



**LAB5061 LU Framework Agreement: Schedule 1:
Order Form and Call Off Contract**

Part 1: ORDER FORM

The Secretary of State for Health and Social Care as part of the Crown acting through the UK Health Security Agency

Wolf Laboratories Limited
Colenso House, 1 Deans Lane, Pocklington, York, YO42 2PX
 (Registered No. 3011929)

21th February 2024

Dear Sirs

Call-Off Contract No. LAB5061 LU Lot 3 - Safety for the supply of Goods and/or Services

Further to the Framework Agreement dated 15/06/2021, we wish to instruct you to supply the Goods and/or Services described below in accordance with the terms of the Framework Agreement, this Order Form and the Call-Off Terms and Conditions, as further set out and described in Brief attached at Annex A.

The particulars of this Call-Off Contract are set out below:

Item	Description						
Order Form Reference: (Front page of Call-Off Terms and Conditions)	The Order Form Reference is C246198						
Parties	Between: The Secretary of State for Health and Social Care as part of the Crown acting through the UK Health Security Agency whose registered office is at 10 South Colonnade, London, E14 5EA (Customer); and Wolf Laboratories Limited (company number 3011929) whose registered office is at Colenso House, 1 Deans Lane, Pocklington, York, YO42 2PX (Supplier).						
Call-Off KPIs (Cl. 1)	<table><tr><th>Performance Target</th><th>Key Indicator</th><th>Performance Measure</th></tr><tr><td>Respond to all operational enquiries</td><td>Provision of Response</td><td>95%</td></tr></table>	Performance Target	Key Indicator	Performance Measure	Respond to all operational enquiries	Provision of Response	95%
Performance Target	Key Indicator	Performance Measure					
Respond to all operational enquiries	Provision of Response	95%					



	within four working hours.		
	Invoice accuracy.	Accuracy	95% of all invoices are submitted accurately
	Invoice timeliness.	Timeliness	95% of all invoices are submitted on time
Charges (Cl.1)	The Charge(s) for this Order is: £328,724 (Three-hundred and twenty-nine thousand, seven hundred and fifty-three pounds)		
Contract End Date (Cl. 1)	30th September 2024		
Customer Liability Cap (Cl. 1)	Not applicable		
Delivery Date(s) (Cl. 1)	Equipment MUST be delivered prior to 31st March 2024. Should delivery not be possible prior to 31st March 2024 then the supplier will advise the Authority as soon as possible and UKHSA reserve the right to withdraw/cancel the purchase order and terminate the Contract with immediate effect		
Defects Rectification Period (Cl. 1)	In respect of the Goods to be supplied under this Call-Off Contract, the period ending 12 months after the Contract End Date, or in respect of any Goods that are repaired or replaced under [Clause 6.5] of the Call-Off Terms and Conditions, the period ending 12 months after replacement of such Goods.		
Goods (Cl. 1)	The Goods to be supplied under this Call-Off Contract are as follows: Class 2 and 3 Microbiological Safety Cabinets to be located at UKHSA Colindale and Porton Down		
Premises (Cl. 1)	The Goods are to be delivered to and/or the Services are to be supplied at: UKHSA Porton Down, Manor Farm, Porton Down Salisbury, Wiltshire, SP4 0JG		



	UKHSA Colindale 61 Colindale Avenue London NW9 5EQ
Services (Cl. 1)	The Services to be supplied under this Call-Off Contract are as follows: • Installation and commissioning of the safety cabinets to the requirements of EN 12469:2000
Services Commencement Date (Cl. 1)	Supply of the Services is to commence from the date of full signatures by both parties.
Services End Date (Cl. 1)	Supply of the Services is to end on 30th September 2024.
Supplier Liability Cap (Cl. 1)	Not applicable
Instalments (Cl. 8.4)	Not applicable
Notices (Clause 19.3)	Any written notice provided under Clause 19.1 shall be sent: In the case of the Customer: To: 10 South Colonnade, London, E14 5EA [Redacted] Marked for the attention of: [Redacted] In the case of Wolf Laboratories Limited: To: Colenso House, 1 Deans Lane, Pocklington, York, YO42 2PX [Redacted] Marked for the attention of: [Redacted]



Data Protection Particulars (Schedule 4)	Not applicable
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This Call-Off Contract incorporates all the terms and conditions of the Framework Agreement.

For the avoidance of doubt where you have carried out any work prior to the date of this Call-Off Contract in any way related to the Goods and/or Services to be supplied under this Call-Off Contract the terms and conditions of this Call-Off Contract and the Framework Agreement shall apply in respect of such work.

Words and expressions which are defined in the Framework Agreement shall have the same meaning in this Call-Off Contract unless expressly defined otherwise here.

You must not make any amendments to the Call-Off Terms and Conditions.

Nothing in this Call-Off Contract shall confer or purport to confer on any third party any benefit or the right to enforce any term of this letter pursuant to the Contracts (Rights of Third Parties) Act 1999.

Please sign and return the attached copy of this Order Form to signify your acceptance of its contents;





Annex A: Brief, Specifications and Pricing

This call-off contract is for the provision of class 2 and 3 microbiological safety cabinets to be located in UK health security sites at Colindale and Porton Down.

UKHSA - Porton Down Rare and imported pathogens laboratory (RIPL)

2x BioMAT 3 Thimble type Microbiological Safety Cabinets

BioMAT3 thimble exhaust type class 3 microbiological safety cabinet 3-glove (1500mm Main body)

1x BioMAT 3 Thimble type Microbiological Safety Cabinets

BioMAT3 thimble exhaust type class 3 microbiological safety cabinet 4-glove (1800mm Main body)

Catalogue No	Model	Item	Quantity	List Price	Quote Price	Total
CAS001-740000		To supply, deliver, position & commission BioMAT3 Thimble Exhaust type Class III Microbiological Safety Cabinet 3-Glove – (1500mm main body)				
CAS001-740000		To supply, deliver, position & commission BioMAT3 Thimble Exhaust type Class III Microbiological Safety Cabinet 4-Glove – (1800mm main body)				
CAS001-70750		Factory Acceptance Test (FAT)				
CAS001-70635		Optional Extra - Support Stand on Levelling feet				
CAS001-71800		Optional Extra - Upgrade to Motorised Shut off Dampers				



UKHSA - Porton Down

10x BM21200R Microbiological Safety Cabinets

BioMAT2 1200R Class 2 microbiological safety cabinet working width 1020mm, with night door, two fans, for recirculating applications. This unit is preconfigured with two HEPA filters in the exhaust compartment

1x BM21500R Microbiological Safety Cabinets

BioMAT2 1500R Class 2 microbiological safety cabinet working width 1320mm, with night door, dual fan, for recirculating applications. This unit is preconfigured with two HEPA filters in the exhaust compartment.

2x BioMAT2 Thimble Exhaust Type Microbiological Safety Cabinets

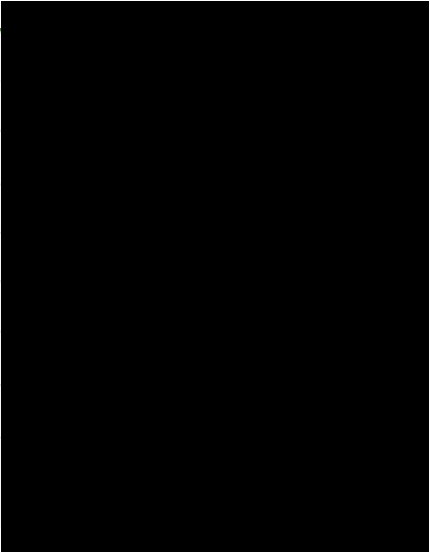
BioMAT2 Thimble exhaust type class 2 microbiological safety cabinet 1200mm wide-hinged visor.

