shall provide the Customer with a detailed **Flexible Technical Resource Report** detailing the following information:

- 3.5.9.1. assigned tasks
 - 3.5.9.2. length of assigned tasks and hours allocated
 - 3.5.9.3. brief given
 - 3.5.9.4. resource utilised for tasks, and
 - 3.5.9.5. outputs
- 3.5.10. The Supplier shall provide the Customer with two (2) concurrent SFG20 licences for use by the FM Technical Team.

3.6. Bespoke Deep Dive Audits – Call-Off Service

- 3.6.1. Upon request, the Supplier shall undertake a Bespoke Deep Dive Audit.
- 3.6.2. Audits of this nature will require further detailed technical analysis of a chosen issue or issues – either desk-based or site-based and may often involve more than one Customer premises.
- 3.6.3. The Bespoke Deep Dive Audits will often in many cases be focussed on Statutory Compliance issues and involve any of the disciplines listed in paragraph 3.3 above.

3.7. Specialist Technical Advice & Guidance – Call-Off Service

- 3.7.1. The Supplier shall be required to provide specific guidance on the understanding, implications and enforcement of any existing or new relevant regulations.

3.8. Statutory Planned Preventative Maintenance (PPM) Audits – Core Service

- 3.8.1. The Supplier is required to conduct a random desk-based audit at the Standard Service Level of **[REDACTED]** (unless otherwise directed by the Customer) **of the Statutory PPM tasks conducted by Engie from the month preceding**, validating that statutory compliance and planned preventative maintenance activities have taken place and that documentation is present.
- 3.8.2. This action will require an administrative review of Engie's systems to ensure all relevant PPM documentation has been uploaded in a timely fashion, completed to a satisfactory standard and any follow up actions or notes are clearly detailed and logged for remedial works.
- 3.8.3. Issues that are identified during the Statutory PPM Audit are to be highlighted to Engie and resolved jointly with it through to close out. The findings are to be highlighted via the monthly Statutory PPM Audit Report.

4. FM PERFORMANCE MANAGEMENT, ANALYSIS & REPORTING

4.1. Engie Performance Meetings Attendance - Core Service

- 4.1.1. The Supplier shall ensure that the performance of this Call Off Contract is optimised through the development and careful maintenance of an effective, pragmatic and professional relationship with Engie through its **Relationship Plan** that forms part of Call Off Schedule 15 – Call Off Tender
- 4.1.2. The Supplier shall at all times ensure that the best interests of the Customer are acted upon.
- 4.1.3. The Supplier shall attend the following face to face Engie performance meetings with both the Customer and Engie on a monthly basis:
- FM Contract Performance Review (FM CPR)
 - FM Technical Review (FM TR)
 - FM Regional Performance Review (FM RPR)
- 4.1.4. The Governance Plan at **Appendix D – Governance Plan**

4.2. FM Supplier Monthly KPI Reporting Analyses – Core Service Requirement

- 4.2.1. Engie self-report monthly against **[REDACTED] Key Performance Indicators (KPIs)** in each of the seven regions, as detailed in the attached **Appendix B – FM Contract KPIs**.
- 4.2.2. The Supplier shall analyse and report on the performance of Engie by scrutinising and validating its self-reported performance against its contracted KPIs.
- 4.2.3. Every Calendar Month, the Customer shall scrutinise **all [REDACTED] FM KPIs** contained in the Engie Contract as the Standard Service Level (unless otherwise directed by the Customer).
- 4.2.4. The Supplier will be provided access to Engie's systems enabling it to conduct sufficient analysis of the raw data to validate that the KPI submissions are accurate.
- 4.2.5. Where discrepancies are identified, the Supplier will highlight these to the Customer within the monthly KPI report with substantiating evidence.
- 4.2.6. A full comprehensive **FM Supplier KPI Reporting Analyses Report**, broken down by region, shall be provided each month by the Supplier, detailing Engie's performance against all contractual requirements related to the relevant KPIs.

4.3. Contract Risk Reports – Call-Off Service

- 4.3.1. If requested, the Supplier shall conduct a review of the failing KPI or KPIs to identify:
- 4.3.1.1. The background and causes leading to the KPI failures and to include details of evidence to support the root cause;
 - 4.3.1.2. The risks that the Customer is being exposed to if the issues are not resolved in a timely fashion, and

4.3.1.3. Potential solutions.

4.4. Quotations Audits – Core Service

- 4.4.1. The Supplier shall analyse maintenance quotations provided to the Customer by Engie to corroborate or otherwise that these represent value for money, when compared with quotations sought through the open market.
- 4.4.2. The Supplier shall analyse the Standard Service Level of **[REDACTED] quotations per Calendar Month** (unless otherwise directed by the Customer) and the analysis will be completed within two working days of raising the request with the Supplier.
- 4.4.3. All quotations will exceed £5k. The effects of such will be reviewed after 6 Calendar Months and any changes required to the set upper limit above, will reflect either in a lower or higher quotation amount.
- 4.4.4. If less than the agreed Standard Service Level of requests per Calendar Month are issued, the Supplier will note the amounts audited within the monthly report. This will form part of the review process in paragraph 4.4.3 above.
- 4.4.5. If more than the agreed number of requests per week are issued, the Customer will reduce the requests such that the number reflects the number in the Specification.
- 4.4.6. The Supplier will additionally conduct a review of **2 invoices per region per Calendar Month (14 in total)** for works which have been approved, delivered and invoiced, as selected by the Regional Facilities Manager.
- 4.4.7. The task is to validate that the Engie has invoiced accurately and has provided Value for Money in areas such as material costs, correct labour rates and time taken to conduct the task. The Supplier will confirm that all documentation required to “close down the task” is held on Engie’s CAFM system.
- 4.4.8. The Supplier shall submit its findings in a **Quotation Audit Report** to the Customer each Calendar Month in an agreed format and will track disputed invoices to resolution and work with Engie and any of its sub-contractors, as appropriate, to resolve payment issues.

4.5. Security Clearance Status Reports – Call-Off Service

- 4.5.1. The Supplier shall conduct a review of some or all of the FM Suppliers’ staff and sub-contractors relevant to the delivery of their FM Contracts to assure compliance with the security obligations set out in the FM Contracts and shall produce a bespoke report detailing the findings.
- 4.5.2. The Supplier shall obtain from the FM Supplier a list of works currently being (or due to be) delivered across the estate by the FM Supplier or the FM Supplier’s sub-contractors. The Supplier shall use this list to identify the checks that it is required to undertake.

4.6. ‘Beyond Economic Repair’ Reports – Call-Off Service

4.6.1. The explanation of the Beyond Economic Repair (BER) process is provided in **Appendix C– Beyond Economical Repair.**

4.6.2. When instructed, the Supplier shall provide assistance to the Customer in analysing assets reported by the FM Supplier as BER to determine whether or not the asset is BER.

4.7. User Satisfaction Survey – Call-Off Service

4.7.1. The Supplier shall undertake surveys as required by the Customer to obtain findings on areas such as the satisfaction of Court Users, services provided by Sub-Contractors or any other target audience.

4.7.2. The Supplier shall undertake User Satisfaction Surveys to assist the Customer, with subsequent reporting of the findings and outcomes from the results. These surveys are to be delivered using an internet-based platform that the target audience can readily access.

4.7.3. The Customer will stipulate the exact reporting requirements and level of detail that the Supplier will be expected to deliver. The Customer will advise in advance if the Supplier is required to manage the actions and next steps identified from the survey.

4.8. Desk-Based Compliance Reporting – Call-Off Service

4.8.1. The Supplier shall review systems and files remotely to undertake verification activities, as detailed by the Customer.

5. BUSINESS MANAGEMENT & PROJECT SUPPORT

5.1. Project Management Support – Call-Off Service

5.1.1. The Supplier shall provide competent and experienced project management expertise to manage and ensure delivery of projects, where required and in accordance with RIBA requirements, if applicable. Dependent upon the requirement, this could include projects such as (but not limited to);

- Management of end of year tasks following additional funding
- Procurement of sub-contractors to undertake minor ad hoc works

5.2. Payment Disputes Resolution – Call-Off Service

5.2.1. The Supplier shall provide intermediary advice on payment disputes between the FM Supplier and the Customer, to track any issues to ensure any issues do not become recurring which will require examining payments relating to the Customer and establishing a position agreeable by the FM Supplier and the Customer.

6. ADDITIONAL SERVICES

6.1. Throughout the duration of the contract, the Customer may require additional call-off service requirements that whilst falling within the general scope of this specification, are not specifically identified as a Call-Off Service Requirement. Such requirements shall be charged using the Flexible Technical Resource, if available. Call-Off Hourly Rates will otherwise be applied.

7. ACCOUNT MANAGEMENT & REPORTING

7.1. The Supplier shall have in place at all times an effective and responsive account management team that understands the business and key priorities of the Customer. This shall be achieved through the building of a strong and trusted relationship; sharing information and being transparent about intentions and challenges.

7.2. The Supplier and the Customer shall meet quarterly for a Contract Review Meeting where the Contract Performance Pack for the relevant quarter shall be reviewed and discussed. The Contract Performance Pack shall be a MS PowerPoint slide pack containing the following:

- Business Update - High-Level Only
- Contract Highlights + Key Achievements - High-Level Only
- FM Board Dashboard (FM Performance Report Summary, incl. Risks + Issues) - High-Level Only
- Activity + KPI Summary (incl. Risk + Issues)
- FM Supplier Relationship Update
- HSE Notifications + Regulation Updates
- CPD + Staff Training Update (Toolbox Talks + Workshops)
- Finance Overview + Debt Statement
- Continuous Improvement

Appendix A – Services Summary Table

Service Type	Service Requirement Name	Minimum Service Level	Baseline Standard Service Level (Not Used Post-Competition)	Agreed Standard Service Level (≥ Baseline Standard Service Level)	Costed Using	Price Weighting
Core	<p>Asset Verification Audits</p> <p>Reporting: As required</p>	N/A	N/A	N/A	<p>Core Hourly Rates</p> <p>Volume tbc during contract + calculated using resource swapped out of Core Services delivery.</p>	20%
Core	<p>Quotation Audits</p> <p>Reporting: 1 x Monthly Quotation Audit Report (National, broken down by Region)</p>	<p>a) 30 Quotation Audits per Calendar Month (which exceed 5k threshold)</p> <p>&</p> <p>b) Zero random audits on accepted/paid quotations per Calendar Month</p>	<p>a) 30 Quotation Audits per Calendar Month (which exceed 5k threshold)</p> <p>&</p> <p>b) 14 random audits on accepted/paid quotations per Calendar Month</p>	<p>a) [REDACTED] Audits Quotation Audits per Calendar Month (which exceed 5k threshold)</p> <p>&</p> <p>b) Fixed @ 14 random audits on accepted/paid quotations per Calendar Month</p>	Cost per Audit	10%
Core	Flexible Technical Resource	0 working hours per Calendar Month	80 working hours per Calendar Month	[REDACTED] working hours per Calendar Month	Cost per Hour	20%

	Reporting: 1 x Monthly Flexible Technical Resource Report					
Core	Technical Site Audits Reporting: 1 x Monthly Technical Site Audit Report (National, broken down by Region + Site)	Zero Technical Site Audits per Calendar Month	21 Technical Site Audits (3 per Region) per Calendar Month	[REDACTED] Technical Site Audits per Calendar Month	Cost per Audit	30%
Core	Statutory PPM Audits Reporting: 1 x Monthly Statutory PPM Audit Report (National, broken down by Region)	Audits of 10% of statutory PPM tasks conducted in the month preceding	Audits of 10% of statutory PPM tasks conducted in the month preceding	Audits of [REDACTED]% of statutory PPM tasks conducted in the month preceding	Cost per %	5%
Core	FM Supplier Monthly KPI Reporting Analyses Reporting: 1 x Monthly FM Supplier KPI Reporting Analyses Report (National, broken down by Region)	Reviews on zero of the 26 FM KPIs per Calendar Month across all regions.	Reviews on 7 of the 26 FM KPI's per Calendar Month across all regions, as selected by the Customer.	[REDACTED] FM KPIs	Cost per KPI (price incl. all regions)	10%
Core	FM Supplier Performance Meeting Attendance	1 x FM CPR, 1 x FM TR & 7 x RPR per Calendar Month	1 x FM CPR, 1 x FM TR & 7 x RPR per Calendar Month	1 x FM CPR, 1 x FM TR & 7 x RPR per Calendar Month	Not Separately Charged	Not Weighted

Core	Account Management & Reporting	1 x A&M Contract Performance Pack + 1 x A&M CPR quarterly	1 x A&M Contract Performance Pack + 1 x A&M CPR quarterly	1 x A&M Contract Performance Pack + 1 x A&M CPR quarterly	Not Separately Charged	Not Weighted
Call-Off	Call-Off/Additional Services Hourly Rates	N/A	N/A	N/A	Call-Off Hourly Rates	5%
Call-Off	Contract Risk Reports	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A
Call-Off	Security Clearance Status Reports	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A
Call-Off	Beyond Economic Repair Report	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A
Call-Off	Project Management Support	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A
Call-Off	Payment Disputes Resolution	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A
Call-Off	User Satisfaction Survey	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A
Call-Off	Bespoke Deep Dives	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A
Call-Off	Desk-Based Compliance Reporting	N/A	N/A	N/A	Hourly Rates (Core +/-or Call-Off)	N/A

Call-Off	Specialist Technical Advice & Guidance	N/A	N/A	N/A	Hourly Rates (Core +/or Call-Off)	N/A
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Appendix B – Engie Contract KPIs (Information Only)

KPI Name	Measure Reference	Measure requirement	Measure achievement calculation
CAFM and Helpdesk Services	CFM M1	Helpdesk responsiveness: calls answered within twenty (20) seconds.	<p>Monthly Service Report will stipulate % of calls answered within required timeframe.</p> <p>Calculated as the number of calls answered within limit divided by the total number of calls received in the month</p>
CAFM and Helpdesk Services	CFM M2	Helpdesk log completion: Helpdesk calls/emails /portal requests logged onto the system correctly and accurately, within agreed contractual timeframe.	<p>Number of calls/emails/portal requests logged within required timeframe.</p> <p>Calculated as the number of calls/emails/portal requests accurately logged within time divided by the total number of calls/emails received.</p>
CAFM and Helpdesk Services	CFM M3	Helpdesk reporting: provision of a complete and accurate Monthly Service Report in accordance with the contractual requirements (to include performance information, trends and raw data reports).	<p>Monthly Service Reports must all be provided by the required date and in the correct format. They must contain no systematic errors and should be fully populated with all required information in accordance with the contract.</p> <p>Calculated as a %age through the Customer's quality audit regime, as detailed in the KPI Guidance Note - Audit and Inspection, or through errors or omissions becoming apparent to the Customer.</p>

CAFM and Helpdesk Services	CFM M4	Provision of a up-to-date Forward Maintenance Register (FMR) within the CAFM system which is updated promptly in accordance with the contractual requirements.	<p>The real-time FMR must be updated within 5 Working Days of the Completion of a relevant event, in the correct format and be fully populated with all required information in accordance with the Contract.</p> <p>Measured by the percentage of independent technical audits passed per month [out of a minimum of 12 audits per month], as detailed in the KPI Guidance Note - Audit and Inspection</p>
Maintenance Services	MAINT M1	Reactive response: Initial Attendance for P0/P1 Reactive events in accordance with the contractual requirements for the provision of a Reactive Maintenance Service (Response and Rectifications Times).	<p>Measured by the number of occasions the Supplier's Initial Attendance for P0/P1 Reactive events generated via the CAFM system is in accordance with the contractual requirements (Response and Rectifications Times).</p> <p>Calculated as the total number of Initial Attendances within the required timescales, divided by the total number of Reactive events <u>completed</u> in the Month</p>
Maintenance Services	MAINT M2	Reactive response: Completion of Interim Solution (if applicable) and Completion of P0/P1 Reactive breakdowns in accordance with the contractual requirements for the provision of a Reactive maintenance service (Response and Rectifications times).	<p>Measured by the implementation of the Interim Solution and Completion of P0/P1 Reactive events, generated via the CAFM system, in accordance with the contractual requirements (Response and Rectifications times).</p> <p>Calculated as the total number of successful Interim Solutions and successful Completions within the required timescales multiplied by 50%, divided by the total number of Reactive events <u>completed</u> in the Month.</p>
Maintenance Services	MAINT M3	Reactive response: Completion of Interim Solution (first time fix) and/ or Permanent Fix to P2/P3 reactive breakdowns in accordance with the contractual requirements for the provision of a Reactive maintenance service (response and rectifications times).	<p>Measured by the implementation of the Interim Solution (if applicable) and Completion of P2/P3 Reactive events, generated via the CAFM system in accordance with the contractual requirements (Response and Rectifications times).</p> <p>Calculated as the total number of successful Interim Solutions and successful Completions within the required timescales multiplied by 50%, divided by the total number of Reactive events <u>completed</u> in the Month.</p>

Maintenance Services	MAINT M4	Preventative Maintenance: Completion of non-statutory / non-mandatory Planned Preventative Maintenance (PPM) in accordance with PPM schedule (in accordance with maintenance standards with SFG20 and / or Customer's requirements).	<p>Measured by the completion of PPM tasks generated via the CAFM system within scheduled PPM dates (excluding statutory PPM).</p> <p>Calculated as the total number of PPM events scheduled to be completed in the Month which are reported as completed in the CAFM system, divided by the total number of events scheduled to be undertaken in the Month.</p>
Maintenance Services	MAINT M5	Billable Works (but excluding Reactive Events) with a total cost < £5k within quotation timescales	<p>Measured as the percentage for which the Supplier submits a quotation for Billable Works within the agreed timescales. (10 Working Days from submission of request to Helpdesk)</p> <p>For Billable Works (but excluding Reactive Events) with a total cost < £5k, calculated as the total number of quotations received within the agreed timescales, divided by the total number of quotations <u>received</u> via the CAFM in the Month.</p> <p>In the event that the Billable Works are "niche" and the service is not widely available, if the Supplier can demonstrate that a quotation cannot be delivered within 10 Working Days, then, acting reasonably and at its sole discretion, the Customer may elect to extend the KPI timescales by a suitable amount to reflect the unavoidable delays, for both Maint M5 and Maint M6.</p>

Maintenance Services	MAINT M6	Billable Works (but excluding Reactive Events) with a total cost < £5k within completion timescales	<p>Measured as the percentage that the Supplier completes the Billable Works within the agreed timescales, of 20 Working Days from submission of the <u>request for a quotation</u> to the Helpdesk.</p> <p>For Billable Works (but excluding Reactive Events) with a total cost < £5k, calculated as the total number of events completed within the agreed timescales, divided by the total number of events Completed via the CAFM in the Month.</p> <p>It should be noted that any delays by the Customer in approving any Billable Works will be deducted from the agreed KPI timescales.</p> <p>In the event that the Supplier can demonstrate to the satisfaction of the Customer that material needed to complete the Billable Works are not available in an appropriate timescale, through no omission of the Supplier, then at its sole discretion, the Customer may agree to extent the KPI timescale by an appropriate amount of time.</p>
Statutory & Safety Compliance	STAT M1	Completion of statutory and mandatory PPM in accordance with scheduled PPM dates and in accordance with contract and statutory requirements.	<p>Measured by the percentage completion of statutory and mandatory PPM tasks generated via the CAFM system scheduled to be completed in the Month.</p> <p>Calculated as the total number of statutory and mandatory PPM events reported as completed in the month in the CAFM system and evidenced via certification, divided by the total number of statutory and mandatory events scheduled to be undertaken in the Month.</p> <p>The Supplier shall have 5 Working Days to obtain the inspection reports (including any remedial works) and 20 Working Days to obtain the certification and up-load it to the CAFM, in order to comply with this requirement.</p>

