



G-Cloud 13 Call-Off Contract

This Call-Off Contract for the G-Cloud 13 Framework Agreement (RM1557.13) includes:

G-Cloud 13 Call-Off Contract

Part A: Order Form

Part B: Terms and conditions

Schedule 1: Services

Schedule 2: Call-Off Contract charges

Schedule 3: Collaboration agreement

Schedule 4: Alternative clauses

Schedule 5: Guarantee

Schedule 6: Glossary and interpretations

Schedule 7: UK GDPR Information

Annex 1: Processing Personal Data Annex

2: Joint Controller Agreement

Part A: Order Form

Buyers must use this template order form as the basis for all Call-Off Contracts and must refrain from accepting a Supplier’s prepopulated version unless it has been carefully checked against template drafting.

Platform service ID number	714532023273345
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Call-Off Contract reference	
Call-Off Contract title	ARIS LICENSES
Call-Off Contract description	Software AG -ARIS Cloud Ready Enterprise Business Process Design, Modelling and Analysis. Additional Cloud Services as set out in the Software AG Order Form attached to this Call Off Contract in Annex 1 to Schedule 1
Start date	29/09/2023
Expiry date	28/09/2024
Call-Off Contract value	£124,000.00 (excl. VAT)
Charging method	Cloud Service Fees include application management, infrastructure, licence, and Maintenance Services are charged yearly in advance.
Purchase order number	To follow

This Order Form is issued under the G-Cloud 13 Framework Agreement (RM1557.13).

Buyers can use this Order Form to specify their G-Cloud service requirements when placing an Order.

The Order Form cannot be used to alter existing terms or add any extra terms that materially change the Services offered by the Supplier and defined in the Application.

There are terms in the Call-Off Contract that may be defined in the Order Form.

Principal contact details **For**

Email: REDACTED TEXT FOIA Section 40, Personal Information

Phone: REDACTED TEXT FOIA Section 40, Personal Information

For the Supplier:

Title: Enterprise Account Executive

Name: REDACTED TEXT FOIA Section 40, Personal Information

Email: REDACTED TEXT FOIA Section 40, Personal Information

Phone: REDACTED TEXT FOIA Section 40, Personal Information

Call-Off Contract term

Start date	This Call-Off Contract Starts on 29/09/2023 and is valid for 12 Months.
Ending (termination)	<p>The notice period for the Supplier needed for Ending the Call-Off Contract is at least [90] Working Days from the date of written notice for undisputed sums (as per clause 18.6).</p> <p>The notice period for the Buyer is a maximum of [30] days from the date of written notice for Ending without cause (as per clause 18.1). For the purposes of Clause 18.3 the loss incurred by the Supplier is agreed to be the balance of the fees that would have been due in respect of the period from the date of termination until the Expiry Date.</p>
Extension period	Not applicable

Buyer contractual details

This Order is for the G-Cloud Services outlined below. It is acknowledged by the Parties that the volume of the G-Cloud Services used by the Buyer may vary during this Call-Off Contract.

G-Cloud Lot	<p>This Call-Off Contract is for the provision of Services Under:</p> <ul style="list-style-type: none"> ● Lot 2: Cloud software
G-Cloud Services required	<p>The Services to be provided by the Supplier under the above Lot are listed in Framework under Service ID: 714532023273345</p> <p>and specifically, as listed in detail in the Software AG Order Form included in Annex 1 to Schedule 1 to this Call Off Contract.</p>
Additional Services	Not applicable
Location	<p>The Buyer is located across the UK, Cloud Services are therefore expected. Data storage location as set out in the Software AG Order Form included in Annex 1 to Schedule 1 to this Call Off Contract.</p> <p>The principal location for the Buyer is: His Majesty's Treasury, Government Offices Great George Street, 1 Horse Guards Rd, London, SW1A 2HQ.</p>
Quality Standards	The quality standards required for this Call-Off Contract are ISO/IEC 27006:2007 certification .
Technical Standards:	The technical standards used as a requirement for this Call-Off Contract are in accordance with generally accepted industry practice and Software AG Order Forms included in Annex 1 to Schedule 1 to this Call Off Contract.

Service level agreement:	With standard support offerings, Software AG provides 4 Support levels termed as Critical Priority, High Priority, Medium Priority and Low Priority - all of which have target response times detailed in the
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	Enterprise Active Cloud Support Service description attached in Annex 1 to Schedule 1: Services and Cloud Services Availability as set out in Software AG Order From attached in Annex 1 to Schedule 1.
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Onboarding	Not applicable.
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Offboarding	Not applicable
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Collaboration agreement	Not Used
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Limit on Parties' liability	<p>The annual total liability of either Party for all Property Defaults will not exceed £500,000.</p> <p>The annual total liability for Buyer Data Defaults will not exceed £500,000 during the Call-Off Contract Term.</p> <p>Clause 24.1 in Part B below applies for a more in depth definition of Buyer Data Defaults, while still maintaining the definitions and meanings of Buyer Data and Default in Schedule 6: Glossary and Interpretations below.</p> <p>The annual total liability of the Supplier for all other Defaults will not exceed 125%of the Charges payable by the Buyer to the Supplier during the Call-Off Contract.</p>
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Insurance	<p>The insurance(s) required will be:</p> <ul style="list-style-type: none">• a minimum insurance period of 6 years following the expiration or Ending of this Call-Off Contract• professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £1,000,000 for each individual claim or any higher limit the Buyer requires (and as required by Law) employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law
Buyer's responsibilities	<p>The Buyer is responsible for Providing access to HMG ARIS instance and use the services in compliance with the provisions of Cloud Services Agreement included in Annex 1 to Schedule 1 to this Call Off Contract.</p>
Buyer's equipment	<p>The Buyer's equipment to be used with this CallOff Contract includes access to HMG ARIS instance (NOVA).</p> <p>Reason being to update licenses, address any technical issues arising with the new licenses provided.</p>

Supplier's information

Subcontractors or partners	As set out in Software AG Order Form and in the DPA attached as Annex 1 to Schedule 1 to this Call Off Contract.
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Call-Off Contract charges and payment

The Call-Off Contract charges and payment details are in the table below. See Schedule 2 for a full breakdown.