Catalogue No	Model	Item	Quantity	List Price	Quote Price	Total
10x BM21200R Cabinets						
BM21200R	BioMAT2 1200R	Wolf special offer - Class II microbiological safety cabinet Contained Air Solutions (CAS) BioMAT2 1200R working width 1020mm, with night door, two fans, for recirculating applications. This unit is preconfigured with two HEPA filters in the exhaust compartment OFFER ENDS 31-01-2024 https://www.wolflabs.co.uk/Document/CAS_Class_II_cabinets_BioMAT2_BioMAT2-S2.pdf				
Accessories						
CAS001-70545		100% Sealable Closure Panel (1200mm)				
CAS001-71195		Motorised Shut-off damper on exhaust spigot				
1x BM21500R Cabinet						
BM21500R	BioMAT2 1500R	Class II microbiological safety cabinet Contained Air Solutions (CAS) BioMAT2 1500R working width 1320mm, with night door, dual fan, for recirculating applications. This unit is preconfigured with two HEPA filters in the exhaust compartment. https://www.wolflabs.co.uk/Document/CAS_Class_II_cabinets_BioMAT2_BioMAT2-S2.pdf				
Accessories						
CAS001-70675		100% Sealable Closure Panel (1500mm)				

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CAS001-71195		Motorised Shut-off damper on exhaust spigot
2x BioMAT2 Thimble Exhaust Type Cabinets		
CAS001-79000		BioMAT2 Thimble Exhaust Type Class II Microbiological Safety Cabinet 1,200mm wide-Hinged Visor
CAS001-71195		Motorised Shut-off damper on exhaust spigot
CAS001-70345		Thimble exhaust Extract sensor
Commissioning		
COMM		Commissioning Contained Air Solutions of safety cabinet to the requirements of EN 12469:2000, price is for a single cabinet
COMM+1		Commissioning Contained Air Solutions of safety cabinet to the requirements of EN 12469:2000, price is for additional cabinets



UKHSA – Colindale

1x BioMAT 2 Thimble type Microbiological Safety Cabinets BioMAT2 1800R Class 2 microbiological safety cabinets working width 1620mm, with night door, dual fan, for recirculating applications. Pre-configured with two hepa filters in the exhaust compartment.

Catalogue No	Model	Item
BM21800R	BioMAT2 1800R	Class II microbiological safety cabinet Contained Air Solutions (CAS) BioMAT2 1800R working width 1620mm, with night door, dual fan, for recirculating applications. This unit is preconfigured with two HEPA filters in the exhaust compartment. https://www.wolfllabs.co.uk/Document/CAS_Class_II_cabinets_BioMAT2_BioMAT2-S2.pdf
SSO		Socket Contained Air Solutions 13A, additional extra, for all BioMAT1 and BioMAT2 safety cabinets
FV		Formalin vaporiser Contained Air Solutions free standing, for all BioMAT1 and BioMAT2 safety cabinets
SND1800		Night door Contained Air Solutions 1800mm wide, 100% sealable, for BioMAT1 1800E/1800R and BioMAT2 1800E/1800R
UV		UV light Contained Air Solutions germicidal, for all CAS BioMAT1 and BioMAT2 safety cabinets and HMAT laminar flow cabinets, factory fitted or must be installed by a trained CAS engineer
VHP		VHP ports Contained Air Solutions for all BioMAT1 and BioMAT2 safety cabinets
CAS001-70425		MDAMPER1800 - Manual shut off damper
COMM		Commissioning Contained Air Solutions of safety cabinet to the requirements of EN 12469:2000, price is for a single cabinet
CAS001-POU		Delivery to point of use assuming unrestricted access



Part 2 – Call-Off Terms and Conditions

CUSTOMER

and

SUPPLIER

LAB 5061 LU Framework Agreement – Schedule 1 – Order Form and Call Off Contract - Wolf Laboratories Limited



Call-Off terms and conditions for the supply of Goods and/or Services (Lot 3)

21st February 2024

ORDER FORM REFERENCE: C246198



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Call-Off Terms and Conditions

Between:

The Customer; and

The Supplier.

(the identities of the Customer and Supplier are set out in the Order Form)

Whereas:-

The Authority acts as the lead organisation on behalf its Member Institutions (as defined below) providing its Member Institutions with pre-tendered arrangements for a variety of goods and services.

The Authority issued a contract notice 2020/S 250-626758 on 23/12/20 in the Official Journal of the European Union seeking expressions of interest from potential suppliers for the provision of certain Goods and/or Services to Member Institutions and Participating Consortium (as defined below).

Following a tender process compliant with the requirements of the Public Contracts Regulations 2015, the Authority selected a group of suppliers to be eligible to provide the Goods and/or Services on a call-off basis and entered into individual framework agreements with those suppliers and this included the Authority and the Supplier entering into the Framework Agreement (as defined below).

Pursuant to the Framework Agreement, the Customer has appointed the Supplier to provide the Goods and/or Services in accordance with the Contract (as defined below).

These Call-off Terms and Conditions set out the terms and conditions for the provision of the Goods and/or Services and the obligations of the Supplier in the provision of the Goods and/or Services.

Now it is hereby agreed as follows:-

1. Definitions and Interpretation

In this Contract the following words and expressions shall have the following meanings:-

Authority means the London Universities Purchasing Consortium (company number 04784719);

ADR Notice has the meaning given in Clause 26.5;

Anti-Slavery Laws has the meaning given in Clause 28.1;

Brief means the Customer's requirements for the supply of the Goods and/or Services annexed to the Order Form and any changes to the same notified by the Customer to the Supplier from time-to-time;

Brexit means the earlier of (i) the point at which the United Kingdom is no longer bound to comply with the terms of the Treaties; or (ii) the point at which any



phased transition arrangement agreed between the United Kingdom and the European Union leading to the withdrawal of the United Kingdom from the European Union commences;

Call-Off KPIs means the key performance indicators set out in the Order Form;

Call-Off Terms and Conditions means the terms and conditions set out in this Contract, as referred to in the Framework Agreement;

Charges means the charges set out in the Order Form (and **Charge** or **Charge(s)** shall be construed accordingly);

Contract means the written agreement between the Customer and the Supplier consisting of the Order Form (and any appendices thereto), the Brief (annexed to the Order Form) and these Call-Off Terms and Conditions;

Contract End Date means the date detailed as such in the Order Form as such date may be extended pursuant to Clause 3.3 of this Contract;

Customer Liability Cap means the amount detailed as such in the Order Form;

Customer's IP means all Intellectual Property Rights in any Documentation provided by the Customer under the Contract;

Data Protection Legislation means the Data Protection Act 2018 and GDPR and any national implementing laws, regulations and secondary legislation (as amended or updated from time to time and any successor legislation to the GDPR or the Data Protection Act 2018);

Delivery Date(s) means the date(s) detailed as such in the Order Form;

Defect means any part or parts of the Goods that are defective or not in accordance with the Contract;

Defects Rectification Period means the period set out as such in the Order Form;

Dispute means any dispute or difference of whatsoever nature in relation to the formation, operation or interpretation of, or otherwise in connection with, or arising out of, the Contract;

Dispute Notice means a written notice of any Dispute, setting out the Dispute's nature and full particulars of the Dispute and which states it is a "Disputes Notice";

Documentation means any information or documents in any form whatsoever (including paper or electronic form), including drawings, technical software, images, designs or records;

EIR means the Environmental Information Regulations 2004;

FOIA means the Freedom of Information Act 2000;

Force Majeure Event has the meaning given in Clause 18.1;



