

**Digital Outcomes and Specialists 5 (RM1043.7)**

**Call-Off Schedules**

**For Contract 701577532 (DInfoCom/0187)**

**Provision of Land ISTAR Technical SME Support**

Version 2

Crown Copyright 2020

**Contents**

[Call-Off Schedule 1 (Transparency Reports) 3](#_Toc62664416)

[Call-Off Schedule 2 (Staff Transfer) 5](#_Toc62664417)

[Call-Off Schedule 3 (Continuous Improvement) 34](#_Toc62664418)

[Call-Off Schedule 4 (Call Off Tender) 36](#_Toc62664419)

[Call-Off Schedule 5 (Pricing Details and Expenses Policy) 36](#_Toc62664420)

[Call-Off Schedule 6 (Intellectual Property Rights and Additional Terms on Digital Deliverables) 38](#_Toc62664421)

[Call-Off Schedule 7 (Key Supplier Staff) 49](#_Toc62664422)

[Call-Off Schedule 8 (Business Continuity and Disaster Recovery) – NOT APPLICABLE 50](#_Toc62664423)

[Call-Off Schedule 9 (Security) 55](#_Toc62664424)

[Call-Off Schedule 10 (Exit Management) 60](#_Toc62664425)

[Call-Off Schedule 11 (Intentionally Blank) 67](#_Toc62664426)

[Call-Off Schedule 12 (Intentionally Blank) 67](#_Toc62664427)

[Call-Off Schedule 13 (Implementation Plan and Testing) 68](#_Toc62664428)

[Call-Off Schedule 14 (Service Levels and Balanced Scorecard) 81](#_Toc62664429)

[Call-Off Schedule 15 (Call-Off Contract Management) 89](#_Toc62664430)

[Call-Off Schedule 16 (Benchmarking) 92](#_Toc62664431)

[Call-Off Schedule 17 (MOD Terms) 96](#_Toc62664432)

[Call-Off Schedule 18 (Background Checks) 99](#_Toc62664433)

[Call-Off Schedule 19 (Scottish Law) NOT APPLICABLE 101](#_Toc62664434)

[Call-Off Schedule 20 (Call-Off Specification) 103](#_Toc62664435)

[Call-Off Schedule 21 (Northern Ireland Law) NOT APPLICABLE 108](#_Toc62664436)

[Call-Off Schedule 22 (Intentionally Blank) 110](#_Toc62664437)

[Call-Off Schedule 23 (Intentionally Blank) 110](#_Toc62664438)

[Call-Off Schedule 24 (Intentionally Blank) 110](#_Toc62664439)

[Call-Off Schedule 25 (Ethical Walls Agreement) 111](#_Toc62664440)

Call-Off Schedule 26 (Cyber Essentials Scheme)...............................................................119

[Call-Off Schedule 27 (Statement Relating to Good Standing) 1](#_Toc62664441)21

## 

## Call-Off Schedule 1 (Transparency Reports)

1. **Transparency Reports**
   1. The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
   2. Without prejudice to the Supplier's reporting requirements set out in the Framework Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
   3. If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval 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 Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
   4. The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

**Annex A: List of Transparency Reports**

|  |  |  |  |
| --- | --- | --- | --- |
| **Title** | **Content** | **Format** | **Frequency** |
| **Performance metrics** | **Service Levels and Balance Scorecard in accordance with Call-Off Schedule 14** | **Presentation – Performance review** | **Quarterly** |
| **Call-Off Contract Charges** | **Contract Prices and any incentivisation mechanisms in the Contract** | **Invoice** | **Monthly in accordance with the agreed Monthly Statement of Work** |
| **Key Subcontractors and supply chain governance** | **N/A** | **N/A** | **N/A** |
| **Technical** | **As detailed within the Monthly Statement of Work** | **Stand-up** | **Weekly and provide information within Quarterly Performance Review Meetings** |
| **Performance and underperformance management** | **In accordance with Call-Off Schedule 14** | **Stand-up, email, Face to Face** | **Weekly, and provide information within Quarterly Performance Review Meetings** |
| **Resource plans** | **Supplier is to provide suitably qualified experienced resource to deliver outputs.**  **If resource becomes unavailable Deloitte must provide replacement SQEP resource within 48 hrs (to be further agreed with Contract Manager)** | **Email notification to Authority of any unavailability. To be further discussed and agreed with the Contract Manager** | **As & When issue arises.** |

## Call-Off Schedule 2 (Staff Transfer)

1. **Definitions**
   1. In this Schedule, the following words have the following meanings and they shall supplement Joint Schedule 1(Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Employee Liability** | 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:   1. redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments; 2. unfair, wrongful or constructive dismissal compensation; 3. 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; 4. compensation for less favourable treatment of part-time workers or fixed term employees; 5. outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Subcontractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions; 6. claims whether in tort, contract or statute or otherwise;   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; |
| **Former Supplier** | a supplier supplying the Deliverables to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Deliverables (or any Part of the Deliverables) and shall include any Subcontractor of such supplier (or any Subcontractor of any such Subcontractor); |
| **Partial Termination** | the partial termination of the relevant Contract to the extent that it relates to the provision of any Part of the Services as further provided for in Clause 10.4 (When CCS or the Buyer can end this contract) or 10.6 (When the Supplier can end the contract); |
| **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, and for the purposes of Part D: Pensions, shall include the Commencement Date, where appropriate; |
| **Supplier's Final Supplier Personnel List** | a list provided by the Supplier of all Supplier Personnel whose 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; |
| **Staffing Information** | 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 Buyer may reasonably request (subject to all applicable provisions of the Data Protection Laws), but including in an anonymised format:   1. their ages, dates of commencement of employment or engagement, gender and place of work; 2. details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise; 3. the identity of the employer or relevant contracting Party; 4. their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; 5. their wages, salaries, bonuses and profit sharing arrangements as applicable; 6. 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; 7. any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims); 8. details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence; 9. 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 10. any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations; |
| **Term** | the period commencing on the Start Date and ending on the expiry of the Initial Period or any Extension Period or on earlier termination of the relevant Contract; |
| **Transferring Buyer Employees** | those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date; and |
| **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 whose names are provided to the Supplier on or prior to the Relevant Transfer Date. |

1. **Interpretation**
   1. Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to CCS, the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.
2. **Which parts of this Schedule apply**
   1. Only the:
      1. parts of this Schedule identified in the Order Form shall apply to this Call-Off Contract; or
      2. following parts of this Schedule shall apply to this Call-Off Contract:

* [Part C (No Staff Transfer On Start Date)]
* [Part D (Pensions)
* [ Annex D1 (CSPS) ]
* [ Annex D2 (NHSPS) ]
* [ Annex D3 (LGPS) ]
* [ Annex D4 (Other Schemes)]
* [Part E (Staff Transfer on Exit) ]

**Part A: Staff Transfer at the Start Date**

**Outsourcing from the Buyer**

1. **What is a relevant transfer**
   1. The Buyer and the Supplier agree that:
      1. the commencement of the provision of the Services or of each relevant Part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and
      2. as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Buyer Employee.
      3. The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions.
2. **Indemnities the Buyer must give** 
   1. Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of any act or omission by the indemnifying party in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date.
   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 Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date.
   3. Subject to Paragraphs 2.4 and 2.5, if any employee of the Buyer who is not identified as a Transferring Buyer Employee claims, or it is determined in relation to any employees of the Buyer, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then -
      1. the Supplier will, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;
      2. the Buyer may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;
      3. if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
      4. if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in this Paragraph 2.3.

* 1. The indemnity in Paragraph 2.3 shall not apply to any claim:
     1. for 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 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or
     2. any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure.
  2. The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 3 Months from the Relevant Transfer Date.
  3. If the Supplier and/or any Subcontractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.

1. **Indemnities the Supplier must give and its obligations**
   1. Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of any act or omission by the Supplier or any Subcontractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date.
   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 Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.
   3. The Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and any other sums due under Part D: Pensions.
2. **Information the Supplier must provide**
   1. The Supplier shall promptly provide to the Buyer in writing such information as is necessary to enable the Buyer to carry out its duties under regulation 13 of the Employment Regulations. The Buyer shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
3. **Cabinet Office requirements**
   1. The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
   2. The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.
   3. Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.
4. **Pensions**
   1. The Supplier shall comply with:
      1. all statutory pension obligations in respect of all Transferring Buyer Employees; and
      2. the provisions in Part D: Pensions.

**Part B: Staff transfer at the Start Date**

**Transfer from a former Supplier on Re-procurement**

1. **What is a relevant transfer**
   1. The Buyer and the Supplier agree that:
      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
      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 any Subcontractor and each such Transferring Former Supplier Employee.
   2. The Buyer 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 (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions.
2. **Indemnities given by the Former Supplier**
   1. Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of 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. 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 Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date.
   3. Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Subcontractor pursuant to the Employment Regulations then:
      1. the Supplier will within 5 Working Days of becoming aware of that fact notify the Buyer and the relevant Former Supplier in writing;
      2. the Former Supplier may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;
      3. if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
      4. if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Former Supplier's employees referred to in paragraph 2.3.

* 1. The indemnity in Paragraph 2.3 shall not apply to any claim:
     1. for 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 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Supplier and/or any Subcontractor; or
     2. that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure.
  2. The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 3 Months from the Relevant Transfer Date.
  3. If the Supplier and/or any Subcontractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.

1. **Indemnities the Supplier must give and its obligations**
   1. Subject to Paragraph 3.1, the Supplier shall indemnify the Buyer, and the Former Supplier against any Employee Liabilities arising from or as a result of any act or omission by the Supplier or any Subcontractor 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.
   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. The 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, on and from the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due under Part D: Pensions.
2. **Information the Supplier must give**
   1. The Supplier shall promptly provide to the Buyer and/or at the Buyer’s direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
3. **Cabinet Office requirements**
   1. The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.
   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 Change Control Procedure.
4. **Limits on the Former Supplier’s obligations**
   1. Notwithstanding any other provisions of this Part B, where in this Part B the Buyer 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 Buyer’s contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer’s must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.
5. **Pensions**
   1. The Supplier shall comply with:
      1. all statutory pension obligations in respect of all Transferring Former Supplier Employees; and
      2. the provisions in Part D: Pensions.

**Part C: No Staff Transfer on the Start Date**

1. **What happens if there is a staff transfer**
   1. The Buyer and the Supplier agree that the commencement of the provision of the Services or of any Part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
   2. Subject to Paragraphs 1.3, 1.4 and 1.5, if any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:
      1. the Supplier will, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;
      2. the Buyer may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;
      3. if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
      4. if after the period referred to in paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 1.2.1 to 1.2.4:

1. the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2; and
2. the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2.
   1. The indemnities in Paragraph 1.2 shall not apply to any claim:
      1. for 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 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
      2. any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure
   2. The indemnities in Paragraph 1.2 shall not apply to any termination of employment occurring later than 3 Months from the Commencement Date.
   3. If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
3. **Limits on the Former Supplier’s obligations**
   1. Where in this Part C the Buyer 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 Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

**Part D: Pensions**

1. **Definitions**
   1. In this Part D, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Actuary** | a Fellow of the Institute and Faculty of Actuaries; |
| **Admission Agreement** | means either or both of the CSPS Admission Agreement (as defined in Annex D1: CSPS) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires; |
| **Broadly Comparable** | 1. in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary’s Department of a broad comparability certificate; and 2. in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme’s certificate of broad comparability issued by the Government Actuary’s Department,   and "**Broad Comparability"** shall be construed accordingly; |
| **CSPS** | the schemes as defined in Annex D1 to this Part D; |
| **Fair Deal Employees** | those:   1. Transferring Buyer Employees; and/or 2. Transferring Former Supplier Employees; and/or 3. employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts A or B or Paragraph 1.2.4 of Part C; 4. where the Former Supplier becomes the Supplier those employees;   who at the Commencement Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Buyer; |
| **Fair Deal Schemes** | means the relevant Statutory Scheme or a Broadly Comparable pension scheme; |
| **Fund Actuary** | means Fund Actuary as defined in Annex D3 to this Part D; |
| **LGPS** | the schemes as defined in Annex D3 to this Part D; |
| **NHSPS** | the schemes as defined in Annex D2 to this Part D; |
| **New Fair Deal** | the revised Fair Deal position set out in the HM Treasury guidance: "Fair Deal for Staff Pensions: Staff Transfer from Central Government" issued in October 2013 including:   1. any amendments to that document immediately prior to the Relevant Transfer Date; and 2. any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the CCS or Buyer; and |
| **Statutory Schemes** | means the CSPS, NHSPS or LGPS. |

1. **Supplier obligations to participate in the pension schemes**
   1. In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
   2. The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
   3. The Supplier undertakes:
      1. to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
      2. to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.
2. **Supplier obligation to provide information**
   1. The Supplier undertakes to the Buyer:
      1. to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
      2. not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed).
3. **Indemnities the Supplier must give**
   1. The Supplier undertakes to the Buyer to indemnify and keep indemnified CCS, NHS Pensions the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPS Admission Agreement and/or the Direction Letter and/or the LGPS Admission Agreement or relates 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 Fair Deal Schemes.
   2. The Supplier hereby indemnifies the CCS, NHS Pensions, the Buyer and/or any Replacement Supplier and/or Replacement Subcontractor from and against all Losses suffered or incurred by it or them which arise from claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
      1. relate to pension rights in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract; or
      2. arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract.
   3. The indemnities in this Part D and its Annexes:
      1. shall survive termination of this Contract; and
      2. shall not be affected by the caps on liability contained in Clause 11 (How much you can be held responsible for).
4. **What happens if there is a dispute**
   1. The Dispute Resolution Procedure will not apply to this Part D and any dispute between the CCS and/or the Buyer and/or the Supplier or between their respective actuaries or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the CCS and/or the Buyer and/or the Supplier be referred to an independent Actuary:
      1. who will act as an expert and not as an arbitrator;
      2. whose decision will be final and binding on the CCS and/or the Buyer and/or the Supplier; and
      3. whose expenses shall be borne equally by the CCS and/or the Buyer and/or the Supplier unless the independent Actuary shall otherwise direct.
5. **Other people’s rights**
   1. The Parties agree Clause 19 (Other people’s rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.
   2. Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.
6. What happens if there is a breach of this Part D
   1. The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:
      1. commits an irremediable breach of any provision or obligation it has under this Part D; or
      2. commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.
7. **Transferring New Fair Deal Employees**
   1. Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations) the Supplier shall and shall procure that any relevant Subcontractor shall:
      1. consult with and inform those Fair Deal Employees of the pension provisions relating to that transfer; and
      2. procure that the employer to which the Fair Deal Employees are transferred (the **"New Employer"**) complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.
8. **What happens to pensions if this Contract ends**
   1. The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.
9. **Broadly Comparable Pension Schemes**
   1. If either:
      1. the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and or 4 of Annex D3: LGPS apply; and/or
      2. the Buyer agrees, having considered the exceptional cases provided for in New Fair Deal, (such agreement not to be unreasonably withheld) that the Supplier (and/or its Subcontractors, if any) need not continue to provide the Fair Deal Employees, who continue to qualify for Fair Deal Protection, with access to the appropriate Statutory Scheme;

the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date or if later cessation of participation in the Statutory Scheme until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.