Payment method	The payment method for this Call-Off Contract is BACS
Payment profile	The payment profile for this Call-Off Contract is Yearly in advance for cloud services.

Invoice details	<p>The Supplier will issue electronic invoices. The Buyer will pay the Supplier within 30 days of receipt of a valid undisputed invoice.</p>
Who and where to send invoices to	<p>Invoices will be sent to HMT:</p> <p>REDACTED TEXT FOIA Section 43, Commercial interests</p> <p>REDACTED TEXT FOIA Section 43, Commercial interests</p> <p>Address: His Majesty's Treasury, Government Offices Great George Street, 1 Horse Guards Rd, London, SW1A 2HQ.</p>
Invoice information required	<p>All invoices must include</p> <ul style="list-style-type: none">- Contract reference number and title- Purchased order number- Invoice period- Description of services provided

Invoice frequency	Invoice will be sent to the Buyer on signature of the contract.
Call-Off Contract value	The total value of this Call-Off Contract is £124,000.00 (excl. VAT)
Call-Off Contract charges	<p>The breakdown of the Charges is detailed in Schedule 2.</p> <p>REDACTED TEXT FOIA Section 43, Commercial interests</p>

Additional Buyer terms

Performance of the Service	As detailed in Annex 1 to Schedule 1.
Guarantee	Not Used
Warranties, representations	As set out in Annex1 to Schedule 1 to this Call Off Contract

Supplemental requirements in addition to the Call-Off terms	Not Used
Alternative clauses	None
Buyer specific amendments to/refinements of the Call-Off Contract terms	Not Applicable

Personal Data and Data Subjects	<p>The obligations of the parties in connection with the processing of any customer data that qualify as personal data according to Art. 4 No. 1 of the General Data Protection Regulation (GDPR) (“Buyer Personal Data”) including the applicable technical and organizational measures that Supplier is required to implement and maintain to protect Buyer Personal Data, shall be as set out in the Data Processing Agreement (if any) entered into between the Parties</p>
Intellectual Property	<p>Not applicable</p>
Social Value	<p>Fighting Climate Change and Wellbeing.</p>

1. Formation of contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.

1.4 In cases of any ambiguity or conflict, the terms and conditions of the CallOff Contract (Part B) and Order Form (Part A) will supersede those of the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

2. Background to the agreement

2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.13.

2.2 The Buyer provided an Order Form for Services to the Supplier.

Signed	Supplier	Buyer
Name	REDACTED TEXT FOIA Section 40, Personal Information	REDACTED TEXT FOIA Section 40, Personal Information
Title	REDACTED TEXT FOIA Section 40, Personal Information	REDACTED TEXT FOIA Section 40, Personal Information
Signature	REDACTED TEXT FOIA Section 40, Personal Information	REDACTED TEXT FOIA Section 40, Personal Information
Date	29-Sep-2023 10:33:33 AM BST	29-Sep-2023 2:21:10 AM PDT
Signed	Supplier	
Name	REDACTED TEXT FOIA Section 40, Personal Information	
Title	REDACTED TEXT FOIA Section 40, Personal Information	

Signature	REDACTED TEXT FOIA Section 40, Personal Information	
Date	29-Sep-2023 2:51:07 AM PDT	

Customer Benefits

For each Call-Off Contract please complete a customer benefits record, by following this link:

[G-Cloud 13 Customer Benefit Record](#)

Part B: Terms and conditions

1. Call-Off Contract Start date and length

1.1 The Supplier must start providing the Services on the date specified in the Order Form.

1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 36 months from the Start date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.

1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, provided that this is within the maximum permitted under the Framework Agreement of 1 period of up to 12 months.

1.4 The Parties must comply with the requirements under clauses 21.3 to 21.8 if the Buyer reserves the right in the Order Form to set the Term at more than 24 months.

2. Incorporation of terms

2.1 The following Framework Agreement clauses (including clauses and defined terms referenced by them) as modified under clause 2.2 are incorporated as separate Call-Off Contract obligations and apply between the Supplier and the Buyer:

- 2.3 (Warranties and representations)
- 4.1 to 4.6 (Liability)
- 4.10 to 4.11 (IR35)
- 10 (Force majeure)
- 5.3 (Continuing rights)
- 5.4 to 5.6 (Change of control)
- 5.7 (Fraud)
- 5.8 (Notice of fraud)
- 7 (Transparency and Audit)
- 8.3 (Order of precedence)
- 11 (Relationship)
- 14 (Entire agreement)
- 15 (Law and jurisdiction)
- 16 (Legislative change)
- 17 (Bribery and corruption)
- 18 (Freedom of Information Act)
- 19 (Promoting tax compliance)
- 20 (Official Secrets Act)
- 21 (Transfer and subcontracting)
- 23 (Complaints handling and resolution)

- 24 (Conflicts of interest and ethical walls)

- 25 (Publicity and branding)
- 26 (Equality and diversity)
- 28 (Data protection)
- 31 (Severability)
- 32 and 33 (Managing disputes and Mediation)
- 34 (Confidentiality)
- 35 (Waiver and cumulative remedies)
- 36 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement Schedule 3

2.2 The Framework Agreement provisions in clause 2.1 will be modified as follows:

- 2.2.1 a reference to the 'Framework Agreement' will be a reference to the 'Call-Off Contract'
- 2.2.2 a reference to 'CCS' or to 'CCS and/or the Buyer' will be a reference to 'the Buyer'
- 2.2.3 a reference to the 'Parties' and a 'Party' will be a reference to the Buyer and Supplier as Parties under this Call-Off Contract
- 2.3 The Parties acknowledge that they are required to complete the applicable Annexes contained in Schedule 7 (Processing Data) of the Framework Agreement for the purposes of this Call-Off Contract. The applicable Annexes being reproduced at Schedule 7 of this Call-Off Contract.
- 2.4 The Framework Agreement incorporated clauses will be referred to as incorporated Framework clause 'XX', where 'XX' is the Framework Agreement clause number.
- 2.5 When an Order Form is signed, the terms and conditions agreed in it will be incorporated into this Call-Off Contract.