Framework Agreement means the framework agreement for the supply of the Goods and/or Services made between the Authority (1) and the Supplier (2) and dated 21st February 2024;

Framework Agreement KPIs means the key performance indicators set out in Schedule 8 to the Framework Agreement;

GBP means the United Kingdom Pound Sterling;

GDPR means the General Data Protection Regulation (EU 2016/679);

Good Industry Practice means the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier engaged in the provision of Goods and/or Services similar to the Goods and/or Services under the same or similar circumstances as those applicable to this Contract;

Goods means the goods identified as such in the Order Form;

Intellectual Property Rights means all intellectual property rights anywhere in the world including domain names, patents, design rights, copyrights including rights in computer software and databases (including database rights), rights in source code, topography right, trademarks, trade names, logos, trade secrets and know-how, and any applications or the right to make applications for any of the above, existing now or at any time in the future and whether registered or registrable or not;

KPIs means the Framework Agreement KPIs and the Call-Off KPIs;

Law means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, any applicable judgment of a relevant court of law which is a binding precedent in England and Wales, or directives or requirements of any Regulatory Body;

Losses means all liabilities, costs, expenses, damages and losses including but not limited to any direct loss, indirect loss or consequential loss, loss of contribution to incidental costs, loss of profit or overheads, loss of reputation and all interest, penalties and legal costs;

Marketing Premium has the meaning given in the Framework Agreement;

Marketing Premium Rate has the meaning given in the Framework Agreement;

Member Institution has the meaning given in the Framework Agreement;

Mini Tender has the meaning given in the Framework Agreement;

Order means the order placed by the Customer to the Supplier in accordance with the Framework Agreement, which sets out the description of the Goods and/or Services to be supplied;



Order Form means the document used by the Customer to place the Order for this Contract;

Participating Consortium has the meaning given it in the Framework Agreement;

Personnel means those personnel of the Supplier as shall be appointed by the Supplier to supply the Goods and/or Services in accordance with the Contract including the Supplier's employees and subcontractors;

Premises means the premises detailed as such in the Order Form;

Project IP means all Intellectual Property Rights in any Documentation provided by the Supplier under the Contract and all other Intellectual Property Rights created or discovered by the Supplier as a result of, for or in connection with the performance of its obligations under the Contract, but excluding Supplier's Background IP;

PCR means the Public Contracts Regulations 2015;

Regulatory Body means any government department and regulatory, statutory and other entity, committee, ombudsman and/or body which, whether under statute, rules, regulations, codes of practice or otherwise, is entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Customer;

Schedule(s) means any one or more of the schedules attached to these Call-Off Terms and Conditions;

Services means the services identified as such in the Order Form

Services Commencement Date means the date detailed as such in the Order Form;

Services End Date means the date detailed as such in the Order Form;

Supplier Liability Cap means the amount detailed as such in the Order Form;

Supplier's Background IP means all Intellectual Property Rights existing prior to the date of the Contract and used by the Supplier for or in connection with the performance of its obligations under the Contract;

Supply Rates means the rates set out in Schedule 2 of the Framework Agreement as may be amended pursuant to the procedures set out in Schedule 2;

Term means the period from the date of the Contract up to and including the earliest of:

the Contract End Date; or

the date the Contract is terminated in accordance with Clause 17;

Third Party Agreements has the meaning given in Clause 6.9;

Treaties means those referred to in section 2 of the European Communities Act 1972;



Value Added Tax means value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994; and

Variation has the meaning given in Clause 7.

In these Call-Off Terms and Conditions unless the context otherwise requires:

- 1.1.1. clause headings are inserted for convenience only and shall not affect the construction and interpretation of this Contract and all references to Clauses, Sub-clauses, or Schedules are to Clauses and Sub-clauses of, and Schedules to, these Call-Off Terms and Conditions; and
- 1.1.2. words denoting the singular number include the plural and vice versa; and
- 1.1.3. words denoting the masculine include the feminine and vice versa; and
- 1.1.4. references to persons include reference to bodies corporate and unincorporate; and
- 1.1.5. references to statutes or statutory instruments or any Law are to be construed as references to any consolidation, modification, extension, amendment, replacement or re-enactment of them from time to time and any subordinate legislation under it.

2. Contract Documents

2.1. The Contract consists of the following documents:

- 2.1.1.1. these Call-Off Terms and Conditions;
- 2.1.1.2. the Schedule(s) to these Call-Off Terms and Conditions;
- 2.1.1.3. the Order Form (and any appendices thereto); and
- 2.1.1.4. the Brief (annexed to the Order Form).

2.2. The Contract is made pursuant to the Framework Agreement.

2.3. In the event of any inconsistency or conflict between the Framework Agreement and the Contract, the Framework Agreement shall prevail.

2.4. Save in respect of the Framework Agreement, the Contract supersedes all other oral and/or written communications, representations, agreements or undertakings between the parties.

3. Appointment

3.1. The Customer appoints the Supplier as the supplier of the Goods and/or Services set out in the Order Form.

3.2. The Contract shall take effect on and from the date of the Contract and shall expire automatically at the end of the Term.

3.3. The Customer may, by giving written notice to the Supplier not less than 3 (three) month(s) before the Contract End Date, extend the Contract End Date for any



further period or periods specified in the Order Form provided that the total Term does not exceed 4 (four) years. The provisions of the Contract will apply throughout any such extended period.

3.4. Any omission on the part of the Customer to inspect, review or disapprove shall not diminish or relieve the Supplier from any of its obligations or responsibilities under or in connection with the Contract.

3.5. The Supplier shall be responsible for the accuracy of all drawings, documents and information supplied to the Customer by the Supplier in connection with the supply of the Services and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions.

4. No Partnership or Agency

4.1. Nothing in this Contract is intended to, or shall be deemed to:

4.1.1. establish any partnership or joint venture between any of the parties;

4.1.2. constitute any party as the agent of another party; or

4.1.3. authorise any party to make or enter into any commitments for or on behalf of any other party.

4.2. The Supplier confirms it is acting on its own behalf and not for the benefit of any other person.

5. Non Exclusivity

The Supplier acknowledges that, in entering the Contract, no form of exclusivity has been granted by the Customer for the supply of any Goods and/or Services and that the Customer is at all times entitled to enter into other contracts and arrangements with any other suppliers for the supply of any Goods and/or Services which are the same or similar to that which the Supplier may supply.

6. Supply of the Goods and/or Services

6.1. The Supplier warrants to the Customer that:

6.1.1.1. it shall and shall continue to supply the relevant Goods and/or Services diligently and in accordance with the Contract and in compliance with all applicable Laws and Good Industry Practice;

6.1.1.2. it has exercised and shall continue to exercise in the performance of all its duties under the Contract all the skill, care and diligence reasonably to be expected of a properly qualified and competent supplier experienced in the supply of Goods and/or Services of a similar nature to the Goods and/or Services;

6.1.1.3. it shall supply the relevant Goods and/or Services in such a manner and at such times so that no act, omission or default of the Supplier shall cause or contribute to any breach of Law;