* 1. Where the Supplier has set up a Broadly Comparable pension scheme or schemes pursuant to the provisions of Paragraph 10.1, the Supplier shall (and shall procure that any of its Subcontractors shall):
     1. supply to the Buyer details of its (or its Subcontractor’s) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability covering all relevant Fair Deal Employees, as soon as it is able to do so and in any event no later than 28 days before the Relevant Transfer Date;
     2. 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 for the period ending on the Service Transfer Date;
     3. 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 CCS and/or NHS Pension and/or CSPS and/or the relevant Administering Authority and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;
     4. provide a replacement Broadly Comparable pension scheme with immediate effect for those Fair Deal Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is terminated;
     5. allow and make all necessary arrangements to effect, 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 relevant Statutory Scheme and as is relevant 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 appropriate Statutory Scheme to fund day for day service **("Shortfall"**), the Supplier or the Subcontractor (as agreed between them) must pay the Statutory Scheme, as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier; and
     6. indemnify CCS and/or the Buyer and/or NHS Pension and/or CSPS and/or the relevant Administering Authority and/or on demand for any failure to pay the Shortfall as required under Paragraph 10.2.5 above.

**Annex D1: Civil Service Pensions Schemes (CSPS)**

1. **Definitions**
   1. In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **CSPS 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 for the CSPS in respect of the Services; |
| **CSPS Eligible Employee** | any Fair Deal Employee who at the relevant time is an eligible employee as defined in the CSPS Admission Agreement; and |
| **CSPS** | 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; |

1. **Access to equivalent pension schemes after transfer**
   1. The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on 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 CSPS for service from (and including) the Relevant Transfer Date.
   2. The Supplier undertakes that should it cease to participate in the CSPS for whatever reason at a time when it has CSPS Eligible Employees, that it will, at no extra cost to the Buyer, provide to any Fair Deal Employee who immediately prior to such cessation of participation remained a CSPS Eligible Employee with access to a pension scheme which is Broadly Comparable to the CSPS on the date the CSPS Eligible Employees ceased to participate in the CSPS.

**Annex D2: NHS Pension Schemes**

1. **Definitions**
   1. In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Direction Letter** | an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Eligible Employees; |
| **NHSPS Eligible Employees** | each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:   1. their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or 2. their employment with a Former Supplier who provides access to the NHSPS pursuant to an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal and were permitted to re-join the NHSPS, having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),   and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).  For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter or other NHSPS "access" facility but who has never been employed directly by an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Eligible Employee; |
| **NHS Body** | has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012; |
| **NHS Pensions** | NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS; |
| **NHSPS** | the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and governed by subsequent regulations under that Act including the NHS Pension Scheme Regulations; |
| **NHS Pension Scheme Arrears** | any failure on the Part of the Supplier or its Subcontractors (if any) to pay employer’s contributions or deduct and pay across employee’s contributions to the NHSPS or meet any other financial obligations under the NHSPS or any Direction Letter in respect of the NHSPS Eligible Employees; |
| **NHS Pension Scheme Regulations** | as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time; |
| **NHS Premature Retirement Rights** | rights to which any Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or are entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time; |
| **Pension Benefits** | any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor’s benefits provided under an occupational pension scheme; and |
| **Retirement Benefits Scheme** | a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004. |

1. **Membership of the NHS Pension Scheme**
   1. In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Eligible Employee compulsorily transfers as a result of the award of this Contract, if not an NHS Body or other employer which participates automatically in the NHSPS, must by or as soon as reasonably practicable after the Relevant Transfer Date, each secure a Direction Letter to enable the NHSPS Eligible Employees to retain either continuous active membership of or eligibility for, the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract, and have a right to membership or eligibility of that scheme under the terms of the Direction Letter.
   2. The Supplier must supply to the Buyer by or as soon as reasonably practicable after the Relevant Transfer Date a complete copy of each Direction Letter.
   3. The Supplier must ensure (and procure that each of its Sub-Contracts (if any) ensures) that all of its NHSPS Eligible Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter.
   4. The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health in respect of the NHSPS Eligible Employees for so long as it remains bound by the terms of any such Direction Letter.
   5. Where any employee omitted from the Direction Letter supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Eligible Employee, the Supplier will (and will procure that its Sub-contractors (if any) will) treat that person as if they had been an NHSPS Eligible Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
   6. The Supplier will (and will procure that its Subcontractors (if any) will) as soon as reasonably practicable and at its (or its Subcontractor’s) cost, obtain any guarantee, bond or indemnity that may from time to time be required by the Secretary of State for Health.
2. **Access to NHS Pension Schemes after transfer**
   1. The Supplier will procure that with effect from the Relevant Transfer Date the NHSPS Eligible Employees shall be either eligible for or remain in continuous active membership of (as the case may be) the NHSPS for employment from (and including) the Relevant Transfer Date.
3. **Continuation of early retirement rights after transfer**
   1. From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Eligible Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.
4. **What the buyer do if the Supplier breaches its pension obligations**
   1. The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractor) breaches the terms of its Direction Letter. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter.
   2. If the Buyer is entitled to terminate the Contract or the Supplier (or its Subcontractor, if relevant) ceases to participate in the NHSPS for whatever other reason, the Buyer may in its sole discretion, and instead of exercising its right to terminate this Contract where relevant, permit the Supplier (or any such Subcontractor, as appropriate) to offer Broadly Comparable Pension Benefits, on such terms as decided by the Buyer. The provisions of Paragraph 10 (Bulk Transfer Obligations in relation to any Broadly Comparable pension scheme) of Part D: Pensions shall apply in relation to any Broadly Comparable pension scheme established by the Supplier or its Subcontractors.
   3. In addition to the Buyer's right to terminate the Contract, if the Buyer is notified by NHS Pensions of any NHS Pension Scheme Arrears, the Buyer will be entitled to deduct all or Part of those arrears from any amount due to be paid under this Contract or otherwise.
5. **Compensation when pension scheme access can’t be provided**
   1. If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Eligible Employees with either:
      1. membership of the NHSPS (having used its best endeavours to secure a Direction Letter); or
      2. access to a Broadly Comparable pension scheme,

the Buyer may in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Eligible Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Eligible Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.

* 1. This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer’s right to terminate the Contract.

1. **Indemnities that a Supplier must give**
   1. The Supplier must indemnify and keep indemnified the CCS, the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Eligible Employee that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.
   2. The Supplier must indemnify and keep indemnified the Buyer, NHS Pensions and any Replacement Supplier against all Losses arising out of the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Eligible Employee to join or claim membership of the NHSPS at any time during the Contract Period.
2. **Subcontractors**
   1. If the Supplier enters into a Sub-Contract for the delivery of all or Part or any component of the Services which will involve the transfer of employment of any NHSPS Eligible Employee it will impose obligations on its Subcontractor in identical terms as those imposed on the Supplier in relation to Pension Benefits and NHS Premature Retirement Rights by this Annex, including requiring that:
      1. if the Supplier has secured a Direction Letter, the Subcontractor also secures a Direction Letter in respect of the NHSPS Eligible Employees for their future service with the Subcontractor as a condition of being awarded the Sub-Contract and the Supplier shall be responsible for ensuring that the Buyer receives a complete copy of each such Subcontractor direction letter as soon as reasonably practicable; or
      2. if, in accordance with Paragraph 4 of this Annex, the Supplier has offered the NHSPS Eligible Employees access to a pension scheme under which the benefits are Broadly Comparable to those provided under the NHSPS, the Subcontractor either secures a Direction Letter in respect of the NHSPS Eligible Employees or (with the prior consent of the Buyer) provides NHSPS Eligible Employees with access to a scheme with Pension Benefits which are Broadly Comparable to those provided under the NHSPS whereupon the provisions of Paragraph 10 below (Bulk Transfer Obligations in relation to any Broadly Comparable Scheme) shall apply.
   2. The Supplier shall procure that each Subcontractor provides indemnities to the Buyer, NHS Pensions and/or any Replacement Supplier and/or Replacement Subcontractor that are identical to the indemnities set out in Paragraph 7 of this Annex D2. Where a Subcontractor fails to satisfy any claim made under such one or more indemnities, the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

**Annex D3: Local Government Pension Schemes (LGPS)**

1. **Definitions**
   1. In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Administering Authority** | in relation to theFund **[insert name]**, the relevant Administering Authority of that Fund for the purposes of the Local Government Pension Scheme Regulations 2013; |
| **Fund Actuary** | the actuary to a Fund appointed by the Administering Authority of that Fund; |
| **Fund** | **[insert name]**, a pension fund within the LGPS; |
| **LGPS** | the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme; |
| **LGPS Admission Agreement** | an admission agreement within the meaning in Schedule 1 of the Local Government Pension Scheme Regulations 2013; |
| **LGPS Admission Body** | an admission body (within the meaning of Part 3 of Schedule 2 of the Local Government Pension Scheme Regulations 2013); |
| **LGPS Eligible Employees** | any Fair Deal Employee who at the relevant time is an eligible employee as defined in the LGPS Admission Agreement or otherwise any Fair Deal Employees who immediately before the Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the LGPS or of a scheme Broadly Comparable to the LGPS; and |
| **LGPS Regulations** | the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS. |

1. **Supplier must become a LGPS admission body** 
   1. Where the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date, the Supplier shall become an LGPS Admission Body and shall on or before the Relevant Transfer Date enter into a LGPS Admission Agreement with the Administering Authority which will have effect from and including the Relevant Transfer Date.
   2. The LGPS Admission Agreement must ensure that all LGPS Eligible Employees covered by that Agreement who were active LGPS members immediately before the Relevant Transfer Date are admitted to the LGPS with effect on and from the Relevant Transfer Date. Any LGPS Eligible Employees who were eligible to join the LGPS but were not active LGPS members immediately before the Relevant Transfer Date must retain the ability to join the LGPS after the Relevant Transfer Date if they wish to do so.
   3. The Supplier shall provide any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.
   4. The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Eligible Employees in any pension scheme other than the LGPS.
2. **Right of set-off** 
   1. The Buyer shall have a right to set off against any payments due to the Supplier under the Contract an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Supplier (or from any relevant Subcontractor) under an LGPS Admission Agreement and shall pay such amount to the relevant Fund.
3. **Supplier ceases to be an LGPS Admission Body**
   1. If the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date and the Supplier either cannot or does not participate in the LGPS, the Supplier shall offer such LGPS Eligible Employee membership of a pension scheme Broadly Comparable to the LGPS.
4. **Discretionary benefits** 
   1. Where the Supplier is an LGPS Admission Body, the Supplier shall award benefits to the LGPS Eligible Employees under the LGPS in circumstances where the LGPS Eligible Employees would have received such benefits had they still been employed by their previous employer. Where such benefits are of a discretionary nature, they shall be awarded on the basis of the previous employer’s written policy in relation to such benefits at the time of the Relevant Transfer Date.

**Annex D4: Other Schemes**

**[Guidance:** Placeholder for Pension Schemes other than LGPS, CSPS & NHSPS]

**Part E: Staff Transfer on Exit**

1. **Obligations before a Staff Transfer** 
   1. The Supplier agrees that within 20 Working Days of the earliest of:
      1. receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
      2. receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract;
      3. the date which is 12 Months before the end of the Term; and
      4. receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any 6 Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Laws, 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 Buyer.

* 1. At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier’s Final Supplier Personnel List (insofar as such information has not previously been provided).
  2. The Buyer 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 Subcontractor.
  3. The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor 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.
  4. From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it 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, unless otherwise instructed by the Buyer (acting reasonably):
     1. not 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
     2. make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Personnel (including any payments connected with the termination of employment);
     3. not 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;
     4. not 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;
     5. not 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);
     6. not 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;
     7. not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor;
     8. give the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor reasonable access to Supplier Personnel and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Subcontractor in respect of persons expected to be Transferring Supplier Employees;
     9. co-operate with the Buyer 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, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
     10. promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect;
     11. not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Subcontractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));
     12. not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
     13. fully fund any Broadly Comparable pension schemes set up by the Supplier;
     14. maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract (including without limitation identification of the Fair Deal Employees);
     15. promptly provide to the Buyer such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
     16. fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract.
  5. On or around each anniversary of the Effective Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:
     1. the numbers of employees engaged in providing the Services;
     2. the percentage of time spent by each employee engaged in providing the Services;
     3. the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and
     4. a description of the nature of the work undertaken by each employee by location.
  6. The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor 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 to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
     1. the most recent month's copy pay slip data;
     2. details of cumulative pay for tax and pension purposes;
     3. details of cumulative tax paid;
     4. tax code;
     5. details of any voluntary deductions from pay; and
     6. bank/building society account details for payroll purposes.

1. **Staff Transfer when the contract ends**
   1. A change in the identity of the supplier of the Services (or Part of the Services), howsoever arising, may constitute a Relevant Transfer to which the Employment Regulations will apply.
   2. The Buyer and the Supplier agree that 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 Subcontractor (as the case may be) and each such Transferring Supplier Employee.
   3. The Supplier 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 (and including) the Service Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Fair Deal Schemes (as defined in Part D: Pensions).
   4. Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of any act or omission of the Supplier or any Subcontractor 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.
   5. The indemnity 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 Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date.
   6. Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then.
      1. the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
      2. the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor;
      3. if such offer of employment is accepted, the Replacement Supplier and/or Replacement Subcontractor shall immediately release the person from its employment;
      4. if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Replacement Supplier's and/or Replacement Subcontractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5.

* 1. The indemnity in Paragraph 2.5 shall not apply to:
     1. any claim for 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 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor, or
     2. any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.
  2. The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than 3 Months from the Service Transfer Date.
  3. If at any point the Replacement Supplier and/or Replacement Sub-contract accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.
  4. The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
  5. Subject to Paragraph 2.9, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.
  6. The indemnity in Paragraph 2.10 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 Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier’s Final Supplier Personnel List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

## Call-Off Schedule 3 (Continuous Improvement)

1. **Buyer’s Rights**
   1. The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.
2. **Supplier’s Obligations**
   1. The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer’s costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
   2. The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
   3. In addition to Paragraph 2.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year (**"Continuous Improvement Plan"**) for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
      1. identifying the emergence of relevant new and evolving technologies;
      2. changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
      3. new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
      4. measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
   4. The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred (100) Working Days of the first Order or six (6) Months following the Start Date, whichever is earlier.
   5. The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.
   6. The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
   7. If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or CCS.
   8. Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
      1. the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
      2. the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
   9. The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
   10. All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
   11. Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
   12. At any time during the Contract Period of the Call-Off Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

## Call-Off Schedule 4 (Call Off Tender)

Please refer to Appendix 1 to Schedule 4 – Sperate Document (REDACTED)

## Call-Off Schedule 5 (Pricing Details and Expenses Policy)

For Pricing Matrix, please refer to Appendix 1 to Schedule 5 - Separate Document (REDACTED)

1. **Call-Off Contract Charges** 
   1. The Supplier shall provide:
      1. as part of the Further Competition Procedure, its pricing for the Deliverables in accordance with the Buyer’s Statement of Requirements.
      2. for each individual Statement of Work (SOW), the applicable Charges, calculated in accordance with the charging methods detailed in the Order Form and using all of the following:
2. the agreed rates for Supplier Staff and/or facilities (which are exclusive of any applicable expenses and VAT) incorporated into the Call-Off Contract;
3. the number of Work Days, or pro rata for every part of a Work Day (see Paragraph 1.2 of Framework Schedule 3 (Framework Pricing)), that Supplier Staff and/or facilities will be required to provide the Deliverables and to meet the tasks sets out in the SOW between the SOW Start Date and SOW End Date; and
4. except in the case of Lot 3 (User Research Studios), a contingency margin of up to 20% of the SOW value (“**Contingency** **Margin**”) applied to the sum calculated on the basis of (a) and (b), to accommodate any changes to the SOW Deliverables during the SOW Start Date and SOW End Date. The Supplier must (i) explain the reasons for its proposed use of, and (ii) obtain the Buyer’s Approval before applying, any amount of the Contingency Margin.
   1. Further to Paragraph 1.5 of Framework Schedule 3 (Framework Pricing), the Supplier will provide a detailed breakdown of its Charges for the Deliverables in sufficient detail to enable the Buyer to verify the accuracy of any invoice submitted.
   2. This detailed breakdown will be incorporated into each SOW and include (but will not be limited to):
      1. a role description of each member of the Supplier Staff;
      2. a facilities description (if applicable);
      3. the agreed day rate for each Supplier Staff;
      4. any expenses charged for each Work Day for each Supplier Staff, which must be in accordance with the Buyer’s expenses policy (if applicable);
      5. the number of Work Days, or pro rata for every part day, they will be actively be engaged in providing the Deliverables between the SOW Start Date and SOW End Date; and
      6. the total SOW cost for all Supplier Staff role and facilities in providing the Deliverables.
   3. If a Capped or Fixed Price has been agreed for a particular SOW:
5. the Supplier shall continue to work on the Deliverables until they are satisfactorily complete and accepted by the Buyer at its own cost and expense where the Capped or Fixed Price is exceeded; and
6. the Buyer will have no obligation or liability to pay any additional Charges or cost of any part of the Deliverables yet to be completed and/or Delivered after the Capped or Fixed Price is exceeded by the Supplier.
   1. All risks or contingencies will be included in the Charges. The Parties agree that the following assumptions, representations, risks and contingencies will apply in relation to the Charges:

**Annex 1: Expenses Policy**

**UK Rail Travel**

Standard Class must be selected

**Accommodation**

**Service Mess**

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

**Hotel**

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

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

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

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

**Travel & Subsistence**

Spend taxpayers’ money responsibly.