3. Supply of services

- 3.1 The Supplier agrees to supply the G-Cloud Services and any Additional Services under the terms of the Call-Off Contract and the Supplier's Application.
- 3.2 The Supplier undertakes that each G-Cloud Service will meet the Buyer's acceptance criteria, as defined in the Order Form.

4. Supplier staff

- 4.1 The Supplier Staff must:
 - 4.1.1 be appropriately experienced, qualified and trained to supply the Services

4.1.2 apply all due skill, care and diligence in faithfully performing those duties

4.1.3 obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer

4.1.4 respond to any enquiries about the Services as soon as reasonably possible

4.1.5 complete any necessary Supplier Staff vetting as specified by the Buyer

4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.

4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.

4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35.

4.5 The Buyer may End this Call-Off Contract for Material Breach as per clause 18.5 hereunder if the Supplier is delivering the Services Inside IR35.

4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.

4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.

4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

5. Due diligence

5.1 Both Parties agree that when entering into a Call-Off Contract they:

5.1.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party

5.1.2 are confident that they can fulfil their obligations according to the CallOff Contract terms

5.1.3 have raised all due diligence questions before signing the Call-Off Contract

5.1.4 have entered into the Call-Off Contract relying on their own due diligence

6. Business continuity and disaster recovery

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their Service Descriptions.
- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.
- 6.3 If requested by the Buyer prior to entering into this Call-Off Contract, the Supplier must ensure that its business continuity and disaster recovery plan is consistent with the Buyer's own plans.

7. Payment, VAT and Call-Off Contract charges

- 7.1 The Buyer must pay the Charges following clauses 7.2 to 7.11 for the Supplier's delivery of the Services.
- 7.2 The Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice.
- 7.3 The Call-Off Contract Charges include all Charges for payment processing. All invoices submitted to the Buyer for the Services will be exclusive of any Management Charge.
- 7.4 If specified in the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and must not recover this charge from the Buyer.
- 7.5 The Supplier must ensure that each invoice contains a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.
- 7.6 If the Supplier enters into a Subcontract it must ensure that a provision is included in each Subcontract which specifies that payment must be made to the Subcontractor within 30 days of receipt of a valid invoice.
- 7.7 All Charges payable by the Buyer to the Supplier will include VAT at the appropriate Rate.
- 7.8 The Supplier must add VAT to the Charges at the appropriate rate with visibility of the amount as a separate line item.
- 7.9 The Supplier will indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier must pay all sums to the Buyer at least 5 Working Days before the date on which the tax or other liability is payable by the Buyer.
- 7.10 The Supplier must not suspend the supply of the G-Cloud Services unless the Supplier is entitled to End this Call-Off Contract under clause 18.6 for Buyer's failure to pay undisputed sums of money. Interest will be payable

by the Buyer on the late payment of any undisputed sums of money properly invoices under the Late Payment of Commercial Debts (Interest) Act 1998.

- 7.11 If there's an invoice dispute, the Buyer must pay the undisputed portion of the amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.12 Due to the nature of G-Cloud Services it isn't possible in a static Order Form to exactly define the consumption of services over the duration of the CallOff Contract. The Supplier agrees that the Buyer's volumes indicated in the Order Form are indicative only.

8. Recovery of sums due and right of set-off

- 8.1 If a Supplier owes money to the Buyer, the Buyer may deduct that sum from the Call-Off Contract Charges.

9. Insurance

- 9.1 The Supplier will maintain the insurances required by the Buyer including those in this clause.
- 9.2 The Supplier will ensure that:
- 9.2.1 during this Call-Off Contract, Subcontractors hold third party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000
- 9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit
- 9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
- 9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.

9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:

9.4.1 a broker's verification of insurance

9.4.2 receipts for the insurance premium

9.4.3 evidence of payment of the latest premiums due

9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:

9.5.1 take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers

9.5.2 promptly notify the insurers in writing of any relevant material fact under any Insurances

9.5.3 hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance

9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.

9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.

9.8 The Supplier will be liable for the payment of any:

9.8.1 premiums, which it will pay promptly

9.8.2 excess or deductibles and will not be entitled to recover this from the Buyer

10. Confidentiality

10.1 The Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under incorporated Framework Agreement clause 34. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

11. Intellectual Property Rights

11.1 Save for the licences expressly granted pursuant to Clauses 11.3 and 11.4, neither Party shall acquire any right, title or interest in or to the Intellectual Property

Rights ("IPR"s) (whether pre-existing or created during the Call-Off Contract Term) of the other Party or its licensors unless stated otherwise in the Order Form.

11.2 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

11.3 The Buyer grants to the Supplier a royalty-free, non-exclusive, nontransferable licence during the Call-Off Contract Term to use the Buyer's or its relevant licensor's Buyer Data and related IPR solely to the extent necessary for providing the Services in accordance with this Contract, including the right to grant sub-licences to Subcontractors provided that:

11.3.1 any relevant Subcontractor has entered into a confidentiality undertaking with the Supplier on substantially the same terms as set out in Framework Agreement clause 34 (Confidentiality); and

11.3.2 the Supplier shall not and shall procure that any relevant SubContractor shall not, without the Buyer's written consent, use the licensed materials for any other purpose or for the benefit of any person other than the Buyer.