- 6.1.1.4. it shall supply the relevant Goods and/or Services in compliance with all reasonable instructions given in writing under or in connection with the Contract;
- 6.1.1.5. it shall at all times observe and provide the Goods and/or Services in accordance with the KPIs;
- 6.1.1.6. all relevant Goods supplied by the Supplier shall:
 - 6.1.1.6.1. be fit for the purpose specified in the Brief;
 - 6.1.1.6.2. be new, undamaged and free from defects in design, material and workmanship;
 - 6.1.1.6.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979 as amended);
 - 6.1.1.6.4. be properly packaged to survive transit and storage without damage, clearly labelled and addressed; and
 - 6.1.1.6.5. otherwise comply with all applicable Laws.
- 6.2. Upon delivery of the Goods, the Supplier shall provide the Customer with a delivery note specifying any relevant details to the site contact (to be provided by the supplier to the customer).
- 6.3. Notwithstanding the provisions of Clause 6.6, the Customer shall be entitled to reject the Goods by notice to the Supplier within 30 (thirty) days of delivery to the Premises if they do not comply with the terms of the Contract. Any rejected Goods shall be returned to the Supplier at the Supplier's risk and expense and the Supplier shall be required to deliver replacement Goods to the Customer within 15 (fifteen) days of receipt of the Customer's rejection notice, at no extra cost to the Customer. A Customer's right to reject under this Clause 6.3 shall apply equally to any Goods replaced hereunder.
- 6.4. No failure by a Customer to reject the relevant Goods under Clause 6.3 shall constitute acceptance or acknowledgment by the Customer of the relevant Goods or the condition in which they were delivered, or in any way diminish or relieve the Supplier from any of its obligations or responsibilities under or in connection with the Contract.
- 6.5. Notwithstanding Clause 6.6, during the Term and the applicable Defects Rectification Period, the Supplier shall make good any Defect(s) discovered in the Goods (by replacement or otherwise) at its own cost and expense within 30 (thirty) days (or such other time period as may be agreed between the relevant Customer and the Supplier) of receiving notice from the Customer regarding the Defect, provided always that such Defect did not arise as a result of the Customer using the Goods other than in accordance with their proper usage. If the Supplier fails to comply with its obligations under this Clause 6.5, the Customer shall be entitled to engage another supplier to make good any Defect(s) discovered in the relevant Goods and the Customer shall be entitled to recover the cost of doing so from the Supplier as a debt.



6.6. Title to the Goods (or part thereof) shall pass to the Customer upon the earlier of:

6.6.1. delivery of the Goods (or part thereof) to the Premises in accordance with the Contract; or

6.6.2. payment for the Goods (or part thereof) in accordance with the Contract.

6.7. If title to the Goods (or part thereof) passes to the Customer prior to delivery, the Supplier shall arrange for the Goods to be marked as the Customer's property and shall ensure that they are stored and handled separately from other goods.

6.8. Risk of loss or damage to the Goods (or part thereof) shall pass to the Customer when title to the relevant Goods (or part thereof) passes to the Customer pursuant to Clause 6.7 of the Goods (or part thereof) to the Premises in accordance with the Contract, save to the extent that any loss or damage to the Goods (or part thereof) which occurs after title to the Goods (or part thereof) has passed to the Customer is attributable to an act of the Supplier or its Personnel.

6.9. The Supplier shall have regard to all obligations on the part of the Customer in any third party agreements or in any other documentation relating to the Contract to which the Customer is a party to and of which copies (subject to the deletion of any confidential information therein) have been provided by or on behalf of the Customer (**Third Party Agreements**). The Supplier warrants and undertakes to the Customer that the Supplier will supply the relevant Goods and/or Services and will perform its obligations under the Contract in such a manner and at such times that no act, omission or default of the Supplier shall cause or contribute to any breach by the Customer of any of its obligations under the Third Party Agreements or other documentation mentioned in this Clause 6.9.

6.10. If the Supplier becomes aware of any matter that may impact on its ability to deliver the relevant Goods and/or Services in accordance with the Contract, it must immediately notify the Customer and shall propose and, if accepted by the Customer, implement any measures which may be practical to overcome or reduce any adverse impact on the Customer. The Supplier shall bear the cost of implementing such measures.

6.11. The Supplier shall comply with the provisions of Schedule 5 of the



Call Off Terms and Conditions, Key Performance Indicators.

7. Variations to the Contract

7.1. The parties acknowledge that the Customer may, at any time:

7.1.1. instruct the Supplier to add or omit any Goods and/or Services to or from that which is being supplied under the Contract; or

7.1.2. instruct a change to the Brief annexed to the Order Form,

(a **Variation**)

provided always that such Variation shall not amount to a substantial variation for the purposes of regulation 72 of PCR (which the Customer shall determine in its sole discretion).

7.2. If any Variation instructed by the Customer shall:

7.2.1. in respect of the Goods and/or Services being supplied under the Contract, increase or decrease the relevant Charge(s); and/or

7.2.2. in respect only of the Goods being supplied under the Contract, affect the Supplier's ability to supply the Goods by the relevant Delivery Date(s).

7.2.3. the Supplier shall submit a quotation to the Customer within [10] ([ten]) days of the Variation instruction setting out the proposed increase or decrease to the relevant Charge(s) (calculated solely on the basis of the Supply Rates) [and, where Clause 7.2.2 applies, the proposed extension(s) to the relevant Delivery Date(s)].

7.3. Within 10 (ten) days of receipt of a Supplier's quotation pursuant to Clause 7.2, the Customer shall either accept the quotation, in which case the relevant Charge(s) and Delivery Date(s) (if applicable) shall be adjusted accordingly, or withdraw the Variation instruction.

7.4. Until the Supplier's quotation is accepted in accordance with Clause 7.3, the Supplier shall continue to perform its obligations under the Contract as if the Variation had not been instructed and the Supplier agrees that the preparation of a quotation to be provided under Clause 7.2 will not cause any delay to the supply of the relevant Goods and/or Services.

7.5. The Supplier shall have no entitlement to any increase in the relevant Charge or any extension(s) to the relevant Delivery Date(s) where it complies with a Variation instruction prior to its quotation being accepted in accordance with Clause 7.3.

7.6. The Customer shall be entitled to refuse any Variation which does or could amount to a substantial variation for the purposes of regulation 72 of PCR.

7.7. The Supplier may request, in writing, a variation to the Charge(s) in the event there is a change in Law which was not reasonably foreseeable prior to the date of the Contract which impacts on the Charge under the Contract. If the Supplier so requests a variation, the parties shall meet within 10 (ten) days of the date of such written request and shall agree any changes to the Charge in writing.



7.8. The Supplier and Customer acknowledge that in the event that the Supply Rates are amended in accordance with the procedures set out in Schedule 2 of the Framework Agreement, such amendments shall not apply to the Charge under this Contract unless agreed otherwise in writing between the parties and the Authority (in accordance with paragraph 8 of Schedule 2 of the Framework Agreement).

8. Payment of the Charge(s) and the Marketing Premium

Payment of the Charge(s)

8.1. The Customer shall pay the Supplier the Charge(s) as stated in Order Form as full remuneration for the supply of the Goods and/or Services in accordance with the Contract.

8.2. Each Charge is fully inclusive of all costs and expenses of every kind incurred by the Supplier in connection with the supply of the Goods and/or Services.

8.3. For the avoidance of doubt each Charge shall be exclusive of Value Added Tax. The Customer shall account for and pay the total amount of Value Added Tax properly due thereon.

8.4. The Charge(s) shall be paid to the Supplier in accordance with any stages set out in the Order Form and within 30 (thirty) days of receipt of properly rendered invoice(s) in accordance with Clause 8.5.

8.5. The Supplier shall submit invoices to the Customer in respect of any of the Charge(s) properly due to the Supplier under the Contract and all invoices submitted by the Supplier shall show amounts due.

8.6. Where any sum due under the Contract is not paid in full by the relevant due date, the Supplier shall be entitled (without prejudice to any other right or remedy) to suspend performance of its obligations under the Contract, provided that the Supplier shall give the relevant Customer not less than 14 (fourteen) days' notice of its intention to suspend performance of its obligations under the Contract and stating the ground(s) on which it intends to suspend performance. The right to suspend performance shall cease when the Customer makes payment in full of the amount due. Any period during which performance is suspended shall be disregarded for the purposes of any contractual time limit the time taken by the Supplier to supply the relevant Goods and/or Services.