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

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

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

Over 5 hours **£5.00**

Over 10 hours **£10.00**

Over 12 hours **£15.00**

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

Breakfast\* **£10.00**

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

Motor Mileage Allowance (MMA) – UK

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

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

passenger; 2p per mile for second and additional passengers

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

**Home to Duty Liability**

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

between business locations.

Using a Private Vehicle is probably the easiest application. If you normally drive to work and use your vehicle for business travel, then your Motor Mileage Allowance claim should have a deduction commensurate with the normal mileage to work. So, if you normally travel 10 miles to/from your normal place of work (total 20 miles) and drive 30 miles to/from a

business location (total 60 miles), the claim should be reduced by 20 miles. This results in a net MMA claim of 40 miles. The deduction only applies to travel to/from the home and

business location; not between your normal work place and business location(s).

## Call-Off Schedule 6 (Intellectual Property Rights and Additional Terms on Digital Deliverables)

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Buyer Property** | the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract; |
| **Buyer Software** | any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables; |
| **Buyer System** | the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables; |
| **Commercial off the shelf Software or COTS Software** | Non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms; |
| **Defect** | any of the following:   1. any error, damage or defect in the manufacturing of a Deliverable; or 2. any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or 3. any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Call Off Contract; or 4. any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract; |
| **Emergency Maintenance** | ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault; |
| **ICT Environment** | the Buyer System and the Supplier System; |
| **Licensed Software** | all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Call Off Contract, including any COTS Software; |
| **Maintenance Schedule** | has the meaning given to it in paragraph 8 of this Schedule; |
| **Malicious Software** | any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence; |
| **New Release** | an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item; |
| **Open Source Software** | computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge; |
| **Operating Environment** | means the Buyer System and any premises (including the Buyer Premises, the Supplier’s premises or third party premises) from, to or at which:   1. the Deliverables are (or are to be) provided; or 2. the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; or 3. where any part of the Supplier System is situated; |
| **Permitted Maintenance** | has the meaning given to it in paragraph 8.2 of this Schedule; |
| **Quality Plans** | has the meaning given to it in paragraph 6.1 of this Schedule; |
| **Sites** | has the meaning given to it in Joint Schedule 1(Definitions), and for the purposes of this Call Off Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place; |
| **Software** | Specially Written Software COTS Software and non-COTS Supplier and third party Software; |
| **Software Supporting Materials** | has the meaning given to it in paragraph 9.1 of this Schedule; |
| **Source Code** | computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software; |
| **Specially Written Software** | any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR; and |
| **Supplier System** | the information and communications technology system used by the Supplier in supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System). |

1. **When this Schedule should be used**
   1. This Schedule is designed to provide additional provisions on Intellectual Property Rights for the Digital Deliverables.
2. **Buyer due diligence requirements** 
   1. The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following;
      1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Start Date) future Operating Environment;
      2. operating processes and procedures and the working methods of the Buyer;
      3. ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
      4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.
   2. The Supplier confirms that it has advised the Buyer in writing of:
      1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
      2. the actions needed to remedy each such unsuitable aspect; and
      3. a timetable for and the costs of those actions.
   3. The Supplier undertakes:
      1. and represents to the Buyer that Deliverables will meet the Buyer’s acceptance criteria as set out in each Statement of Work; and
      2. to maintain all interface and interoperability between third party software or services, and Specially Written Software required for the performance or supply of the Deliverables.
3. **Licensed software warranty**
   1. The Supplier represents and warrants that:
      1. it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Buyer which are necessary for the performance of the Supplier’s obligations under this Contract including the receipt of the Deliverables by the Buyer;
      2. all components of the Specially Written Software shall:
         1. be free from material design and programming errors;
         2. perform in all material respects in accordance with the relevant specifications contained in Call Off Schedule 14 (Service Levels) and Documentation; and
         3. not infringe any IPR.
4. **Provision of ICT Services**
   1. The Supplier shall:
      1. ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or Upgrade;
      2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
      3. ensure that the Supplier System will be free of all encumbrances;
      4. ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with this Contract;
      5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables.
5. **Standards and Quality Requirements**
   1. The Supplier shall develop, in the timescales specified in the Order Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it (**"Quality Plans"**).
   2. The Supplier shall seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.
   3. Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.
   4. The Supplier shall ensure that the Supplier Personnel shall at all times during the Call Off Contract Period:
      1. be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
      2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
      3. obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.
6. **ICT Audit**
   1. The Supplier shall allow any auditor access to the Supplier premises to:
      1. inspect the ICT Environment and the wider service delivery environment (or any part of them);
      2. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
      3. review the Supplier’s quality management systems including all relevant Quality Plans.
7. **Maintenance of the ICT Environment**
   1. If specified by the Buyer in the Order Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment (**"Maintenance Schedule"**) and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
   2. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as **"Permitted Maintenance"**) in accordance with the Maintenance Schedule.
   3. The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance.
   4. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.
8. **Intellectual Property Rights** 
   1. **Assignments granted by the Supplier: Specially Written Software** 
      1. The Supplier assigns (by present assignment of future rights to take effect immediately on it coming into existence) to the Buyer with full guarantee (or shall procure assignment to the Buyer), title to and all rights and interest in the Specially Written Software together with and including:
         1. the Documentation, Source Code and the Object Code of the Specially Written Software; and
         2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR (together the **"Software Supporting Materials"**).
      2. The Supplier shall:
         1. inform the Buyer of all Specially Written Software or New IPRs that are a modification, customisation, configuration or enhancement to any COTS Software;
         2. deliver to the Buyer the Specially Written Software and any computer program elements of the New IPRs in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials within seven days of completion or, if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone and shall provide updates of them promptly following each new release of the Specially Written Software, in each case on media that is reasonably acceptable to the Buyer and the Buyer shall become the owner of such media upon receipt; and
         3. without prejudice to paragraph 9.1.2(c), provide full details to the Buyer of any of the Supplier’s Existing IPRs or Third Party IPRs which are embedded or which are an integral part of the Specially Written Software or New IPR and the Supplier hereby grants to the Buyer and shall procure that any relevant third party licensor shall grant to the Buyer a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit such Supplier’s Existing IPRs and Third Party IPRs to the extent that it is necessary to enable the Buyer to obtain the full benefits of ownership of the Specially Written Software and New IPRs.
      3. The Supplier shall promptly execute all such assignments as are required to ensure that any rights in the Specially Written Software and New IPRs are properly transferred to the Buyer.
   2. **Licences for non-COTS IPR from the Supplier and third parties to the Buyer**
      1. Unless the Buyer gives its Approval the Supplier must not use any:
9. of its own Existing IPR that is not COTS Software;
10. third party software that is not COTS Software
    * 1. Where the Buyer Approves the use of the Supplier’s Existing IPR that is not COTS Software the Supplier shall grant to the Buyer a perpetual, royalty-free and non-exclusive licence to use adapt, and sub-license the same for any purpose relating to the Deliverables (or substantially equivalent deliverables) or for any purpose relating to the exercise of the Buyer’s (or, if the Buyer is a Central Government Body, any other Central Government Body’s) business or function including the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display) for the Call Off Contract Period and after expiry of the Contract to the extent necessary to ensure continuity of service and an effective transition of Services to a Replacement Supplier.
      2. Where the Buyer Approves the use of third party Software that is not COTS Software the Supplier shall procure that the owners or the authorised licensors of any such Software grant a direct licence to the Buyer on terms at least equivalent to those set out in Paragraph 9.2.2. If the Supplier cannot obtain such a licence for the Buyer it shall:
         1. notify the Buyer in writing giving details of what licence terms can be obtained and whether there are alternative software providers which the Supplier could seek to use; and
         2. only use such third party IPR as referred to at paragraph 9.2.3(a) if the Buyer Approves the terms of the licence from the relevant third party.
      3. Where the Supplier is unable to provide a license to the Supplier’s Existing IPR in accordance with Paragraph 9.2.2 above, it must meet the requirement by making use of COTS Software or Specially Written Software.
      4. The Supplier may terminate a licence granted under paragraph 9.2.1 by giving at least thirty (30) days’ notice in writing if there is an Authority Cause which constitutes a material Default which, if capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Buyer written notice specifying the breach and requiring its remedy.
    1. **Licenses for COTS Software by the Supplier and third parties to the Buyer**
       1. The Supplier shall either grant, or procure that the owners or the authorised licensors of any COTS Software grant, a direct licence to the Buyer on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
       2. Where the Supplier owns the COTS Software it shall make available the COTS software to a Replacement Supplier at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
       3. Where a third party is the owner of COTS Software licensed in accordance with this Paragraph 9.3 the Supplier shall support the Replacement Supplier to make arrangements with the owner or authorised licencee to renew the license at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available.
       4. The Supplier shall notify the Buyer within seven (7) days of becoming aware of any COTS Software which in the next thirty-six (36) months:
       5. will no longer be maintained or supported by the developer; or
       6. will no longer be made commercially available
    2. **Buyer’s right to assign/novate licences**
       1. The Buyer may assign, novate or otherwise transfer its rights and obligations under the licences granted pursuant to paragraph 9.2 (to:
          1. a Central Government Body; or
          2. 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 Buyer.
       2. If the Buyer ceases to be a Central Government Body, the successor body to the Buyer shall still be entitled to the benefit of the licences granted in paragraph 9.2.
    3. **Licence granted by the Buyer**
       1. The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Contract Period to use the Buyer Software and the Specially Written Software solely to the extent necessary for providing the Deliverables in accordance with this Contract, including the right to grant sub-licences to Sub-Contractors provided that any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 15 (Confidentiality).
    4. **Open Source Publication**
       1. Unless the Buyer otherwise agrees in advance in writing (and subject to paragraph 9.6.3) all Specially Written Software and computer program elements of New IPR shall be created in a format, or able to be converted (in which case the Supplier shall also provide the converted format to the Buyer) into a format, which is:
          1. suitable for publication by the Buyer as Open Source; and
          2. based on Open Standards (where applicable),

and the Buyer may, at its sole discretion, publish the same as Open Source.

* + 1. The Supplier hereby warrants that the Specially Written Software and the New IPR:
       1. 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 Buyer will not enable a third party to use them in any way which could reasonably be foreseen to compromise the operation, running or security of the Specially Written Software, New IPRs or the Buyer System;
       2. have been developed using reasonable endeavours to ensure that their publication by the Buyer shall not cause any harm or damage to any party using them;
       3. do not contain any material which would bring the Buyer into disrepute;
       4. can be published as Open Source without breaching the rights of any third party;
       5. will be supplied in a format suitable for publication as Open Source (**"the Open Source Publication Material"**) no later than the date notified by the Buyer to the Supplier; and
       6. do not contain any Malicious Software.
    2. Where the Buyer has Approved a request by the Supplier for any part of the Specially Written Software or New IPRs to be excluded from the requirement to be in an Open Source format due to the intention to embed or integrate Supplier Existing 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:
       1. 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
       2. include in the written details and information about the impact that inclusion of such IPRs or Deliverables based on such IPRs, will have on any other Specially Written Software and/or New IPRs and the Buyer’s ability to publish such other items or Deliverables as Open Source.
  1. **Malicious Software**
     1. The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
     2. If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.
     3. Any cost arising out of the actions of the Parties taken in compliance with the provisions of paragraph 9.7.2 shall be borne by the Parties as follows:
        1. by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and
        2. by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

1. **IPR asset management**
   1. The Parties shall work together to ensure that there is appropriate IPR asset management under each Call-Off Contract, and:
      1. where the Supplier is working on the Buyer’s System, the Supplier shall comply with the Buyer’s IPR asset management approach and procedures.
      2. where the Supplier is working on the Supplier’s System, the Buyer will ensure that it maintains its IPR asset management procedures in accordance with Good Industry Practice.
   2. Records and materials associated with IPR asset management shall form part of the Deliverables, including those relating to any Specially Written Software or New IPR.
   3. The Supplier shall comply with any instructions given by the Buyer as to where it shall store all work in progress Deliverables and finished Deliverables (including all Documentation and Source Code) during the term of the Call-Off Contract and at the stated intervals or frequency specified by the Buyer and upon termination of the Contract or any Statement of Work.
   4. The Supplier shall ensure that all items it uploads into any repository contain sufficient detail, code annotations and instructions so that a third-party developer (with the relevant technical abilities within the applicable role) would be able to understand how the item was created and how it works together with other items in the repository within a reasonable timeframe.
   5. The Supplier shall maintain a register of all Open Source Software it has used in the provision of the Deliverables as part of its IPR asset management obligations under this Contract.