11.4 The Supplier grants to the Buyer the licence taken from its Supplier Terms which licence shall, as a minimum, grant the Buyer a non-exclusive, nontransferable licence during the Call-Off Contract Term to use the Supplier's or its relevant licensor's IPR solely to the extent necessary to access and use the Services in accordance with this Call-Off Contract.

11.5 Subject to the limitation in Clause 24.3, the Buyer shall:

11.5.1 defend the Supplier, its Affiliates and licensors from and against any third-party claim:

- (a) alleging that any use of the Services by or on behalf of the Buyer and/or Buyer Users is in breach of applicable Law;
- (b) alleging that the Buyer Data violates, infringes or misappropriates any rights of a third party;
- (c) arising from the Supplier's use of the Buyer Data in accordance with this Call-Off Contract; and

11.5.2 in addition to defending in accordance with Clause 11.5.1, the Buyer will pay the amount of Losses awarded in final judgment against the Supplier or the amount of any settlement agreed by the Buyer, provided that the Buyer's obligations under this Clause 11.5 shall not apply where and to the extent such Losses or thirdparty claim is caused by the Supplier's breach of this Contract.

11.6 The Supplier will, on written demand, fully indemnify the Buyer for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:

11.6.1 rights granted to the Buyer under this Call-Off Contract

11.6.2 Supplier's performance of the Services

11.6.3 use by the Buyer of the Services

11.7 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:

11.7.1 modify the relevant part of the Services without reducing its functionality or performance

11.7.2 substitute Services of equivalent functionality and performance, to avoid the infringement or the alleged infringement, as long as there is no additional cost or burden to the Buyer

11.7.3 buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer 11.8 Clause 11.6 will not apply if the IPR Claim is from:

11.8.1 the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract

11.8.2 other material provided by the Buyer necessary for the Services

11.9 If the Supplier does not comply with this clause 11, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money paid for the affected Services.

12. Protection of information

12.1 The Supplier must:

12.1.1 comply with the Buyer's written instructions and this Call-Off Contract when Processing Buyer Personal Data

12.1.2 only Process the Buyer Personal Data as necessary for the provision of the G-Cloud Services or as required by Law or any Regulatory Body

12.1.3 take reasonable steps to ensure that any Supplier Staff who have access to Buyer Personal Data act in compliance with Supplier's security processes

12.2 The Supplier must fully assist with any complaint or request for Buyer Personal Data including by:

- 12.2.1 providing the Buyer with full details of the complaint or request
 - 12.2.2 complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions
 - 12.2.3 providing the Buyer with any Buyer Personal Data it holds about a Data Subject (within the timescales required by the Buyer)
 - 12.2.4 providing the Buyer with any information requested by the Data Subject
- 12.3 The Supplier must get prior written consent from the Buyer to transfer Buyer Personal Data to any other person (including any Subcontractors) for the provision of the G-Cloud Services.

13. Buyer data

- 13.1 The Supplier must not remove any proprietary notices in the Buyer Data.
- 13.2 The Supplier will not store or use Buyer Data except if necessary to fulfil its obligations.
- 13.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested.
- 13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.
- 13.5 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.
- 13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:
 - 13.6.1 the principles in the Security Policy Framework:
<https://www.gov.uk/government/publications/securitypolicyframework> k and the Government Security - Classification policy:
<https://www.gov.uk/government/publications/governmentsecurity-classifications>
 - 13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management:
<https://www.npsa.gov.uk/content/adopt-risk-managementapproach> and Protection of Sensitive Information and Assets:
<https://www.npsa.gov.uk/sensitive-information-assets>
 - 13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance:
<https://www.ncsc.gov.uk/collection/riskmanagement-collection>

13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint:
<https://www.gov.uk/government/publications/technologycodeofpractice/technology-code-of-practice>

13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance:
<https://www.ncsc.gov.uk/guidance/implementing-cloudsecurityprinciples>

13.6.6 Buyer requirements in respect of AI ethical standards.

13.7 The Buyer will specify any security requirements for this project in the Order Form.

13.8 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.

13.9 The Supplier agrees to use the appropriate organisational, operational and technological processes to keep the Buyer Data safe from unauthorised use or access, loss, destruction, theft or disclosure.

13.10 The provisions of this clause 13 will apply during the term of this Call-Off Contract and for as long as the Supplier holds the Buyer's Data.

14. Standards and quality

14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.

14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at:
<https://www.gov.uk/government/publications/technologycodeofpractice/technology-code-of-practice>

14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.

14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.

14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the

Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

15. Open source

- 15.1 All software created for the Buyer must be suitable for publication as open source, unless otherwise agreed by the Buyer.
- 15.2 If software needs to be converted before publication as open source, the Supplier must also provide the converted format unless otherwise agreed by the Buyer.

16. Security

- 16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this CallOff Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.
- 16.2 The Supplier will use all reasonable endeavours, software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.
- 16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.
- 16.4 Responsibility for costs will be at the:
 - 16.4.1 Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided
 - 16.4.2 Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control
- 16.5 The Supplier will immediately notify the Buyer of any breach of security of Buyer's Confidential Information. Where the breach occurred because of a Supplier Default, the Supplier will recover the Buyer's Confidential Information however it may be recorded.
- 16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance:
<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>

16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start date.

17. Guarantee

17.1 If this Call-Off Contract is conditional on receipt of a Guarantee that is acceptable to the Buyer, the Supplier must give the Buyer on or before the Start date:

17.1.1 an executed Guarantee in the form at Schedule 5

17.1.2 a certified copy of the passed resolution or board minutes of the guarantor approving the execution of the Guarantee

18. Ending the Call-Off Contract

18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the

Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.