8.7. If the Customer fails to pay an amount due to the Supplier by the relevant due date, simple interest shall be added to the unpaid sum from the final date for payment until the actual date for payment. Such interest shall be calculated on a daily basis at the annual rate of 8% above the Bank of England base rate, together with any fixed charges, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and the late payment of Commercial Debts Regulations 2013.

8.8. The Supplier acknowledges and agrees that the Authority, or any other Participating Consortia or any Member Institution has no liability to the Supplier for the payment of any Charges due to the Supplier pursuant to the Contract, unless the Authority or such Participating Consortia or Member Institution is the Customer under the Contract.



Payment of the Marketing Premium

8.9. The parties acknowledge that where the Customer is a Member Institution, the Supplier shall pay the Marketing Premium in accordance with the provisions of the Framework Agreement and that the Marketing Premium Percentage may be amended during the Term in accordance with Clause 9.14 of the Framework Agreement.

9. Set Off

9.1. The parties acknowledge that the Customer may at any time, without notice to the Supplier, set-off any liability owed by the Supplier to the Customer against any liability owed by the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated and whether or not liability arises under the Contract. Any such exercise of set-off by the Customer shall not limit or affect any of the Customer's rights or remedies available under this Contract.

9.2. For the avoidance of doubt, all amounts due from the Supplier to the Customer under this Contract shall be paid in full without any set-off, counterclaim, deduction or withholding by the Supplier.

10. Personnel

10.1. The Supplier warrants to the Customer that all of the Supplier's Personnel shall at all times have the necessary qualifications and experience to perform their duties as required under the Contract.

10.2. The Supplier warrants to the Customer that all of the Supplier's Personnel shall at all times have the necessary qualifications and experience to meet the standards offered by the Supplier under the Contract.

10.3. The Supplier shall provide such details of its Personnel that may require access to the Premises to perform their duties as required under the Contract as are reasonably requested in writing by the Customer.

10.4. The Supplier shall ensure that when on the Premises, its Personnel at all times comply with all Laws and other requirements that may be in force from time to time in relation to the Premises.

10.5. The Customer may request in writing the removal of any Supplier's Personnel, where in the Customer's reasonable opinion such Personnel's performance or conduct is or has been unsatisfactory. The Supplier shall promptly remove and replace such Personnel at the Supplier's own cost and expense.

11. Premises

11.1. The Customer grants the Supplier a non-exclusive licence to access the Premises, as may be reasonably required for the sole purpose of performing its obligations under the Contract.

11.2. The Supplier shall co-operate with all other suppliers or personnel who may also have access to the Premises.

11.3. At the end of the Term, the Supplier shall:



- 11.3.1. remove from the Premises all the Supplier's equipment and unused materials;
- 11.3.2. clear away all rubbish arising out of or in connection with the supply of the relevant Goods and/or Services; and
- 11.3.3. leave the Premises in a clean and tidy condition to the Customer's reasonable satisfaction.
- 11.4. If the Supplier fails to comply with Clause 11.3, the Customer may remove and dispose of the Supplier's equipment and unused materials and clear away and clean the Premises as required by Clauses 11.3.2 and 11.3.3 and the Customer shall be entitled to recover the cost of doing so from the Supplier as a debt.
- 11.5. Where the Supplier leaves any equipment or materials on the Premises during the Term, it does so at its own risk and the Customer shall have no liability to the Supplier in relation to such equipment or materials.

12. Assignment and Sub-contracting

- 12.1. Subject to Clause 12.2, the Supplier shall not assign, charge or transfer any right or obligation under this Contract or in any way deal or part with its interest in this Contract or any part of it to any person, without the Customer's prior written consent, which shall not be unreasonably withheld (provided always that the Customer shall be entitled to refuse to consent to any assignment, charge or transfer which could or does breach any regulation(s) of the PCR).
- 12.2. The Supplier shall not sub-contract to any person the performance of any of its obligations under this Contract:
 - 12.2.1.1. except with the Customer's prior written consent, such consent not to be unreasonably withheld;
 - 12.2.1.2. if any such sub-contracting would be inconsistent with the Supplier's tender in the Original Tender Process and/or the Mini Tender; and
 - 12.2.1.3. if any such sub-contracting could or would in the sole opinion of the Customer breach any regulation(s) of the PCR.
- 12.3. If the Customer consents to the Supplier to sub-contract, then the Supplier shall co-ordinate and integrate such services provided by the sub-supplier with his own and no sub-contracting by the Supplier and no consent by the Customer shall in any way relieve the Supplier from any liability or obligation in respect of the performance of its obligations under this Contract.
- 12.4. The Customer may at any time assign by absolute legal assignment the benefit of all the Supplier's obligations and the entire benefit arising under or out of this Contract to
 - 12.4.1. any Contracting Authority (as defined in the PCR);
 - 12.4.2. any other body established by the Crown or under statute to substantially perform any of the functions that had previously been performed by the Customer;



12.4.3. any private sector body which substantially performs the functions of the Customer

provided that any such assignment shall not increase the Supplier's obligations under the Contract.

12.5. If the Supplier sub-contracts the Contract in accordance with this Clause 12, the sub-contract must be entered into on equivalent and no less onerous terms than the terms of this Contract.

13. Intellectual Property Rights

13.1. Any Customer's IP shall remain vested in the Customer and the Customer shall grant the Supplier an irrevocable, transferable, non-exclusive, royalty free licence to use such IP for the purpose of performing its obligations under this Contract.

13.2. The Project IP shall immediately vest in the Customer upon its creation or discovery and the Customer shall grant the Supplier an irrevocable, transferable, non-exclusive, royalty free licence to use the Project IP for the purpose of performing its obligations under this Contract.

13.3. The Supplier's Background IP shall remain vested in the Supplier and the Supplier shall grant the Customer an irrevocable, transferable non-exclusive, royalty free licence to use the Supplier's Background IP for any purpose related to this Contract and the Goods and/or Services supplied hereunder.

13.4. The licences granted under this Clause 13 include a right to sub-licence.

13.5. All royalties or other sums payable in respect of the supply and use of any patented article, processes or inventions required for and in relation to the performance of the Supplier's obligations under this Contract shall be paid by the Supplier.

13.6. The Supplier shall not be liable for any use of the Supplier's Background IP or Project IP other than that for which they were prepared.

14. Confidentiality and publicity

14.1. Subject to Clauses 15 and 23, the Supplier will keep confidential all financial information, supplier lists, manuals, software (including its source code), trade secrets, business forecasts, specifications, correspondence, books, records, documents, agreements, photographs, quotations, invoices, files, plans, drawings, any other similar material or information relating in any way to this Contract, and/or the business of the Customer. The Supplier will not disclose details of these to any person, other than to its professional advisers, insurers and the Supplier's Personnel, without the consent of the Customer, and then only insofar as such disclosure is necessary for the effective performance of the Supplier's obligations under this Contract. The provisions of this Clause will continue to apply notwithstanding any novation and/or termination of this Contract for any reason and notwithstanding the completion of the performance of the Supplier's obligations under this Contract.



14.2. The Supplier shall not be liable for the disclosure of any confidential material which is referred to in Clause 14.1 which:

14.2.1.1. is or becomes available to the public, other than by means of a breach of this Contract; or

14.2.1.2. is required by Law to be disclosed.

14.3. The Supplier shall not, without the Customer's prior written consent, use the Customer's corporate name or any other unnamed trademark associated with the Customer for any purpose, including but not limited to by illustration, advertising, publicising, marketing or selling services and/or products, except as may otherwise be required by Law. In that event, the Supplier shall provide the Customer with written notice of such request as soon as reasonably practicable, sufficient to allow the Customer an opportunity to object prior to such disclosure.