Statutory & Safety Compliance	STAT M2	Completion of statutory remedial actions and works arising reports (including the submitting of a quotation to the Customer) to achieve statutory compliance within agreed contractual timescales	<p>Measured as the percentage of statutory remedial actions and works arising reports issued via the CAFM system and quotations emailed to the Customer (within 10 Working Days of the completion of the failed statutory PPM activity).</p> <p>Calculated as the total of the number of remedial actions and works arising reports with the quotation sent to the Customer within 10 Working Days of the completion of the failed test, issued via the CAFM system, divided by the total number of statutory PPM events reported as failed (with remedial actions) in the CAFM system in the Month.</p>
Statutory & Safety Compliance	STAT M3	Compliance with Security and Safety in accordance with the Contract and the Customer's H&S requirements (e.g. compliance with Security and Safety Operating Procedures (SSOP), completion of Risk Assessments etc)	<p>The number of occasions, when audited that the Supplier complies with its Risk Assessment / Methods Statements and other H&S obligations, or the SSOP.</p> <p>Measured by the Customer's monthly audit regime as to the extent to which the Supplier achieves the required health and safety standards, as detailed in the KPI Guidance Note - Audit and Inspection</p>
Waste Services	WASTE M1	Provision of a routine General Waste and Recycling Waste disposal service in accordance with the Contract requirements and the Customer's Waste Management Policy.	<p>Measured by the completion of General and Recycling Waste Services collections generated via the CAFM system within scheduled dates.</p> <p>Calculated as the number of occasions where the Supplier provided the planned Service of a weekly (or as otherwise agreed) collection, divided by the number of scheduled visits in the Month</p>
Waste Services	WASTE M2	Provision of a routine Classified Waste disposal service in accordance with Contract requirements, the Customer's Waste Management and Confidential Waste Policies.	<p>Measured by the completion of Classified Waste Services visits generated by the CAFM system.</p> <p>Calculated as the number of occasions where the Supplier provided the Service (including ad hoc collections), divided by the total number of scheduled visits in the Month</p>

Waste Services	WASTE M3	Provision of Waste Transfer Notes and waste documentation on request in accordance with the Contract requirements, legislation and the Customer's Waste Management Policy.	<p>Measured by the number of occasions where a Waste Transfer Notes is present, accurate and available on the CAFM.</p> <p>Calculated as the total number of audits passed, divided by the total number of audits undertaken in relation to provision of waste transfer notes, as detailed in the KPI Guidance Note - Audit and Inspection</p>
Cleaning Services	CLEAN M1	<p>Provision of the Cleaning Service across the Customer Premises in accordance with the Contract (and the Service Standards)</p> <p>All areas to satisfy the Service Requirements for minimum cleaning standards.</p>	<p>Measured by the Customer's monthly audit regime as to the extent of the Customer Premises achieving the acceptable cleaning standards, as detailed in the KPI Guidance Note - Audit and Inspection</p> <p>Audits are to be conducted on approximately 2.5% of the estate by NIA.</p>
Cleaning Services	CLEAN M2	Initial Attendance to Reactive Cleaning Service, including pest control events in accordance with the Contract (and Service Standards)	<p>Measured by the number of occasions the Supplier's Initial Attendance of P0/P1 Reactive events generated via the CAFM system were in accordance with the contractual requirements (Response and Rectifications Times).</p> <p>Calculated as the total number of P0/P1 Cleaning Reactive events attended within the required timescales, divided by the total number of Cleaning Reactive events reported in the month</p>
Sustainability	SUS M1	Provision of a monthly service that confirms that the heating and air-conditioning plant run times are optimised and are consistent with the opening hours of the building and best practice.	Calculated as a percentage of the number of Customer Premises for which confirmation is given that the boilers and air-conditioning plant run time is optimised and is consistent with the opening hours of the building and best practice, divided by the number of Customer Premises in the month
Sustainability	SUS M2	Provision of a monthly water leak detection check by providing a water meter reading at the end of the week and a further meter reading before the building opens at the start of the next week.	<p>Measured as a percentage of water meters for which the Customer is directly responsible for paying the bill for which the Supplier provides an accurate meter reading within one (1) hour of the time the building is locked on Friday (or Saturday, if applicable) and within one (1) hour that the building is opened on Monday.</p> <p>Calculated monthly as the number of pairs of "time and date stamped"</p>

			water meter-readings provided by the Supplier divided by the number of water meters for which the Customer pays the bill directly.
Sustainability	SUS M3	Achievement of less than 7% waste to landfill in accordance with the Customer's Sustainable Operations Strategy. This Performance Measure is to reduce to 0.1% at the start of Contract Year 5	Measured as the percentage by weight of waste send to landfill divided by the total weight of waste removed from the Customer Premises
Horticulture Services	GM M1	Provision of a Horticulture Service (including snow and Ice clearance in winter (Nov - March) and maintenance of lawns, trees, benches and external surfaces in summer (April - Oct)), across Customer Premises in accordance with the Contract	<p>Measured by the Customer's monthly audit regime as to the extent of the Customer Premises achieving the acceptable cleaning standards, as detailed in the KPI Guidance Note - Audit and Inspection</p> <p>Audits are to be conducted on approximately 2.5% of the estate by external area as defined by the Whole Site Footprint.</p>
Benchmarking & Continuous Improvement	BCI M1	Continuous Improvement initiatives	<p>Measured by a qualitative audit of the successful implementation of the improvements agreed in the annual Continuous Improvement Plan - the importance/weighting of each element of the plan will be agreed between the Parties.</p> <p>Calculated as the pass/fail of the actual implementation of the plan with the saving delivered compared with the planned implementation of initiatives in a Contract Quarter.</p>
General Standards	SERV M1	A measure of the number of complaints made to the Supplier Helpdesk by customers for reasons of poor or unsatisfactory quality of service delivery.	<p>Measured as a percentage of complaints received by the Helpdesk.</p> <p>Calculated as the total number of reactive events and elective works</p>

			which did not generate a complaint divided by the total number of reactive events and elective works
General Standards	SERV M2	Provision of a high-quality service standard for Planned Preventative and Reactive Maintenance in keeping with Good Industry Practice	<p>Measured by the Customer's monthly audit regime as to the extent of the Customer Premises achieving the acceptable maintenance standards, as detailed in the KPI Guidance Note - Audit and Inspection</p> <p>Audits are to be conducted on approximately 2.5% of the estate by GIA.</p>
General Standards	SERV M3	A Measure of the recorded customer satisfaction with the quality of service provided on Completion of an event using the email notification sent to each customer upon completion of an event.	<p>Measure of customer satisfaction using the "completion email"</p> <p>Calculated as the percentage satisfaction score awarded by the customer upon completion of an event with the options of 0%, 20%, 40%, 60%, 80% or 100%</p>

Appendix C – Beyond Economical Repair

The below extract from document “ITT-59. Maintenance Services Schedule v2.2” explains how the concept of BER is interpreted in the Engie Contract. This explanation may be subject to change.

Beyond Economic Repair

Where the Supplier considers the Asset is BER, the Supplier must be able to evidence this by failure trends and data from the Helpdesk and CAFM system. The age of the Asset is not sufficient by itself to justify that it is beyond repair or a time expired Asset.

The Customer is not seeking to transfer life cycle risk to the Supplier and where the Customer Authorised Representatives agrees the Supplier has provided sufficient evidence that an Asset is BER, replacement shall be at the Customer’s discretion. Where the cost of an Asset replacement or repair is below the Inclusive Repair Threshold, this Asset cannot be determined to be BER, and the cost will be deemed to be included in the Fixed Fee. When Assets are agreed by the Customer to be BER, the Supplier will formally record this by entering this into the CAFM and issuing a notice to the Customer. Further failures of the Asset will become fully chargeable (the Inclusive Repair Threshold will not apply) until the Asset is replaced.

The Customer shall be the final arbiter on whether an Asset is BER but will seek appropriate advice and guidance, and will act reasonably in reaching such a decision. The decision will be based upon the following assessments:

- a) If the projected cost of the repair exceeds the cost of replacing the Asset and failure trend data is available to evidence the economic case,*
- b) If the part(s) required to repair the Asset are no longer available, retrofit of a suitable alternative is not possible or there is no possibility of the manufacture of the part as a cost-effective alternative,*
- c) If the Asset is consistently failing through no failure of the Supplier to deliver the Services diligently,*

Unless a) or b) above apply, the Supplier should first repair the Asset before approaching the Customer to declare the Asset to be BER.

In respect of c) above, the Supplier is permitted to use reactive maintenance data obtained from the incumbent FM Suppliers during Mobilisation, to support the case that an Asset is BER.

During the Asset Verification Period, the Supplier will have the opportunity to present to the Customer, details of any assets which have been isolated/mothballed with the agreement of the Customer during the term of the previous contract. If the Customer, acting reasonably, agrees that these were isolated/mothballed, then these Assets shall be treated as BER from the Start Date.

The Supplier shall apply a practical approach to the definition of systems and Assets and during the Verification Period, shall agree an appropriate Asset Hierarchy with the Customer. The Supplier will not be permitted to:

- break an Asset down to its composite parts, for example and not limited to, a burner within a boiler being past its economic life shall not mean the boiler itself to be past its economic life.*

In the above example if a new compatible burner in current production is obtainable and can be installed this would constitute a reactive repair. The Inclusive Repair Threshold will apply. The Supplier is to apply this methodology when considering whether items are BER.

- bundle items together to offset the Inclusive Repair Threshold.
For example, if multiple valves require replacement and the cost of each valve is under the Inclusive Repair Threshold then the Supplier will replace all the valves at their cost. Similarly, the failure of one light fitting shall be treated as a separate entity*

with the consumables and Inclusive Repair Threshold applying on a light fitting by light fitting basis.

Where replacement of an Asset has been deemed appropriate by the Customer, the Supplier shall assist the Customer in determining a suitable replacement option taking into account operational use, whole life cost and required life factor.

Appendix D – Governance Plan

Authority, Audit & Monitoring Supplier & Facilities Management Supplier									
Frequency	Meeting Name	Level	Location	Duration	Sch 13 Annex 1 - Transparency Reports (Management Info)	Agenda	Authority Attendees	FM Attendees	A&M Attendees
Monthly	FM Contract Performance Review (FM CPR)	National	Different Locations	3-5hrs	FM Quotation Audits	To review the overall performance and delivery of FM contracts & A&M contracts over the previous month	Head of FM (National)	Account Director (National)	A&M Lead (National)
					Technical Site Audit Report	To review the overall performance against Contract, SLA & KPI mechanisms	Head of Technical & Assurance & Deputy	National Lead	
					Report on FM Provider KPI Reports	To agree national outstanding variable works requests	Regional Facilities Manager	Commercial	
					Asset Verification	BER review and urgent plant/equipment requirements	Commercial	Company SHEQ	
					Flexible Technical Resource Report	To review quotes that have gone via them for QS review	Lead H&S (Regional)		
					Statutory PPM Audit Report	Review of invoice audit			
						To review KPI's			
Monthly	FM Technical Review (FM TR)	National	Different Locations	2.5hrs	FM Quotation Audits	To review quotes that required A&M review	Head of FM (National)	Technical Director	A&M Lead (National)
					Technical Site Audit Report	Maintenance specification review and agree actions	Head of Technical & Assurance & Deputy	Technical Lead	
					Report on FM Provider KPI Reports	Safety alerts & product recalls	Regional Facilities Manager	Company SHEQ	
					Asset Verification	Review completed audits	Lead Regional H&S		
					Flexible Technical Resource Report	Insurance inspection reports			
					Statutory PPM Audit Report	Review flexible technical resource			
Monthly	FM Regional Performance Review (FM RPR)	Regional	LON,SW,SENE,N W, MID, WALES	0.5 Day per Region	FM Quotation Audits	To review the regional performance and delivery of FM contract & A&M contract over the previous month	Regional Facilities Manager	Service Delivery Manager	A&M Lead (Regional)
					Technical Site Audit Report	To review the regional performance against contract, SLA & KPI mechanisms	Area Facilities Manager		
					Report on FM Provider KPI Reports	To agree regional outstanding variable works requests			
					Asset Verification	To review and agree processes against high/low points in Helpdesk data			
					Flexible Technical Resource Report	BER regional review and urgent plant/equipment requirements			
					Statutory PPM Audit Report	To review regional quotes that have gone via them for QS review			
						Review of invoice audit			
						To review KPI's			
Quarterly (Replacing 1 Monthly Meeting)	FM Contract Performance Review (FM CPR)	National	Different Locations	3-5hrs	FM Quotation Audits	To review the overall performance and delivery of FM contracts & A&M contracts over the previous quarter	Head of FM (National)	Account Director (Regional)	A&M Account Director
					Technical Site Audit Report	To review the overall performance against Contract, SLA & KPI mechanisms	Head of Technical & Assurance & Deputy	Regional Lead	
					Report on FM Provider KPI Reports	To agree national outstanding variable works requests	Regional Facilities Managers	Company Commercial	
					Asset Verification	BER review and urgent plant/equipment requirements	Commercial	Company SHEQ	
					Flexible Technical Resource Report	To review quotes that have gone via them for QS review	Lead Regional H&S		
					Statutory PPM Audit Report	Review of invoice audit			
						To review KPI's			
Quarterly (Replacing 1 Monthly Meeting)	FM Technical Review (FM TR)	National	Different Locations	2.5hrs	FM Quotation Audits	To review quotes that required A&M review	Head of FM (National)	Senior Technical Lead	A&M Lead (National)
					Technical Site Audit Report	Maintenance specification review and agree actions	Head of Technical Services & Assurance & Deputy	Technical Lead	
					Report on FM Provider KPI Reports	Safety alerts & product recalls	Regional Facilities Managers	Company SHEQ	
					Asset Verification	Review completed audits	Lead Regional H&S		
					Flexible Technical Resource Report	Insurance inspection reports			
					Statutory PPM Audit Report	Review flexible technical resource			
Quarterly (Replacing 1 Monthly Meeting)	FM Regional Performance Review (FM RPR)	Regional	LON,SW,SENE,N W, MID, WALES	0.5 Day per Region	FM Quotation Audits	To review the regional performance and delivery of FM contract & A&M contract over the previous quarter	Regional Facilities Manager	Service Delivery Manager	A&M Lead (Regional)
					Technical Site Audit Report	To review the regional performance against contract, SLA & KPI mechanisms	Area Facilities Manager		
					Report on FM Provider KPI Reports	To agree regional outstanding variable works requests			
					Asset Verification	To review and agree processes against high/low points in Helpdesk data			
					Flexible Technical Resource Report	BER regional review and urgent plant/equipment requirements			
					Statutory PPM Audit Report	To review regional quotes that have gone via them for QS review			
						Review of invoice audit			
						To review KPI's			

Annual (Replacing 1 Quarterly Meeting)	FM Contract Performance review (FM CPR)	National	ZRC	3-5hrs	FM Quotation Audits	To review the overall performance and delivery of FM contracts & A&M contracts over the previous quarter	Director of Property & Deputy Director	Business Unit MD	Senior A&M Lead (National)
					Technical Site Audit Report	To review the overall performance against Contract, SLA & KPI mechanisms	Commercial Director	Account Directors	A&M Account Director
					Report on FM Provider KPI Reports	To agree national outstanding variable works requests	Head of FM (National)	Company Commercial	
					Asset Verification	BER review and urgent plant/equipment requirements	Head of H&S	Company SHEQ	
	Flexible Technical Resource Report	To review quotes that have gone via them for QS review	Head of Technical Services & Assurance						
	Statutory PPM Audit Report	Review of invoice audit							
		To review KPI's							
		Strategic plan and forward look							
Annual (Replacing 1 Quarterly Meeting)	FM Technical Review (FM TR)	National	ZRC	2.5hrs	FM Quotation Audits	To review quotes that required A&M review	Head of FM (National)	Senior Technical Lead	A&M Lead (National)
					Technical Site Audit Report	Maintenance specification review and agree actions	Head of Technical & Assurance & Deputy	Technical Lead	
					Report on FM Provider KPI Reports	Safety alerts & product recalls	Regional Facilities Managers	Company SHEQ	
					Asset Verification	Review completed audits	Head of H&S		
	Flexible Technical Resource Report	Insurance inspection reports							
	Statutory PPM Audit Report	Review flexible technical resource							
		Strategic plan and forward look							
Annual (Replacing 1 Quarterly Meeting)	FM Regional Performance Review (FM RPR)	Regional	LON, SW, SENE, NW, MID, WALES	0.5 Day per Region	FM Quotation Audits	To review the regional performance and delivery of FM contract & A&M contract over the previous year	Regional Facilities Manager	Service Delivery Manager	A&M Lead (Regional)
					Technical Site Audit Report	To review the regional performance against contract, SLA & KPI mechanisms	Area Facilities Manager		
					Report on FM Provider KPI Reports	To agree regional outstanding variable works requests			
					Asset Verification	To review and agree processes against high/low points in Helpdesk data			
	Flexible Technical Resource Report	BER regional review and urgent plant/equipment requirements							
	Statutory PPM Audit Report	To review regional quotes that have gone via them for QS review							
		Review of invoice audit							
		To review KPI's							
		Strategic plan and forward look							

Authority and Audit & Monitoring Supplier ONLY									
Frequency	Meeting Name	Level	Location	Duration	Sch 13 Annex 1 - Transparency Reports (Management Info)	Agenda	Authority Attendees	FM Attendees	A&M Attendees
Quarterly	A&M Contract Performance Review	National	London	2.5hrs	A&M Contract Performance Slide Pack:	A&M Contract Performance Slide Pack	Head of Technical Services & Assurance		A&M Lead (National)
					-Business Update		Deputy Technical & Assurance Manager		
					-Contract Highlights + Key Achievements		A&M Commercial Contract Manager		
					-FM Board Dashboard (FM Performance Report Summary, incl. Risks + Issues)		A&M Commercial Assistant		
					-A&M Activity + KPI Summary (incl. Risk + Issues)				
					-Relationship Plan				
					-HSE Notifications + Reg Updates				
					-CPD + Staff Training Update (Toolbox Talks + Workshops)				
					-Finance Overview + Debt Statement				
					-Continuous Improvement				

Transparency Report Plan (Core Requirements)

Report Name	Subject	Number	Frequency	Level of Information
Technical Site Audit Report	FM Performance	1 Report	Monthly	National (Broken Down by Region + Site)
Flexible Technical Resource Report	FM Performance	1 Report	Monthly	National
Statutory PPM Audit Report	FM Performance	1 Report	Monthly	National (Broken Down by Region)
Report on FM Provider KPI Reports	FM Performance	1 Report	Monthly	National (Broken Down by Region)
Quotation Audit Report	FM Performance	1 Report	Monthly	National (Broken Down by Region)
Asset Verification Report	FM Performance	Various/Ad hoc	n/a	By Audit
A&M Contract Performance Pack	A&M Performance	1 Pack	Monthly	National (Broken Down by Region)

ANNEX 2: CLARIFICATION QUESTIONS

The Customer's and the Bidders' clarification questions and responses submitted during the competition process are set out below.