18.2 The Parties agree that the:

18.2.1 Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided

18.2.2 Call-Off Contract Charges paid during the notice period are reasonable compensation and cover all the Supplier's avoidable costs or Losses

18.3 Subject to clause 24 (Liability), if the Buyer Ends this Call-Off Contract under clause 18.1, it will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate the Loss. If the Supplier has insurance, the Supplier will reduce its

unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of the unavoidable Loss with supporting evidence.

18.4 The Buyer will have the right to End this Call-Off Contract at any time with immediate effect by written notice to the Supplier if either the Supplier commits:

18.4.1 a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied

18.4.2 any fraud

18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:

18.5.1 the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due) and, if that breach is remediable, fails to remedy it within 15 Working Days of being notified in writing to do so

18.5.2 an Insolvency Event of the other Party happens

18.5.3 the other Party ceases or threatens to cease to carry on the whole or any material part of its business

18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.

18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

19. Consequences of suspension, ending and expiry

19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.

19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the ordered G-Cloud Services until the dates set out in the notice.

19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.

19.4 Ending or expiry of this Call-Off Contract will not affect:

19.4.1 any rights, remedies or obligations accrued before its Ending or expiration

19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry

19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses

- 7 (Payment, VAT and Call-Off Contract charges)
- 8 (Recovery of sums due and right of set-off)
- 9 (Insurance)
- 10 (Confidentiality)
- 11 (Intellectual property rights)
- 12 (Protection of information)

- 13 (Buyer data)
- 19 (Consequences of suspension, ending and expiry)
- 24 (Liability); and incorporated Framework Agreement clauses: 4.1 to 4.6, (Liability),
24 (Conflicts of interest and ethical walls), 35 (Waiver and cumulative remedies)

19.4.4 any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires.

19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:

19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it

19.5.2 return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer

19.5.3 stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer

19.5.4 destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law

19.5.5 work with the Buyer on any ongoing work

19.5.6 return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.

19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

20. Notices

20.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being 'in writing'.

- Manner of delivery: email
- Deemed time of delivery: 9am on the first Working Day after sending
- Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message

20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

21. Exit plan

21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.

21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.

21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 36 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 30 month anniversary of the Start date.

21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.

21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.

21.6 The Supplier acknowledges that the Buyer's right to take the Term beyond 36 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:

21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the period on terms that are commercially reasonable and acceptable to the Buyer

21.6.2 there will be no adverse impact on service continuity

21.6.3 there is no vendor lock-in to the Supplier's Service at exit

21.6.4 it enables the Buyer to meet its obligations under the Technology Code of Practice

21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.

21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:

21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier

21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer

21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier

21.8.4 the testing and assurance strategy for exported Buyer Data

21.8.5 if relevant, TUPE-related activity to comply with the TUPE regulations

21.8.6 any other activities and information which is reasonably required to ensure continuity of Service during the exit period and an orderly transition

22. Handover to replacement supplier

22.1 At least 10 Working Days before the Expiry Date or End Date, the Supplier must provide any:

22.1.1 data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control

22.1.2 other information reasonably requested by the Buyer

22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.

22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to

prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

23. Force majeure

- 23.1 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than 30 consecutive days, the other Party may End this Call-Off Contract with immediate effect by written notice.

24. Liability

- 24.1 Subject to incorporated Framework Agreement clauses 4.1 to 4.6, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract shall not exceed the greater of five hundred thousand pounds (£500,000) or one hundred and twenty-five per cent (125%) of the Charges paid and/or committed to be paid in that Year (or such greater sum (if any) as may be specified in the Order Form).

- 24.2 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the

Supplier's liability:

24.2.1 pursuant to the indemnities in Clauses 7, 10, 11 and 29 shall be unlimited; and

24.2.2 in respect of Losses arising from breach of the Data Protection Legislation shall be as set out in Framework Agreement clause 28.

- 24.3 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Buyer's liability pursuant to Clause 11.5.2 shall in no event exceed in aggregate five million pounds (£5,000,000).

- 24.4 When calculating the Supplier's liability under Clause 24.1 any items specified in Clause 24.2 will not be taken into consideration.

25. Premises

- 25.1 If either Party uses the other Party's premises, that Party is liable for all loss or damage it causes to the premises. It is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

- 25.2 The Supplier will use the Buyer's premises solely for the performance of its obligations under this Call-Off Contract.

- 25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.

- 25.4 This clause does not create a tenancy or exclusive right of occupation.

- 25.5 While on the Buyer's premises, the Supplier will:

25.5.1 comply with any security requirements at the premises and not do anything to weaken the security of the premises

25.5.2 comply with Buyer requirements for the conduct of personnel

25.5.3 comply with any health and safety measures implemented by the Buyer

25.5.4 immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury

25.6 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Buyer on request.

26. Equipment

26.1 The Supplier is responsible for providing any Equipment which the Supplier requires to provide the Services.

26.2 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any loss of, or damage to, any Equipment.

26.3 When the Call-Off Contract Ends or expires, the Supplier will remove the Equipment and any other materials leaving the premises in a safe and clean condition.

27. The Contracts (Rights of Third Parties) Act 1999

27.1 Except as specified in clause 29.8, a person who isn't Party to this Call-Off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. This does not affect any right or remedy of any person which exists or is available otherwise.

28. Environmental requirements

28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.

28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

29. The Employment Regulations (TUPE)

29.1 The Supplier agrees that if the Employment Regulations apply to this CallOff Contract on the Start date then it must comply with its obligations under the Employment Regulations and (if applicable) New Fair Deal (including

entering into an Admission Agreement) and will indemnify the Buyer or any Former Supplier for any loss arising from any failure to comply.