## Call-Off Schedule 7 (Key Supplier Staff)

1. **Key Supplier Staff**
   1. The 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 Start Date and the Statement of Work lists the Key Roles and names of persons who the Supplier shall appoint to fill those Key Roles as of the SOW Start Date.
   2. The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
   3. The Buyer 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 Staff.
   4. The Supplier shall not remove or replace and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
      1. requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
      2. the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
      3. the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
   5. The Supplier shall:
      1. notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
      2. ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
      3. give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;
      4. ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables;
      5. ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced;
      6. on written request from the Buyer, provide a copy of the contract of employment or engagement (between the Supplier and Supplier Staff) for every member of the Supplier Staff made available to the Buyer under the Call-Off Contract when providing Deliverables under any Statement of Work **and**
      7. on written request from the Buyer, provide details of start and end dates of engagement for all Key Staff filling Key Roles under any Statement of Work
   6. The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

## Call-Off Schedule 8 (Business Continuity and Disaster Recovery) – NOT APPLICABLE

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **BCDR Plan** | has the meaning given to it in Paragraph 2.2 of this Schedule; |
| **Business Continuity Plan** | has the meaning given to it in Paragraph 2.3.2 of this Schedule; |
| **Disaster** | the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable); |
| **Disaster Recovery Deliverables** | the Deliverables embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster; |
| **Disaster Recovery Plan** | has the meaning given to it in Paragraph 2.3.3 of this Schedule; |
| **Disaster Recovery System** | the system embodied in the processes and procedures for restoring the provision of Deliverables following the occurrence of a Disaster; |
| **Related Supplier** | any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time; |
| **Review Report** | has the meaning given to it in Paragraph 6.3 of this Schedule; and |
| **Supplier's Proposals** | has the meaning given to it in Paragraph 6.3 of this Schedule. |

1. **BCDR Plan**
   1. The Buyer and the Supplier recognise that, where specified in Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
   2. Within ten (10) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer’s written approval a plan (a **“BCDR Plan”**), which shall detail the processes and arrangements that the Supplier shall follow to:
      1. ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
      2. the recovery of the Deliverables in the event of a Disaster
   3. The BCDR Plan shall be divided into three sections:
      1. Section1 which shall set out general principles applicable to the BCDR Plan;
      2. Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and
      3. Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).
   4. Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
2. **General Principles of the BCDR Plan (Section 1)** 
   1. Section 1 of the BCDR Plan shall:
      1. set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
      2. provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
      3. contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
      4. detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
      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 multiple channels;
      6. contain a risk analysis, including:
3. failure or disruption scenarios and assessments of likely frequency of occurrence;
4. identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
5. identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
6. a business impact analysis of different anticipated failures or disruptions;
   * 1. provide for documentation of processes, including business processes, and procedures;
     2. set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
     3. identify the procedures for reverting to "normal service";
     4. set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
     5. identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
     6. provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer’s business continuity plans.
   1. The BCDR Plan shall be designed so as to ensure that:
      1. the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
      2. the adverse impact of any Disaster is minimised as far as reasonably possible;
      3. it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
      4. It details a process for the management of disaster recovery testing.
   2. The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
   3. The Supplier shall not be entitled to any relief from its obligations under the Performance Indicators (PI’s) or 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 Contract.
7. **Business Continuity (Section 2)**
   1. The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
      1. the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
      2. the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
   2. The Business Continuity Plan shall:
      1. address the various possible levels of failures of or disruptions to the provision of Deliverables;
      2. set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
      3. specify any applicable Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Performance Indicators (PI’s) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
      4. set out the circumstances in which the Business Continuity Plan is invoked.
8. **Disaster Recovery (Section 3)** 
   1. The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer 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.
   2. The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
      1. loss of access to the Buyer Premises;
      2. loss of utilities to the Buyer Premises;
      3. loss of the Supplier's helpdesk or CAFM system;
      4. loss of a Subcontractor;
      5. emergency notification and escalation process;
      6. contact lists;
      7. staff training and awareness;
      8. BCDR Plan testing;
      9. post implementation review process;
      10. any applicable Performance Indicators (PI’s) with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Performance Indicators (PI’s) or Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
      11. 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;
      12. access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
      13. testing and management arrangements.
9. **Review and changing the BCDR Plan**
   1. The Supplier shall review the BCDR Plan:
      1. on a regular basis and as a minimum once every six (6) Months;
      2. within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
      3. where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer’s written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer’s approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer’s prior written approval.
   2. Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables 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 such period as the Buyer shall reasonably require.
   3. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a **"Review Report"**) setting out 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.
   4. Following receipt of the Review Report and the Supplier’s Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
   5. The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals 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 Deliverables.
10. **Testing the BCDR Plan**
    1. The Supplier shall test the BCDR Plan:
       1. regularly and in any event not less than once in every Contract Year;
       2. in the event of any major reconfiguration of the Deliverables;
       3. at any time where the Buyer considers it necessary (acting in its sole discretion).
    2. If the Buyer 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 Buyer’s requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer 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.
    3. The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
    4. The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
    5. The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
       1. the outcome of the test;
       2. any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
       3. the Supplier's proposals for remedying any such failures.
    6. Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.
11. **Invoking the BCDR Plan**
    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 Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.
12. **Circumstances beyond your control**
    1. The Supplier shall not be entitled to relief under Clause 20 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

## Call-Off Schedule 9 (Security)

**Part A: Short Form Security Requirements**

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Breach of Security** | the occurrence of:   1. any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or 2. the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,   in either case as more particularly set out in the Security Policy where the Buyer has required compliance therewith in accordance with paragraph 2.2; and |
| **Security Management Plan** | the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time. |

1. **Complying with security requirements and updates to them**
   1. The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), CCS shall have the right to enforce the Buyer's rights under this Schedule.
   2. The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer that has undertaken a Further Competition it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
   3. Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
   4. 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 Deliverables it may propose a Variation to the Buyer. 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 Charges shall be subject to the Variation Procedure.
   5. Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.
2. **Security Standards**
   1. The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
   2. The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
      1. is in accordance with the Law and this Contract;
      2. as a minimum demonstrates Good Industry Practice;
      3. meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
      4. where specified by the Buyer in accordance with paragraph 2.2 complies with the Security Policy and the ICT Policy.
   3. The references to standards, guidance and policies contained or set out in Paragraph 3.2 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.
   4. In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.
3. **Security Management Plan**
   1. **Introduction**
      1. The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.
   2. **Content of the Security Management Plan**
      1. The Security Management Plan shall:
4. comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
5. identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
6. detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer’s Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
7. be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer’s Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
8. set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
9. set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with paragraph 2.2 the Security Policy; and
10. be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.
    1. **Development of the Security Management Plan**
       1. Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
       2. If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
       3. The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.
       4. Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.2 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.
    2. **Amendment of the Security Management Plan**
       1. The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
11. emerging changes in Good Industry Practice;
12. any change or proposed change to the Deliverables and/or associated processes;
13. where necessary in accordance with paragraph 2.2, any change to the Security Policy;
14. any new perceived or changed security threats; and
15. any reasonable change in requirements requested by the Buyer.
    * 1. The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include, without limitation:
16. suggested improvements to the effectiveness of the Security Management Plan;
17. updates to the risk assessments; and
18. suggested improvements in measuring the effectiveness of controls.
    * 1. Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
      2. The Buyer may, acting reasonably, Approve and require changes or amendments to the 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.
19. **Security breach**
    1. Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
    2. Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1, the Supplier shall:
       1. immediately take all reasonable steps (which shall include any action or changes reasonably required by the Buyer) necessary to:
20. minimise the extent of actual or potential harm caused by any Breach of Security;
21. remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
22. prevent an equivalent breach in the future exploiting the same cause failure; and
23. as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.
    1. In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.2) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.
24. **Data security**
    1. The Supplier will ensure that any system on which the Supplier holds any Government Data will be accredited as specific to the Buyer and will comply with:
       1. the government security policy framework and information assurance policy;
       2. guidance issued by the Centre for Protection of National Infrastructure on Risk Management and Accreditation of Information Systems; and
       3. the relevant government information assurance standard(s).
    2. Where the duration of a Call-Off Contract exceeds one (1) year, the Supplier will review the accreditation status at least once each year to assess whether material changes have occurred which could alter the original accreditation decision in relation to Government Data. If any changes have occurred then the Supplier agrees to promptly re-submit such system for re-accreditation.

## Call-Off Schedule 10 (Exit Management)

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Exclusive Assets** | Supplier Assets used exclusively by the Supplier [**or a Key Subcontractor**] in the provision of the Deliverables; |
| **Exit Information** | has the meaning given to it in Paragraph 3.1 of this Schedule; |
| **Exit Manager** | the person appointed by each Party to manage their respective obligations under this Schedule; |
| **Exit Plan** | the plan produced and updated by the Supplier during the Initial Period in accordance with Paragraph 4 of this Schedule; |
| **Net Book Value** | the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Framework Tender or Call-Off Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice); |
| **Non- Exclusive Assets** | those Supplier Assets used by the Supplier [**or a Key Subcontractor**] in connection with the Deliverables but which are also used by the Supplier [**or Key Subcontractor**] for other purposes; |
| **Registers** | the register and configuration database referred to in Paragraph 2.2 of this Schedule; |
| **Replacement Goods** | any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party; |
| **Replacement Services** | any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party; |
| **Termination Assistance** | the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice; |
| **Termination Assistance Notice** | has the meaning given to it in Paragraph 5.1 of this Schedule; |
| **Termination Assistance Period** | the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule; |
| **Transferable Assets** | Exclusive Assets which are capable of legal transfer to the Buyer; |
| **Transferable Contracts** | Sub- Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation; |
| **Transferring Assets** | has the meaning given to it in Paragraph 8.2.1 of this Schedule; and |
| **Transferring Contracts** | has the meaning given to it in Paragraph 8.2.3 of this Schedule. |

1. **Supplier must always be prepared for Contract exit and SOW exit** 
   1. The Supplier shall within 30 days from the Call-Off Contract Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
   2. During the Contract Period, the Supplier shall promptly:
      1. create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
      2. create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables which will be stored in the Deliverables IPR asset management system which includes all Document and Source Code repositories. ("**Registers**").
   3. The Supplier shall:
      1. ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
      2. procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.
   4. Each Party shall appoint an Exit Manager within three (3) Months of the Call-Off Contract Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of each SOW and this Contract.
2. **Assisting re-competition for Deliverables** 
   1. The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence whether this is in relation to one or more SOWs or the Call-Off Contract. (the "**Exit Information**").
   2. The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier’s or its Subcontractors’ prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
   3. The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
   4. The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.
3. **Exit Plan**
   1. The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer a Call-Off Contract and SOW Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.
   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 twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
   3. The Exit Plan shall set out, as a minimum:
      1. a detailed description of both the transfer and cessation processes, including a timetable (this may require modification to SOW Exit Plan provisions to be updated and incorporated as part of the SOW;
      2. how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
      3. details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
      4. proposals for the training of key members of the Replacement Supplier’s staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
      5. proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
      6. proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
      7. proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
      8. proposals for the disposal of any redundant Deliverables and materials;
      9. how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
      10. any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
   4. The Supplier shall:
      1. maintain and update the Exit Plan (and risk management plan) no less frequently than:
4. prior to each SOW and no less than every [**six (6) months**] throughout the Contract Period; and
5. no later than [**twenty (20) Working Days**] after a request from the Buyer for an up-to-date copy of the Exit Plan;
6. as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than [**ten (10) Working Days**] after the date of the Termination Assistance Notice;
7. as soon as reasonably possible following, and in any event no later than [**twenty (20) Working Days**] following, any material change to the Deliverables (including all changes under the Variation Procedure); and
   * 1. jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
   1. Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
   2. A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.
8. **Termination Assistance** 
   1. The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or, as soon as reasonably practicable, in the case of the Call-Off Contract and each SOW (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
      1. the nature of the Termination Assistance required; and
      2. the start date and initial period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.
   2. The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
      1. no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and
      2. the Buyer shall notify the Supplier of any such extension no later than twenty (20) Working Days prior to the date on which the Termination Assistance Period is otherwise due to expire.
   3. The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
   4. In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).
9. **Termination Assistance Period** 
   1. Throughout the Termination Assistance Period the Supplier shall:
      1. continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
      2. provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
      3. use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
      4. subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI’s) or Service Levels or KPIs, the provision of the Management Information or any other reports or to any other of the Supplier's obligations under this Contract;
      5. at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
      6. seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
   2. If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
   3. If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels or KPIs, the Parties shall vary the relevant Service Levels and/or the KPIs accordingly.
10. **Obligations when the contract is terminated**
    1. The Supplier shall comply with all of its obligations contained in the Exit Plan.
    2. Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
       1. vacate any Buyer Premises;
       2. remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables 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;
       3. provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
11. such information relating to the Deliverables as remains in the possession or control of the Supplier; and
12. such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.
    1. Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.
13. **Assets, Sub-contracts and Software**
    1. Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
       1. terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
       2. (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
    2. Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:
       1. which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
       2. which, if any, of:
14. the Exclusive Assets that are not Transferable Assets; and
15. the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

* + 1. which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

* 1. With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
  2. Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
  3. Where the Buyer 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:
     1. procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
     2. procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
  4. The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
  5. The Buyer shall:
     1. accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
     2. once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, 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.
  6. The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
  7. The Supplier shall indemnify the Buyer (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 Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

1. **No charges** 
   1. Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.
2. **Dividing the bills** 
   1. All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:
      1. the amounts shall be annualised and divided by 365 to reach a daily rate;
      2. the Buyer or Replacement Supplier (as applicable) 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
      3. the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

## Call-Off Schedule 11 (Intentionally Blank)

## Call-Off Schedule 12 (Intentionally Blank)

## Call-Off Schedule 13 (Implementation Plan and Testing)

**Part A: Implementation**

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Delay** | 1. a delay in the Achievement of a Milestone by its Milestone Date; or 2. a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan; |
| **Deliverable Item** | an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan; |
| **Milestone Payment** | 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; and |
| **Implementation Period** | has the meaning given to it in Paragraph 7.1. |

1. **Agreeing and following the implementation Plan**
   1. A draft of the Implementation Plan is set out in the Annex to this Schedule. The Supplier shall provide a further draft Implementation Plan **[Insert number of days]** days after the Call-Off Contract Start Date.
   2. The draft Implementation Plan:
      1. must contain information at the level of detail necessary to manage the implementation stage effectively for the whole Call-Off Contract and each Statement of Work issued under it for the supply of Deliverables and as the Buyer may otherwise require; and
      2. it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
   3. Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
   4. The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is achieved on or before its Milestone Date.
   5. The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Buyer on such performance.
   6. The Supplier shall, in relation to each SOW, incorporate within it all Implementation Plan and Testing requirements for the satisfactory completion of each Deliverable Item to be provided under that SOW,
2. **Reviewing and changing the Implementation Plan**
   1. Subject to Paragraph 4.3, the Supplier shall keep the Implementation Plan under review in accordance with the Buyer’s instructions and ensure that it is updated on a regular basis.
   2. The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
   3. Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
   4. Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Supplier to comply with the Implementation Plan shall be a material Default.
3. **Security requirements before the Start Date**
   1. The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Call-Off Start Date. The Supplier shall ensure that this is reflected in their Implementation Plans.
   2. The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.
   3. The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.
   4. The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Buyer of any alterations and additions as they take place throughout the Call-Off Contract.
   5. The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.
   6. If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer’s Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.
4. **What to do if there is a Delay**
   1. If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
      1. notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
      2. include in its notification an explanation of the actual or anticipated impact of the Delay;
      3. comply with the Buyer’s instructions in order to address the impact of the Delay or anticipated Delay; and
      4. use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.
5. **Compensation for a Delay**
   1. If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:
      1. the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier’s failure to Achieve the corresponding Milestone;
      2. Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier’s failure to Achieve a Milestone by its Milestone Date except where:
6. the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 (When CCS or the Buyer can end this contract); or
7. the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
   * 1. the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
     2. no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
     3. Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 11 (How much you can be held responsible for).
8. **Implementation Plan** 
   1. The Implementation Period will be a [six (6)] Month period for the Call-Off Contract and for the duration of each SOW.
   2. During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Call-Off Start Date or as otherwise formally agreed with the Buyer in each SOW. The Supplier's full service obligations shall formally be assumed on the Call-Off Start Date as set out in Order Form.
   3. In accordance with the Implementation Plan, the Supplier shall:
      1. work cooperatively and in partnership with the Buyer, incumbent supplier, and other Framework Supplier(s), where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;
      2. work with the incumbent supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
      3. liaise with the incumbent Supplier to enable the full completion of the Implementation Period activities; and
      4. produce a Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
   4. The Implementation Plan will include detail stating:
      1. how the Supplier will work with the incumbent Supplier and the Buyer Authorised Representative to capture and load up information such as asset data; and
      2. a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
   5. In addition, the Supplier shall:
      1. appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;
      2. mobilise all the Services specified in the Specification within the Call-Off Contract and each SOW;
      3. produce a Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:
9. the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and
10. the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Buyer, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
    * 1. manage and report progress against the Implementation Plan both at a Call-Off Contract level (which shall include an update on costings) and SOW level;
      2. construct and maintain a Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
      3. attend progress meetings (frequency of such meetings shall be as set out in the Order Form and each SOW) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier; and
      4. ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent provider and the Supplier.