BIDDER CLARIFICATION LOG

[REDACTED]

FINANCIAL AUTHORITY CLARIFICATION LOG

[REDACTED]

QUALITY AUTHORITY CLARIFICATION LOG

[REDACTED]

CALL OFF SCHEDULE 3: CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING

1. DEFINITIONS

1.1 The following terms used in this Call Off Schedule 3 shall have the following meaning:

"CPI"	means the Consumer Prices Index as published by the Office of National Statistics (http://www.statistics.gov.uk/instantfigures.asp);
"Indexation"	means the adjustment of an amount or sum in accordance with paragraph 10 of this Call Off Schedule 3;
"Indexation Adjustment Date"	has the meaning given to it in paragraph 10.1.1.1 of this Call Off Schedule 3;
"Property Interest"	a discrete commercial/legal interest, such as, but not exclusive to a Freehold, Head Lease, Sub-Lease or MOTO;
"Reimbursable Expenses"	means the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Customer's expenses policy current from time to time, but not including: <ul style="list-style-type: none">a) travel expenses incurred as a result of Supplier Personnel travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Customer otherwise agrees in advance in writing; andb) subsistence expenses incurred by Supplier Personnel whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Review Adjustment Date"	has the meaning given to it in paragraph 9.1.2 of this Call Off Schedule 3; and
"Supporting Documentation"	means sufficient information in writing to enable the Customer to reasonably to assess whether the Call Off Contract Charges, Reimbursable Expenses and other sums due from the Customer under this Call Off Contract detailed in the information are properly payable.

2. GENERAL PROVISIONS

1.2 This Call Off Schedule 3 details:

1.2.1 the Call Off Contract Charges for the Services under this Call Off Contract;
and

- 1.2.2 the payment terms/profile for the Call Off Contract Charges;
- 1.2.3 the invoicing procedure; and
- 1.2.4 the procedure applicable to any adjustments of the Call Off Contract Charges.

2. CALL OFF CONTRACT CHARGES

2.1 The Call Off Contract Charges which are applicable to this Call Off Contract are set out in Annex 1 of this Call Off Schedule 3.

2.2 The Supplier acknowledges and agrees that:

- 2.2.1 in accordance with paragraph 2 (General Provisions) of Framework Schedule 3, the Call Off Contract Charges can in no event exceed the Framework Prices set out in Annex 3 to Framework Schedule 3; and
- 2.2.2 subject to paragraph 7 of this Call Off Schedule 3, the Call Off Contract Charges cannot be increased during the Call Off Contract Period.

3. COSTS AND EXPENSES

3.1 Except as expressly set out in paragraph 4 of this Call Off Schedule 3, the Call Off Contract Charges include all costs and expenses relating to the Services and/or the Supplier's performance of its obligations under this Call Off Contract and no further amounts shall be payable by the Customer to the Supplier in respect of such performance, including in respect of matters such as:

- 3.1.1 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
- 3.1.2 any amount for any services provided or costs incurred by the Supplier prior to the Service Commencement Date; or
- 3.1.3 any amount for general account management, meeting attendance, data management and reporting.

3.2 Acceptance of the fee basis by the Customer will be required prior to commencement of any activity where:

- 3.2.1 the Flexible Technical Resource is being utilised by the Supplier;
- 3.2.2 resource normally employed on delivering a particular Core Service is being redirected to deliver other work in-scope of this Call Off Contract, as requested by the Customer;
- 3.2.3 Call-Off Hourly Rates are being applied by the Supplier; or
- 3.2.4 Call-Off Services or Additional Services are being commissioned by the Customer.

3.3 Where the Customer puts forward a case for a discounted price due to circumstances enabling cost efficiencies to be achieved, the Supplier will consider the case and pass the financial benefit of any agreed efficiencies back to the Customer.

3.4 In respect of the application of any hourly rates calculations applied under this Call Off Contract, the Supplier acknowledges and agrees that:

- 3.4.1 charges applied in respect of any hourly rates or the Flexible Technical Resource shall be capped at eight hours a day, unless otherwise explicitly agreed by the Customer;
- 3.4.2 all hourly rates will be inclusive of all other costs, including but not limited to travel costs;
- 3.4.3 all hourly rates will be for the delivery of work during the Core Business Hours between 0800-1730, Monday to Friday.

4. REIMBURSEABLE EXPENSES

4.1 If the Customer has so specified in the Call Off Order Form, the Supplier shall be entitled to be reimbursed by the Customer for Reimbursable Expenses (in addition to being paid the relevant Call Off Contract Charges under this Call Off Contract), provided that such Reimbursable Expenses are supported by Supporting Documentation. The Customer shall provide a copy of their current expenses policy to the Supplier upon request.

5. PAYMENT TERMS/PAYMENT PROFILE

5.1 The payment terms/profile which are applicable to this Call Off Contract are set out in Annex 2 of this Call Off Schedule 3.

6. INVOICING PROCEDURE

6.1 The Customer shall pay all sums properly due and payable to the Supplier in cleared funds within thirty (30) days of receipt of a Valid Invoice, submitted to the address specified by the Customer in paragraph 6.6 of this Call Off Schedule 3 and in accordance with the provisions of this Call Off Contract.

6.2 The Supplier shall ensure that each invoice (whether submitted electronically through a purchase-to-pay (P2P) automated system (or similar) or in a paper form, as the Customer may specify (but, in respect of paper form, subject to paragraph 7.3)):

6.2.1 contains:

6.2.1.1 all appropriate references, including the unique order reference number set out in the Call Off Order Form; and

6.2.1.2 a detailed breakdown of the Delivered Services, including the Milestone(s) (if any) and Deliverable(s) within this Call Off Contract to which the Delivered Services relate, against the applicable due and payable Call Off Contract Charges; and

6.2.2 shows separately:

6.2.2.1 any Service Credits due to the Customer; and

6.2.2.2 the VAT added to the due and payable Call Off Contract Charges in accordance with Clause 23.2 of this Call Off Contract (VAT) and the tax point date relating to the rate of VAT shown; and

6.2.3 is exclusive of any Management Charge (and the Supplier shall not attempt to increase the Call Off Contract Charges or otherwise recover from the Customer as a surcharge the Management Charge levied on it by the Authority); and

- 6.2.4 it is supported by any other documentation reasonably required by the Customer to substantiate that the invoice is a Valid Invoice.
- 6.3 If the Customer is a Central Government Body, the Customer's right to request paper form invoicing shall be subject to procurement policy note 11/15 (available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437471/PPN_e-invoicing.pdf), which sets out the policy in respect of unstructured electronic invoices submitted by the Supplier to the Customer (as may be amended from time to time).
- 6.4 The Supplier shall accept the Government Procurement Card as a means of payment for the Services where such card is agreed with the Customer to be a suitable means of payment. The Supplier shall be solely liable to pay any merchant fee levied for using the Government Procurement Card and shall not be entitled to recover this charge from the Customer.
- 6.5 All payments due by one Party to the other shall be made within thirty (30) days of receipt of a Valid Invoice unless otherwise specified in this Call Off Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- 6.6 The Supplier shall submit invoices directly to the Customer's billing address set out in the Call Off Order Form.

7. ADJUSTMENT OF CALL OFF CONTRACT CHARGES

- 7.1 The Call Off Contract Charges shall only be varied:
- 7.1.1 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 Call Off Contract Charges in accordance with Clause 22.2 (Legislative Change);
 - 7.1.2 in accordance with Clause 23.1.4 (Call Off Contract Charges and Payment) where all or part of the Call Off Contract Charges are reduced as a result of a reduction in the Framework Prices;
 - 7.1.3 where all or part of the Call Off Contract Charges are reduced as a result of a review of the Call Off Contract Charges in accordance with Clause 18 (Continuous Improvement);
 - 7.1.4 where all or part of the Call Off Contract Charges are reduced as a result of a review of Call Off Contract Charges in accordance with Clause 25 (Benchmarking);
 - 7.1.5 where all or part of the Call Off Contract Charges are reviewed and reduced in accordance with paragraph 8 of this Call Off Schedule 3;
 - 7.1.6 where a review and increase of Call Off Contract Charges is requested by the Supplier and Approved, in accordance with the provisions of paragraph 9 of this Call Off Schedule 3; or
 - 7.1.7 where Call Off Contract Charges or any component amounts or sums thereof are expressed in this Call Off Schedule 3 as "subject to increase by way of Indexation", in accordance with the provisions in paragraph 10 of this Call Off Schedule 3.

7.2 Subject to paragraphs 7.1.1 to 7.1.5 of this Call Off Schedule 3, the Call Off Contract Charges will remain fixed for the number of Contract Years specified in the Call Off Order Form.

8. SUPPLIER PERIODIC ASSESSMENT OF CALL OFF CONTRACT CHARGES

8.1 Every six (6) Months during the Call Off Contract Period, the Supplier shall assess the level of the Call Off Contract Charges to consider whether it is able to reduce them.

8.2 Such assessments by the Supplier under paragraph 8 of this Call Off Schedule 3 shall be carried out on the dates specified in the Call Off Order Form in each Contract Year (or if 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 Call Off Contract Charges it shall promptly notify the Customer in writing and such reduction shall be implemented in accordance with paragraph 11.1.5 of this Call Off Schedule 3 below.

9. SUPPLIER REQUEST FOR INCREASE OF THE CALL OFF CONTRACT CHARGES

9.1 If the Customer has so specified in the Call Off Order Form, the Supplier may request an increase in all or part of the Call Off Contract Charges in accordance with the remaining provisions of this paragraph 9 subject always to:

9.1.1 paragraph 2.2 of this Call Off Schedule 3;

9.1.2 the Supplier's request being submitted in writing at least three (3) Months before the effective date for the proposed increase in the relevant Call Off Contract Charges ("**Review Adjustment Date**") which shall be subject to paragraph 9.2 of this Call Off Schedule 3; and

9.1.3 the Approval of the Customer which shall be granted in the Customer's sole discretion.

9.2 The earliest Review Adjustment Date will be the first (1st) Working Day following the anniversary of the Services Commencement Date after the expiry of the period specified in paragraph 8.2 of this Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 10 is permitted). Thereafter any subsequent increase to any of the Call Off Contract Charges in accordance with this paragraph 9 of this Call Off Schedule 3 shall not occur before the anniversary of the previous Review Adjustment Date during the Call Off Contract Period.

9.3 To make a request for an increase of some or all of the Call Off Contract Charges in accordance with this paragraph 9, the Supplier shall provide the Customer with:

9.3.1 a list of the Call Off Contract Charges it wishes to review;

9.3.2 for each of the Call Off Contract Charges under review, written evidence of the justification for the requested increase including:

9.3.2.1 a breakdown of the profit and cost components that comprise the relevant Call Off Contract Charge;

9.3.2.2 details of the movement in the different identified cost components of the relevant Call Off Contract Charge;

- 9.3.2.3 reasons for the movement in the different identified cost components of the relevant Call Off Contract Charge;
- 9.3.2.4 evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
- 9.3.2.5 evidence that the Supplier's profit component of the relevant Call Off Contract Charge is no greater than that applying to Call Off Contract Charges using the same pricing mechanism as at the Call Off Commencement Date.

10. INDEXATION

10.1 Where the Call Off Contract Charges or any component amounts or sums thereof are expressed in this Call Off Schedule 3 as "subject to increase by way of Indexation" the following provisions shall apply:

10.1.1 the relevant adjustment shall:

10.1.1.1 be applied on the effective date of the increase in the relevant Call Off Contract Charges by way of Indexation ("**Indexation Adjustment Date**") which shall be subject to paragraph 10.1.2 of this Call Off Schedule 3;

10.1.1.2 be determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index published for the twelve (12) Months ended on the 31st of January immediately preceding the relevant Indexation Adjustment Date;

10.1.1.3 where the published CPI figure at the relevant Indexation Adjustment Date is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately confirmed or amended unless the Customer and the Supplier shall agree otherwise;

10.1.1.4 if the CPI is no longer published, the Customer and the Supplier shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified in this Call Off Schedule 3.

10.1.2 The earliest Indexation Adjustment Date will be the (1st) Working Day following the expiry of the period specified in paragraph 9.2 of this Call Off Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 11 is permitted). Thereafter any subsequent increase by way of Indexation shall not occur before the anniversary of the previous Indexation Adjustment Date during the Call Off Contract Period;

10.1.3 Except as set out in this paragraph 10 of this Call Off Schedule 3, neither the Call Off Contract Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-Contractors of the performance of their obligations under this Call Off Contract.

11. IMPLEMENTATION OF ADJUSTED CALL OFF CONTRACT CHARGES

- 11.1 Variations in accordance with the provisions of this Call Off Schedule 3 to all or part the Call Off Contract Charges (as the case may be) shall be made by the Customer to take effect:
- 11.1.1 in accordance with Clause 22.2 (Legislative Change) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 7.1.1 of this Call Off Schedule 3;
 - 11.1.2 in accordance with Clause 23.1.4 (Call Off Contract Charges and Payment) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 7.1.2 of this Call Off Schedule 3;
 - 11.1.3 in accordance with Clause 18 (Continuous Improvement) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 7.1.3 of this Call Off Schedule 3;
 - 11.1.4 in accordance with Clause 25 (Benchmarking) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 7.1.4 of this Call Off Schedule 3;
 - 11.1.5 on the dates specified in the Call Off Order Form where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 7.1.5 of this Call Off Schedule 3;
 - 11.1.6 on the Review Adjustment Date where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 7.1.6 of this Call Off Schedule 3; and
 - 11.1.7 on the Indexation Adjustment Date where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 7.1.7 of this Call Off Schedule 3,

the Parties shall amend the Call Off Contract Charges shown in Annex 1 to this Call Off Schedule 3 to reflect such variations.

ANNEX 1: CALL OFF CONTRACT CHARGES

CONTRACT RATES

1. The Contract Rates are set out overleaf:

[REDACTED]

2. The Contract Rates in the Supplier's Pricing Matrix were submitted in response to the requirements set out in the Call-Off Competition ITT, Volume 3: Evaluation Methodology. An extract regarding the intended application of pricing throughout the contract term is included below:

5.6. Volume 6: Pricing Matrix

- 5.6.1. Bidders are required to enter all their pricing into the Volume 6: Pricing Matrix ITT Final AMEND 2. All references to "worksheets" are to the worksheets within the Pricing Matrix.
- 5.6.2. Failure to complete all parts of the Pricing Matrix, or submit a Pricing Matrix which represents a pricing proposal which is clear, accurate and robust, may result in the Bid being deemed non-compliant and the Bidder being excluded from the Further Competition. Please raise BCQs to test your understanding of the requirements.
- 5.6.3. The Pricing Instructions and Guidance requires that Bidders provide costs and rates as of 1st April 2020. There is to be no indexation of the prices prior to the Commencement Date.
- 5.6.4. The service types and service levels referred to in this Volume 3: Evaluation Methodology have the meaning given to them in Call Off Schedule 2, Annex 1: The Services ("Call Off Statement of Requirements").
- 5.6.5. The type and level of resource required to undertake the Core Services at the Standard Service Level agreed between the Bidder and the Buyer shall constitute the Fixed element of the A&M service. Core Service resource can be redirected to deliver Call-Off or Additional Services*. Where Core Resource is being diverted, the relevant rates for Core Resource will be applied (see also 5.8.2).
 - 5.6.5.1. The Technical Flexible Resource shall also be used for Call-Off services or Additional Services and this shall also be treated as operating under the Fixed element.
- 5.6.6. Call-Off and Additional Services shall be delivered by the successful Bidder on an ad hoc basis, as requested by the Buyer, and, if Core Services resource (including Flexible Technical Resource) is not being diverted in order to undertake these requests, Call-Off/Additional Services resource may be required to deliver them. This shall constitute the Variable element of the A&M service.
- 5.6.7. Bidders are advised to refer to Appendix A – Guidance on Application of Resource Types & Rates of this Volume 3: Evaluation Methodology for further specific guidance.

APPENDIX B (to Volume 3): GUIDANCE ON APPLICATION OF RESOURCE TYPES & RATES

3 Types of Hourly Rates as follows:

1. Core Services Hourly Rates
2. Call-Off/Additional Services Hourly Rates
3. Technical Flexible Resource

Core Service Hourly Rates Definition:

Core Service Hourly Rates are the rates applied by Bidders in the Pricing Matrix to the resource identified to deliver the relevant Core Services. These roles (type and level) are included in the Call-Off Hourly Rates tab, but Bidders are instructed to charge no more than 10% of the Core Service Hourly Rate.

When do Core Services Hourly Rates apply?

-When Core Services (excl. Flex Tech Resource) are being undertaken or the resource that would have been employed to undertake Core Services is being redirected to Call-Off or Additional Services work. Should the Customer request that Core Service be redirected, the £ value of the Core Resource shall be applied to the cost of the necessary resources.

-Core Services Hourly Rates shall not be explicitly differentiated by time delivered (as with Call-Off/Additional Services Hourly Rates) and there will be only one rate - CBHs. The Supplier shall carry the risk of OOHs resource being required in order to complete a Core Service as agreed with the Customer.

-Core Services Hourly Rates do not apply to the Flexible Tech Resource

When do Call-Off/Additional Services Hourly Rates apply?

-When there is either no Core Services resource is being freed up or Flexible Technical Resource available to deliver the service(s) required.

-Call-Off/Additional Services Hourly Rates shall be explicitly differentiated by time delivered and there will be three rates - CBHs, OOH1 + OOH2. The supplier shall agree the application of Call-Off/Additional Services Hourly Rates to the delivery of a service with the Customer prior to undertaking the service.

-Call-Off/Additional Services Hourly Rates do not apply to the Flexible Tech Resource

When can Flexible Technical Resource (FTR) be used?

-Flexible Technical Resource is to be applied during CBHs for any type and level of resource on the 'Variable' and 'Asset Verification' tabs.

-The aim of the Flexible Technical Resource is to provide an extension to the expertise in the FM Technical Team.

* Where the Standard Service Level (as set by the successful bidder) is above the Minimum Service Level (as set by the Customer), the Standard Service Level can be dropped between itself, and the Minimum Service Level, to allow resource to be redirected to deliver Call-Off or Additional Services.

3. The Customer's and the Bidders' clarification questions and responses submitted during the competition process are set out Schedule 2, Annex 2.

ANNEX 2: PAYMENT TERMS/PROFILE

1 MONTHLY PAYMENT TERMS

- 1.1 The payment made to the Supplier each Month shall be calculated and invoiced on the basis of the Call Off Contract Charges specified in Annex 1 to this Schedule 3 (Call Off Contract Charges, Payment and Invoicing) in line with the following formula:

$$[\mathbf{TMC} = \mathbf{TMPMF} + \mathbf{AVAF} + \mathbf{MCOS}]$$

- 1.2 where:

TMC = Total Monthly Charge

TMPMF = Total Monthly Core Services Fee - The sum payable in respect of all Core Services (excluding Asset Verification Auditing) or Core Service Resource (where Core Service is diverted to Call-Off Services) provided by the Supplier during the relevant Calendar Month

AVAF = Monthly Asset Verification Auditing Fee - The sum payable in respect of all Asset Verification Auditing provided by the Supplier during the relevant Calendar Month

MCOSF = Total Monthly Call-Off Services Fee – The sum payable in respect of all Call-Off Services provided by the Supplier during the relevant Calendar Month

- 1.3 All fees will be calculated using the rates specified in Annex 1 to this Schedule 3 (Call Off Contract Charges, Payment and Invoicing).
- 1.4 Technical Flexible Resource Hours shall be paid at the SSL and any unused hours shall be carried over to the following month.

CALL OFF SCHEDULE 4: IMPLEMENTATION PLAN

1. INTRODUCTION

- 1.1. This Call Off Schedule 4 specifies the Implementation Plan in accordance with which the Supplier shall provide the Services.

2. IMPLEMENTATION PLAN

- 2.1. The Implementation Plan is set out below.

[REDACTED]

CALL OFF SCHEDULE 5: TESTING

1 INTRODUCTION

- 1.1 This Call Off Schedule 5 (Testing) sets out the approach to Testing and the different Testing activities to be undertaken, including the preparation and agreement of the Test Strategy and Test Plans.