29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:

- 29.2.1 the activities they perform
- 29.2.2 age
- 29.2.3 start date
- 29.2.4 place of work
- 29.2.5 notice period
- 29.2.6 redundancy payment entitlement
- 29.2.7 salary, benefits and pension entitlements
- 29.2.8 employment status

- 29.2.9 identity of employer
- 29.2.10 working arrangements
- 29.2.11 outstanding liabilities
- 29.2.12 sickness absence
- 29.2.13 copies of all relevant employment contracts and related documents
- 29.2.14 all information required under regulation 11 of TUPE or as reasonably requested by the Buyer

The Supplier warrants the accuracy of the information provided under this TUPE clause and will notify the Buyer of any changes to the amended information as soon as reasonably possible. The Supplier will permit the Buyer to use and disclose the information to any prospective Replacement Supplier.

29.3 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.

29.4 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.

29.5 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:

29.5.1 its failure to comply with the provisions of this clause

29.5.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer

29.6 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.

29.7 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

30. Additional G-Cloud services

30.1 The Buyer may require the Supplier to provide Additional Services. The Buyer doesn't have to buy any Additional Services from the Supplier and

can buy services that are the same as or similar to the Additional Services from any third party.

30.2 If reasonably requested to do so by the Buyer in the Order Form, the Supplier must provide and monitor performance of the Additional Services using an Implementation Plan.

31. Collaboration

31.1 If the Buyer has specified in the Order Form that it requires the Supplier to enter into a Collaboration Agreement, the Supplier must give the Buyer an executed Collaboration Agreement before the Start date.

31.2 In addition to any obligations under the Collaboration Agreement, the Supplier must:

31.2.1 work proactively and in good faith with each of the Buyer's contractors

31.2.2 co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and GCloud Services

32. Variation process

32.1 The Buyer can request in writing a change to this Call-Off Contract if it isn't a material change to the Framework Agreement/or this Call-Off Contract. Once implemented, it is called a Variation.

32.2 The Supplier must notify the Buyer immediately in writing of any proposed changes to their G-Cloud Services or their delivery by submitting a Variation request. This includes any changes in the Supplier's supply chain.

32.3 If Either Party can't agree to or provide the Variation, the Buyer may agree to continue performing its obligations under this Call-Off Contract without the Variation, or End this Call-Off Contract by giving 30 days notice to the Supplier.

33. Data Protection Legislation (GDPR)

- 33.1 Pursuant to clause 2.1 and for the avoidance of doubt, clause 28 of the Framework Agreement is incorporated into this Call-Off Contract. For reference, the appropriate UK GDPR templates which are required to be completed in accordance with clause 28 are reproduced in this Call-Off Contract document at Schedule 7.

Schedule 1: Services

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ARIS Cloud Services as set out in the Software AG Order Form attached as Annex 1 to this Schedule 1.

Annex 1 to Schedule 1

Order Form

The Software AG entity referred to below is the holder of distribution and/or exploitation rights relating to the cloud services set out in this Order Form (together hereinafter referred to as "**the Cloud Services**"). The use by the Customer of the Cloud Services is governed by the terms and conditions set out in the Agreement referred to below together with any associated amendments thereto (collectively herein referred to as the "**Agreement**"). Capitalized terms used in this Order Form but not otherwise defined herein will have the meanings given to them in the Agreement. In the event of any conflict between any provision of this Order Form and the Agreement, such conflict will be resolved by giving precedence to this Order Form. Any contrary or additional terms and conditions included in any purchase order or similar document (printed or online) related to this Order Form will be invalid and non-binding, even if received, accepted, approved, or signed by a Party.

Parties

between	Software AG (UK) Limited (" the Supplier ")	His Majesty's Treasury on behalf of His Majesty's Government (" the Customer ") n/a
Reg. No.	1310740	His Majesty's Treasury, Government Offices Great George Street, 1 Horse Guards Rd, London, SW1A 2HQ., United Kingdom
Registered office	Pride Park, 24 Orient Way, DERBY, Derbyshire DE24 8BY, UNITED KINGDOM	

General and Customer Information

Cloud Services Agreement	Reference Number: CMS 307205/0014 attached to this Order Form and annexed to the Call Off Contract for the G-Cloud 13 Framework Agreement (RM1557.13) as Annex 1 to Schedule 1 Date: dated the same date as this Order Form
Service Type	SaaS
Service Start Date	29 September 2023
Cloud Services Term	12 months from the Service Start Date
Maintenance and Support Service Level	Enterprise Active
Cloud Services Renewal Terms	Terminates automatically on expiry of the Cloud Services Term unless extended by agreement between the parties not less than three (3) months before the expiry of the Cloud Services Term.
Contact Person	REDACTED TEXT FOIA Section 40, Personal Information
Contact e-mail Address	REDACTED TEXT FOIA Section 40, Personal Information

Payment and Invoicing Terms

Cloud Service Fee	£124,000.00 per annum (excluding VAT). Cloud Service Fees include application management, infrastructure, licence and Maintenance Services.
Payment Terms	30 days from the date of receipt by the Customer of an undisputed invoice
Invoice Terms	Invoice Date
	Immediately on signature of this Agreement

Cloud Services

Cloud Services	Quantity and Usage Metric	Product Code	Usage
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ARIS Cloud Enterprise Service Information