14.4. Notwithstanding the provisions in this Clause 14 and Schedule 4 (Data Protection), the parties shall comply with the Data Protection Legislation.

14.5. To the extent there are any inconsistencies and/or conflicts between this Clause 14 and any separate confidentiality agreement entered into between the Authority and the Supplier (pursuant to the Original Tender Process) and/or between the Customer and the Supplier, the terms of any such confidentiality agreement(s) will prevail.

15. Freedom of Information

15.1. The Supplier acknowledges that the Customer is subject to the FOIA and the EIR and the Supplier shall, at its cost, use all reasonable endeavours and take all necessary steps to assist the Customer in complying with the FOIA and/or the EIR.

15.2. If the Supplier receives a 'request' from any third party (as that term is defined in the FOIA and the EIR, as applicable), it shall immediately provide the Customer with a written copy of that request.

15.3. The Supplier shall ensure that the provisions of this Clause 15 are included in any subcontract it enters into in respect of this Contract.

16. Insurance

16.1. The Supplier warrants that it currently maintains and shall continue to maintain:

16.1.1. professional indemnity insurance;

16.1.2. product liability insurance;

16.1.3. public liability insurance; and

16.1.4. employer's liability insurance,]

for the periods set out in Clause 16.1 of the Framework Agreement, all with a well-established and reputable insurance office or underwriter of repute carrying on business in the United Kingdom and the European Union with a limit and basis of



indemnity as set out in Article 3 of the Memorandum of Agreement in the Framework Agreement for each and every claim provided always that such insurance is generally available in the United Kingdom and the European Union to the business of the Supplier at commercially reasonable rates and terms. The Supplier shall immediately inform the Customer if such insurance ceases to be generally available at commercially reasonable rates and terms and for the avoidance of doubt it is hereby agreed and declared that any increased or additional premium required by insurers by reason of the Supplier's own claims record or other acts, omissions, matter or things particular to the Supplier shall be deemed to be within commercially reasonable rates.

- 16.2. As and when the Supplier is reasonably requested in writing to do so by the Customer, the Supplier shall produce for inspection sufficient documentary evidence in the form of a standard insurance broker's certificate that the insurance required under Clause 16.1 is being maintained in accordance with the terms of this Contract. If the Supplier fails to supply the relevant evidence, the Customer shall be at liberty to effect such insurance cover as it deems necessary at the Supplier's cost.
- 16.3. The Supplier shall not, once a claim under Clause 16.1 of this Contract has been notified to it, voluntarily do anything which would reduce or tend to reduce the scope of indemnity under its insurance policies or the amount of indemnity monies which will be available thereunder were the claim against it to succeed in full.

17. Suspension and/or Termination

- 17.1. The Customer may, in addition to any other rights and remedies which it may have, by giving not less than 7 (seven) days' written notice to the Supplier, suspend or terminate the Supplier's appointment under this Contract. If the Supplier's appointment is suspended pursuant to this Clause 17.1 then the Customer may, by giving not less than 7 (seven) days' written notice, require the Supplier to resume performance at any time within a period of 6 (six) months from the date of suspension. The Supplier shall use all reasonable endeavours to resume performance of its obligations under this Contract as soon as possible after receipt of the Customer's written notice. If the Customer has not required the Supplier to resume performance within such period, then the Supplier's appointment under this Contract shall be deemed to have been terminated.
- 17.2. The Customer or the Supplier may suspend and/or terminate the Supplier's appointment under this Contract upon serving written notice on the other in the event that:
- 17.2.1.1. the other is in breach of this Contract in any material respect and the other has failed within 30 (thirty) days of the service of the other's written notice to remedy such breach or breaches; and/or
 - 17.2.1.2. distress or execution is levied or threatened upon any of the other's property or any judgement against the other remains unsatisfied for more than 14 (fourteen) days or the other (being an individual) is bankrupt or unable to pay his debts or seeks an arrangement with his creditors, or the other (being a company) has an administrator appointed of it or a receiver



or manager or administrative receiver is appointed of it or any of its assets or it enters into liquidation or it proposes or makes any voluntary arrangement with its creditors; any petition is presented or any resolution passed or any steps or proceedings taken which may lead to any of the foregoing occurrences; the other ceases to carry on business; and/or

17.2.1.3. if any of the termination provisions of regulation 73(1) of PCR apply.

17.3. The Customer may terminate this Contract in accordance with

17.3.1. Call Off Schedule 1 (Anti-bribery and Corruption); or

17.3.2. Member Institute KPIs).

17.4. The Supplier's appointment under this Contract shall be immediately terminated upon termination of the Framework Agreement.

17.5. Suspension or termination of the Supplier's appointment under this Contract, howsoever arising, shall be without prejudice to the rights and remedies of either of the parties in relation to any negligence, omission or default of the other prior to such termination.

17.6. If the Supplier's appointment under this Contract has been suspended or terminated by the Customer pursuant to Clause 17.1, or terminated by the Supplier pursuant to Clause 17.2 then:

17.6.1. after suspension or termination of the Supplier's appointment under this Contract, the Supplier shall immediately provide to the Customer copies of all Documentation for and in relation to this Contract which has been prepared by it or on its behalf or is in its possession;

17.6.2. the Supplier shall be entitled to send an invoice to the Customer for all outstanding Charges earned by the Supplier for the Services properly performed (whether wholly or in part) and Value Added Tax due thereon;

17.6.3. the Customer shall not be liable for any Losses howsoever arising out of or in connection with the suspension or termination of this Contract;

17.6.4. pursuant to the terms of this Contract, the Customer shall pay to the Supplier any instalments of any Charge and any other amounts which have accrued due prior to the date of suspension or termination, together with a proportion of the next following instalment of any Charge commensurate with the Services properly performed up to the date of suspension or termination carried out prior to the date of suspension or termination; and

17.6.5. the Customer shall be entitled to send an invoice to the Supplier for all outstanding amounts in relation to the Marketing Premium and Value Added Tax due thereon.

17.7. If the Supplier's appointment under this Contract has been suspended or terminated by the Customer pursuant to Clause 17.2, 17.3 or 17.4:

17.7.1. after termination of the Supplier's appointment under this Contract, the Supplier shall immediately provide the Customer with copies of all



Documentation for and in relation to this Contract which has been prepared by it or on its behalf or is in its possession;

17.7.2. the Customer shall not be liable for any Losses howsoever arising out of or in connection with the suspension or termination of this Contract; and

17.7.3. the Customer shall be entitled to send an invoice to the Supplier for all outstanding amounts in relation to the Marketing Premium and Value Added Tax due thereon.

18. Force Majeure

18.1. Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract (except in relation to payment) if such delay or failure result from events, circumstances or causes beyond its reasonable control (**Force Majeure Event**).

18.2. In such circumstances the relevant party shall use all reasonable endeavours to mitigate any such delays and the time for performance shall be extended by a period equivalent to the period during which the performance of the obligation has been delayed or failed to be performed by the Force Majeure Event or the affected party shall be entitled to a reasonable extension of time for performing such obligations.

19. Communications

19.1. Except as otherwise provided for in this Contract, all notices or other communications under or in respect of this Contract to either party must be in writing and shall be deemed to be duly given or made when delivered, in the case of personal delivery or sent by prepaid recorded delivery or registered post, or when posted, deemed to have been received 48 (forty-eight) hours after the same shall have been posted, or when despatched, in the case of fax or e-mail, to the party addressed to him at the address stated in Clause 19.3 or such other address as such party may by notice in writing nominate for the purpose of service.