2 TESTING OVERVIEW

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy and the Test Plans.
- 2.2 Any Disputes between the Supplier and the Customer regarding this Testing shall be referred to the Dispute Resolution Procedure.

3 TEST STRATEGY

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable but in any case no later than twenty (20) Working Days (or such other period as the Parties may agree) after the Call Off Commencement Date.
- 3.2 The final Test Strategy shall include:
 - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
 - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 3.2.3 the procedure to be followed should a Deliverable fail a Test or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
 - 3.2.4 the procedure to be followed to sign off each Test; and
 - 3.2.5 the process for the production and maintenance of reports relating to Tests.

4 TEST PLANS

- 4.1 The Supplier shall develop Test Plans for the approval of the Customer as soon as practicable but in any case no later than sixty (60) Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise) prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 4.2 Each Test Plan shall include as a minimum:
 - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested;
 - 4.2.2 a detailed procedure for the Tests to be carried out, including:
 - 4.2.2.1 the timetable for the Tests including start and end dates;
 - 4.2.2.2 the Testing mechanism;
 - 4.2.2.3 dates and methods by which the Customer can inspect Test results;
 - 4.2.2.4 the mechanism for ensuring the quality, completeness and relevance of the Tests;

4.2.2.5 the process with which the Customer will review Test Issues and progress on a timely basis; and

4.2.2.6 the re-Test procedure, the timetable and the resources which would be required for re-Testing.

4.3 The Customer shall not unreasonably withhold or delay its approval of the Test Plans and the Supplier shall implement any reasonable requirements of the Customer in the Test Plans.

5 TESTING

5.1 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.

5.2 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Customer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.

5.3 If the Supplier successfully completes the requisite Tests, the Customer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Services are implemented in accordance with this Call Off Contract.

6 TEST ISSUES

6.1 Where a Test Issue is identified by the Supplier, the Parties shall agree how such Test Issue shall be dealt with and any failure to agree by the Parties shall be resolved in accordance with the Dispute Resolution Procedure.

7 TEST QUALITY AUDIT

7.1 Without prejudice to its rights pursuant to Clause 21 (Records, Audit Access and Open Book Data), the Customer or an agent or contractor appointed by the Customer may perform on-going quality audits in respect of any part of the Testing.

7.2 If the Customer has any concerns following an audit in accordance with paragraph 7.1 the Customer will discuss such concerns with the Supplier, giving the Supplier the opportunity to provide feedback in relation to specific activities, and subsequently prepare a written report for the Supplier detailing the same to which the Supplier shall, within a reasonable timeframe, respond in writing.

7.3 If there is an inadequate response to the written report from the Supplier, the Customer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Customer.

8 OUTCOME OF TESTING

8.1 The Customer will issue a Satisfaction Certificate when it is satisfied that a Milestone has been Achieved.

8.2 If any Milestones (or any relevant part thereof) do not pass the Test in respect thereof then:

8.2.1 the Supplier shall rectify the cause of the failure and re-submit the Deliverables (or the relevant part) to Testing, provided that the Parties agree that there is sufficient time for that action prior to the relevant Milestone Date; or

8.2.2 the Parties shall treat the failure as a Supplier Default.

ANNEX 1: SATISFACTION CERTIFICATE

To: [insert name of Supplier]
FROM: [insert name of Customer]
[insert Date: dd/mm/yyyy]

Dear Sirs,

SATISFACTION CERTIFICATE

[Deliverable(s)/Milestone(s)]: *[Insert relevant description of the agreed Deliverables/Milestones]*

We refer to the agreement ("**Call Off Contract**") [insert Call Off Contract reference number] relating to the provision of the [insert description of the Services] between the [insert Customer name] ("**Customer**") and [insert Supplier name] ("**Supplier**") dated [insert Call Off Commencement Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in the Call Off Contract.

We confirm that all the [Deliverables/Milestones] relating to [] *[insert relevant description of agreed Deliverables/Milestones and/or reference numbers(s) from the Implementation Plan]* have been completed.

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Customer]

CALL OFF SCHEDULE 6: SERVICE LEVELS, SERVICE CREDITS AND PERFORMANCE MONITORING

1. SCOPE

- 1.1. The contents of this Schedule 6 will be agreed between the Parties during Mobilisation. The Supplier will work with the Authority to ensure the contents of this Schedule are agreed.
- 1.2. This Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) sets out (a) the Service Levels which the Supplier is required to achieve when providing the Services; (b) the mechanism by which Service Level Failures will be managed; and (c) the method by which the Supplier's performance of the Services will be monitored.
- 1.3. The Customer will measure, monitor and manage the Supplier's performance of the Services as set out below:
 - 1.3.1. All services to be delivered to time and quality, as defined in the Statement of Requirements and Supplier's Tender
 - 1.3.1.1. Risk + Issue Handling - Appropriate escalation / early warning + reporting of serious issues
 - 1.3.1.2. Relationship Management – FMs, Contract Mgmt Team, FM Supplier, Court Staff, etc.
 - 1.3.1.3. Standard Service Level on Core Services achieved each Calender Month
 - 1.3.1.4. Quality of Advice
 - 1.3.1.5. Responding to Requests - Capacity + Resilience
 - 1.3.1.6. Data Management

PART A: SERVICE LEVELS

1. DEFINITIONS

1.1. In this Schedule 6 the following definitions shall apply:

1.1.1. "Key Performance Failure" has the meaning given to it in paragraph 4.4;

1.1.2. "Service Level Failure" means a failure to meet or exceed a target specified in relation to a Service Level;

1.1.3. "Service Period" means a specified period of one Month commencing on the Services Commencement Date;

1.1.4. "Performance Report" means the report detailing the Supplier's performance against the Service Levels during the relevant Service Period; and

1.1.5. "Remediation Plan" means the plan proposed by the Supplier for the resolution of a Service Level Failure.

2. GENERAL PROVISIONS

2.1. The Supplier shall provide a proactive Call Off Contract manager ("Call Off Contract Manager") to ensure that all Service Levels in this Call Off Contract and Key Performance Indicators in the Framework Agreement are achieved to the highest standard throughout, respectively, the Call Off Contract Period and the Framework Period.

2.2. The Supplier shall provide a managed service through the provision of a dedicated Call Off Contract Manager where required on matters relating to:

2.2.1. Supply performance;

2.2.2. Quality of Services;

2.2.3. Customer support;

2.2.4. Complaints handling; and

2.2.5. Accurate and timely invoices.

3. PRINCIPAL POINTS

3.1. The objectives of the Service Levels are to ensure that the Services are of a consistently high quality and meet the requirements of the Customer.

4. SERVICE LEVELS

4.1. Annex 1 to this Part A of this Call Off Schedule 6 sets out the Service Levels the performance of which the Parties have agreed to measure.

4.2. The Supplier shall monitor its performance of this Call Off Contract by reference to the relevant performance criteria for achieving the Service Levels shown in Annex 1 to this Part A of Call Off Schedule 6 (the "**Service Level Performance Criteria**") and shall send the Customer a Performance Report detailing the level of service which was achieved in

accordance with the provisions of Part B (Performance Monitoring) of this Call Off Schedule 6.

- 4.3. The Supplier shall, at all times, provide the Services in such a manner that the Service Levels Performance Criteria and associated targets are achieved.
- 4.4. If the level of performance of the Supplier of any element of the provision by it of the Services during the Call Off Contract Period:
 - 4.4.1. is likely to or fails to meet any Service Level Performance Measure or
 - 4.4.2. is likely to cause or causes a Service Level Failure to occur,
 - 4.4.3. the Supplier shall immediately notify the Customer in writing and the Customer, in its absolute discretion and without prejudice to any other of its rights howsoever arising including under Clause 13 (Service Levels), may:
 - 4.4.3.1. require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Customer and to rectify or prevent a Service Level Failure or Service Level Failure from taking place or recurring; and
 - 4.4.3.2. if the action taken under paragraph 4.4.3.1 above has not already prevented or remedied the Service Level Failure, the Customer shall be entitled to instruct the Supplier to comply with the Rectification Plan Process.
- 4.5. Approval and implementation by the Customer of any Rectification Plan shall not relieve the Supplier of any continuing responsibility to achieve the Service Levels, or remedy any failure to do so, and no estoppels or waiver shall arise from any such Approval and/or implementation by the Customer.

ANNEX 1 TO PART A: SERVICE LEVELS AND SERVICE LEVELS PERFORMANCE CRITERIA

Service Level	Title	Description	Target	Rating

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PART B: PERFORMANCE MONITORING

1. PRINCIPAL POINTS

- 1.1 Part B to this Call Off Schedule 6 provides the methodology for monitoring the provision of the Services:
 - 1.1.1 to ensure that the Supplier is complying with the Service Levels; and
 - 1.1.2 for identifying any failures to achieve Service Levels in the performance of the Supplier and/or provision of the Services ("**Performance Monitoring System**").

2. REPORTING OF SERVICE FAILURES

- 2.1 The Supplier shall report all failures to achieve Service Levels and any Service Level Failure to the Customer in accordance with the processes agreed this Call Off Schedule 6.

3. PERFORMANCE MONITORING AND PERFORMANCE REVIEW

- 3.1 Within five Working Days of the end of each Service Period, the Supplier shall provide the Customer with performance monitoring reports ("**Performance Monitoring Reports**") in a format and manner acceptable to the Customer detailing its performance in respect of each of the Service Levels during that Service Period.
- 3.2 If the Performance Monitoring Reports indicates that there is a Service Level Failure, the Supplier shall:
 - 3.2.1 state the fact that there has been a Service Level Failure and identify the causes which underlie that Service Level Failure;
 - 3.2.2 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 3.2.3 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 3.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 3.2.5 such other details as the Customer may reasonably require from time to time;
 - 3.2.6 provide the Customer with a Remediation Plan in accordance with paragraph 4;
 - 3.2.7 deploy all reasonable resources and take all remedial action that is necessary to rectify or to prevent the Service Level Failure from recurring; and
 - 3.2.8 carry out the actions identified in Remediation Plan in accordance with its terms.
- 3.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("Performance Review Meetings") on a monthly basis (unless otherwise agreed). The Performance Review Meetings will be the forum for the review by the Supplier and the Customer of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):
 - 3.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier;

- 3.3.2 take place at such location and time (within normal business hours) as the Customer shall reasonably require unless otherwise agreed in advance;
 - 3.3.3 be attended by the Supplier's Representative and the Customer's Representative; and
 - 3.3.4 be fully minuted by the Supplier. The prepared minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Customer's Representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Customer's Representative at each meeting.
- 3.4 The Customer shall be entitled to raise any additional questions and/or request any further information regarding any failure to achieve Service Levels.

4. REMEDIATION PLAN

- 4.1 If there is a Performance Failure on any Service Levels the Supplier shall promptly prepare a Remediation Plan in a timescale to be agreed with the Customer and provide a copy of that plan to the Customer.
- 4.2 The Supplier (at its cost) shall implement the actions set out in the Remediation Plan and any other actions requested by the Customer as soon as reasonably practicable and with all due skill, care and diligence. The failure is expected to be addressed within the next Service Period.
- 4.3 Where a Service Level Failure continues during a further Service Period despite implementation of a Remediation Plan, the Supplier shall consider what steps should be taken to remedy further Service Level Failures and shall implement such actions as part of a revised Remediation Plan to ensure it is resolved to the Customer's satisfaction by an appropriate point within the second Service Period.
- 4.4 Where the performance failure continues or reoccurs in [3] Service Periods this will then be classed as a Key Performance Failure ("**Key Performance Failure**").

5. KEY PERFORMANCE FAILURE

- 5.1 If there is a Key Performance Failure, the Customer shall be entitled to terminate the Call Off Contract.
- 5.2 The Customer shall not be entitled to terminate for any Key Performance Failure which arises in the first six months following the Call Off Commencement Date.

6. CHANGES TO SERVICE LEVELS

- 6.1 The Parties may discuss changes to the Service Levels at any time. Any proposed changes to the Minimum or Standard Service Levels specified in Schedule 2, Annex 1: The Services shall be determined in accordance with the change mechanism under the Call Off Contract. Monthly fluctuations in Core Service volumes shall be directed through instructions from the Customer at a minimum of 10 working days notice.

7. SATISFACTION SURVEYS

- 7.1 In order to assess the level of performance of the Supplier, the Customer may undertake satisfaction surveys in respect of the Supplier's provision of the Services.

- 7.2 The Customer shall be entitled to notify the Supplier of any aspects of their performance of the Services which the responses to the satisfaction surveys reasonably suggest are not in accordance with the requirements of this Call Off Contract.
- 7.3 All other suggestions for improvements to the provision of Services shall be dealt with as part of the continuous improvement programme pursuant to Clause 18 of this Call Off Contract (Continuous Improvement).
- 7.4 The service user questionnaire that is referenced to be completed by the service users is accessible here:

https://forms.office.com/Pages/ResponsePage.aspx?id=KEeHxuZx_kGp4S6MNndq2KbM6ZKApCdNq5VYhp2JajJUQ01YVVFaRjhHR1dFWEQxTkNJOEFFSzM0My4u

CALL OFF SCHEDULE 7: SECURITY

1. DEFINITIONS

1.1 In this Call Off Schedule 7, the following definitions shall apply:

"Breach of Security"	means the occurrence of: <ul style="list-style-type: none">a) any unauthorised access to or use of the Services, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Customer Data) used by the Customer and/or the Supplier in connection with this Call Off Contract; and/orb) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Customer Data), including any copies of such information or data, used by the Customer and/or the Supplier in connection with this Call Off Contract, in either case as more particularly set out in the security requirements in the Security Policy;
"ISMS"	the information security management system and process developed by the Supplier in accordance with paragraph 3 as updated from time to time in accordance with this Schedule 7; and
"Security Tests"	tests to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.

2. INTRODUCTION

- 2.1 The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Call Off Contract will be met.
- 2.2 The Parties shall each appoint a security representative to be responsible for Security. The initial security representatives of the Parties are:
- 2.2.1 [REDACTED] – Security Representative of the Customer
 - 2.2.2 [REDACTED] – Security Representative of the Supplier
- 2.3 If the persons named in paragraphs 2.2.1 and 2.2.2 are included as Key Personnel, Clause 26 applies in relation to such persons.
- 2.4 The Customer shall clearly articulate its high-level security requirements so that the Supplier can ensure that the ISMS, security related activities and any mitigations are driven by these fundamental needs.
- 2.5 Both Parties shall provide a reasonable level of access to any members of their personnel for the purposes of designing, implementing and managing security.
- 2.6 The Supplier shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing Customer Data and any system that could directly

or indirectly have an impact on that information, and shall ensure that Customer Data remains under the effective control of the Supplier at all times.

- 2.7 The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to the Customer.
- 2.8 The Customer and the Supplier acknowledge that information security risks are shared between the Parties and that a compromise of either the Supplier or the Customer's security provisions represents an unacceptable risk to the Customer requiring immediate communication and co-operation between the Parties.

3. ISMS

- 3.1 The Supplier shall develop and submit to the Customer for the Customer's Approval, within 10 working days of the Call Off Commencement Date or such other date agreed between the Parties, an information security management system for the purposes of this Call Off Contract, which shall comply with the requirements of paragraphs 3.3 to 3.5 of this Call Off Schedule 7.
- 3.2 The Supplier acknowledges that the Customer places great emphasis on the reliability of the performance of the Services, confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Supplier shall be responsible for the effective performance of the ISMS.
- 3.3 The ISMS shall:
 - 3.3.1 unless otherwise specified by the Customer in writing, be developed to protect all aspects of the Services and all processes associated with the provision of the Services, including the Customer Premises, the Sites, any ICT, information and data (including the Customer's Confidential Information and the Customer Data) to the extent used by the Customer or the Supplier in connection with this Call Off Contract;
 - 3.3.2 meet the relevant standards in ISO/IEC 27001 and ISO/IEC27002 in accordance with paragraph 7;and
 - 3.3.3 at all times provide a level of security which:
 - (a) is in accordance with the Law and this Call Off Contract;
 - (b) as a minimum demonstrates Good Industry Practice;
 - (c) complies with the Security Policy;
 - (d) complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255910/HMG_Security_Policy_Framework_V11.0.pdf ;
 - (e) takes account of guidance issued by the Centre for Protection of National Infrastructure on Risk Management
http://www.cpni.gov.uk/Documents/Publications/2005/2005003-Risk_management.pdf
 - (f) complies with HMG Information Assurance Maturity Model and Assurance Framework <http://www.cesg.gov.uk/publications/Documents/iamm-assessment-framework.pdf>

- (g) meets any specific security threats of immediate relevance to the Services and/or Customer Data; and
 - (h) complies with the Customer's ICT policies:
 - 3.3.4 document the security incident management processes and incident response plans;
 - 3.3.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Services of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware; and
 - 3.3.6 be certified by (or by a person with the direct delegated authority of) a Supplier's main board representative, being the "Chief Security Officer", "Chief Information Officer", "Chief Technical Officer" or "Chief Financial Officer" (or equivalent as agreed in writing by the Customer in advance of issue of the relevant Security Management Plan).
- 3.4 Subject to Clause 34 (Security and Protection of Information) the references to Standards, guidance and policies contained or set out in paragraph 3.3 of this Call Off Schedule 7 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.5 If the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in paragraph 3.3 of this Call Off Schedule 7, the Supplier shall immediately notify the Customer Representative of such inconsistency and the Customer Representative shall, as soon as practicable, notify the Supplier as to which provision the Supplier shall comply with.
- 3.6 If the ISMS submitted to the Customer pursuant to paragraph 3.1 of this Call Off Schedule 7 is Approved by the Customer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Call Off Schedule 7. If the ISMS is not Approved by the Customer, the Supplier shall amend it within 10 Working Days of a notice of non-approval from the Customer and re-submit it to the Customer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of the first submission of the ISMS to the Customer. If the Customer does not Approve the ISMS following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Customer pursuant to this paragraph 3 of this Call Off Schedule 7 may be unreasonably withheld or delayed. However any failure to approve the ISMS on the grounds that it does not comply with any of the requirements set out in paragraphs 3.3 to 3.5 of this Call Off Schedule 7 shall be deemed to be reasonable.
- 3.7 Approval by the Customer of the ISMS pursuant to paragraph 3.6 of this Call Off Schedule 7 or of any change to the ISMS shall not relieve the Supplier of its obligations under this Call Off Schedule 7.

4. SECURITY MANAGEMENT PLAN

- 4.1 Within 10 Working Days after the Call Off Commencement Date, the Supplier shall prepare and submit to the Customer for Approval in accordance with paragraph 4 of this Call Off

Schedule 7 a fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of paragraph 4.2 of this Call Off Schedule 7.

4.2 The Security Management Plan shall:

- 4.2.1 be based on the initial Security Management Plan set out in Annex 2 (Security Management Plan);
- 4.2.2 comply with the Security Policy;
- 4.2.3 identify the necessary delegated organisational roles defined for those responsible for ensuring this Call Off Schedule 7 is complied with by the Supplier;
- 4.2.4 detail the process for managing any security risks from Sub-Contractors and third parties authorised by the Customer with access to the Services, processes associated with the delivery of the Services, the Customer Premises, the Sites and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) and any system that could directly or indirectly have an impact on that information, data and/or the Services;
- 4.2.5 unless otherwise specified by the Customer in writing, be developed to protect all aspects of the Services and all processes associated with the delivery of the Services, including the Customer Premises, the Sites and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) to the extent used by the Customer or the Supplier in connection with this Call Off Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Services;
- 4.2.6 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Services and all processes associated with the delivery of the Services and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Call Off Schedule 7 (including the requirements set out in paragraph 3.3 of this Call Off Schedule 7);
- 4.2.7 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Call Off Commencement Date to those incorporated in the ISMS within the timeframe agreed between the Parties.
- 4.2.8 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
- 4.2.9 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Customer engaged in the Services and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Call Off Schedule 7.