Service Availability	99.70% The availability calculation is based on the number of minutes the Cloud Service is available within a given month and region and excludes planned downtime(s) and emergency maintenance. Planned and unplanned downtime for the Cloud Services is announced on https://empower.softwareag.com/ with expected time when the system will be available.
Enterprise Service Credit Commitment	These Cloud Services are subject to the terms of the "Enterprise Cloud Service Credit Commitment" made available to Customers at https://www.softwareag.com/cloud-service-credits
Data Storage Location	AWS - EU - London Supplier installs, updates and maintains this environment exclusively for the Customer. The environment is architected according to Customer sizing requirements within the Data Storage Location.
Support	Supplier shall provide the support services described in the applicable Cloud Support Service Description as updated by Supplier from time to time and made available to customers at www.softwareag.com/support-policies
Maintenance Events	Planned maintenance event dates and times are posted on https://empower.softwareag.com/ at least one week prior to the maintenance event. Releases will require scheduled downtime.
Data Backup and Disaster Recovery	Frequency: Daily, 30 days retention Data Backup & Recovery Location: Same region as the Data Storage Location referred to above Recovery Point Objective: 24h Recovery Time Objective: 12h

Exit Terms	Access to the Cloud Services will be removed upon expiry of the Trial Term or Cloud Services Term. Within 30 days after termination or expiration of the Cloud Services Term (the " Exit Period "), and upon Customer request, Supplier will provide a final backup of the Customer Data. Customers using the Cloud Services on a trial basis will not have access to the Customer Data at the end of the Trial Term. After the Exit Period, Supplier will delete the Customer's environment/tenant, dedicated virtual servers and Customer Data in accordance with industry standard practices.
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Licence Metrics

Concurrent User	Use by the Customer of the Cloud Services whose Usage Metric is indicated as 'Concurrent User' above is limited to the simultaneous use by a total number of concurrent users which does not exceed the licensed number indicated above. For these purposes a 'user' means a uniquely identified individual employee of the Customer, entity, device, or process that accesses, operates, or maintains such Cloud Services.
Named User	Cloud Services licensed by 'Named User' are limited to use by a total number of users which does not exceed the licensed quantity. For these purposes a 'user' means a uniquely identified individual employee of the Customer, entity (e.g. interface), device or process that accesses, operates, or maintains such Cloud Services.
Viewer	Use by the Customer of the Cloud Services whose Usage Metric is indicated as 'Viewer' above is limited to use by a total number of viewers which does not exceed the licensed number indicated above. For these purposes a 'viewer' means a Registered User who has only the ability to view database or application content and a 'user' means a uniquely identified individual employee of the Customer, entity, device; or process that accesses, operates, or maintains such Cloud Services.

Operating System

Hosted Software	Hosted Software refers to software which is hosted by the Supplier and made available and provided as a service which is accessible remotely by the Customer.
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Effective Date

The last date of signing by duly authorised representatives of all of the parties.

The parties have shown their acceptance of the terms of this Order Form by signing it below. This Order Form shall come into force and effect upon the Effective

Agreement

Duly authorised for and on behalf of Supplier		Duly authorised for and on behalf of Customer	
Signed	REDACTED TEXT FOIA Section 40, Personal Information	Signed	REDACTED TEXT FOIA Section 40, Personal Information
Name	REDACTED TEXT FOIA Section 40, Personal	Name	REDACTED TEXT FOIA Section 40, Personal Information
Title	REDACTED TEXT FOIA Section 40, Personal Information	Title	REDACTED TEXT FOIA Section 40, Personal Information
Date	29-Sep-2023 10:33:33 AM BST	Date	29-Sep-2023 2:21:10 AM PDT
Duly authorised for and on behalf of Supplier			

Signed	REDACTED TEXT FOIA Section 40, Personal Information
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Date referred to above. This document may be executed in one or more counterparts, with the same effect as if the parties had signed the same document. Each counterpart so executed shall be deemed to be an original and all such counterparts shall be construed together and shall constitute one agreement. The parties agree to the use of digital signatures.

Name	REDACTED TEXT FOIA Section 40, Personal Information
Title	REDACTED TEXT FOIA Section 40, Personal Information
Date	29-Sep-2023 2:51:07 AM PDT

CLOUD SERVICES AGREEMENT

This Cloud Services Agreement, including all integrated exhibits and Order Forms referencing this Agreement (collectively, the "**Agreement**") is entered into by and between Supplier and Customer (each defined below) and will be effective as of the date last signed below ("**Effective Date**"). Supplier and Customer are each a "**Party**" and together the "**Parties**".

1 USE OF SERVICES

- 1.1 **Provision of Cloud Services:** Supplier grants Customer a non-exclusive, non-transferable, non-sublicensable right to access and use the Supplier web- based products and services identified in an Order Form ("**Cloud Services**"), including the then current version of any user manuals and operating instructions generally provided with the Cloud Services (collectively, "**Documentation**"), for the term set out in the Order Form ("**Cloud Services Term**"). Customer may use the Cloud Services subject to the terms of this Agreement. Customer will not receive a copy of any programs listed in the Order Form other than for temporary download of plug-ins or fat clients (which will be deemed part of the Cloud Services) as described in the applicable Order Form. "**Users**" of the Cloud Services mean employees or contractors of Customer who are authorized by Customer in accordance with the Agreement to access the Cloud Services using Customer's account credentials ("**Credentials**"). Customer is solely responsible for all User use and access to the Cloud Services and the security of any Credentials and will immediately report to Supplier any suspected unauthorized use of the Cloud Services or Credentials.
- 1.2 **Restrictions:** Customer will comply with all laws and regulations applicable to Customer and to Customer's use of the Cloud Services. Customer will not, or permit or cause any third party to:
 - (a) use the Cloud Services other than expressly authorized by, and in accordance with the usage terms of, this Agreement;
 - (b) license, sub-license, sell, rent, lease, transfer, assign, distribute, outsource, permit time sharing or service bureau use, or otherwise commercially exploit or make the Cloud Services available to any third party, other than as expressly permitted by this Agreement and by international export laws and regulations;
 - (c) disassemble, reverse engineer, reverse compile, translate, modify, adapt, alter, copy or create derivative works from any products or services provided with the Cloud Services except to the extent permitted by applicable law;
 - (d) interfere with or disrupt the integrity or performance of the Cloud Services or the data contained therein in any way, including but not limited to: (i) conducting penetration testing in multi-tenant environments; (ii) conducting penetration tests in single-tenant environments without the Supplier's prior written consent; (iii) attempting to gain unauthorized access to the Cloud Services or their related systems or networks; or (iv) storing or transmitting a virus or other malicious code through the Cloud Services;
 - (e) disseminate performance-related information relating to the Cloud Services;
 - (f) use the Cloud Services to store or transmit infringing, libelous, offensive, unlawful or tortious material; or
 - (g) store or process any personal data of the following types: information on a person's racial or ethnic origin, political opinions, religious or philosophical convictions, union membership, health (HITECH - Health Information Technology for Economic and Clinical Health Act & HIPAA - Health Insurance Portability and Accountability Act), sex life, concerning bank or credit card accounts (PCI DSS - Payment Card Industry Data Security Standard) comprising but not limited to data according to GDPR Art. 9 No. 1.
- 1.3 **Service Level:** Supplier will make the Cloud Services accessible to Customer, subject to the availability of third party infrastructure, required and emergency maintenance, availability of third party networks and communications facilities, and force majeure events. The Cloud Services will be hosted on a shared or dedicated third-party infrastructure environment as described in the Order Form.
- 1.4 **Reservation of Rights:** Supplier or its licensors owns all intellectual property rights in and to the Cloud Services, Documentation and all related materials and derivative works thereof. There is no transfer or assignment by Supplier of any ownership right and Supplier reserves all rights not expressly granted under this Agreement.