19.2. A written notice includes a notice by fax or e-mail (confirmed in either case by letter). A notice or other communication received on a non-working day or after normal business hours in the place of receipt, shall be deemed to be given or made on the next following working day in that place.

19.3. Any written notice provided under Clause 19.1 shall be sent:

19.3.1. in the case of the Customer, as set out in the relevant Order Form; and

19.3.2. in the case of the Supplier, as set out in the relevant Order Form.

19.4. Either party may change its respective notice correspondence information referred to in Clause 19.3 by prior written notice to the other party.

20. Indemnities

20.1. The Supplier shall indemnify and keep indemnified in full the Customer from and against all Losses suffered or incurred by the Customer arising out of or in connection with:



- 20.1.1. the Supplier infringing or being held to infringe any Intellectual Property Rights in the performance of the Supplier's obligations under this Contract;
 - 20.1.2. the Customer infringing or being held to infringe any Intellectual Property Rights through the use of the Supplier's Background IP, the Project IP or the relevant Goods and/or Services;
 - 20.1.3. any wilful act, breach or negligent performance or non-performance of its obligations under this Contract by the Supplier;
 - 20.1.4. subject to the provisions of Clause 21.2.1, the death or personal injury of any person or physical damage to any property attributable to the Supplier's performance or non-performance of its obligations under this Contract; and/or
 - 20.1.5. any breach by the Supplier of its obligations pursuant to Schedule 4 (Data Protection) of this Contract.
- 20.2. The indemnities in Clause 20.1 shall not apply to the extent that the relevant Losses are attributable to the Customer's breach, wilful act or negligent performance or non-performance of this Contract.

21. Limit of liability

- 21.1. Except where expressly stated elsewhere in this Contract:
- 21.1.1. the Supplier's total liability to the Customer for all losses howsoever arising under, for breach of, or in connection with this Contract is limited to, and shall not exceed the Supplier Liability Cap in the aggregate.
 - 21.1.2. the Customer's total liability to the Supplier for all losses howsoever arising under, for breach of, or in connection with this Contract is limited to, and shall not exceed the Customer Liability Cap in the aggregate; and
 - 21.1.3. neither party shall be liable to the other for any indirect loss or consequential loss, loss of contribution to incidental costs, loss of profit or overheads or loss of reputation, howsoever arising under, for breach of, or in connection with this Contract.
- 21.2. Nothing in this Contract shall limit or exclude:
- 21.2.1. either party's liability to the other for death or personal injury resulting from that party's negligence; or
 - 21.2.2. any damage or liability incurred by either party as a result of fraud or fraudulent misrepresentation by the other.

22. Anti-bribery and Corruption

The parties shall comply with Schedule 1 in relation to anti-bribery and corruption.

23. Data Protection

The parties shall comply with Schedule 4 in relation to data protection.

24. Conflicts of interest



- 24.1. The Supplier may not, without the Customer's prior written consent, be directly or indirectly engaged, concerned or have any financial interest in any capacity with the Customer.
- 24.2. The Supplier shall promptly notify the Customer in writing of any actual or potential conflict of interest which arises during the Term and the Customer shall be entitled to require the Supplier to take such reasonable steps to remedy any conflict of interest as are reasonably required by the Customer.

25. The UK's decision to leave the European Union

- 25.1. Neither Brexit, nor any fluctuations in the GBP exchange rate (whether resulting directly or indirectly from Brexit), shall affect in any way the obligations of either party under this Contract and neither party shall be entitled to rely on Brexit and/or any fluctuations in the GBP exchange rate to make any claim against the other, whether for additional time, money or otherwise, on any basis, including for the avoidance of doubt in contract, tort or equity.
- 25.2. An event of Brexit and/or any fluctuations in the GBP exchange rate (whether resulting directly or indirectly from Brexit) shall not permit either party to vary and/or to terminate this Contract (or any part of this Contract) save where that party is otherwise entitled to vary and/or terminate the Contract (or any part of this Contract).
- 25.3. Both parties acknowledge that they have assessed the potential impact of Brexit on their ability to perform their obligations under this Contract and have taken all associated risks into account when entering into this Contract.
- 25.4. Both parties acknowledge and agree that any impact of Brexit on their ability to perform their obligations under this Contract shall not be deemed to be a Force Majeure Event for the purposes of Clause 18 of this Contract.

26. Dispute Resolution

- 26.1. If a Dispute arises in respect of this Contract then the procedure set out in this Clause 26 shall apply.
- 26.2. In the event of a Dispute, either party shall serve on the other party a Dispute Notice, together with any relevant supporting documentation.
- 26.3. Following the service of any Dispute Notice pursuant to Clause 26.2, Contract Manager of the Customer and Contract Manager of the Supplier shall use reasonable endeavours to resolve the Dispute, in good faith.
- 26.4. If Contract Manager of the Customer and Contract Manager of the Supplier are for whatever reason unable to resolve the Dispute within 30 (thirty) days of service of the relevant Dispute Notice, the Dispute shall be referred to the Legal Team of the Customer and the Legal Team of the Supplier who shall use reasonable endeavours to resolve the Dispute, in good faith.
- 26.5. If the Legal Team of the Customer and the Legal Team of the Supplier are for whatever reason unable to resolve the Dispute within 30 (thirty) days of the Dispute being referred to them pursuant to Clause 26.4, the parties will seek to settle the



Dispute by mediation in accordance with the CEDR Model Mediation Procedure. The Mediator shall be nominated by CEDR Solve, unless otherwise agreed (in writing) between the parties. To initiate the mediation, a party must provide a written notice (**ADR Notice**) to the other party to the Dispute, requesting mediation. A copy of any such ADR Notice must be sent to CEDR Solve. The mediation will not start later than 15 (fifteen) after the date of the ADR Notice and the party providing the ADR Notice shall be responsible for all costs associated with the provision of such ADR Notice (subject to any agreement made between the parties in relation to costs associated with such mediation).

26.6. In the event that:

26.6.1. the Dispute is not resolved within 30 (thirty) days after the service of an ADR Notice; or

26.6.2. either party fails to participate or fails to continue to participate in the mediation before the expiry of such 30 (thirty) days; or

26.6.3. the mediation terminates before the expiry of such 30 (thirty) days,
the Dispute shall be referred to the Courts of England and Wales in accordance with Clause 34 of this Contract.

26.7. No party may commence any court proceedings under Clause 34 of this Contract in relation to the whole or any part of a Dispute until 60 (sixty) days after the service of the ADR notice (provided that the right to issue proceedings is not prejudiced by a delay).

27. Records and Audit Access

27.1. The Supplier shall keep and maintain until 6 (six) years after the date of the end of the Term, full and accurate records and accounts of the operation of this Contract including but not limited to the Goods and/or Services provided under it in accordance with good accountancy practice.

27.2. The Supplier shall provide such records and accounts (together with copies of the Supplier's published accounts) during the Term and for a period of 6 (six) years after the date of the end of the Term to the Customer and/or the auditor and/or any statutory body entitled by Law on written request and shall provide the Customer and/or the auditor and/or any statutory body entitled by Law access to such records and accounts as may be required from time to time.

27.3. Subject the provisions of Clause 14, the Supplier shall on written request provide the auditor with all reasonable co-operation and assistance in relation to each audit, including:

27.3.1.1. all information requested by the auditor within the scope of the audit;

27.3.1.2. reasonable access to sites controlled by the Supplier and to equipment and materials used in the provision of the Goods and/or Services; and



27.3.1.3. access to the Supplier's Personnel.

27.4. The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 27 unless the audit reveals a material breach by the Supplier of good accountancy practice and/or this Contract, in which case the Supplier shall reimburse the Customer for the reasonable costs it incurs in relation to the audit.