**Annex 1: Implementation Plan**

1. **The Supplier shall provide a:**
   * 1. high level Implementation Plan for the Call-Off Contract as part of the Further Competition Procedure; and
     2. a detailed Implementation Plan for each SOW.
   1. The Implementation Plan is set out below and the Milestones to be Achieved are identified below:
      1. Milestone: As detailed within the Monthly Statement of Work
      2. Deliverable Items: As detailed within the Monthly Statement of Work
      3. Duration: As detailed within the Monthly Statement of Work
      4. Milestone Date: Monthly
      5. Buyer Responsibilities: Provision of POC, Background Information, ensuring    deliverables are met
      6. Milestone Payments: Monthly Payments in arrears in accordance with agreed Statement of Work
      7. Delay Payments: Monthly in arrears in accordance with the agreed Monthly    Statement of Work
   2. The Milestones will be Achieved in accordance with this Call-Off Schedule 13: (Implementation Plan and Testing).
   3. For the purposes of Paragraph 6.1.2 the Delay Period Limit shall be 5 working Days.

**Part B: Testing**

1. **Definitions** 
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Component** | any constituent parts of the Deliverables; |
| **Material Test Issue** | a Test Issue of Severity Level 1 or Severity Level 2; |
| **Satisfaction Certificate** | a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria; |
| **Severity Level** | the level of severity of a Test Issue, the criteria for which are described in Annex 1; |
| **Test Issue Management Log** | a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule; |
| **Test Issue Threshold** | in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan; |
| **Test Reports** | the reports to be produced by the Supplier setting out the results of Tests; |
| **Test Specification** | the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule; |
| **Test Strategy** | a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule; |
| **Test Success Criteria** | in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule; |
| **Test Witness** | any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and |
| **Testing Procedures** | the applicable testing procedures and Test Success Criteria set out in this Schedule. |

1. **How testing should work**
   1. All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
   2. The Supplier shall not submit any Deliverable for Testing:
      1. unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
      2. until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
      3. until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
   3. The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
   4. Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.
2. **Planning for testing**
   1. The Supplier shall develop the final Test Strategy as soon as practicable after the Start Date but in any case no later than twenty (20) Working Days after the Start Date.
   2. The final Test Strategy shall include:
      1. an overview of how Testing will be conducted in relation to the Implementation Plan;
      2. the process to be used to capture and record Test results and the categorisation of Test Issues;
      3. the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
      4. the procedure to be followed to sign off each Test;
      5. the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;
      6. the names and contact details of the Buyer and the Supplier's Test representatives;
      7. a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;
      8. the technical environments required to support the Tests; and
      9. the procedure for managing the configuration of the Test environments.
3. **Preparing for Testing**
   1. The Supplier shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than twenty (20) Working Days prior to the start date for the relevant Testing as specified in the Implementation Plan.
   2. Each Test Plan shall include as a minimum:
      1. the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
      2. a detailed procedure for the Tests to be carried out.
   3. The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.
4. **Passing Testing** 
   1. The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.
5. **How Deliverables will be tested**
   1. Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
   2. Each Test Specification shall include as a minimum:
      1. the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;
      2. a plan to make the resources available for Testing;
      3. Test scripts;
      4. Test pre-requisites and the mechanism for measuring them; and
      5. expected Test results, including:
6. a mechanism to be used to capture and record Test results; and
7. a method to process the Test results to establish their content.
8. **Performing the tests**
   1. Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
   2. The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
   3. The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.
   4. The Buyer may raise and close Test Issues during the Test witnessing process.
   5. The Supplier shall provide to the Buyer in relation to each Test:
      1. a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
      2. the final Test Report within 5 Working Days of completion of Testing.
   6. Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
      1. an overview of the Testing conducted;
      2. identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
      3. the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
      4. the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
      5. the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
   7. When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
   8. Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer 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.
   9. If the Supplier successfully completes the requisite Tests, the Buyer 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 Deliverables are implemented in accordance with this Contract.
9. **Discovering Problems** 
   1. Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
   2. The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Buyer upon request.
   3. The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.
10. **Test witnessing** 
    1. The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
    2. The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
    3. The Test Witnesses:
       1. shall actively review the Test documentation;
       2. will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
       3. shall not be involved in the execution of any Test;
       4. shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
       5. may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
       6. may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
    4. may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.
11. **Auditing the quality of the test** 
    1. The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
    2. The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
    3. The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer’s intention to undertake a Testing Quality Audit.
    4. The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
    5. If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer’s report.
    6. In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.
12. **Outcome of the testing**
    1. The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
    2. If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
       1. the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
       2. the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
       3. where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer’s other rights and remedies, such failure shall constitute a material Default.
    3. The Buyer shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.
    4. The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
       1. the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
       2. performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
    5. The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
    6. If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
    7. If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
    8. If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer’s other rights and remedies, such failure shall constitute a material Default.
    9. If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
       1. any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer’s report pursuant to Paragraph 10.5); and
       2. where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.
13. **Risk**
    1. The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:
       1. operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer’s requirements for that Deliverable or Milestone; or
       2. affect the Buyer’s right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

**Annex 1: Test Issues, Severity Levels**

1. **Severity 1 Error** 
   1. This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.
2. **Severity 2 Error**
   1. This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:
      1. causes a Component to become unusable;
      2. causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
      3. has an adverse impact on any other Component(s) or any other area of the Deliverables;
3. **Severity 3 Error**
   1. This is an error which:
      1. causes a Component to become unusable;
      2. causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
      3. has an impact on any other Component(s) or any other area of the Deliverables;

but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

1. **Severity 4 Error**
   1. This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.
2. **Severity 5 Error**
   1. This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

**Annex 2: Satisfaction Certificate**

**To:** Deloitte LLP

**From:** ADS

**Date:** TBC

Dear Sirs,

**Satisfaction Certificate**

**Deliverable/Milestone(s):** Monthly Statement of Work

We refer to the agreement ("**Call-Off Contract"**) 701577532 relating to the provision **of Land ISTAR Technical SME Support** between the DInfo Commercial & ADS ("**Buyer**") and Deloitte LLP ("**Supplier**") dated TBC

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

[We confirm that all the Deliverables relating to the Monthly Statement of Work have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

**[OR]**

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully,

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

## Call-Off Schedule 14 (Service Levels and Balanced Scorecard)

**SECTION 1: SERVICE LEVELS**

1. **Definitions**
   1. In this Section 1 of this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Critical Service Level Failure** | has the meaning given to it in the Order Form; |
| **Service Level Failure** | means a failure to meet the Service Level Performance Measure in respect of a Service Level; |
| **Service Level Performance Measure** | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and |
| **Service Level Threshold** | shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule. |

1. **What happens if you don’t meet the Service Levels**
   1. The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
   2. The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule.
   3. The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
   4. Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months’ notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:
      1. the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
      2. the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards.
2. **Critical Service Level Failure**
   1. On the occurrence of a Critical Service Level Failure the Buyer shall be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("Compensation for Critical Service Level Failure"), provided that the operation of this Paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

**Part A: Service Levels**

1. **Service Levels**
   1. If the level of performance of the Supplier:
      1. is likely to or fails to meet any Service Level Performance Measure; or
      2. is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

* + 1. require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;
    2. instruct the Supplier to comply with the Rectification Plan Process; and/or
    3. if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

1. **Buyer redress for failure to provide Services at or above Service Levels**
   1. The Buyer may ask for a Rectification Plan if the Supplier fails to meet TWO (2) of the Service Levels (“**Default**”) within Section 1 (Service Levels) in any 12-Month rolling period.
   2. This Rectification Plan must clearly detail the improvements and associated timeframes within which the Supplier shall meet and achieve the Service Levels. The Rectification Plan must be provided in accordance with Clause 10.3 of the Core Terms and any failure to correct a Default in line with an accepted Rectification Plan, or failure to provide a Rectification Plan within 10 days of the request may result in the Buyer exercising its right to terminate the Contract in accordance with Clause 10.4 of the Core Terms.

**Annex A to Part A: Services Levels Table – Not Applicable**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Service Level Performance Criterion** | **Key Indicator** | **Service Level Performance Measure** | | | **Service Level Threshold** | **Buyer redress for Failure to provide Services at or above Service Levels** |
| Accurate and timely billing of Buyer | Accuracy /Timelines | at least 98% at all times | | | [ ] | [Insert][Subject to Call-Off Schedule 10 (Rectification Plan)] |
| Access to Buyer support | Availability | at least 98% at all times | | | [ ] | [Insert][Subject to Call-Off Schedule 10 (Rectification Plan)] |
|  | | |  |  | | |

**Part B: Performance Monitoring**

1. **Performance Monitoring and Performance Review**
   1. Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
   2. The Supplier shall provide the Buyer with performance monitoring reports **("Performance Monitoring Reports"**) in accordance with the process and timescales agreed pursuant to Paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
      1. for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
      2. a summary of all failures to achieve Service Levels that occurred during that Service Period;
      3. details of any Critical Service Level Failures;
      4. for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence; and
      5. such other details as the Buyer may reasonably require from time to time.
   3. The Parties shall attend meetings to discuss Performance Monitoring Reports **("Performance Review Meetings"**) on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
      1. take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location, format and time (within normal business hours) as the Buyer shall reasonably require;
      2. be attended by the Supplier's Representative and the Buyer’s Representative; and
      3. be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer’s Representative and any other recipients agreed at the relevant meeting.
   4. The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer’s Representative at each meeting.
   5. The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier for any specified Service Period.
2. **Satisfaction Surveys**
   1. The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

**SECTION 2: BALANCED SCORECARD**

1. **Balanced Scorecard**
   1. As an alternative to or in addition to Service Levels (under Section 1 above) and the Supplier’s performance management obligations under the Framework Contract, the Buyer and Supplier may agree to follow the Balanced Scorecard and key performance indicators (“KPIs”) for a Call-Off Contract and one or more of its Statements of Work.

Deloitte LLP

**A. KPI: Performance to pay process**

In accordance with an agreed performance to pay process, suppliers submit the following 'inputs':

* accurate and complete timesheets in a timely manner
* accurate and complete acceptance certificates in a timely manner
* accurate and complete supplier reports in a timely manner
* accurate and complete invoices in a timely manner

**Measurement**

|  |  |  |
| --- | --- | --- |
| **Met** | **Partially met** | **Not met** |
| All of the inputs are submitted in accordance with the performance to pay process timescales and contain accurate and complete information | Inputs are later than prescribed in the performance to pay process but within 5 working days of the prescribed dates • Inputs are incomplete or inaccurate | Inputs are later than 5 working days in the prescribed performance to pay process Inputs contain significant errors |

**Source**: Supplier Reports/Invoices

**Owner**: To be agreed

**B. KPI: People (resourcing)**

Successful recruitment and placement of key resources or provision of facilities meets the planned deliverables and contractual obligations. The supplier pro-actively manages their resource skills or state of facilities by identifying issues early, and in a timely fashion, addressing any deficits.

**Measurement**

|  |  |  |
| --- | --- | --- |
| **Met** | **Partially met** | **Not met** |
| Targets met for all resources or facilities | Targets met for most (50%+) resources or facilities through no fault of the Buyer | Targets missed for most resources or facilities requested through no fault of the Buyer |

**Source**: Project Managers and wider Buyer Team's verification

**Owner**: To be agreed

**C. KPI: Partnering behaviours and added value**

Supplier promotes positive collaborative working relationships, within and across team, by acting in a transparent manner. Supplier shows commitment to Buyer goals through adding value over and above the provision of compensated skilled personnel or facilities.

**Measurement**

|  |  |  |
| --- | --- | --- |
| **Met** | **Partially met** | **Not met** |
| * No behavioural problems identified * Buyer workshops attended and positive contributions made * Added value recognised by the programme above provision of compensated skilled resource/facilities | * Some minor behavioural problems * Supplier only attends some workshops or provides minor contributions * Supplier adds some value above provision of compensated resource and facilities, but this is not regarded as significant | * Significant behavioural problems * Supplier contributions are rare or insignificant and shows little interest in working with other suppliers * No added value contributions recognised by the Programme |

**Source**: Collective feedback on suppliers from both Buyer and other supplier staff

**Owner**: To be agreed

**D. KPI: People in place (Delivery)**

All Supplier resources delivering services for the contracts are performing to the expected standard for the skill-set supplied and all facilities are to the expected standard.

**Measurement**

|  |  |  |
| --- | --- | --- |
| **Met** | **Partially met** | **Not met** |
| * No resources are swapped out due to deficiency in skill-set and/or no change of facilities is required * No problems identified with quality of work or state of facility * Supplier is making positive team contributions * Supplier skills or facilities meet the standards expected | * Minor issues noted with quality of work or standard of facilities * Few contributions made within team | * Resource is swapped out from project due to deficiency in skill-set or change of facility is required * Persistent issues with quality of work or facilities noted (may be minor ones which have persisted from one month to another) * Significant issue with quality of work or facility noted in a month |

**Source**: Project manager and wider buyer team

**Owner**: To be agreed

* 1. The purpose of the Balanced Scorecard is to promote contract management activity through measurement of the Supplier’s performance against KPIs. The Buyer and Supplier shall agree the content of the Scorecard before the Call-Off Contract Start Date including the Material KPIs as defined in Framework Schedule 4 (Framework Management). Targets and measures to be listed in the Scorecard (example above for guidance only) should be tailored to meet the Buyer’s needs and the Supplier’s competences.
  2. The recommended process for using the Balanced Scorecard is as follows:
     1. the Buyer and Supplier agree a template Balanced Scorecard together with a performance management plan which clearly outlines the responsibilities and actions that will be taken if agreed performance levels are not achieved;
     2. on a pre-agreed schedule (for example, Monthly) both the Buyer and the Supplier provide a rating on the Supplier’s performance;
     3. following the initial rating, both Parties meet to review the scores and agree an overall final score for each KPI;
     4. following agreement of final scores, the process is repeating as per the agreed schedule.

1. **Buyer redress for failure to provide Services at or above Service Levels**
   1. The Buyer may ask for a Rectification Plan if the Supplier:
      1. fails to meet any of the key performance indicators (“KPIs”) listed within Section 2 (Balanced Scorecard) (“a Default”) on at least TWO [2] occasions within a 12-Month rolling period
      2. demonstrates poor performance of a Call-Off Contract or any Statement of Work, evidenced through Buyer feedback to CCS that the Supplier has scored a ‘red’ status on any one of the [4] KPI targets listed on the Balanced Scorecard, on at least TWO [2] occasions within a rolling Monthly Statement of Work, or within a period of THREE (3) Months (whichever is the earlier)
   2. This Rectification Plan must clearly detail the improvements and associated timeframes within which the Supplier shall meet and achieve the KPI targets. The Rectification Plan must be provided in accordance with Clause 10.3 of the Core Terms and any failure to correct a Default in line with an accepted Rectification Plan, or failure to provide a Rectification Plan within 10 days of the request may result in the Buyer exercising its right to terminate the Contract in accordance with Clause 10.4 of the Core Terms.
2. **Performance Monitoring and Performance Review**
   1. Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of KPIs in the Balanced Scorecard will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
   2. The Supplier shall provide the Buyer with performance monitoring reports **("Performance Monitoring Reports"**) in accordance with the process and timescales agreed which shall contain, as a minimum, the following information in respect of the relevant KPIs just ended:
      1. for each KPI, the actual performance achieved over the relevant period;
      2. a summary of all failures to achieve KPIs that occurred during that period;
      3. details of any failures of KPIs across one or more SOW;
      4. for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence; and
      5. such other details as the Buyer may reasonably require from time to time.
   3. The Parties shall attend meetings to discuss Performance Monitoring Reports **("Performance Review Meetings"**) on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
      1. take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location, format and time (within normal business hours) as the Buyer shall reasonably require;
      2. be attended by the Supplier's Representative and the Buyer’s Representative; and
      3. be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer’s Representative and any other recipients agreed at the relevant meeting.

3.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer’s Representative at each meeting.

3.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier for any specified period.