4.3 If the Security Management Plan submitted to the Customer pursuant to paragraph 3.1 of this Call Off Schedule 7 is Approved by the Customer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Call Off Schedule 7. If the Security Management Plan is not approved by the Customer, the Supplier shall amend it within 10 Working Days of a notice of non-approval from the Customer and re-submit it to the Customer for Approval. The Parties shall use all reasonable endeavours to ensure that the

Approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of the first submission to the Customer of the Security Management Plan. If the Customer does not Approve the Security Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Customer pursuant to this paragraph may be unreasonably withheld or delayed. However, any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 4.2 of this Call Off Schedule 7 shall be deemed to be reasonable.

- 4.4 Approval by the Customer of the Security Management Plan pursuant to paragraph 4.3 of this Call Off Schedule 7 or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Call Off Schedule 7.

5. AMENDMENT AND REVISION OF THE ISMS AND SECURITY MANAGEMENT PLAN

- 5.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier and at least annually to reflect:
- 5.1.1 emerging changes in Good Industry Practice;
 - 5.1.2 any change or proposed change to Services and/or associated processes;
 - 5.1.3 any changes to the Security Policy;
 - 5.1.4 any new perceived or changed security threats; and
 - 5.1.5 any reasonable change in requirement requested by the Customer.
- 5.2 The Supplier shall provide the Customer with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the Customer. The results of the review shall include, without limitation:
- 5.2.1 suggested improvements to the effectiveness of the ISMS;
 - 5.2.2 updates to the risk assessments;
 - 5.2.3 proposed modifications to respond to events that may impact on the ISMS including the security incident management process, incident response plans and general procedures and controls that affect information security; and
 - 5.2.4 suggested improvements in measuring the effectiveness of controls.
- 5.3 Subject to paragraph 5.4 of this Call Off Schedule 7, any change which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a review carried out pursuant to paragraph 5.1 of this Call Off Schedule 7, a Customer request, a change to Annex 1 (Security) or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved in writing by the Customer.
- 5.4 The Customer may, where it is reasonable to do so, Approve and require changes or amendments to the ISMS or Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Call Off Contract.

6. SECURITY TESTING

- 6.1 The Supplier shall conduct Security Tests from time to time (and at least annually across the scope of the ISMS) and additionally after any change or amendment to the ISMS (including security incident management processes and incident response plans) or the Security Management Plan. Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Customer. Subject to compliance by the Supplier with the foregoing requirements, if any Security Tests adversely affect the Supplier's ability to deliver the Services so as to meet the Service Level Performance Measures, the Supplier shall be granted relief against any resultant under-performance for the period of the Security Tests.
- 6.2 The Customer shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Customer with the results of such Security Tests (in a form approved by the Customer in advance) as soon as practicable after completion of each Security Test.
- 6.3 Without prejudice to any other right of audit or access granted to the Customer pursuant to this Call Off Contract, the Customer and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Customer may notify the Supplier of the results of such tests after completion of each such test. If any such Customer's test adversely affects the Supplier's ability to deliver the Services so as to meet the Target Performance Levels, the Supplier shall be granted relief against any resultant under-performance for the period of the Customer's test.
- 6.4 Where any Security Test carried out pursuant to paragraphs 6.2 or 6.3 of this Call Off Schedule 7 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Customer of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Customer's prior written Approval, the Supplier shall implement such changes to the ISMS and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable agreed with the Customer or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Annex 1 (Security) to this Call Off Schedule 7) or the requirements of this Call Off Schedule 7, the change to the ISMS or Security Management Plan shall be at no cost to the Customer.
- 6.5 If any repeat Security Test carried out pursuant to paragraph 6.4 of this Call Off Schedule 7 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default of this Call Off Contract.

7. ISMS COMPLIANCE

- 7.1 The Customer shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001 and/or the Security Policy.
- 7.2 If, on the basis of evidence provided by such security audits, it is the Customer's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 and/or the Security

Policy are not being achieved by the Supplier, then the Customer shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Supplier does not become compliant within the required time then the Customer shall have the right to obtain an independent audit against these standards in whole or in part.

- 7.3 If, as a result of any such independent audit as described in paragraph 7.2 of this Call Off Schedule 7 the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 and/or the Security Policy then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Customer in obtaining such audit.

8. BREACH OF SECURITY

- 8.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any breach of security or any potential or attempted Breach of Security.
- 8.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 8.1 of this Call Off Schedule 7, the Supplier shall:
- 8.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Customer) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - (b) remedy such Breach of Security or any potential or attempted Breach of Security in order to protect the integrity of the Customer Property and/or Customer Assets and/or ISMS to the extent that this is within the Supplier's control;
 - (c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to provide the Services so as to meet the relevant Service Level Performance Measures, the Supplier shall be granted relief against any resultant under-performance for such period as the Customer, acting reasonably, may specify by written notice to the Supplier;
 - (d) prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure;
 - (e) supply any requested data to the Customer (or the Computer Emergency Response Team for UK Government ("GovCertUK")) on the Customer's request within two (2) Working Days and without charge (where such requests are reasonably related to a possible incident or compromise); and
 - (f) as soon as reasonably practicable provide to the Customer full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or the potential or attempted Breach of Security, including a root cause analysis where required by the Customer.
- 8.3 If any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the ISMS with the Security Policy or the requirements of this Call Off Schedule 7, then any required change to the ISMS shall be at no cost to the Customer.

ANNEX 1: SECURITY POLICY

SEE CALL OFF ORDER FORM AT 10.4

ANNEX 2: Security Management Plan

NOTE: TO BE PRODUCED BY THE SUPPLIER AND AGREED BY THE CUSTOMER IN ACCORDANCE WITH
CLAUSE 4 SCHEDULE 7

CALL OFF SCHEDULE 8: BUSINESS CONTINUITY AND DISASTER RECOVERY

1. DEFINITIONS

1.1 In this Call Off Schedule 8, the following definitions shall apply:

"Business Continuity Plan"	has the meaning given to it in paragraph 2.2.1(b) of this Call Off Schedule 8;
"Disaster Recovery Plan"	has the meaning given to it in 2.2.1(c) of this Call Off Schedule 8;
"Disaster Recovery System"	means the system embodied in the processes and procedures for restoring the provision of Services following the occurrence of a disaster;
"Review Report"	has the meaning given to it in paragraph 6.2 of this Call Off Schedule 8;
"Supplier's Proposals"	has the meaning given to it in paragraph 6.2.3 of this Call Off Schedule 8;

2. BCDR PLAN

2.1 Within thirty 30 Working Days from the Call Off Commencement Date the Supplier shall prepare and deliver to the Customer for the Customer's written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and
- 2.1.2 the recovery of the Services in the event of a Disaster.

2.2 The BCDR Plan shall:

- 2.2.1 be divided into three parts:
 - (a) Part A which shall set out general principles applicable to the BCDR Plan;
 - (b) Part B which shall relate to business continuity (the "**Business Continuity Plan**"); and
 - (c) Part C which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and
- 2.2.2 unless otherwise required by the Customer in writing, be based upon and be consistent with the provisions of paragraphs 3, 4 and 5.

2.3 Following receipt of the draft BCDR Plan from the Supplier, the Customer shall:

- 2.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and
- 2.3.2 notify the Supplier in writing that it approves or rejects the draft BCDR Plan no later than twenty (20) Working Days after the date on which the draft BCDR Plan is first delivered to the Customer.

2.4 If the Customer rejects the draft BCDR Plan:

- 2.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and

- 2.4.2 the Supplier shall then revise the draft BCDR Plan (taking reasonable account of the Customer's comments) and shall re-submit a revised draft BCDR Plan to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 2.3 and 2.4 of this Call Off Schedule 8 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3. PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

3.1 Part A of the BCDR Plan shall:

- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the provision of the Services and any Services provided to the Customer by a Related Supplier;
- 3.1.3 contain an obligation upon the Supplier to liaise with the Customer and (at the Customer's request) any Related Suppliers with respect to issues concerning business continuity and disaster recovery where applicable;
- 3.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Customer and any of its other Related Supplier in each case as notified to the Supplier by the Customer from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Customer;
- 3.1.6 contain a risk analysis, including:
- (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Services and processes for managing the risks arising therefrom;
 - (c) identification of risks arising from the interaction of the provision of Services and with the Services provided by a Related Supplier; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-Contractors) and for the Customer;
- 3.1.9 identify the procedures for reverting to "normal service";

- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
 - 3.1.11 identify the responsibilities (if any) that the Customer has agreed it will assume in the event of the invocation of the BCDR Plan; and
 - 3.1.12 provide for the provision of technical advice and assistance to key contacts at the Customer as notified by the Customer from time to time to inform decisions in support of the Customer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
- 3.2.1 the Services are provided in accordance with this Call Off Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Customer is minimal as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002 and all other industry standards from time to time in force; and
 - 3.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the provision of Services.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Call Off Contract.

4. BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the provision of Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Customer expressly states otherwise in writing:
- 4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Services; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
- 4.2.1 address the various possible levels of failures of or disruptions to the provision of Services;
 - 4.2.2 set out the Services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such Services and steps, the "**Business Continuity Services**");

- 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Services during any period of invocation of the Business Continuity Plan; and
- 4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5. DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Customer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
 - 5.3.1 the technical design and build specification of the Disaster Recovery System;
 - 5.3.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
 - (a) data centre and disaster recovery site audits;
 - (b) backup methodology and details of the Supplier's approach to data back-up and data verification;
 - (c) identification of all potential disaster scenarios;
 - (d) risk analysis;
 - (e) documentation of processes and procedures;
 - (f) hardware configuration details;
 - (g) network planning including details of all relevant data networks and communication links;
 - (h) invocation rules;
 - (i) Service recovery procedures; and
 - (j) steps to be taken upon resumption of the provision of Services to address any prevailing effect of the failure or disruption of the provision of Services
 - 5.3.3 any applicable Service Levels with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Services during any period of invocation of the Disaster Recovery Plan;
 - 5.3.4 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;

- 5.3.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule 8; and
- 5.3.6 testing and management arrangements.

6. REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1 The Supplier shall review the BCDR Plan (and the risk analysis on which it is based):
 - 6.1.1 on a regular basis and as a minimum once every six (6) months;
 - 6.1.2 within three calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
 - 6.1.3 where the Customer requests any additional reviews (over and above those provided for in paragraphs 6.1.1 and 6.1.2 of this Call Off Schedule 8) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Customer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Customer for the Customer's approval. The costs of both Parties of any such additional reviews shall be met by the Customer except that the Supplier shall not be entitled to charge the Customer for any costs that it may incur above any estimate without the Customer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to paragraph 6.1 of this Call off Schedule 8 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within the period required by the BCDR Plan or, if no such period is required, within such period as the Customer shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Customer a report (a "**Review Report**") setting out:
 - 6.2.1 the findings of the review;
 - 6.2.2 any changes in the risk profile associated with the provision of Services; and
 - 6.2.3 the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any goods, services or systems provided by a third party.
- 6.3 Following receipt of the Review Report and the Supplier's Proposals, the Customer shall:
 - 6.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and

- 6.3.2 notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Customer.
- 6.4 If the Customer rejects the Review Report and/or the Supplier's Proposals:
- 6.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and
- 6.4.2 the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Customer's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 6.3 and 6.4 of this Call Off Schedule 8 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the Customer's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

7. TESTING OF THE BCDR PLAN

- 7.1 The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 7.2 of this Call Off Schedule 8, the Customer may require the Supplier to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Customer considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 7.2 If the Customer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Customer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Customer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with the Customer and shall liaise with the Customer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Customer in this regard. Each test shall be carried out under the supervision of the Customer or its nominee.
- 7.4 The Supplier shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with the Customer. Copies of live test data used in any such testing shall be (if so required by the Customer) destroyed or returned to the Customer on completion of the test.

- 7.5 The Supplier shall, within 20 Working Days of the conclusion of each test, provide to the Customer a report setting out:
- 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Customer, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Customer, by the date reasonably required by the Customer and set out in such notice.
- 7.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of any of its obligations under this Call Off Contract.
- 7.8 The Supplier shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Customer.

8. INVOCATION OF THE BCDR PLAN

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Customer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Customer.

CALL OFF SCHEDULE 9: EXIT MANAGEMENT

1. DEFINITIONS

1.1 In this Call Off Schedule 9, the following definitions shall apply:

"Exclusive Assets"	means those Supplier Assets used by the Supplier or a Key Sub-Contractor which are used exclusively in the provision of the Services;
"Exit Information"	has the meaning given to it in paragraph 4.1 of this Call Off Schedule 9;
"Exit Manager"	means the person appointed by each Party pursuant to paragraph 3.4 of this Call Off Schedule 9 for managing the Parties' respective obligations under this Call Off Schedule 9;
"Net Book Value"	means the net book value of the relevant Supplier Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Customer of even date with this Call Off Contract;
"Non-Exclus Assets"	means those Supplier Assets (if any) which are used by the Supplier or a Key Sub-Contractor in connection with the Services but which are also used by the Supplier or Key Sub-Contractor for other purposes;
"Registers"	means the register and configuration database referred to in paragraphs 3.1 of this Call Off Schedule 9;
"Termination Assistance"	means the activities to be performed by the Supplier pursuant to the Exit Plan, and any other assistance required by the Customer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in paragraph 6.1 of this Call Off Schedule 9;
"Termination Assistance Period"	means in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to paragraph 6.2 of this Call Off Schedule 9;
"Transferable Assets"	means those of the Exclusive Assets which are capable of legal transfer to the Customer;

"Transferable Contracts"	means the Sub-Contracts, licences for Supplier Background IPR, Project Specific IPR, licences for Third Party IPR or other agreements which are necessary to enable the Customer or any Replacement Supplier to provide the Services or the Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in paragraph 9.2.1 of this Call Off Schedule 9;
"Transferring Contracts"	has the meaning given to it in paragraph 9.2.3 of this Call Off Schedule 9.

2. INTRODUCTION

- 2.1 This Call Off Schedule 9 describes provisions that should be included in the Exit Plan, the duties and responsibilities of the Supplier to the Customer leading up to and covering the Call Off Expiry Date and the transfer of service provision to the Customer and/or a Replacement Supplier.
- 2.2 The objectives of the exit planning and service transfer arrangements are to ensure a smooth transition of the availability of the Services from the Supplier to the Customer and/or a Replacement Supplier at the Call Off Expiry Date.

3. OBLIGATIONS DURING THE CALL OFF CONTRACT PERIOD TO FACILITATE EXIT

- 3.1 During the Call Off Contract Period, the Supplier shall:
- 3.1.1 create and maintain a Register of all:
 - (a) Supplier Assets, detailing their:
 - (i) Make, model and asset number;
 - (ii) Ownership status as either Exclusive Assets or Non-Exclusive Assets;
 - (iii) Net Book Value;
 - (iv) condition and physical location; and
 - (v) use (including technical specifications).
 - (b) the sub-Contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services
 - 3.1.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Services, which shall contain sufficient detail to permit the Customer and/or Replacement Supplier to understand how the Supplier provides the Services and to enable the smooth transition of the Services with the minimum of disruption;
 - 3.1.3 agree the format of the Registers with the Customer as part of the process of agreeing the Exit Plan; and

- 3.1.4 at all times keep the Registers up to date, in particular if Assets, Sub-Contracts or other relevant agreements are added to or removed from the Services.
- 3.2 The Supplier shall:
- 3.2.1 procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Services under this Call Off Contract; and
- 3.2.2 (unless otherwise agreed by the Customer in writing) procure that all licences for Third Party IPR and all Sub-Contracts shall be assignable and/or capable of novation at the request of the Customer to the Customer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by the Customer.
- 3.3 Where the Supplier is unable to procure that any Sub-Contract or other agreement referred to in paragraph 3.2.2 of this Call Off Schedule 9 which the Supplier proposes to enter into after the Call Off Commencement Date is assignable and/or capable of novation to the Customer (and/or its nominee) and/or any Replacement Supplier without restriction or payment, the Supplier shall promptly notify the Customer of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the Customer so directs, may include the Supplier seeking an alternative Sub-Contractor or provider of Services to which the relevant agreement relates.
- 3.4 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Call Off Schedule 9 and provide written notification of such appointment to the other Party within 3 months of the Call Off Commencement Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-Contractors comply with this Call Off Schedule 9. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Call Off Schedule 9. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Call Off Contract and all matters connected with this Call Off Schedule 9 and each Party's compliance with it.

4. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 4.1 On reasonable notice at any point during the Call Off Contract Period, the Supplier shall provide to the Customer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Customer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
- 4.1.1 details of the Service(s);
- 4.1.2 a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;
- 4.1.3 an inventory of Customer Data in the Supplier's possession or control;
- 4.1.4 details of any key terms of any third-party contracts and licences, particularly as regards charges, termination, assignment and novation;

- 4.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Services;
 - 4.1.6 all information relating to Transferring Supplier Employees or those who may be Transferring Supplier Employees' required to be provided by the Supplier under this Call Off Contract such information to include the Staffing Information as defined in Schedule 10 (Staff Transfer); and
 - 4.1.7 such other material and information as the Customer shall reasonably require, (together, the "**Exit Information**").
- 4.2 The Supplier acknowledges that the Customer may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Customer is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Customer may not under this paragraph 4.2 of this Call Off Schedule 9 disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-Contractors' prices or costs).
- 4.3 The Supplier shall:
- 4.3.1 notify the Customer within 5 Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Services and shall consult with the Customer regarding such proposed material changes; and
 - 4.3.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within 10 Working Days of a request in writing from the Customer.
- 4.4 The Supplier may charge the Customer for its reasonable additional costs to the extent the Customer requests more than 4 updates in any 6 month period.
- 4.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:
- 4.5.1 prepare an informed offer for those Services; and
 - 4.5.2 not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).

5. EXIT PLAN

- 5.1 The Supplier shall, within 3 months after the Call Off Commencement Date, deliver to the Customer an Exit Plan which:
- 5.1.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the Services from the Supplier to the Customer and/or its Replacement Supplier on the expiry or termination of this Call Off Contract;
 - 5.1.2 complies with the requirements set out in paragraph 5.3 of this Call Off Schedule 9; and
 - 5.1.3 is otherwise reasonably satisfactory to the Customer.
- 5.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days of its

submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 5.3 Unless otherwise specified by the Customer or Approved, the Exit Plan shall set out, as a minimum:
- 5.3.1 how the Exit Information is obtained;
 - 5.3.2 the management structure to be employed during both transfer and cessation of the Services;
 - 5.3.3 the management structure to be employed during the Termination Assistance Period;
 - 5.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
 - 5.3.5 how the Services will transfer to the Replacement Supplier and/or the Customer, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Customer's technology components from any technology components operated by the Supplier or its Sub-Contractors (where applicable);
 - 5.3.6 details of contracts (if any) which will be available for transfer to the Customer and/or the Replacement Supplier upon the Call Off Expiry Date together with any reasonable costs required to effect such transfer (and the Supplier agrees that all assets and contracts used by the Supplier in connection with the provision of the Services will be available for such transfer);
 - 5.3.7 proposals for the training of key members of the Replacement Supplier's personnel in connection with the continuation of the provision of the Services following the Call Off Expiry Date charged at rates agreed between the Parties at that time;
 - 5.3.8 proposals for providing the Customer or a Replacement Supplier copies of all documentation:
 - (a) used in the provision of the Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Supplier; and
 - (b) relating to the use and operation of the Services;
 - 5.3.9 proposals for the assignment or novation of the provision of all services, leases, maintenance agreements and support agreements utilised by the Supplier in connection with the performance of the supply of the Services;
 - 5.3.10 proposals for the identification and return of all Customer Property in the possession of and/or control of the Supplier or any third party (including any Sub-Contractor);
 - 5.3.11 proposals for the disposal of any redundant Services and materials;
 - 5.3.12 procedures to:
 - (a) deal with requests made by the Customer and/or a Replacement Supplier for Staffing Information pursuant to Call Off Schedule 10 (Staff Transfer);

- (b) determine which Supplier Personnel are or are likely to become Transferring Supplier Employees; and
 - (c) identify or develop any measures for the purpose of the Employment Regulations envisaged in respect of Transferring Supplier Employees;
- 5.3.13 how each of the issues set out in this Call Off Schedule 9 will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or the Customer with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period; and
- 5.3.14 proposals for the supply of any other information or assistance reasonably required by the Customer or a Replacement Supplier in order to effect an orderly handover of the provision of the Services.