28. Compliance with Anti-Slavery and Human Trafficking Laws and Policies

28.1. In performing its obligations under this Contract the Supplier shall comply with all applicable labour, anti-slavery and human trafficking legislation and regulations in force from time to time in the United Kingdom, including but not limited to the Modern Slavery Act 2015 (**Anti-Slavery Laws**).

28.2. The Supplier represents and warrants that, as at the date of this Contract, neither the Supplier nor any of its officers, employees or agents have been convicted of any offence involving slavery and/or human trafficking, nor have they been or are the subject of an investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and/or human trafficking whether pursuant to the Anti-Slavery Laws or any other relevant legislation in force from time to time.

28.3. The Supplier shall, throughout the Term, use its best endeavours to include, in all of its contracts with any of its subcontractors of any tier in the supply chain involved in the production or provision of the Goods and/or Services:

28.3.1. a provision obliging the relevant subcontractor to provide the Goods and/or Services specified in the relevant subcontract in accordance with Anti-Slavery Laws; and

28.3.2. provisions (to take effect upon a breach by the subcontractor of its obligation to provide the Goods and/or Services under the relevant subcontract in accordance with Anti-Slavery Laws) which provide that:

28.3.2.1. if a subcontractor's failure to comply with Anti-Slavery Laws has occurred more than once in any 6 (six) month period, the Supplier must serve a written notice on the subcontractor;

28.3.2.1.1. specifying that the notice is a formal warning notice;

28.3.2.1.2. giving reasonable details of the subcontractor's breach; and

28.3.2.1.3. stating that the breach is a breach which, if it recurs frequently or continues, may result in a termination of the Subcontract;

28.3.2.2. if, following service of a warning notice under Clause 28.3.2 28.3.2.1, the breach specified has continued beyond 14 (fourteen) days or has recurred more than once within a 6 (six) month period after the date of the notice then the Supplier must serve another written notice on the subcontractor:



- 28.3.2.2.1. specifying that it is a final warning notice;
- 28.3.2.2.2. stating that the breach specified has been the subject of a warning notice served within the 12 (twelve) month period prior to the date of service of the final warning notice; and
- 28.3.2.2.3. stating that, if the breach continues or recurs more than once / again within the 6 (six) month period after the date of the final warning notice, the subcontract may be terminated; and
- 28.3.2.3. where a breach continues or recurs pursuant to Clause 28.3.2 (b), the Supplier may terminate the subcontract by 7 (seven) days' notice in writing to the subcontractor,

or provisions that are equivalent to and no less onerous than those set out above.

29. Contracts (Rights of Third Parties) Act 1999

Nothing in this Contract shall confer or purport to confer on any third party any benefit or the right to enforce any term of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

30. Severability

If any part of this Contract becomes or is determined by any court or tribunal to be, illegal or unenforceable, the remaining provisions shall remain in full force and effect.

31. Liability

The parties hereby agree that the Supplier shall remain liable under this Contract for 12 (twelve) years after the date of the end of the Term.

32. Counterparts

This Contract may be executed in one or more counterparts. Any single counterpart or set of counterparts executed, in either case, by all the parties shall constitute a full original of this Contract for all purposes.

33. Governing Law and Jurisdiction

- 33.1. The terms and conditions of this Contract and any Dispute shall be governed by the laws of England and Wales.
- 33.2. The parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute.



34. Waiver

- 34.1. A party's failure or delay to exercise a power or right under this Contract does not operate as a waiver of that power or right.
- 34.2. A waiver of a power or right will only be effective:
 - 34.2.1. if it is in writing and signed by the party who has the benefit of the power or right being waived; and
 - 34.2.2. in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- 34.3. Communications between the parties made before the date of the Contract which are not expressly contained within the Contract shall not be deemed to be incorporated into the Contract.
- 34.4. Notwithstanding any other provision of the Contract, the terms approval or comment or consent when used in the context of any approval, comment or consent to be given by the Customer shall have the meaning acceptance of general principles only and no such approval, comment or consent shall diminish or relieve the Supplier from any of its obligations or responsibilities under or in connection with the Contract.

35. Amendments to this Contract

- 35.1. An amendment or variation to this Contract shall not be effective or binding unless it is in writing and signed by the Supplier and the Customer.
- 35.2. No amendment or variation to this Contract shall be permitted which could or does amount to a substantial variation for the purposes of regulation 72 of PCR (which the Customer shall determine in its sole discretion).
- 35.3. For the avoidance of doubt, the Customer shall be entitled to refuse any proposed amendment or variation to this Contract which does or could amount to a substantial variation for the purposes of regulation 72 of PCR.



Call Off Terms and Conditions - Schedule 1: Anti-bribery and Corruption

The term **Prohibited Act** means

- (a) directly or indirectly offering, promising or giving any person working for or engaged by the Customer a financial or other advantage of any kind to:
 - (i) induce that person to improperly perform a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;
- (c) committing any offence;
 - (i) under the Bribery Act 2010;
 - (ii) under Law creating offences in respect of fraudulent acts;
 - (iii) at common law, in respect of fraudulent acts; or
 - (iv) at common law, in respect of fraudulent acts relating to this Contract or any other contract with the Customer or any other public body; or
- (d) defrauding, attempting to defraud or conspiring to defraud the Customer.

The Supplier:

- (e) shall not, and shall procure that the Supplier's Personnel shall not, in connection with Contract, commit a Prohibited Act;
- (f) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Customer, or that any agreement has been reached to that effect, in connection with the execution of this Contract; and
- (g) warrants that in entering into this Contract it has not committed any Prohibited Act (as declared by the Supplier pursuant to the Original Tender Process in accordance with regulation 57 of the PCR).

The Supplier shall:

- (h) if requested in writing, provide the Customer, at the Customer's reasonable cost, to enable the Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and
- (i) within 20 (twenty) days of the date of this Contract, and annually thereafter, certify in writing to the Customer compliance with this Schedule 1 by the Supplier and all persons associated with it or any other persons



who are supplying the Goods and/or Services in connection with this Contract. The Supplier shall provide any such supporting evidence of compliance with this Schedule 1 as the Customer may reasonably request.

The Supplier shall put in place and maintain an anti-bribery policy (a copy of which shall be provided to the Customer within 20 (twenty) days of the date of this Contract) which shall, as a minimum, prevent any Personnel from committing a Prohibited Act and shall enforce it where appropriate.

If at any time any breach of paragraph 2 above is suspected or known, the Supplier must notify the Customer immediately with the details of any such breach to follow in writing as soon as reasonably practicable.

If the Supplier notifies the Customer that it suspects or knows that there may be a breach of this Schedule 1, the Supplier will respond promptly to all of the Customer's enquiries in relation to any such suspected or actual breach and will co-operate at all times with any investigation, and permit the Customer access to and audit of any books, records and any other relevant documents. The obligation under this paragraph shall continue for 7 (seven) years following the expiry or termination of this Contract.

The Customer may terminate this Contract by written notice with immediate effect if the Supplier, its Personnel (in all cases whether or not acting with the Supplier's knowledge) breaches paragraph 2 of this Schedule 1. Any such termination shall be without prejudice to any right or remedy which has already accrued or which subsequently accrues to the Customer.

Any notice provided by the Customer pursuant to paragraph 7 must specify:

- (j) the nature of the Prohibited Act;
- (k) the identity of the party who the Customer believes has committed the Prohibited Act; and
- (l) the date on which this Contract will terminate in accordance with the applicable provisions of this Schedule 1.

Notwithstanding Clause 26 (Dispute Resolution) of this Contract, the Customer shall determine any Dispute relating to the interpretation of this Schedule 1 and/or the amount or value of any gift, consideration or commission and any such determination by the Customer shall be final and binding upon the parties.