## Call-Off Schedule 15 (Call-Off Contract Management)

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Operational Board** | the board established in accordance with paragraph 4.1 of this Schedule; and |
| **Project Manager** | the manager appointed in accordance with paragraph 2.1 of this Schedule. |

1. **Project Management**
   1. The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
   2. The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
   3. Without prejudice to paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.
2. **Role of the Supplier Contract Manager**
   1. The Supplier's Contract Manager's shall be:
      1. the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
      2. able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
      3. able to cancel any delegation and recommence the position himself; and
      4. replaced only after the Buyer has received notification of the proposed change.
   2. The Buyer may provide revised instructions to the Supplier's Contract Manager's in regards to the Contract and it will be the Supplier's Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
   3. Receipt of communication from the Supplier's Contract Manager's by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.
3. **Role of the Operational Board**
   1. The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
   2. The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
   3. In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
   4. Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member’s attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
   5. The purpose of the Operational Board meetings will be to review the Supplier’s performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.
4. **Contract Risk Management**
   1. Both Parties shall pro-actively manage risks attributed to them under the terms of this Call-Off Contract.
   2. The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
      1. the identification and management of risks;
      2. the identification and management of issues; and
      3. monitoring and controlling project plans.
   3. The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
   4. The Supplier will maintain a risk register of the risks relating to the Call-Off Contract which the Buyer's and the Supplier have identified.

**Annex: Contract Boards**

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

* **Weekly:**Stand-Ups.**Attendance:**Authority Contract Manager and Supplier stakeholders
* **Monthly:**Review of delivered statement of Work**– Attendance:**Authority Contract Manager and Supplier stakeholders
* **Quarterly:**Performance Review Meetings**– Attendance:**Finance, Commercial, Authority Contract Manager and Supplier stakeholders

## Call-Off Schedule 16 (Benchmarking)

1. **Definitions**
   1. In this Schedule, the following expressions shall have the following meanings:

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

1. **When you should use this Schedule**
   1. The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.
   2. This Schedule sets to ensure the Contracts represent value for money throughout and that the Buyer may terminate the 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 3 of this Schedule.
   3. Amounts payable under this Schedule shall not fall with the definition of a Cost.
2. **Benchmarking**
   1. **How benchmarking works**
      1. The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give CCS the right to enforce the Buyer's rights under this Schedule.
      2. The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.
      3. The Buyer shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Contract Commencement Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
      4. The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
      5. The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing.
      6. Upon its request for a Benchmark Review the Buyer shall nominate a benchmarker. The Supplier must approve the nomination within ten (10) Working Days unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Buyer may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.
      7. The cost of a benchmarker shall be borne by the Buyer (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Supplier and the relevant portion shall be reimbursed by the Buyer.
   2. **Benchmarking Process**
      1. The benchmarker shall produce and send to the Buyer, for Approval, a draft plan for the Benchmark Review which must include:
3. a proposed cost and timetable for the Benchmark Review;
4. a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
5. a description of how the benchmarker will scope and identify the Comparison Group.
   * 1. The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.
     2. The Buyer must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Supplier whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.
     3. Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.
     4. Once it has received the Approval of the draft plan, the benchmarker shall:
6. finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the Supplier's professional judgment using:
7. market intelligence;
8. the benchmarker’s own data and experience;
9. relevant published information; and
10. pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;
11. by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
12. using the Equivalent Data, calculate the Upper Quartile;
13. determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
    * 1. The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.
      2. In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:
14. the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
15. exchange rates;
16. any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive.
    1. **Benchmarking Report**
       1. For the purposes of this Schedule "Benchmarking Report" shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule;
       2. The benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:
17. include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
18. if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
19. include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.
    * 1. The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Buyer in accordance with Clause 24 (Changing the contract).

## Call-Off Schedule 17 (MOD Terms)

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **MOD Terms and Conditions** | the terms and conditions listed in this Schedule; |
| **MOD Site** | shall include any of Her Majesty's Ships or Vessels and Service Stations; and |
| **Officer in charge** | shall include Officers Commanding Service Stations, Ships' Masters or Senior Officers, and Officers superintending Government Establishments. |

1. **Access to MOD sites**
   1. The Buyer shall issue passes for those representatives of the Supplier who are approved for admission to the MOD Site and a representative shall not be admitted unless in possession of such a pass. Passes shall remain the property of the Buyer and shall be surrendered on demand or on completion of the supply of the Deliverables.
   2. The Supplier's representatives when employed within the boundaries of a MOD Site, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force for the time being for the conduct of staff at that MOD Site. When on board ship, compliance shall be with the Ship's Regulations as interpreted by the Officer in charge. Details of such rules, regulations and requirements shall be provided, on request, by the Officer in charge.
   3. The Supplier shall be responsible for the living accommodation and maintenance of its representatives while they are employed at a MOD Site. Sleeping accommodation and messing facilities, if required, may be provided by the Buyer wherever possible, at the discretion of the Officer in charge, at a cost fixed in accordance with current Ministry of Defence regulations. At MOD Sites overseas, accommodation and messing facilities, if required, shall be provided wherever possible. The status to be accorded to the Supplier's staff for messing purposes shall be at the discretion of the Officer in charge who shall, wherever possible give his decision before the commencement of this Contract where so asked by the Supplier. When sleeping accommodation and messing facilities are not available, a certificate to this effect may be required by the Buyer and shall be obtained by the Supplier from the Officer in charge. Such certificate shall be presented to the Buyer with other evidence relating to the costs of this Contract.
   4. Where the Supplier's representatives are required by this Contract to join or visit a Site overseas, transport between the United Kingdom and the place of duty (but excluding transport within the United Kingdom) shall be provided for them free of charge by the Ministry of Defence whenever possible, normally by Royal Air Force or by MOD chartered aircraft. The Supplier shall make such arrangements through the Technical Branch named for this purpose in the Buyer Contract Details. When such transport is not available within a reasonable time, or in circumstances where the Supplier wishes its representatives to accompany material for installation which it is to arrange to be delivered, the Supplier shall make its own transport arrangements. The Buyer shall reimburse the Supplier's reasonable costs for such transport of its representatives on presentation of evidence supporting the use of alternative transport and of the costs involved. Transport of the Supplier's representatives locally overseas which is necessary for the purpose of this Contract shall be provided wherever possible by the Ministry of Defence, or by the Officer in charge and, where so provided, shall be free of charge.
   5. Out-patient medical treatment given to the Supplier's representatives by a Service Medical Officer or other Government Medical Officer at a Site overseas shall be free of charge. Treatment in a Service hospital or medical centre, dental treatment, the provision of dentures or spectacles, conveyance to and from a hospital, medical centre or surgery not within the Site and transportation of the Supplier's representatives back to the United Kingdom, or elsewhere, for medical reasons, shall be charged to the Supplier at rates fixed in accordance with current Ministry of Defence regulations.
   6. Accidents to the Supplier's representatives which ordinarily require to be reported in accordance with Health and Safety at Work etc. Act 1974, shall be reported to the Officer in charge so that the Inspector of Factories may be informed.
   7. No assistance from public funds, and no messing facilities, accommodation or transport overseas shall be provided for dependants or members of the families of the Supplier's representatives. Medical or necessary dental treatment may, however, be provided for dependants or members of families on repayment at current Ministry of Defence rates.
   8. The Supplier shall, wherever possible, arrange for funds to be provided to its representatives overseas through normal banking channels (e.g. by travellers' cheques). If banking or other suitable facilities are not available, the Buyer shall, upon request by the Supplier and subject to any limitation required by the Supplier, make arrangements for payments, converted at the prevailing rate of exchange (where applicable), to be made at the Site to which the Supplier's representatives are attached. All such advances made by the Buyer shall be recovered from the Supplier
2. **DEFCONS and DEFFORMS**
   1. The DEFCONS and DEFORMS listed in Annex 1 to this Schedule are incorporated into this Contract.
   2. Where a DEFCON or DEFORM is updated or replaced the reference shall be taken as referring to the updated or replacement DEFCON or DEFORM from time to time.
   3. In the event of a conflict between any DEFCONs and DEFFORMS listed in the Order Form and the other terms in a Call Off Contract, the DEFCONs and DEFFORMS shall prevail.
3. **Authorisation by the Crown for use of third-party intellectual property rights**
   1. Notwithstanding any other provisions of the Call Off Contract and for the avoidance of doubt, award of the Call Off Contract by the Buyer and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Supplier acknowledges that any such authorisation by the Buyer under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

**Annex 1: DEFCONS and DEFFORMS**

The full text of Defence Conditions (DEFCONs) and Defence Forms (DEFFORMS) are at: <https://www.gov.uk/acquisition-operating-framework>.

The following MOD DEFCONs and DEFFORMs form part of this contract:

**DEFCONs**

|  |  |  |
| --- | --- | --- |
| DEFCON No | Edition No. | Description |
| DEFCON 5J | **18/11/16** | Unique Identifiers |
| DEFCON 76 | **06/21** | Contractor’s Personnel at Government Establishments |
| DEFCON 129J | **18/11/16** | The Use of the Electronic Business Delivery Form |
| DEFCON 513 | **07/21** | Value Added Tax |
| DEFCON 516 | **04/12** | Equality |
| DEFCON 518 | **02/17** | Transfer |
| DEFCON 531 | **09/21** | Disclosure of Information |
| DEFCON 534 | **06/21** | Subcontracting and Prompt Payment |
| DEFCON 537 | **06/02** | Rights of Third Parties |
| DEFCON 539 | **08/13** | Transparency |
| DEFCON 550 | **02/14** | Child Labour and Employment Law |
| DEFCON 566 | **10/20** | Change of Control of Contractor |
| DEFCON 642 | **07/21** | Progress Meetings |
| DEFCON 658 | **09/21** | Cyber (Note: Cyber Risk Assessment Result: Moderate) |
| DEFCON 694 | **07/21** | Accounting For Property of the Authority |

**DEFFORMs (Ministry of Defence Forms)**

|  |  |  |
| --- | --- | --- |
| **DEFFORM No** | **Version** | **Description** |
|  |  |  |

## Call-Off Schedule 18 (Background Checks)

1. **When you should use this Schedule**
   1. This Schedule should be used where Supplier Staff must be vetted before working on the Contract.
2. **Definitions**

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Relevant Conviction** | means any conviction listed in Annex 1 to this Schedule. |

1. **Relevant Convictions**
   1. The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person 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 Deliverables without Approval.
   2. Notwithstanding Paragraph 3.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):
      1. carry out a check with the records held by the Department for Education (DfE);
      2. conduct thorough questioning regarding any Relevant Convictions; and
      3. ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (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 Deliverables any person who has a Relevant Conviction or an inappropriate record.

**Annex 1: Relevant Convictions**

**[Insert** Relevant Convictions here]

## Call-Off Schedule 19 (Scottish Law) – NOT APPLICABLE

1. **When you should use this Schedule**
   1. This Call-Off Schedule 19 may be included to adapt the Core Terms and Schedules so that the Call Off Contract is under Scottish Law.
2. **Changes to the Core Terms**
   1. Clause 19, (Other people’s rights in this contract) – “Contract Rights of Third Parties Act (CRTPA)” shall be replaced by “Contract (Third Party Rights) (Scotland) Act 2017 (CTPRSA)”. References to **“CRTPA”** shall be replaced by **“CTPRSA”**.
   2. Clause 34 (Resolving Disputes):
      1. Clause 34.2 – add the following wording: “The governing law and jurisdiction provisions of CEDR’s Model Mediation Agreement shall be deemed to be amended to refer to the laws of Scotland and the Court of Session.”
      2. Clause 34.3 The term “Courts of England and Wales” shall be amended to read **“Court of Session”**
      3. Clause 34.4 – Conduct of Arbitration.
3. The words **“under the London Court of International Arbitration rules current at the time of the Dispute”** shall be deleted.
4. The seat or legal place of the arbitration shall be amended so that it takes place in **“Edinburgh”** as opposed to **“London”**.
5. Add the following wording **“The arbitration shall be conducted in accordance with the Arbitration (Scotland) Act 2010 subject to disapplication in whole or in part of any of the default rules of the Scottish Arbitration Rules comprising Schedule 1 to that Act as the Parties may agree.”**
   1. Clause 35 (Which Laws apply) – the words **“English Law”** shall be replaced by **“the Law of Scotland”**.
6. **Changes to the Joint Schedules**
   1. Joint Schedule 1 – Definitions shall be amended as follows:
      1. The definition of “CRTPA” shall be replaced by “”CTPRSA” the Contract (Third Party Rights) (Scotland) Act 2017”.
      2. In the definition of “Dispute” the reference to **“English law”** shall be replaced by **“the Law of Scotland”** and the reference to the **“English courts”** shall be replaced by the **“courts of Scotland”**.
      3. In the definition of “Insolvency Event” – the word “**Assignment”** replaced by “**Assignation**”.
      4. In the definition of “Losses” the word **“tort”** shall be replaced with “**delict**”.
      5. In part (a) of the definition of “Intellectual Property Rights” the words **“Know-How”** and **“trade secrets”** refer to pre-existing know-how and trade secrets only.
      6. “Working Day”: reference to “England and Wales” replaced by “Scotland”
   2. Where a Guarantee is selected, the following provisions of Joint Schedule 8 – Guarantee shall be amended as follows:
      1. Annex 1 – Form of Guarantee WHEREAS (B) “deed” replaced by “contract”
      2. Throughout the whole Schedule delete all references to “deed of Guarantee” merely express as “Guarantee”
      3. Clause 4.1 Delete references to “England and Wales” when referring to addresses.
      4. Clause 12 – the word “**assignment**” shall be amended to “assignation”.
      5. Clause 14 – “**Contract (Rights of Third Parties) Act 1999**” shall be amended to “**Contract (Third Party Rights) (Scotland) Act 2017**”.
      6. Clause 16 Governing Law (add “and Jurisdiction”). References to **“Courts of England**” to be replaced by **“Court of Session”**. References to “**English**” to be replaced by “**Scottish**”. References to **“England and Wales**” to be replaced by “**Scotland**”.
      7. Alter execution strip to read as follows:

“In witness whereof these presents consisting of this page and the [ ] preceding pages are executed in duplicate as follows:

Signature:

Name:

Position:

Place of signing:

Date:

Witness:

Witness name:

Witness address:”

1. **Changes to Call-Off Schedules**

**[Buyer Guidance** Insert any amendments to the Call-Off schedules where Scottish Law applies]

1. **References to Legislation**
   1. Where legislation applicable to England and Wales only is expressly mentioned in this Call Off Contract it shall have the effect of substituting the equivalent legislation applicable in Scotland.

## Call-Off Schedule 20 (Call-Off Specification)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyers under this Call-Off Contract.