6. TERMINATION ASSISTANCE

- 6.1 The Customer shall be entitled to require the provision of Termination Assistance at any time during the Call Off Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least 4 months prior to the Call Off Expiry Date or as soon as reasonably practicable (but in any event, not later than one month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- 6.1.1 the date from which Termination Assistance is required;
 - 6.1.2 the nature of the Termination Assistance required; and
 - 6.1.3 the period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than 12 months after the date that the Supplier ceases to provide the Services.
- 6.2 The Customer shall have an option to extend the Termination Assistance Period beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than 6 months after the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than 20 Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Customer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier to such effect.

7. TERMINATION ASSISTANCE PERIOD

- 7.1 Throughout the Termination Assistance Period, or such shorter period as the Customer may require, the Supplier shall:
- 7.1.1 continue to provide the Services (as applicable) and, if required by the Customer pursuant to paragraph 6.1 of this Call Off Schedule 9, provide the Termination Assistance;
 - 7.1.2 in addition to providing the Services and the Termination Assistance, provide to the Customer any reasonable assistance requested by the Customer to allow the Services to continue without interruption following the termination or expiry of this Call Off Contract and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Customer and/or its Replacement Supplier;

- 7.1.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call Off Schedule 9 without additional costs to the Customer;
 - 7.1.4 provide the Services and the Termination Assistance at no detriment to the Service Level Performance Measures, save to the extent that the Parties agree otherwise in accordance with paragraph 7.3; and
 - 7.1.5 at the Customer's request and on reasonable notice, deliver up-to-date Registers to the Customer.
- 7.2 Without prejudice to the Supplier's obligations under paragraph 7.1.3 of this Call Off Schedule 9, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call Off Schedule 9 without additional costs to the Customer, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Assistance or the Exit Plan shall be subject to the Variation Procedure.
- 7.3 If the Supplier demonstrates to the Customer's reasonable satisfaction that transition of the Services and provision of the Termination Assist during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Level Performance Measure(s), the Parties shall vary the relevant Service Level Performance Measure(s) and/or the applicable Service Credits to take account of such adverse effect.

8. TERMINATION OBLIGATIONS

- 8.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 8.2 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Call Off Schedule 9), the Supplier shall:
- 8.2.1 cease to use the Customer Data;
 - 8.2.2 provide the Customer and/or the Replacement Supplier with a complete and uncorrupted version of the Customer Data in electronic form (or such other format as reasonably required by the Customer);
 - 8.2.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Customer Data and promptly certify to the Customer that it has completed such deletion;
 - 8.2.4 return to the Customer such of the following as is in the Supplier's possession or control:
 - (a) all materials created by the Supplier under this Call Off Contract in which the IPRs are owned by the Customer;
 - (b) any equipment which belongs to the Customer;
 - (c) any items that have been on-charged to the Customer, such as consumables; and

- (d) all Customer Property issued to the Supplier under Clause 31 (Customer Property). Such Customer Property shall be handed back to the Customer in good working order (allowance shall be made only for reasonable wear and tear);
 - (e) any sums prepaid by the Customer in respect of Services not Delivered by the Call Off Expiry Date;
- 8.2.5 vacate any Customer Premises; and
- 8.2.6 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Services and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier and/or any Supplier Personnel;
- 8.2.7 provide access during normal working hours to the Customer and/or the Replacement Supplier for up to twelve (12) months after expiry or termination to:
- (a) such information relating to the Services as remains in the possession or control of the Supplier; and
 - (b) such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Customer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this paragraph.
- 8.3 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Call Off Schedule 9), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or termination services or for statutory compliance purposes.
- 8.4 Except where this Call Off Contract provides otherwise, all licences, leases and authorisations granted by the Customer to the Supplier in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

9. ASSETS AND SUB-CONTRACTS

- 9.1 Following notice of termination of this Call Off Contract and during the Termination Assistance Period, the Supplier shall not, without the Customer's prior written consent:
- 9.1.1 terminate, enter into or vary any Sub-Contract;
 - 9.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets; or
 - 9.1.3 terminate, enter into or vary any licence for software in connection with the provision of Services.

- 9.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to paragraph 7.1.5 of this Call Off Schedule 9, the Customer shall provide written notice to the Supplier setting out:
- 9.2.1 which, if any, of the Transferable Assets the Customer requires to be transferred to the Customer and/or the Replacement Supplier ("**Transferring Assets**");
 - 9.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets the Customer and/or the Replacement Supplier requires the continued use of;
 - 9.2.3 which, if any, of Transferable Contracts the Customer requires to be assigned or novated to the Customer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Customer and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Customer and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Customer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Customer and/or its Replacement Supplier requires to provide the Services or the Replacement Services.
- 9.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Customer and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where the cost of the Transferring Asset has been partially or fully paid for through the Call Off Contract Charges at the Call Off expiry Date, in which case the Customer shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Call Off Contract Charges.
- 9.4 Risk in the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) on payment for the same.
- 9.5 Where the Supplier is notified in accordance with paragraph 9.2.2 of this Call Off Schedule 9 that the Customer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 9.5.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Customer) for the Customer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - 9.5.2 procure a suitable alternative to such assets and the Customer or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.
- 9.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Customer and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Customer reasonably requires to effect this novation or assignment.

- 9.7 The Customer shall:
- 9.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - 9.7.2 once a Transferring Contract is novated or assigned to the Customer and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 9.8 The Supplier shall hold any Transferring Contracts on trust for the Customer until such time as the transfer of the relevant Transferring Contract to the Customer and/or the Replacement Supplier has been effected.
- 9.9 The Supplier shall indemnify the Customer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Customer (and/or Replacement Supplier) pursuant to paragraph 9.6 of this Call Off Schedule 9 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract.

10. SUPPLIER PERSONNEL

- 10.1 The Customer and Supplier agree and acknowledge that if the Supplier ceases to provide the Services or part of them for any reason, Call Off Schedule 10 (Staff Transfer) shall apply.
- 10.2 The Supplier shall not and shall procure that any relevant Sub-Contractor shall not take any step (expressly or implicitly and directly or indirectly by itself or through any other person) without the prior written consent of the Customer to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Customer and/or the Replacement Supplier and/or Replacement Sub-Contractor.
- 10.3 During the Termination Assistance Period, the Supplier shall and shall procure that any relevant Sub-Contractor shall:
- 10.3.1 give the Customer and/or the Replacement Supplier and/or Replacement Sub-Contractor reasonable access to the Supplier's personnel and/or their consultation representatives to present the case for transferring their employment to the Customer and/or the Replacement Supplier and/or to discuss or consult on any measures envisaged by the Customer, Replacement Supplier and/or Replacement Sub-Contractor in respect of persons expected to be Transferring Supplier Employees;
 - 10.3.2 co-operate with the Customer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services.
- 10.4 The Supplier shall immediately notify the Customer or, at the direction of the Customer, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
- 10.5 The Supplier shall not for a period of 12 months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-Contractors whose employment or engagement is transferred to the Customer and/or the Replacement Supplier except that this

paragraph 10.5 shall not apply where an offer is made pursuant to an express right to make such offer under Call Off Schedule 10.1 (Staff Transfer) in respect of a Transferring Supplier Employee not identified in the Supplier's Final Supplier Personnel List.

11. CHARGES

- 11.1 Except as otherwise expressly specified in this Call Off Contract, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Customer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Call Off Schedule 9 including the preparation and implementation of the Exit Plan, the Termination Assistance and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

12. APPORTIONMENTS

- 12.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Customer and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:
- 12.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
 - 12.1.2 the Customer shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
 - 12.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 12.2 Each Party shall pay (and/or the Customer shall procure that the Replacement Supplier shall pay) any monies due under paragraph 12.1 of this Call Off Schedule 9 as soon as reasonably practicable.

CALL OFF SCHEDULE 10: STAFF TRANSFER

1. DEFINITIONS

1.1. In this Call Off Schedule 10, the following definitions shall apply:

“Admission Agreement”	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into by the Supplier where it agrees to participate in the Schemes in respect of the Services;
“Eligible Employee”	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Agreement;
“Fair Deal Employees”	those Transferring Customer Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal (and, if Part B of this Call Off Schedule 10 applies, any Transferring Former Supplier Employees who originally transferred pursuant to a Relevant Transfer under the Employment Regulations (or the predecessor legislation to the Employment Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal);
“Former Supplier”	a supplier supplying services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
“New Fair Deal”	the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October 2013 including any amendments to that document immediately prior to the Relevant Transfer Date;
“Notified Sub-Contractor”	a Sub-Contractor identified in the Annex to this Call Off Schedule 10 to whom Transferring Customer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“Replacement Sub-Contractor”	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
“Relevant Transfer”	a transfer of employment to which the Employment Regulations applies;

“Relevant Transfer Date”	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
“Schemes”	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and “alpha” introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014;
“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
“Service Transfer Date”	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
“Staffing Information”	<p>in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Customer may reasonably request (subject to all applicable provisions of the DPA), but including in an anonymised format:</p> <ul style="list-style-type: none"> (a) their ages, dates of commencement of employment or engagement, gender and place of work; (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise; (c) the identity of the employer or relevant contracting party; (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; (e) their wages, salaries, bonuses and profit sharing arrangements as applicable; (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;

- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations;

“Supplier's Final Supplier Personnel List”

a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date;

“Supplier's Provisional Supplier Personnel List”

a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;

“Transferring Customer Employees”

those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;

“Transferring Former Supplier Employees”

in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and

“Transferring Supplier Employees”

those employees of the Supplier and/or the Supplier’s Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. INTERPRETATION

2.1. Where a provision in this Call Off Schedule 10 imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Customer, Former Supplier, Replacement Supplier or Replacement Sub-Contractor, as the case may be.

PART A
TRANSFERRING CUSTOMER EMPLOYEES AT COMMENCEMENT OF SERVICES

NOT USED

PART B
TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

1.1. The Customer and the Supplier agree that:

1.1.1.the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and

1.1.2.as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-Contractor and each such Transferring Former Supplier Employee.

1.2. Subject to Paragraph 6, the Customer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Customer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

2. FORMER SUPPLIER INDEMNITIES

2.1. Subject to paragraphs 2.2 and 6, the Customer shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities arising from or as a result of:

2.1.1.any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;

2.1.2.the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

2.1.2.1. any collective agreement applicable to the Transferring Former Supplier Employees; and/or

2.1.2.2. any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;

2.1.3.any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- 2.1.3.1. in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - 2.1.3.2. in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
 - 2.1.4.a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
 - 2.1.5.any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of this Call Off Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.1.6.any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2. The indemnities in paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
- 2.2.1.arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 2.2.2.arising from the failure by the Supplier and/or any Sub-Contractor to comply with its obligations under the Employment Regulations.
- 2.3. If any person who is not identified by the Customer as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Customer as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 2.3.1.the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, to the Former Supplier; and

- 2.3.2.the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier and/or the Notified Sub-Contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 2.4. If an offer referred to in paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Customer, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5. If by the end of the 15 Working Day period specified in paragraph 2.3.2:
- 2.5.1.no such offer of employment has been made;
- 2.5.2.such offer has been made but not accepted; or
- 2.5.3.the situation has not otherwise been resolved,
- the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6. Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Customer shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7. The indemnity in paragraph 2.6:
- 2.7.1.shall not apply to:
- 2.7.1.1. any claim for:
- 2.7.1.1.1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- 2.7.1.1.2. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
- 2.7.1.2. any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
- 2.7.2.shall apply only where the notification referred to in paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to the Customer and, if applicable, the Former Supplier, within 6 months of the Call Off Commencement Date.
- 2.8. If any such person as is described in paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in paragraph 2.5, such person shall be treated as having transferred to the

Supplier or Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under the Law.

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

- 3.1. Subject to paragraph 3.2, the Supplier shall indemnify the Customer and/or the Former Supplier against any Employee Liabilities arising from or as a result of:
 - 3.1.1. any act or omission by the Supplier or any Sub-Contractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;
 - 3.1.2. the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
 - 3.1.2.1. any collective agreement applicable to the Transferring Former Supplier Employee; and/or
 - 3.1.2.2. any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 3.1.3. any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 3.1.4. any proposal by the Supplier or a Sub-Contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 3.1.5. any statement communicated to or action undertaken by the Supplier or a Sub-Contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Customer and/or the Former Supplier in writing;
 - 3.1.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - 3.1.6.1. in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - 3.1.6.2. in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the

Former Supplier to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;

- 3.1.7.a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;
 - 3.1.8.any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
 - 3.1.9.a failure by the Supplier or any Sub-Contractor to comply with its obligations under paragraph 2.8.
- 3.2. The indemnities in paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3. The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

4. INFORMATION

- 4.1. The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and/or at the Customer's direction, the Former Supplier, in writing such information as is necessary to enable the Customer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. Subject to paragraph 6, the Customer shall procure that the Former Supplier shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 5.1. The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Former Supplier Employee as set down in:
 - 5.1.1.the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007 and 2013;
 - 5.1.2.HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
 - 5.1.3.HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
 - 5.1.4.the New Fair Deal.
- 5.2. Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

6. PROCUREMENT OBLIGATIONS

- 6.1. Notwithstanding any other provisions of this Part B, where in this Part B the Customer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Customer's contract with the Former Supplier contains a contractual right in that regard which the Customer may enforce, or otherwise so that it requires only that the Customer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

7. PENSIONS

- 7.1. The Supplier shall, and shall procure that each Sub-Contractor shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART B: PENSIONS

1. PARTICIPATION

- 1.1. The Supplier undertakes to enter into the Admission Agreement in respect of Fair Deal Employees.
- 1.2. The Supplier and the Customer:
 - 1.2.1. undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
 - 1.2.2. agree that the arrangements under paragraph 1.1 include the body responsible for the Schemes notifying the Customer if the Supplier breaches any obligations it has under the Admission Agreement;
 - 1.2.3. agree, notwithstanding paragraph 1.2.2, the Supplier shall notify the Customer if it breaches any obligations it has under the Admission Agreement and when it intends to remedy such breaches; and
 - 1.2.4. agree that the Customer may terminate this Call Off Contract for material default if the Supplier breaches the Admission Agreement:
 - 1.2.4.1. and that breach is not capable of being remedied; or
 - 1.2.4.2. where such breach is capable of being remedied, the Supplier fails to remedy such breach within a reasonable time and in any event within 28 days of a notice from the Customer giving particulars of the breach and requiring the Supplier to remedy it.
- 1.3. The Supplier shall bear its own costs and all costs that the Customer reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes including without limitation the current civil service pensions administrator's on-boarding costs.

2. FUTURE SERVICE BENEFITS

- 2.1. If the Supplier is re-joining the Schemes for the first time, the Supplier shall procure that the Fair Deal Employees shall be either admitted to or offered continued membership of the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date and shall continue to accrue or accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.2. If staff have already been readmitted to the Schemes, the Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.3. The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Customer, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by

the Government Actuary's Department or any actuary nominated by the Customer in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.

- 2.4. The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3. FUNDING

- 3.1. The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2. The Supplier shall indemnify and keep indemnified the Customer on demand against any claim by, payment to, or loss incurred by the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

4. PROVISION OF INFORMATION

- 4.1.1. The Supplier and the Customer respectively undertake to each other:
 - 4.2. to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
 - 4.3. not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

- 5.1. The Supplier undertakes to the Customer to indemnify and keep indemnified the Customer on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

- 6.1. The Supplier shall comply with the requirements of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

7. SUBSEQUENT TRANSFERS

- 7.1.1. The Supplier shall:
 - 7.2. not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the Service Transfer Date;
 - 7.3. provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or the Customer may reasonably require to enable the Replacement Supplier to

participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under the New Fair Deal; and

7.4. for the applicable period either

7.4.1. after notice (for whatever reason) is given, in accordance with the other provisions of this Call Off Contract, to terminate the Agreement or any part of the Services; or

7.4.2. after the date which is two (2) years prior to the date of expiry of this Call Off Contract,

7.4.2.1. ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or the Customer, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Customer (such approval not to be unreasonably withheld). Save that this paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

8. BULK TRANSFER

8.1. Where the Supplier has set up a broadly comparable pension scheme in accordance with the provisions of paragraph 2.3, the Supplier shall:

8.1.1. fully fund any such broadly comparable pension scheme in accordance with the funding requirements set by that broadly comparable pension scheme's actuary or by the Government Actuary's Department;

8.1.2. instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Supplier and/or the Customer may reasonably require, to enable the Replacement Supplier to participate in the Schemes in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;

8.1.3. allow, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such broadly comparable pension scheme into the Schemes on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal, for the avoidance of doubt should the amount offered by the broadly comparable pension scheme be less than the amount required by the Schemes to fund day for day service ("the Shortfall"), the Supplier agrees to pay the Shortfall to the Schemes;

8.1.4. indemnify the Customer on demand for any failure to pay the Shortfall as required under paragraph 8.1.3; and

8.1.5. the provisions of this Annex surviving the termination of this Call Off Contract.

PART C

NOT USED

PART D
EMPLOYMENT EXIT PROVISIONS

1. PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1. The Supplier agrees that within twenty (20) Working Days of the earliest of:
 - 1.1.1. receipt of a notification from the Customer of a Service Transfer or intended Service Transfer;
 - 1.1.2. receipt of the giving of notice of early termination or any Partial Termination of this Call Off Contract;
 - 1.1.3. the date which is 12 months before the end of the Term; and
 - 1.1.4. receipt of a written request of the Customer at any time (provided that the Customer shall only be entitled to make one such request in any 6 month period),
- 1.2. it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Customer.
- 1.3. At least thirty (30) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Customer or at the direction of the Customer to any Replacement Supplier and/or any Replacement Sub-Contractor:
 - 1.3.1. the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
 - 1.3.2. the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.4. The Customer shall be permitted to use and disclose information provided by the Supplier under paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-Contractor.
- 1.5. The Supplier warrants, for the benefit of the Customer, any Replacement Supplier, and any Replacement Sub-Contractor that all information provided pursuant to paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.6. From the date of the earliest event referred to in paragraph 1.1, the Supplier agrees, that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Customer (not to be unreasonably withheld or delayed):
 - 1.6.1. replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
 - 1.6.2. make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);

- 1.6.3.increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
 - 1.6.4.introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
 - 1.6.5.increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
 - 1.6.6.terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,
 - 1.6.7.and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Customer or, at the direction of the Customer, any Replacement Supplier and any Replacement Sub-Contractor of any notice to terminate employment given by the Supplier or relevant Sub-Contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.
- 1.7. During the Term, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer any information the Customer may reasonably require relating to the manner in which Services are organised, which shall include:
- 1.7.1.the numbers of employees engaged in providing the Services;
 - 1.7.2.the percentage of time spent by each employee engaged in providing the Services;
 - 1.7.3.the extent to which each employee qualifies for membership of any of the Schemes or any broadly comparable scheme set up pursuant to the provisions of paragraph 2.3 of Part B of this Call Off Schedule 10 ; and
 - 1.7.4.a description of the nature of the work undertaken by each employee by location.
- 1.8. The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Customer, any Replacement Supplier and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer or, at the direction of the Customer, to any Replacement Supplier and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
- 1.8.1.the most recent month's copy pay slip data;
 - 1.8.2.details of cumulative pay for tax and pension purposes;
 - 1.8.3.details of cumulative tax paid;
 - 1.8.4.tax code;
 - 1.8.5.details of any voluntary deductions from pay; and
 - 1.8.6.bank/building society account details for payroll purposes.

2. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1. The Customer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Call Off Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-Contractor. Such change in the identity of the Supplier of such Services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Customer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2. The Supplier shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but not including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-Contractor.
- 2.3. Subject to paragraph 2.4, where a Relevant Transfer occurs the Supplier shall indemnify the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor against any Employee Liabilities arising from or as a result of:
 - 2.3.1. any act or omission of the Supplier or any Sub-Contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;
 - 2.3.2. the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:
- 2.4. any collective agreement applicable to the Transferring Supplier Employees; and/or
- 2.5. any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
 - 2.5.1. any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-

- Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.5.2.any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- 2.6. in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
- 2.7. in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Customer and/or Replacement Supplier and/or any Replacement Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- 2.7.1.a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- 2.7.2.any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor may be liable by virtue of this Call Off Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.7.3.any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Customer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.8. The indemnities in paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.8.1.arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-Contractor to occur in the period on or after the Service Transfer Date; or
- 2.8.2.arising from the Replacement Supplier's failure, and/or Replacement Sub-Contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.8.2.1. If any person who is not identified in the Supplier's Final Supplier Personnel List claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel List that his/her contract of employment

has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier and/or Replacement Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

- 2.8.2.2. the Customer shall procure that the Replacement Supplier shall, or any Replacement Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
 - 2.8.2.3. the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-Contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.9. If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-Contractor, the Customer shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.9.1. If after the 15 Working Day period specified in paragraph 2.5.2 has elapsed:
- 2.9.1.1. no such offer of employment has been made;
 - 2.9.1.2. such offer has been made but not accepted; or
 - 2.9.1.3. the situation has not otherwise been resolved
- 2.9.2. the Replacement Supplier and/or Replacement Sub-Contractor, as appropriate may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.10. Subject to the Replacement Supplier and/or Replacement Sub-Contractor acting in accordance with the provisions of paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.11. The indemnity in paragraph 2.8:
- 2.11.1. shall not apply to:
 - 2.11.1.1. any claim for:
 - 2.11.1.1.1. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - 2.11.1.1.2. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-Contractor; or

- 2.11.1.2. any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure; and
- 2.11.2. shall apply only where the notification referred to in paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-Contractor to the Supplier within 6 months of the Service Transfer Date.
- 2.12. If any such person as is described in paragraph 2.5 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-Contractor within the time scales set out in paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.
- 2.13. The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
- 2.13.1. the Supplier and/or any Sub-Contractor; and
- 2.13.2. the Replacement Supplier and/or the Replacement Sub-Contractor.
- 2.14. The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and any Replacement Supplier and/or Replacement Sub-Contractor, in writing such information as is necessary to enable the Customer, the Replacement Supplier and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Customer shall procure that the Replacement Supplier and/or Replacement Sub-Contractor, shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.15. Subject to paragraph 2.14, where a Relevant Transfer occurs the Customer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-Contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:
- 2.15.1. any act or omission of the Replacement Supplier and/or Replacement Sub-Contractor in respect of any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
- 2.15.2. the breach or non-observance by the Replacement Supplier and/or Replacement Sub-Contractor on or after the Service Transfer Date of:

- 2.16. any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or
- 2.17. any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-Contractor is contractually bound to honour;
 - 2.17.1. any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
 - 2.17.2. any proposal by the Replacement Supplier and/or Replacement Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-Contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
 - 2.17.3. any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-Contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
 - 2.17.4. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- 2.18. in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
- 2.19. in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-Contractor, to the Replacement Supplier or Replacement Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
 - 2.19.1. a failure of the Replacement Supplier or Replacement Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and
 - 2.19.2. any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee

representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.

- 2.20. The indemnities in paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

ANNEX TO SCHEDULE 10: LIST OF NOTIFIED SUB-CONTRACTORS

1. Hamson Barron Smith for Asset Verification and Condition Surveys

CALL OFF SCHEDULE 11: DISPUTE RESOLUTION PROCEDURE

1 DEFINITIONS

1.1 In this Call Off Schedule 11, the following definitions shall apply:

"CEDR"	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
"Counter Notice"	has the meaning given to it in paragraph 6.2;
"Exception"	a deviation of project tolerances in accordance with PRINCE2 methodology in respect of this Call Off Contract or in the supply of the Services;
"Expert"	the person appointed by the Parties in accordance with paragraph 5.2;
"Extraordinary Meeting"	a meeting, attended in person or over a conference call, held by the Parties in an attempt to resolve the Dispute in good faith in accordance with paragraphs 2.5 and 2.6;
"Mediator"	the independent third party appointed in accordance with paragraph 4.2; and
"Senior Officers"	are senior officials of the Customer and Supplier that have been instructed by the Customer Representative and Supplier Representative respectively to resolve the Dispute by commercial negotiation.

2 INTRODUCTION

2.1 The Parties shall seek to resolve a Dispute:

- 2.1.1 first in good faith (as prescribed in paragraphs 2.4 to 2.8);
 - 2.1.2 where the Dispute has not been resolved by good faith, the Parties shall attempt to resolve the Dispute by commercial negotiation (as prescribed in paragraph 3);
 - 2.1.3 where the Dispute has not been resolved in good faith and commercial negotiation has been unsuccessful in resolving the Dispute, then either Party may serve a Dispute Notice and shall attempt to resolve the Dispute through mediation (as prescribed in paragraph 4); and
 - 2.1.4 if mediation is not agreed by the Parties, the Parties may proceed to arbitration (as prescribed in paragraph 6) or litigation (in accordance with Clause 57 (Governing Law and Jurisdiction)).
- 2.2 Specific issues may be referred to Expert Determination (as prescribed in paragraph 5) where specified under the provisions of this Call Off Contract and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 5.

- 2.3 Save in relation to paragraph 4.5, the Parties shall bear their own legal costs in resolving Disputes under this Call Off Schedule 11.

Good faith discussions

- 2.4 Pursuant to paragraph 2.1.1, if any Dispute arises the Customer Representative and the Supplier Representative shall attempt first to resolve the Dispute in good faith, which may include (without limitation) either Party holding an Extraordinary Meeting.
- 2.5 Either Party may hold an Extraordinary Meeting by serving written notice. The written notice must give the receiving party at least 5 Working Days' notice of when the Extraordinary Meeting is to take place.
- 2.6 The Customer Representative and Supplier Representative shall attend the Extraordinary Meeting. The key personnel of the Parties may also attend the Extraordinary Meeting.
- 2.7 The representatives of the Parties attending the Extraordinary Meeting shall use their best endeavours to resolve the Dispute.
- 2.8 If the Dispute is not resolved at the Extraordinary Meeting then the Parties may attempt to hold additional Extraordinary Meetings in an attempt to resolve the Dispute. If the Extraordinary Meetings are unsuccessful in resolving the Dispute or the Dispute has not been resolved through good faith discussions 30 Working Days from when they first started, the Parties shall attempt to resolve the Dispute by commercial negotiation.

3 COMMERCIAL NEGOTIATIONS

- 3.1 Where the Parties have been unable to resolve the Dispute in good faith under paragraphs 2.4 to 2.8, pursuant to paragraph 2.1.2 the Customer and the Supplier shall use reasonable endeavours to resolve the Dispute by discussion between Senior Officers.
- 3.2 Senior Officers shall resolve the Dispute as soon as possible and in any event 30 Working Days from the date Parties agree good faith discussions were deemed unsuccessful.
- 3.3 If Senior Officers:
- 3.3.1 are 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
- 3.3.2 fail to resolve the Dispute in the timelines under paragraph 3.2,
- commercial negotiations shall be deemed unsuccessful and either Party may serve a Dispute Notice in accordance with paragraphs 3.4 and 3.5.

Dispute Notice

- 3.4 The Dispute Notice shall set out:
- 3.4.1 the material particulars of the Dispute;
- 3.4.2 the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
- 3.4.3 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 7, the reason why.

- 3.5 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Call Off Contract regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure.

4 MEDIATION

- 4.1 Pursuant to paragraph 2.1.3, if a Dispute Notice is served, the Parties shall attempt to resolve the Dispute by way of mediation. The Parties may follow the CEDR's Model Mediation Procedure which is current at the time the Dispute Notice is served (or such other version as the Parties may agree) or a mediation procedure that is agreed between the Parties.
- 4.2 If the Parties are unable to agree on the joint appointment of a Mediator within 30 Working Days from service of the Dispute Notice then either Party may apply to CEDR to nominate the Mediator.
- 4.3 If neither Party applies to CEDR to nominate the Mediator or an application to CEDR is unsuccessful under paragraph 4.2, either Party may proceed to:
- 4.3.1 hold further discussions between Senior Officers; or
 - 4.3.2 an Expert determination, as prescribed in paragraph 5; or
 - 4.3.3 arbitration, as prescribed in paragraph 6; or
 - 4.3.4 litigation in accordance with Clause 57 (Governing Law and Jurisdiction).
- 4.4 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.
- 4.5 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 Variation Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.
- 4.6 The costs of any mediation procedure used to resolve the Dispute under this paragraph 4 shall be shared equally between the Parties.

5 EXPERT DETERMINATION

- 5.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a technical matter of an accounting or financing nature (as the Parties may agree), either Party may request (such request shall not be unreasonably withheld or delayed by the Parties) by written notice to the other that the Dispute is referred to an Expert for determination.
- 5.2 The Expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within 10 Working Days, or if the person appointed is unable or unwilling to act, the Expert shall be appointed on the instructions of the relevant professional body.
- 5.3 The Expert shall act on the following basis:
- 5.3.1 he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;

- 5.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
- 5.3.3 the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within 30 Working Days of his 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;
- 5.3.4 any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within 20 Working Days of the Expert's determination being notified to the Parties;
- 5.3.5 the process shall be conducted in private and shall be confidential; and
- 5.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

6 ARBITRATION

- 6.1 Either of the Parties may, at any time before court proceedings are commenced and after the Parties have attempted to resolve the Dispute in good faith, by commercial negotiation, mediation and Expert determination (if applicable), refer the Dispute to arbitration in accordance with the provisions of paragraph 6.4.
- 6.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Customer of its intentions and the Customer shall have 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 57 (Governing Law and Jurisdiction). The Supplier shall not commence any court proceedings or arbitration until the expiry of such 15 Working Day period.
- 6.3 If:
 - 6.3.1 the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 6.4 apply;
 - 6.3.2 the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts in accordance with Clause 57 (Governing Law and Jurisdiction), the Dispute shall be so referred to the courts and the Supplier shall not commence arbitration proceedings;
 - 6.3.3 the Customer does not serve a Counter Notice within the 15 Working Days 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 57 (Governing Law and Jurisdiction) which shall (in those circumstances) have exclusive jurisdiction.
- 6.4 If any arbitration proceedings are commenced pursuant to paragraphs 6.1 to 6.3, the Parties hereby confirm that:
 - 6.4.1 all disputes, issues or claims arising out of or in connection with this Call Off Contract (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 paragraph and 6.4.6);

- 6.4.2 the arbitration shall be administered by the LCIA;
- 6.4.3 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 Call Off Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- 6.4.4 if the Parties fail to agree the appointment of the arbitrator within 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;
- 6.4.5 the arbitration proceedings shall take place in London and in the English language; and
- 6.4.6 the seat of the arbitration shall be London.

7 EXPEDITED DISPUTE TIMETABLE

- 7.1 In exceptional circumstances where the use of the times in this Call Off Schedule 11 would be considered unreasonable by the Parties, 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 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 Customer.
- 7.2 If the use of the Expedited Dispute Timetable is determined in accordance with paragraph 7.1 or is otherwise specified under the provisions of this Call Off Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs of this Call Off Schedule 11:
 - 7.2.1 in paragraph 2.8, 14 Working Days;
 - 7.2.2 in paragraph 3.2, 10 Working Days;
 - 7.2.3 in paragraph 4.2, 10 Working Days;
 - 7.2.4 in paragraph 5.2, 5 Working Days; and
 - 7.2.5 in paragraph 6.2, 10 Working Days.
- 7.3 If at any point it becomes clear that an applicable deadline under paragraph 7.2 cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the relevant deadline.
- 7.4 If, pursuant to paragraph 7.2, the Parties fail to agree within 2 Working Days after the relevant deadline has passed, the Customer may set a revised deadline provided that it is no less than 5 Working Days before the end of the period of time specified in paragraph 7.2 (or no less than 2 Working Days in the case of paragraph 5.2).
- 7.5 Any agreed extension under paragraph 7.2 has the effect of delaying the start of the subsequent stages by the period agreed in the extension. If the Customer fails to set such a revised deadline then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

8 URGENT RELIEF

- 8.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:
- 8.1.1 for interim or interlocutory remedies in relation to this Call Off Contract or infringement by the other Party of that Party's Intellectual Property Rights; or
 - 8.1.2 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; or
 - 8.1.3 if the Parties fail to resolve the Dispute following good faith discussions and commercial negotiations and mediation (where applicable) is unsuccessful within 60 Working Days or such period as may be agreed by the Parties then any Dispute between the Parties may be referred to the Courts.

CALL OFF SCHEDULE 12: VARIATION FORM

No of Call Off Order Form being varied:

.....

Variation Form No:

.....

BETWEEN:

Secretary of State for Justice on behalf of the Crown acting through the Ministry of Justice Estates Directorate Estates Cluster (the "Customer")

and

[xxxx] (the "Supplier")

1. This Call Off Contract is varied as follows:

[Refer to Clause 22.1 and insert details of the Variation]

2. Words and expressions in this Variation shall have the meanings given to them in this Call Off Contract.
3. This Call Off Contract, 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 Customer

Signature

.....

Date

.....

Name (in Capitals)

.....

Address

.....

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

Signature

.....

Date

Address

CALL OFF SCHEDULE 13: TRANSPARENCY REPORTS

- 1.1 Within two (2) months from the Call Off Commencement Date or the date so specified by the Customer in the Call Off Order Form the Supplier shall provide to the Customer for Approval (the Customer's decision to approve or not shall not be unreasonably withheld or delayed) draft Transparency Reports consistent with the content and format requirements in Annex 1 below.
- 1.2 If the Customer rejects any proposed Transparency Report, the Supplier shall submit a revised version of the relevant report for further Approval by the Customer within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Customer. If the Parties fail to agree on a draft Transparency Report the Customer shall determine what should be included.
- 1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Customer at the frequency referred to in Annex 1 of this Call Off Schedule 13 below.
- 1.4 Any disagreement in connection with the preparation and/or approval of Transparency Reports, other than under paragraph 1.2 in relation to the contents of a Transparency Report, shall be treated as a Dispute.
- 1.5 The requirements in this Call Off Schedule 13 are in addition to any other reporting requirements in this Call Off Contract.

ANNEX 1: LIST OF TRANSPARENCY REPORTS

SEE BELOW -

(ALSO FORMS APPENDIX D – GOVERNANCE PLAN OF SCHEDULE 2, ANNEX 1 - THE SERVICES)



CALL OFF SCHEDULE 14: ALTERNATIVE AND/OR ADDITIONAL CLAUSES

1 INTRODUCTION

- 1.1 This Call Off Schedule 14 specifies the range of Alternative Clauses and Additional Clauses that may be requested in the Call Off Order Form and, if requested in the Call Off Order Form, shall apply to this Call Off Contract.

2 CLAUSES SELECTED

- 2.1 The Customer may, in the Call Off Order Form, request the following Alternative Clauses:

- 2.1.1 Scots Law (see paragraph 4.1 of this Call Off Schedule 14);
- 2.1.2 Northern Ireland Law (see paragraph 4.2 of this Call Off Schedule 14);
- 2.1.3 Non-Crown Bodies (see paragraph 4.3 of this Call Off Schedule 14);
- 2.1.4 Non-FOIA Public Bodies (see paragraph 4.4 of this Call Off Schedule 14);
- 2.1.5 Financial Limits (see paragraph 4.5 of this Call Off Schedule 14).

- 2.2 The Customer may, in the Call Off Order Form, request the following Additional Clauses should apply:

- 2.2.1 Security Measures (see paragraph 5.1.2 of this Call Off Schedule 14);
- 2.2.2 Obligation to pay the Living Wage (see paragraph 6.1 to this Call Off Schedule 14);
- 2.2.3 Obligations to Advertise Supply Chain Opportunities (paragraph 8 of Call Off Schedule 14)

3 IMPLEMENTATION

- 3.1 The appropriate changes have been made in this Call Off Contract to implement the Alternative and/or Additional Clauses specified in paragraph 2.1 and the Additional Clauses specified in paragraphs 2.2 and 2.2.1 shall be deemed to be incorporated into this Call Off Contract.

4 ALTERNATIVE CLAUSES

4.1 SCOTS LAW

- 4.1.1 Law and Jurisdiction (Clause 57)
 - a) References to “England and Wales” in the original Clause 57 of this Call Off Contract (Law and Jurisdiction) shall be replaced with “Scotland”.
 - b) Where legislation is expressly mentioned in this Call Off Contract the adoption of Clause 4.1.1 (a) shall have the effect of substituting the equivalent Scots legislation.

4.2 NORTHERN IRELAND LAW

- 4.2.1 Law and Jurisdiction (Clause 57)
 - a) References to “England and Wales” in the original Clause 57 of this Call Off Contract (Law and Jurisdiction) shall be replaced with “Northern Ireland”.

- b) Where legislation is expressly mentioned in this Call Off Contract the adoption of Clause 4.1.1a) shall have the effect of substituting the equivalent Northern Ireland legislation.
- 4.2.2 Insolvency Event: In Call Off Schedule 1 (Definitions), reference to "section 123 of the Insolvency Act 1986" in limb f) of the definition of Insolvency Event shall be replaced with "Article 103 of the Insolvency (NI) Order 1989".
- 4.3 NON-CROWN BODIES
- 4.3.1 Clause 46.5.1(a) of this Call Off Contract (Official Secrets Act and Finance Act) shall be deleted.
- 4.4 NON-FOIA PUBLIC BODIES
- 4.4.1 Replace Clause 34.4 of this Call Off Contract (Transparency and Freedom of Information) with "The Customer has notified the Supplier that the Customer is exempt from the provisions of FOIA and EIR."
- 4.5 FINANCIAL LIMITS
- 4.5.1 NOT USED

5 ADDITIONAL CLAUSES: GENERAL

- 5.1.1 The following definitions to be added to Call Off Schedule 1 (Definitions) to the Call Off Order Form and the Call Off Terms:
 - a) "**Document**" includes specifications, plans, drawings, photographs and books;
 - b) "**Secret Matter**" means any matter connected with or arising out of the performance of this Call Off Contract which has been, or may hereafter be, by a notice in writing given by the Customer to the Supplier be designated 'top secret', 'secret', or 'confidential';
 - c) "**Servant**" where the Supplier is a body corporate shall include a director of that body and any person occupying in relation to that body the position of director by whatever name called.
- 5.1.2 The following new Clause 59 shall apply:

Clause 59 SECURITY MEASURES

- 59.1 The Supplier shall not, either before or after the completion or termination of this Call Off Contract, do or permit to be done anything which it knows or ought reasonably to know may result in information about a secret matter being:
 - 59.1.1 without the prior consent in writing of the Customer, disclosed to or acquired by a person who is an alien or who is a British subject by virtue only of a certificate of naturalisation in which his name was included;
 - 59.1.2 disclosed to or acquired by a person as respects whom the Customer has given to the Supplier a notice in writing which has not been cancelled stating that the Customer requires that secret matters shall not be disclosed to that person;

- 59.1.3 without the prior consent in writing of the Customer, disclosed to or acquired by any person who is not a servant of the Supplier; or
- 59.1.4 disclosed to or acquired by a person who is an employee of the Supplier except in a case where it is necessary for the proper performance of this Call Off Contract that such person shall have the information.
- 59.2 Without prejudice to the provisions of Clause 58, the Supplier shall, both before and after the completion or termination of this Call Off Contract, take all reasonable steps to ensure:
- 59.2.1 no such person as is mentioned in Clauses 59.1, 59.1.1 or 59.1.2 hereof shall have access to any item or document under the control of the Supplier containing information about a secret matter except with the prior consent in writing of the Customer;
- 59.2.2 that no visitor to any premises in which there is any item to be supplied under this Call Off Contract or where Services are being supplied shall see or discuss with the Supplier or any person employed by him any secret matter unless the visitor is authorised in writing by the Customer so to do;
- 59.2.3 that no photograph of any item to be supplied under this Call Off Contract or any portions of the Services shall be taken except insofar as may be necessary for the proper performance of this Call Off Contract or with the prior consent in writing of the Customer, and that no such photograph shall, without such consent, be published or otherwise circulated;
- 59.2.4 that all information about any secret matter and every document model or other item which contains or may reveal any such information is at all times strictly safeguarded, and that, except insofar as may be necessary for the proper performance of this Call Off Contract or with the prior consent in writing of the Customer, no copies of or extracts from any such document, model or item shall be made or used and no designation of description which may reveal information about the nature or contents of any such document, model or item shall be placed thereon; and
- 59.2.5 that if the Customer gives notice in writing to the Supplier at any time requiring the delivery to the Customer of any such document, model or item as is mentioned in Clause 59.2.3, that document, model or item (including all copies of or extracts therefrom) shall forthwith be delivered to the Customer who shall be deemed to be the owner thereof and accordingly entitled to retain the same.
- 59.3 The decision of the Customer on the question whether the Supplier has taken or is taking all reasonable steps as required by the foregoing provisions of Clause 58 shall be final and conclusive.
- 59.4 If and when directed by the Customer, the Supplier shall furnish full particulars of all people who are at any time concerned with any secret matter.

- 59.5 If and when directed by the Customer, the Supplier shall secure that any person employed by it who is specified in the direction, or is one of a class of people who may be so specified, shall sign a statement that he understands that the Official Secrets Act, 1911 to 1989 and, where applicable, the Atomic Energy Act 1946, apply to the person signing the statement both during the carrying out and after expiry or termination of a Call Off Contract.
- 59.6 If, at any time either before or after the expiry or termination of this Call Off Contract, it comes to the notice of the Supplier that any person acting without lawful authority is seeking or has sought to obtain information concerning this Call Off Contract or anything done or to be done in pursuance thereof, the matter shall be forthwith reported by the Supplier to the Customer and the report shall, in each case, be accompanied by a statement of the facts, including, if possible, the name, address and occupation of that person, and the Supplier shall be responsible for making all such arrangements as it may consider appropriate to ensure that if any such occurrence comes to the knowledge of any person employed by it, that person shall forthwith report the matter to the Supplier with a statement of the facts as aforesaid.
- 59.7 The Supplier shall place every person employed by it, other than a Sub-Contractor, who in its opinion has or will have such knowledge of any secret matter as to appreciate its significance, under a duty to the Supplier to observe the same obligations in relation to that matter as are imposed on the Supplier by Clauses 58 and 59.2 and shall, if directed by the Customer, place every person who is specified in the direction or is one of a class of people so specified, under the like duty in relation to any secret matter which may be specified in the direction, and shall at all times use its best endeavours to ensure that every person upon whom obligations are imposed by virtue of Clause 58 observes the said obligations, and the Supplier shall give such instructions and information to every such person as may be necessary for that purpose, and shall, immediately upon becoming aware of any act or omission which is or would be a breach of the said obligations, report the facts to the Supplier with all necessary particulars.
- 59.8 The Supplier shall, if directed by the Customer, include in the Sub-Contract provisions in such terms as the Customer may consider appropriate for placing the Sub-Contractor under obligations in relation to secrecy and security corresponding to those placed on the Supplier by Clause 58, but with such variations (if any) as the Customer may consider necessary. Further the Supplier shall:
- 59.8.1 give such notices, directions, requirements and decisions to its Sub-Contractors as may be necessary to bring the provisions relating to secrecy and security which are included in Sub-Contracts under Clause 58 into operation in such cases and to such extent as the Customer may direct;
- 59.8.2 if there comes to its notice any breach by the Sub-Contractor of the obligations of secrecy and security included in their Sub-Contracts in pursuance of Clause 58, notify such breach forthwith to the Customer; and

59.8.3 if and when so required by the Customer, exercise its power to determine the Sub-Contract under the provision in that Sub-Contract which corresponds to Clause 59.11.

59.9 The Supplier shall give the Customer such information and particulars as the Customer may from time to time require for the purposes of satisfying the Customer that the obligations imposed by or under the foregoing provisions of Clause 58 have been and are being observed and as to what the Supplier has done or is doing or proposes to do to secure the observance of those obligations and to prevent any breach thereof, and the Supplier shall secure that a representative of the Customer duly authorised in writing shall be entitled at reasonable times to enter and inspect any premises in which anything is being done or is to be done under this Call Off Contract or in which there is or will be any item to be supplied under this Call Off Contract, and also to inspect any document or item in any such premises or which is being made or used for the purposes of this Call Off Contract and that any such representative shall be given all such information as he may require on the occasion of, or arising out of, any such inspection.

59.10 Nothing in Clause 58 shall prevent any person from giving any information or doing anything on any occasion when it is, by virtue of any enactment, the duty of that person to give that information or do that thing.

59.11 If the Customer shall consider that any of the following events has occurred:

59.11.1 that the Supplier has committed a breach of, or failed to comply with any of, the foregoing provisions of Clause 58; or

59.11.2 that the Supplier has committed a breach of any obligations in relation to secrecy or security imposed upon it by any other contract with the Customer, or with any department or person acting on behalf of the Crown; or

59.11.3 that by reason of an act or omission on the part of the Supplier, or of a person employed by the Supplier, which does not constitute such a breach or failure as is mentioned in 59.11.2, information about a secret matter has been or is likely to be acquired by a person who, in the opinion of the Customer, ought not to have such information;

shall also decide that the interests of the State require the termination of this Call Off Contract, the Customer may by notice in writing terminate this Call Off Contract forthwith.

59.12 A decision of the Customer to terminate this Call Off Contract in accordance with the provisions of Clause 59.11 shall be final and conclusive and it shall not be necessary for any notice of such termination to specify or refer in any way to the event or considerations upon which the Customer's decision is based.

59.13 Supplier's notice

59.13.1 The Supplier may within five (5) Working Days of the termination of this Call Off Contract in accordance with the provisions of Clause 59.11, give the Customer notice in writing requesting the Customer to state whether the event upon which the Customer's decision to terminate was based is an event mentioned in Clauses 59.11, 59.11.1 or 59.11.2 and to give particulars of that event; and

59.13.2 the Customer shall within 10 Working Days of the receipt of such a request give notice in writing to the Supplier containing such a statement and particulars as are required by the request.

59.14 Matters pursuant to termination

59.14.1 The termination of this Call Off Contract pursuant to Clause 59.11 shall be without prejudice to any rights of either party which shall have accrued before the date of such termination;

59.14.2 The Supplier shall be entitled to be paid for any work or thing done under this Call Off Contract and accepted but not paid for by the Customer at the date of such termination either at the price which would have been payable under this Call Off Contract if this Call Off Contract had not been terminated, or at a reasonable price;

59.14.3 The Customer may take over any work or thing done or made under this Call Off Contract (whether completed or not) and not accepted at the date of such termination which the Customer may by notice in writing to the Supplier given within 30 Working Days from the time when the provisions of Clause 58 shall have effect, elect to take over, and the Supplier shall be entitled to be paid for any work or thing so taken over a price which, having regard to the stage which that work or thing has reached and its condition at the time it is taken over, is reasonable. The Supplier shall in accordance with directions given by the Customer, deliver any work or thing taken over under this Clause, and take all such other steps as may be reasonably necessary to enable the Customer to have the full benefit of any work or thing taken over under this Clause; and

59.14.4 Save as aforesaid, the Supplier shall not be entitled to any payment from the Customer after the termination of this Call Off Contract

59.15 If, after notice of termination of this Call Off Contract pursuant to the provisions of 59.11:

59.15.1 the Customer shall not within 10 Working Days of the receipt of a request from the Supplier, furnish such a statement and particulars as are detailed in Clause 58.13.1; or

59.15.2 the Customer shall state in the statement and particulars detailed in Clause 58.13.2. that the event upon which the Customer's decision to terminate this Call Off Contract was based is an event mentioned in Clause 58.11.3,

the respective rights and obligations of the Supplier and the Customer shall be terminated in accordance with the following provisions:

- 59.15.3 the Customer shall take over from the Supplier at a fair and reasonable price all unused and undamaged materials, bought-out parts and components and articles in course of manufacture in the possession of the Supplier upon the termination of this Call Off Contract under the provisions of Clause 58.11 and properly provided by or supplied to the Supplier for the performance of this Call Off Contract, except such materials, bought-out parts and components and articles in course of manufacture as the Supplier shall, with the concurrence of the Customer, elect to retain;
- 59.15.4 the Supplier shall prepare and deliver to the Customer within an agreed period or in default of agreement within such period as the Customer may specify, a list of all such unused and undamaged materials, bought-out parts and components and articles in course of manufacture liable to be taken over by or previously belonging to the Customer and shall deliver such materials and items in accordance with the directions of the Customer who shall pay to the Supplier fair and reasonable handling and delivery charges incurred in complying with such directions;
- 59.15.5 the Customer shall indemnify the Supplier against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the Supplier in connection with this Call Off Contract to the extent to which the said commitments, liabilities or expenditure would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call Off Contract;
- 59.15.6 if hardship to the Supplier should arise from the operation of Clause 58.15 it shall be open to the Supplier to refer the circumstances to the Customer who, on being satisfied that such hardship exists shall make such allowance, if any, as in its opinion is reasonable and the decision of the Customer on any matter arising out of this Clause 58.15 shall be final and conclusive; and

subject to the operation of Clauses 58.15.3, 58.15.4, 58.15.5 and 58.15.6 termination of this Call Off Contract shall be without prejudice to any rights of either party that may have accrued before the date of such termination.

6 OBLIGATION TO PAY THE LIVING WAGE

- 6.1 For the purposes of this paragraph 6, unless the context indicates otherwise, the expression "Living Wage" refers to the basic hourly wage calculated annually by the Resolution Foundation and overseen by the Living Wage Commission, based on the best available evidence about living standards in London and the UK.
 - 6.1.1 For the purposes of this paragraph 6, unless the context indicates otherwise "London Living Wage" means a basic hourly wage (as at the date of the Framework Agreement 2017 and as amended) of £10.55 (ten pounds and fifty-five pence pence) (before tax,

other deductions and any increase for overtime) but as is updated from time to time and notified to the Service Provider.

- 6.1.2 For the purposes of this paragraph, unless the context indicates otherwise “Living Wage” outside London means a basic hourly wage (as at the date of the Framework Agreement and as amended) of £9.00 (nine pounds) (before tax, other deductions and any increase for overtime) but as is updated from time to time and notified to the Service Provider.
- 6.2 Without prejudice to any other provision of the Framework Agreement, the Supplier shall:
- 6.2.1 ensure that none of its employees engaged in the provision of the Services within the Greater London area, or on the Authority's estate within the Greater London area, but not otherwise is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage. For the purpose of this paragraph 6.2.1 any allowance paid to the relevant employee for living costs and expenses (including accommodation provided by the Service Provider) while the relevant employee is working within the Greater London area is taken into account in determining whether employees have been paid the London Living Wage;
- 6.2.2 ensure that none of its employees engaged in the provision of the Services within the UK, but outside of the Greater London area, or on the Contracting Authority's estate within the UK, but outside of the Greater London area, but not otherwise is paid an hourly wage (or equivalent of an hourly wage) less than the Living Wage. For the purpose of this paragraph 6.2.2 any allowance paid to the relevant employee for living costs and expenses (including accommodation provided by the Service Provider) while the relevant employee is working within the UK, but outside the Greater London area is taken into account in determining whether employees have been paid the Living Wage;
- 6.2.3 ensure that none of its employees engaged in the provision of the Services is paid less than the amount to which they are entitled in their respective agreements of employment;
- 6.2.4 disseminate on behalf of the Contracting Authority to its employees engaged in the provision of the Services such perception questionnaires as the Contracting Authority may reasonably require from time to time and promptly collate and return to the Contracting Authority responses to such questionnaires; and
- 6.2.5 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage and the Living Wage.
- 6.3 For the avoidance of doubt the Service Provider shall implement any updated London Living Wage and / or Living Wage on or before 1 April in the year following notification of such updated London Living Wage.
- 6.4 The Contracting Authority reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage and / or Living Wage to the Service Provider's staff and the staff of its Sub-Contractors.
- 6.5 Any breach by the Service Provider of the provisions of this paragraph 6 shall be treated as a material breach capable of remedy in accordance with clause 38 of the Framework Agreement.

7 NOT USED

8 OBLIGATION TO ADVERTISE SUPPLY CHAIN OPPORTUNITIES

8.1 The following new Clause 61 shall apply:

Clause 61 Obligation to Advertise Supply Chain Opportunities

61.1 The Supplier shall ensure that all Sub-Contracts, which the Supplier intends to procure following date of this Call Off Contract, and which the Supplier has not, before the date of this Call Off Contract, already awarded to a particular Sub-Contractor, are:

61.1.1 advertised; and

61.1.2 awarded following a fair, transparent and competitive process proportionate to the nature and value of the Sub-Contract.

61.2 Any Sub-Contract awarded by the Supplier pursuant to Clause 61.1 must contain suitable provisions to impose, as between the parties of the Sub-Contract:

61.2.1 requirements to the same effect as those in Clause 61.1; and

61.2.2 a requirement for 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 this Clause 61.2.

9 SERVICES

9.1 The following definitions to be added to Call Off Schedule 1 (Definitions) to the Call Off Order Form and the Call Off Terms:

“Core Services” shall mean the Core Service Requirements defined in 1.1 of Schedule 2 Annex 1

“Call-Off Services” shall mean the Call-Off Service Requirements defined in 1.1 of Schedule 2 Annex 1

9.2 The following new clause shall apply:

9.2.1 The Supplier shall perform all of the Core Services at the request of the Customer in accordance with the terms of the Call Off Contract for the Call Off Contract Charges unless the Supplier has a conflict of interest or there is another reason to prevent the Supplier from undertaking the work which the Authority at its discretion (acting reasonably) considers reasonable.

9.2.2 Where instructed by the Customer the Supplier shall perform Call-Off Services in accordance with the terms of the Call Off Contract for the Call Off Contract Charges unless another charge rate has been agreed in writing by the Authority.

9.2.3 The Customer has the right to award work comprised in both Core and Call-Off Services to other providers on the Framework Agreement or suppliers not on the Framework Agreement at the Customer’s sole discretion, including where any of the following non-exhaustive circumstances are deemed to apply:

a) to leverage specific geographic/local expertise which is relevant to the services required;

b) to leverage a specialist competency or skill which is relevant to the services required;

- c) to assist with demand/manage capacity issues;
- d) where previous or ongoing poor performance, including poor performance as measured in accordance with the KPIs, Service Levels by the Supplier is likely to negatively affect its ability to deliver the required Services and such performance issues have been raised with the Supplier in advance; and
- e) to facilitate market testing and/or as a means of helping the Customer to demonstrate it is achieving best value in the use of public funds.

ANNEX 1 – CUSTOMER POLICIES

All policies listed and contained in this Annex 1 are the most up to date MoJ versions as at ITT publication:

Title	File Name
Policies	
Asbestos	FM-DR-014 Asbestos Management v3.pdf
Contractor Review	Contractor Review Form v3.pdf
Control	Control of Contractors v3.pdf
DSE	Display Screen Equipment (DSE) Procedure & Guidance - January 2019.pdf
Risk Assessment	Driving for Work Risk Assessment v3.pdf
Safe Driving	HMCTS FM Safe Driving Policy V.3.pdf
H&S	FM-DR-009 Health & Safety Policy.pdf
Fire Continuity	FM-DR-092 SSOP 12b Fire & Incident Continuity Plan.pdf
BCP	FM-DR-029 HMCTS BCP policy.pdf
Vetting	FM-DR-046 Security Vetting Contact Guide.pdf
Drugs & Alcohol	FM-DR-045 Conduct Drugs and Alcohol Guidance.pdf
Code of Conduct	FM-DR-040 General Code of Conduct.pdf
HMCTS Security Classifications	https://www.gov.uk/government/publications/government-security-classifications
Security Policy	https://www.gov.uk/government/publications/security-policy-framework
ICT Management	FM-DR-006 IT Incident Management Policy.pdf
Technical Controls	FM-DR-008 Technical Controls Policy.pdf
Risk Strategy	FM-DR-059 Risk HMCTS Risk Strategy.pdf
Fire Safety	FM-DR-010 MOJ Fire Safety Policy Oct17.pdf
Security Classificationonn	FM-DR-183 Government Security Classification.pdf
Greening	FM-DR-194 Greening Government Commitments.pdf
Evacuation	FM-DR-062 Personal Emergency Evacuation Plan Guidance
Greivance	FM-DR-041 Grievance Policy and Guidance
Whistleblowing	FM-DR-052 Whistleblowing Policy
Access Trade Unions	FMR-DR-205 Cabinet Office Joint Statement on Access Trade Unions
Forensic	FM-DR-002 Forensic Readiness Guide
Cryptography	FM-DR-003 HMG Cryptography Policy
Equality	FM-DR-001 Equality Act
Incident Reporting	FM-DR-011 Incident Reporting
Counter-Terrorism	FM-DR-017 Counter Terrorism Contingency Plan
Water	FM-DR-023 MoJ CPS Water Policy
Space Heating	FM-DR-030 HMCTS SOT Space Heating and Comfort Cooling Policy
Sustainable Operations	FM-DR-080 Sustainable Operations Policy
Carbon Energy	FM-DR-080a Sustainable Operations Carbon-energy Reduction Strategy

BREEM	FM-DR-080b Sustainable Operations Construction BREEM Policy
Sustainable Operations	FM-DR-080c Sustainable Operations Strategy
Biodiversity	FM-DR-080d Sustainable Operations Biodiversity Policy
Offshoring	OGSIRO Offshoring Policy at OFFICIAL v1.0
Offshoring A (Approval Request)	OGSIRO-A Off-shoring Annex A - Approval request form v2 02-Template (2)
Offshoring B (Factsheet)	OGSIRO-B Offshoring Factsheet A - Further guidance on Risk Type B (3)

CALL OFF SCHEDULE 15: CALL OFF TENDER

[REDACTED]

**MINISTRY OF JUSTICE ESTATES DIRECTORATE – CONTRACT FOR THE PROVISION OF FM-RELATED
AUDIT & MONITORING SERVICES**

Part 3

For and on behalf of the Supplier:

Name and Title	
Signature	
Date	

For and on behalf of the Customer:

Name and Title	
Signature	
Date	