**STATEMENT OF REQUIREMENT FOR LAND ISTAR SME TECHNICAL SUPPORT**

**Context**:  The Land ISTAR programme is a complex organisation of interconnected and interdependent projects with a mandate to deliver transformational change in both the deployed and firm base.  Specialist contemporary industry expertise is required to support the Army in being an intelligent and technical customer.

|  |
| --- |
| **Introduction**    **Purpose**    This Statement of Requirement (SOR) seeks to define the technical outputs required by the Land ISTAR programme in order to support the design, development and delivery of a distributed deployed digital system.  This critical work will be conducted at the sub-portfolio level to develop and cohere common operating models across the sensor to decider and effector enterprise, including data strategy, architecture and systems interfaces. These outputs will be critical to the delivery of the programme ALPHA and BETA phases.  The generation of a technical SME team will serve mutual dependencies across the ISTAR, CEMA, Joint Effects, IA&O and LE TacCIS programmes and de-risk the delivery of future integrated systems. This initiative is supported by Director Information and HoC Info Mvre and is fully coherent with the wider MDI and modernisation vision across Defence. |
| **Background**    The aim of the Land Intelligence, Surveillance, Target Acquisition and Reconnaissance (ISTAR) Programme is to deliver the ISTAR capability that the Army requires to operate effectively in the 21st Century. It will achieve this by designing an overarching vision and digital system for the Land ISTAR enterprise and then delivering the sensors, platforms and applications required to operate effectively in every environment that the Army seeks to operate.    To establish advantage, the Field Army seeks to integrate information capabilities under the concept of Information Manoeuvre to generate operational output greater than the sum of its parts.  To support this operating concept, there is a demand for the delivery of integrated information systems to enable the Army to act with greater precision and speed. The Land ISTAR programme is a cross-cutting programme that will deliver capability to support tactical functions across Land CEMA, ISTAR, IA&O, Joint Effects and offer shared services to both Joint and Strategic staff.  This is a challenging technical Programme to deliver because of both the technical complexity, its dependency on contemporary digital expertise and the large number of cross-programme dependencies.    The end users of the future ISTAR system can be split into 3 key groups:    **Sensor Operators** – those commanding and operating the sensor platforms to collect data and process the raw data into usable L1/L2 intelligence.   **Deciders** – The users within the HQ who will use the information to make a decision on what to do next – generate an effect or re-task a sensor to find out more.  This is where sensor data might be fused with other data sources to create a Common Intelligence Picture (CIP) or analytics are performed for prediction purposes.   **Effectors** – The users from the Jt Effects, OCyber and Soft Effects (such as IA&O) communities who need the appropriate information to execute a target.    Land ISTAR is dependent on the establishment of coherent and integrated data architecture across CEMA, ISTAR, IA&O and Joint Effects to realise the benefits of a system that underpins the sensor – decider – effector ambition.   At this stage of the programme, the primary focus is on the development of the core system. Initial work strands include the development of; an ISTAR operating model, use cases & personas, data strategy, data model, data architecture, and data engineering support to the design and development of the distributed deployed digital system.    **ZODIAC**.  The core project within the programme is ZODIAC.  ZODIAC is described as the central nervous system of the Land ISTAR programme because it is responsible for the interpretation of sensor data, sensor data edge processing and the production of ISTAR message traffic to support decisions and effects. It provides the C2 for the ISTAR System of Systems, integrating individual ISTAR sensors into a coherent digital network and both speeds and improves the ISTAR cycle with automation, machine learning and artificial intelligence. ZODIAC will be based on an open and modular architecture which will be incrementally updated ('evergreen').     **Other key sensor projects.**There are several other important projects within the programme.  These are considered the ‘sensor projects’ that will be integrated into the future Land ISTAR system.  Additionally, other projects and capabilities outside of the programme must also be incorporated into the design of the future system. |
| **Objectives**    The Land ISTAR Programme needs to develop the core technical artefacts and system designs that define how data will be used to enable the future ISTAR system. Defence does not have the necessary contemporary digital skills, technical expertise or experience to deliver this requirement within the necessary time period to achieve an operating capability in 2024.    Key specialist outputs include:     * **Expert support and guidance on design and development of contemporary IoT digital solutions** * Analysis of Data Exchange and Flow * Data strategy, Analytics Model and supporting Data Architecture * Coherence of Operating Model and Data strategy across projects     A key phase of work for the programme at present is the ZODIAC Alpha phase.  This comprises the initial design and de-risking activities for the development of the future ISTAR system.  The successful vendor will be required to support the programme staff – and work closely alongside other industry partners - in developing this work. |
| **Requirements**    **Outputs/deliverables/milestones**    **A range of artefacts will be required to define the future data and analytics design required to deliver the future Land ISTAR system (although the Programme also requires expert advice on whether this is the full scope of what is required), including:**     1. **A data strategy, based on the future Land ISTAR operating model** 2. **Detailed development of the data strands of the Land ISTAR operating model, including data models and data architecture** 3. **Definition of how the future Land ISTAR system will interface with other Army and Defence information systems.** 4. **Creation of materials to support the communication of the future data strategy to a wide range of audiences, with varied levels of technical understanding.** 5. **Definition and application of data standards (in line with Defence standards) and models across a series of Land ISTAR projects.** 6. **Detail of how AI, ML, data analytics, Cloud and Edge computing should be considered as part of the design** 7. **Development of future ‘business’ processes that are data-enabled, in conjunction with operational end users.** 8. **Development of user journeys, to enable the system to be developed around operational user requirements**     **Key skills & experience and vendor requirements.**  **Team structure, resource and experience.**    **A suitable team structure to meet the objectives of this requirement and the ability to flexi up and down resources to meet the demands during different phases of work are of high importance to the programme.  As is the demonstration of a similar role having been successfully performed.**    **Some of the roles (with their respective key skills & experience) deemed to be essential to achieve the objectives – and therefore to be available to call on as and when required during the schedule of work/contract - are:**  **Senior Programme Technical lead and data advisor**    **Outline.   A highly experienced and qualified technical leader, who will define the future data and analytics design required to deliver the future Land ISTAR system and lead a team of data engineers and op model specialists.  An expert in support to design and development of contemporary IoT digital solutions.**    **Skills and Experience.**     * **Minimum PhD level qualification, with proven expertise and experience in delivering enterprise digital solutions, with specialisation in integration, cyber and supporting transformational programmes.** * **Able to define a data strategy, based on the future Land ISTAR operating model.** * **Able to lead the detailed development of the data strand of the Land ISTAR operating model.** * **Able to define how the future Land ISTAR system will interface with other Army and Defence information systems.** * **Ability to communicate the future data strategy to a wide range of audience, with varied levels of technical understanding.** * **Able to define data standards (in line with Defence standards) and models across a series of Land ISTAR projects and ensure adherence.** * **Professional knowledge of AI, ML, data analytics, telecommunications, Cloud and Edge computing.** * **Experience of data leadership on other large Defence programmes** * **Understands Defence and Army doctrine.** * **Highly desirable: experience of data leadership on private sector digital transformation programmes.**     **Senior Data Engineer and Data Architect**    **Outline.   An experienced data architect, who will support the Senior Technical lead, in developing the detailed data strand of the Land ISTAR operating model.**    **Skills and Experience.**     * **Ability to build data models and architectures, as part of an overall capability operating model.** * **Able to work across multiple projects and define a coherent data architecture, that serves the entire Programme.** * **Able to interface with other Army and Defence stakeholders on data architectural models and standards, to ensure Programme coherence.** * **Expert knowledge of data architecture standards and methodologies.** * **Knowledgeable in Industry and Defence data standards.** * **Understands Defence/Army ISTAR doctrine.** * **Highly desirable: experience of data architecture on private sector digital transformation programmes.**     **Business and systems analyst.**    **Outline.   An experienced business and systems analyst, who will work with end users to clearly set out their requirements of the future Land ISTAR system, develop user journeys and determine the changes required in key ISTAR processes.**    **Skills and Experience.**     * **Process design/engineering experience.** * **User journey development experience.** * **Able to work across multiple projects and develop detailed business process maps and user journeys that explain the future Land ISTAR operating model.** * **Expert knowledge of business analysis and business change.** * **Understands Edge Processing in Digital systems** * **Highly desirable: experience of business analysis on private sector digital transformation programmes**   **Security**  **Support staff are to be cleared to SC** **with chief architect possessing** **existing** **clearance to TS (must have DV)** and relationship with proven experience of supporting the intelligence agencies.    **GDPR**  MoD will not knowingly provide the vendor with or access to personal or Personally Identifiable Information (PII) data during this contract.    **SHEF**  All equipment is to be CE marked and compliant with current UK/EU regulations and have an accompanying safety certificate. Hardware installation will be iaw current UK/EU regulations and controlled by the LSRC Reference System manager.    **ITAR**  None of the data, hardware, software and associated processes is to have ITAR implications.    **Intellectual Property**    All products produced by the contracted industry team will be owned by the MoD.    ----------------------------------------------------------------------------------------------------------------- |

**Worker Engagement Route (including IR35 status) – Deemed Outside of IR35**

Where the Buyer has assessed its requirement is for resource, the IR35 status of the Key Roles must be detailed in the Specification.

## Call-Off Schedule 21 (Northern Ireland Law) - NOT APPLCABLE

1. **When you should use this Schedule**
   1. This Call-Off Schedule 21 may be included to adapt the Core Terms and Schedules so that the Call-Off Contract is under Northern Ireland Law.
2. **Changes to the Core Terms**
   1. Clause 34 (Resolving Disputes):
      1. Clause 34.2: substitute the following wording: “If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Dispute Resolution Service of Northern Ireland (DRS) Code of Practice current time at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by DRS. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5”.
      2. Clause 34.3: the term “Courts of England and Wales” shall be amended to read “Courts of Northern Ireland”.
      3. Clause 34.4: the seat or legal place of the arbitration shall be amended, so that it takes place in Belfast as opposed to London.
   2. Clause 35 (Which Laws apply): the term “English Law” shall be replaced with “the Law of Northern Ireland”.
3. **Changes to the Joint Schedules**
   1. Joint Schedule 1 – Definitions
      1. “Insolvency Event”: any reference to a Part or section of the Insolvency Act 1986 shall be deemed to include an alternative reference, if applicable, to the equivalent Part or section of the Insolvency (Northern Ireland) Order 1989.
      2. “Working Day”: reference to “England and Wales” replaced by “Northern Ireland”
   2. Joint Schedule 5 - Corporate Social Responsibility
      1. Clause 1.1: substitute the following wording: “NOT USED”.
      2. Clause 1.2: substitute the following wording: “NOT USED”.
      3. Clause 2.1: substitute the following wording: “In addition to applicable equality and anti-discrimination legal obligations in Northern Ireland, the Supplier shall support CCS and the Buyer in fulfilling its obligations to promote equality of treatment under Section 75 of the Northern Ireland Act 1998.”
   3. Joint Schedule 8 – Guarantee
      1. Clause 4.1: Delete references to “England and Wales” when referring to addresses.
      2. Clause 16: change title to Governing Law and Jurisdiction”; references to “Courts of England” to be replaced by “Courts of Northern Ireland”, references to “English law” to be replaced by the “the laws of Northern Ireland”.
4. **Changes to the Call-Off Schedules**
   1. Call-Off Schedule 1 (Transparency Reports)
      1. If this Call-Off Schedule 21 (Northern Ireland Law) is included in any Call-Off Contract then Call-Off Schedule 1 (Transparency Reports) is excluded from that Call-Off Contract and does not apply to that Call-Off Contract.
   2. Call-Off Schedule 18 (Background Checks)
      1. Clause 3.1.2: substitute the following wording: “Notwithstanding Paragraph 2.1.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must) conduct an “Enhanced” Access NI Check and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.”

## Call-Off Schedule 22 (Intentionally Blank)

## Call-Off Schedule 23 (Intentionally Blank)

## Call-Off Schedule 24 (Intentionally Blank)

## Call-Off Schedule 25 (Ethical Walls Agreement)

Army Digital Services; Directorate of Information

and

Deloitte LLP

**Ethical Walls Agreement**

This Agreement is dated 30 September 2021

Between

1. **Army Digital Services, Directorate of information, Army Hq** (the **"Buyer"**) [acting on behalf of the Crown] of Blenheim Building, Monxton Road, Andover SP11 8HJ; and
2. Deloitte a **limited liability partnership** registered in England and Wales under registered number 364807771 whose registered office is at 1 New Street Square, London EC4A 3PA (the **“Supplier”**).

together the “Parties” and each a “Party”.

**Background**

1. The Buyer is obliged to ensure transparency, fairness, non-discrimination and equal treatment in relation to its procurement process pursuant to the Public Contracts Regulations 2015 (as amended) (the **PCR**). The purpose of this document ("Agreement") is to define the protocols to be followed to prevent, identify and remedy any conflict of interest (whether actual, potential or perceived) in the context of the Further Competition Procedure.
2. The Buyer is conducting a Further Procurement Procedure for the supply of Digital Outcomes and Specialists 5 Deliverables under a Call-Off Contract (the **“Purpose”**).
3. The Buyer has an obligation to deal with conflicts of interest as set out in Regulation 24 (1) of the PCR. The concept of conflict of interest is wide. In the PCR it is described as covering at least "any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure" (Regulation 24(2)). "Staff members" refers to staff members of the Buyer or of a procurement service provider acting on behalf of the Buyer who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure. "Procurement service provider" refers to a public or private body which offers ancillary purchasing activities on the market.
4. Pursuant to Regulation 41 of the PCR, the Buyer is under an obligation to ensure that competition is not distorted by the participation of any Framework Contract supplier acting as a bidder in a further competition procedure. Accordingly, the Buyer has identified that a potential distortion of competition could arise as a consequence of a bidder wishing to submit a Tender for this Further Competition Procedure, where it has also performed services for the Buyer under existing contractual arrangements or as a subcontractor under those same arrangements.
5. The Parties wish to enter into this Agreement to ensure that a set of management processes, barriers and disciplines are put in place to ensure that conflicts of interest do not arise, and that the Supplier does not obtain an unfair competitive advantage over Other Bidders.

**It is agreed:**

1. **Definitions and interpretation**
   1. The following words and expressions shall have the following meanings in this agreement and its recitals:

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Affiliate** | 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; |
| **Agreement** | means this ethical walls agreement duly executed by the Parties; |
| **Bid Team** | means any Supplier, Affiliate, connected to the preparation of an FCP Response; |
| **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:   1. Government Department; 2. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); 3. Non-Ministerial Department; or 4. Executive Agency; |
| **Conflicted Personnel** | means any Supplier, Affiliate, staff or agents of the Supplier or an Affiliate who, because of the Supplier’s relationship with the Buyer under any Contract have or have had access to information which creates or may create a conflict of interest; |
| **Contract** | means the [contract for **[ ]] dated [ ]** between the Buyer and the Supplier and/or an Affiliate; |
| **Control** | means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and **"Controls"** and **"Controlled"** shall be interpreted accordingly; |
| **Effective Date** | means the date of this Agreement as set out above; |
| **Further Competition Procedure or FCP** | means an invitation to submit tenders issued by the Buyer as part of an FCP Process; |
| **FCP Process** | means, with regard to the Purpose, the relevant procedure provided for in Framework Schedule 7 (Call-Off Award Procedure) of RM1043.7 Framework Contract which the Buyer has elected to use to select a contractor, together with all relevant information, correspondence and/or documents issued by the Buyer as part of that procurement exercise, all information, correspondence and/or documents issued by the bidders in response together with any resulting contract; |
| **FCP Response** | means the tender submitted or to be submitted by the Supplier or an Affiliate [(or, where relevant, by an Other Bidder)] in response to an FCP; |
| **Other Affiliate** | any person who is a subsidiary, subsidiary undertaking or holding company of any Other Bidder; |
| **Other Bidder** | means any other bidder or potential bidder that is not the Supplier or any Affiliate that has or is taking part in the FCP Process; |
| **Parties** | means the Buyer and the Supplier; |
| **Professional Advisor** | means a supplier, subcontractor, advisor or consultant engaged by the Supplier under the auspices of compiling its FCP Response; |
| **Purpose** | has the meaning given to it in recital B to this Agreement; |
| **Representative** | refers to a person's officers, directors, employees, advisers and agents and, where the context admits, providers or potential providers of finance to the Supplier or any Affiliate in connection with the FCP Process and the representatives of such providers or potential providers of finance; and |
| **Third Party** | means any person who is not a Party and includes Other Affiliates and Other Bidders. |

* 1. Reference to the disclosure of information includes any communication or making available information and includes both direct and indirect disclosure.
  2. Reference to the disclosure of information, or provision of access, by or to the Buyer or the Supplier includes disclosure, or provision of access, by or to the representatives of the Buyer or Representatives of the Supplier (as the case may be).
  3. Reference to persons includes legal and natural persons.
  4. Reference to any enactment is to that enactment as amended, supplemented, re-enacted or replaced from time to time.
  5. Reference to clauses and recitals is to clauses of and recitals to this Agreement.
  6. Reference to any gender includes any other.
  7. Reference to writing includes email.
  8. The terms “associate”, “holding company”, “subsidiary”, “subsidiary undertaking” and “wholly owned subsidiary” have the meanings attributed to them in the Companies Act 2006, except that for the purposes of section 1159(1)(a) of that Act, the words ‘holds a majority of the voting rights’ shall be changed to ‘holds 30% or more of the voting rights’, and other expressions shall be construed accordingly.
  9. The words “include” and “including” are to be construed without limitation.
  10. The singular includes the plural and vice versa.
  11. The headings contained in this Agreement shall not affect its construction or interpretation.

1. **Ethical walls**
   1. In consideration of the sum of £1 payable by the Buyer to the Supplier, receipt of which is hereby acknowledged, the Supplier:
      1. shall take all appropriate steps to ensure that neither the Supplier nor its Affiliates and/or Representatives are in a position where, in the reasonable opinion of the Buyer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or its Affiliates or Representatives and the duties owed to the Buyer under the Contract or pursuant to an fair and transparent FCP Process;
      2. acknowledges and agrees that a conflict of interest may arise in situations where the Supplier or an Affiliate intends to take part in the FCP Process and, because of the Supplier’s relationship with the Buyer under any Contract, the Supplier, its Affiliates and/or Representatives have or have had access to information which could provide the Supplier and/or its Affiliates with an advantage and render unfair an otherwise genuine and fair competitive FCP Process; and
      3. where there is or is likely to be a conflict of interest or the perception of a conflict of interest of any kind in relation to the FCP Process, shall comply with Clause 2.2.
   2. The Supplier shall:
      1. Not assign any of the Conflicted Personnel to the Bid Team at any time;
      2. Provide to the Buyer a complete and up to date list of the Conflicted Personnel and the Bid Team and reissue such list upon any change to it;
      3. Ensure that by no act or omission by itself, its staff, agents and/or Affiliates results in information of any kind or in any format and however so stored:
2. about the Contract, its performance, operation and all matters connected or ancillary to it becoming available to the Bid Team; and/or
3. which would or could in the opinion of the Buyer confer an unfair advantage on the Supplier in relation to its participation in the FCP Process becoming available to the Bid Team;
   * 1. Ensure that by no act or omission by itself, its staff, agents and/or Affiliates and in particular the Bid Team results in information of any kind or in any format and however so stored about the FCP Process, its operation and all matters connected or ancillary to it becoming available to the Conflicted Personnel;
     2. Ensure that confidentiality agreements which flow down the Supplier’s obligations in this Agreement are entered into as necessary between the Buyer and the Supplier, its Affiliates, its staff, agents, any Conflicted Personnel, and between any other parties necessary in a form to be prescribed by the Buyer;
     3. physically separate the Conflicted Personnel and the Bid Team, either in separate buildings or in areas with restricted access;
     4. provide regular training to its staff, agents and its Affiliates to ensure it is complying with this Agreement;
     5. monitor Conflicted Personnel movements within restricted areas (both physical and electronic online areas) to ensure it is complying with this Agreement ensure adherence to the ethical wall arrangements;
     6. ensure that the Conflicted Personnel and the Bid Team are line managed and report independently of each other; and
     7. comply with any other action as the Buyer, acting reasonably, may direct.
   1. In addition to the obligations set out in Clause 2.1.1 and 2.1.3, the Supplier shall:
      1. notify the Buyer immediately of all perceived, potential and/or actual conflicts of interest that arise;
      2. submit in writing to the Buyer full details of the nature of the conflict including (without limitation) full details of the risk assessments undertaken, the impact or potential impact of the conflict, the measures and arrangements that have been established and/or are due to be established to eliminate the conflict and the Supplier’s plans to prevent future conflicts of interests from arising; and
      3. seek the Buyer’s approval thereto, which the Buyer shall have the right to grant, grant conditionally or deny (if the Buyer denies its approval the Supplier shall repeat the process set out in clause 2.3 until such time as the Buyer grants approval or the Supplier withdraws from the FCP Process).
   2. Any breach of Clause 2.1, Clause 2.2 or Clause 2.3 shall entitle the Buyer to exclude the Supplier or any Affiliate or Representative from the FCP Process, and the Buyer may, in addition to the right to exclude, take such other steps as it deems necessary where, in the reasonable opinion of the Buyer there has been a breach of Clause 2.1, Clause 2.2 or Clause 2.3.
   3. The Supplier will provide, on demand, any and all information in relation to its adherence with its obligations set out under Clauses 2.1 and 2.2 as reasonably requested by the Buyer.
   4. The Buyer reserves the right to require the Supplier to demonstrate the measures put in place by the Supplier under Clauses 2.1.3 and 2.2.
   5. The Supplier acknowledges that any provision of information or demonstration of measures, in accordance with Clauses 2.5 and 2.6, does not constitute acceptance by the Buyer of the adequacy of such measures and does not discharge the Supplier of its obligations or liability under this Agreement.
   6. The actions of the Buyer pursuant to Clause 2.4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Buyer.
   7. In no event shall the Buyer be liable for any bid costs incurred by:
      1. the Supplier or any Affiliate or Representative; or
      2. any Other Bidder, Other Affiliate or Other Representative,

as a result of any breach by the Supplier, Affiliate or Representative of this Agreement, including, without limitation, where the Supplier or any Affiliate or Representative, or any Other Bidder, Other Affiliate or Other Representative are excluded from the FCP Process.

* 1. The Supplier acknowledges and agrees that:
     1. neither damages nor specific performance are adequate remedies in the event of its breach of the obligations in Clause 2; and
     2. in the event of such breach by the Supplier of any of its obligations in Clause 2 which cannot be effectively remedied the Buyer shall have the right to terminate this Agreement and the Supplier’s participation in the FCP Process.

1. **Sole responsibility**
   1. It is the sole responsibility of the Supplier to comply with the terms of this Agreement. No approval by the Buyer of any procedures, agreements or arrangements provided by the Supplier or any Affiliate or Representative to the Buyer shall discharge the Supplier’s obligations.
2. **Waiver and invalidity**
   1. No failure or delay by any Party in exercising any right, power or privilege under this Agreement or by law shall constitute a waiver of that or any other right, power or privilege, nor shall it restrict the further exercise of that or any other right, power or privilege. No single or partial exercise of such right, power or privilege shall prevent or restrict the further exercise of that or any other right, power or privilege.
   2. If any provision of this Agreement is prohibited or unenforceable in any jurisdiction in relation to any Party, such prohibition or unenforceability will not invalidate the remaining provisions of this Agreement or affect the validity or enforceability of the provisions of this Agreement in relation to any other Party or any other jurisdiction.
3. **Assignment and novation**
   1. Subject to Clause 5.2 the Parties shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Agreement without the prior written consent of the Buyer.
   2. The Buyer may assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Agreement and/or any associated licences to:
      1. any Central Government Body; or
      2. to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by the Authority; and
      3. the Supplier shall, at the Buyer’s request, enter into a novation agreement in such form as the Buyer reasonably specify in order to enable the Buyer to exercise its rights pursuant to this Clause 5.
   3. A change in the legal status of the Buyer such that it ceases to be a Central Government Body shall not affect the validity of this Agreement and this Agreement shall be binding on any successor body to the Buyer.
4. **Contracts (Rights of Third Parties) Act 1999**
   1. A person who is not a Party to this Agreement has no right under the Contract (Rights of Third Parties) Act 1999 (as amended, updated or replaced from time to time) to enforce any term of this Agreement but this does not affect any right remedy of any person which exists or is available otherwise than pursuant to that Act.
5. **Transparency**
   1. The Parties acknowledge and agree that the Buyer is under a legal duty pursuant to the PCR to run transparent and fair procurement processes. Accordingly, the Buyer may disclose the contents of this Agreement to potential bidders in the FCP Process, for the purposes of transparency and in order to evidence that a fair procurement process has been followed.
6. **Notices**
   1. Any notices sent under this Agreement must be in writing.
   2. The following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

|  |  |  |
| --- | --- | --- |
| **Manner of Delivery** | **Deemed time of service** | **Proof of service** |
| Email | 9.00am on the first Working Day after sending | Dispatched as a pdf attachment to an email to the correct email 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. |
| Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next working day service providing proof of delivery. | At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm). | Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt. |

8.3 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement:

**Supplier**

Contact: Deloitte LLP

Address: 1 New Street Square, London EC4A 3PA

Email:

**Buyer**

Contact: REDACTED

Address: Army DInfo Commercial, Army HQ, Blenheim Bldg, Monxton Road, Andover SP11 8HJ

Email: [REDACTED @mod.gov.uk](mailto:Toni.Prince177@mod.gov.uk)

8.4 This Clause 8 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

1. **Waiver and cumulative remedies**

9.1 The rights and remedies under this Agreement may be waived only by notice and in a manner that expressly states that a waiver is intended and what is waived. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Agreement or by law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

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

1. **Term**

10.1 Each Party's obligations under this Agreement shall continue in full force and effect for period of [ ] years from the Effective Date.

1. **Governing law and jurisdiction**

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

11.2 The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

**Signed by the Buyer**

Name: REDACTED

Signature: REDACTED

Position in Buyer: Army DInfo Commercial Senior Commercial Officer

**Signed by the Supplier**

REDACTED

Call-Off Schedule 26 (Cyber Essentials Scheme)

1. **Definitions**
   1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **Term** | **Definition** |
| **Cyber Essentials Scheme** | the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme are at: <https://www.cyberessentials.ncsc.gov.uk/>; |
| **Cyber Essentials Basic Certificate** | the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance; |
| **Cyber Essentials Certificate** | Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Order Form; |
| **Cyber Essential Scheme Data** | sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and |
| **Cyber Essentials Plus Certificate** | the certification awarded on the basis of external testing by an independent certification body of the Supplier’s cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance. |

1. **What Certification do you need**
   1. Where the Order Form requires that the Supplier provide a Cyber Essentials Certificate or Cyber Essentials Plus Certificate prior to commencing the provision of Deliverables the Supplier shall provide a valid Cyber Essentials Certificate or Cyber Essentials Plus Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph it shall be prohibited from commencing the provision of Deliverables under the Call-Off Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.
   2. Where the Supplier continues to process data during the Call-Off Contract Period the Supplier shall deliver to the Buyer evidence of renewal of the Cyber Essentials Certificate or Cyber Essentials Plus Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.
   3. In the event that the Supplier fails to comply with Paragraph 2.1 or 2.2, the Buyer reserves the right to terminate the Call-Off Contract for material Default.
   4. The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Data contain provisions no less onerous on the Subcontractors than those imposed on the Supplier under the Call-Off Contract in respect of the Cyber Essentials Scheme under Paragraph 2.1 of this Schedule.
   5. This Schedule shall survive termination of each and any Call-Off Contract.
2. **Implementation Plan**

|  |  |
| --- | --- |
| Contract Title: | Provision of Land ISTAR Technical SME Support |
| MOD Contract Number: | 701577532 (DInfoCom/0187) |
| CSM Risk Acceptance Reference: | RAR- BNAP6CFB |
| CSM Cyber Risk Level: | Low |
| Name of Supplier (to be shared with the MOD only): | Deloitte LLP |
| Current Level of Supplier Compliance: | Cyber Essentials Plus (SAQ-805355388) |
| Reasons why Supplier is unable to achieve full compliance: | Not applicable |
| Measures planned to achieve compliance/ mitigate the risk with associated dates: | Not applicable |
| Anticipated date of compliance/mitigations will be in place: | Not applicable |
| Current Cyber Essential Plus Certification No: | IASME-CEP-002399 |
| Expiry Date: | 02 February 2022 |
| Renewal certification to be issued to the Authority: | Annually until expiration of the Contract |
| Name: | REDACTED |
| Position: | REDACTED |
| Date: | 11/10/2021 |

**Statement Relating to Good Standing (PCR 2015)**

**The Statement Relating To Good Standing**

**Contract Title:**The Provision of Land ISTAR SME Technical Support

**Contract Number:**701577532

1. We confirm, to the best of our knowledge and belief, that Deloitte LLP including its directors or any other person who has powers of representation, decision or control or is a member of the administrative, management or supervisory body of Deloitte LLP has not been convicted of any of the following offences within the past 5 years:

1. conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;

1. corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

1. common law offence of bribery;

1. bribery within the meaning of section 1,2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983;

1. any of the following offences, where the offence relates to fraud affecting the European Communities financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities:

1. the common law offence of cheating the Revenue;

1. the common law offence of conspiracy to defraud;

1. fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;

1. fraudulent trading within the meaning of section 458 of the Companies Act 1985, Article 451 of the Companies (Northern Ireland) Order 1986 or section 933 of the Companies Act 2006;

1. fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;

1. an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;

1. destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;

1. fraud within the meaning of section 2,3 or 4 of the Fraud Act 2006; or

1. the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;

1. any offence listed:

1. in section 41 of the Counter Terrorism Act 2008; or

1. in Schedule 2 to that Act where the court has determined that there is a terrorist connection;

1. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by (f) above;

1. money laundering within the meaning of section 340(11) and 415 of the Proceeds of Crime Act 2002;

1. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B, or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;

1. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc) Act 2004;

1. an offence under section 59A of the Sexual Offences Act 2003;

1. an offence under section 71 of the Coroners and Justice Act 2009;

1. an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or

1. an offence under section 2 or 4 of the Modern Slavery Act 2015;

1. any other offence within the meaning of Article 57(1) of Public Contracts Directive –

1. as defined by the law of any jurisdiction outside England and  Wales and Northern Ireland: or

1. created in the law of England and Wales or Northern Ireland after the day on which these Regulations were made;

1. any breach of its obligations relating to the payment of taxes or social security contributions where the breach has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of any jurisdictions of the United Kingdom.

1. Deloitte LLP further confirms to the best of our knowledge and belief that within the last 3 years it:

1. has fulfilled its obligations relating to the payment of taxes and social security contributions of the country in which it is established or with those of any jurisdictions of the United Kingdom;

1. is not bankrupt or is not the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an agreement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State;

1. has not committed an act of grave professional misconduct, which renders its integrity questionable;

1. has not entered into agreements with other suppliers aimed at distorting competition;

1. Is not subject to a conflict of interest within the meaning of regulation 24;

1. has not been involved in the preparation of this procurement procedure which would result in distortion of competition which could not be remedied by other, less intrusive, measures other than exclusion from this procedure;

1. has not had a contract terminated, damages or other comparable sanctions taken as a result of significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract, or a prior concession contract as defined by the Concession Contracts Regulations 2016;

1. is not guilty of serious misrepresentation in providing any information required by this statement.

1. has not unduly influenced the decision-making process of the Authority or obtained confidential information that may confer upon it undue advantages in the procurement procedure;

1. in relation to procedures for the award of a public services contract, is licensed in the relevant State in which he is established or is a member of an organisation in that relevant State where the law of that relevant State prohibits the provision of the services to be provided under the contract by a person who is not so licensed or who is not such a member;

1. has fulfilled its obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in the Public Contracts Directive as amended from time to time (as listed in PPN 8/16 Annex C).

 I confirm that to the best of my knowledge my declaration is correct.  I understand that the contracting authority will use the information in the selection process to assess my organisation’s suitability to be invited to participate further in this procurement, and I am signing on behalf of my organisation.  I understand that the Authority may reject my submission if there is a failure to provide a declaration or if I provide false or misleading information

**Organisation’s name**Deloitte LLP

REDACTED

**Signed**

**(By Director of the Organisation or equivalent)**

**Name**REDACTED

**Position**  Partner

**Date**    08/09/2021