2 CUSTOMER INFORMATION

- 2.1 **Operational Data: Feedback:** Supplier will automatically collect information associated with Customer's access and use of the Cloud Services, including, without limitation application telemetry, IP addresses, IP configurations, stored sessions, open ports, Credentials, network metadata, and device operating system, status, version and configuration (collectively "**Operational Data**"). Supplier may use the Operational Data to monitor, analyze, develop, support or improve the performance of the Cloud Services. Customer grants to Supplier the right to use any suggestions, enhancement, requests, recommendations, corrections or other feedback provided by Customer relating to the Cloud Services to improve the Cloud Services.
- 2.2 **Customer Data:** With the exception of Operational Data, Customer owns all content, information, materials and intellectual property provided by Customer in connection with Customer's use of the Cloud Services ("**Customer Data**"). Customer is solely responsible for: (i) its provision and use of Customer Data with the Cloud Services; (ii) the accuracy, quality and content of the Customer Data; (iii) assessing the Cloud Services suitability for Customer's intended use; and (iv) obtaining all necessary rights, consents and permissions. Customer will comply with all applicable laws, in its provision and use of Customer Data in connection with the Cloud Services. Customer grants Supplier a worldwide, irrevocable, non-transferable, non-assignable (except as permitted under this Agreement), sub-licensable, non-exclusive license to access, retrieve, store, copy, display, distribute, transmit and otherwise use Customer Data associated with the Cloud Services as follows:
 - (a) in connection with maintaining, providing and/or making available the Cloud Services; and
 - (b) as reasonably required in order to cooperate with legitimate governmental requests, subpoenas or court orders provided that Supplier gives Customer reasonable notice of the demand to allow Customer to seek a protective order or other appropriate remedy unless Supplier is legally prohibited from doing so.
- 2.3 **Data Protection:** The obligations of the parties in connection with the processing of any customer data that qualify as personal data according to Art. 4 No. 1 of the General Data Protection Regulation (GDPR) including the applicable technical and organizational measures that Supplier is required to implement and maintain to protect such personal data, shall be as set out in the Data Processing Agreement (if any) entered into between the Parties.
- 2.4 **Privacy Notice:** Supplier will collect and process any Operational Data that qualifies as Personal Data in accordance with its then current Privacy Notice. Supplier may change its Privacy Notice from time to time by posting a new version at https://www.softwareag.com/en_corporate/privacy.html.
- 2.5 **Security:** Supplier will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Supplier will comply with its then current Cloud Information Security Policy as amended from time to time and available on request (subject to a written confidentiality agreement between the Parties).

3 PAYMENT

- 3.1 **Payment:** All payments are due and payable within 30 days of date of invoice and are non-refundable, non-cancelable, and irrevocable except as expressly stated in this Agreement. All payments shall be made without recoupment or set-off. Customer will pay all taxes and duties including, but not limited to, sales, use, rental, receipt, personal property, and other taxes (but excluding taxes based upon Supplier's income), which may be levied or assessed in connection with this Agreement. Any payment that is not paid in accordance with the terms of this Agreement will accrue interest at the rate of 1.5% per month, accruing daily from the date due (both before and after judgment) and Customer will pay all costs of collection, including reasonable legal fees and expenses.

4 CONFIDENTIALITY

- 4.1 **Confidential Information:** Each Party will have access to confidential or nonpublic information ("**Confidential Information**") of the other Party or third parties. Confidential Information disclosed is proprietary and will remain the sole property of the disclosing Party or such third parties. The Cloud Services and Documentation are Confidential Information of Supplier. Confidential Information will not include information that: (i) is or becomes publicly available or enters the public domain through no fault of the recipient; (ii) is rightfully communicated to the recipient by persons not bound by confidentiality obligations; (iii) is already in the recipient's possession free of any confidentiality obligations at the time of disclosure; (iv) is independently developed by the recipient; or (v) is approved, in writing, for release or disclosure without restriction.
- 4.2 **Confidentiality Obligation:** Each Party agrees to: (i) use Confidential Information only for the purposes of this Agreement; (ii) hold Confidential Information in confidence and protect it from dissemination to, and use by, any third party; (iii) not to create any derivative work from Confidential Information; (iv) restrict access to Confidential Information to its personnel, affiliates, agents, and contractors who need access to such Confidential Information and who have agreed in writing to treat such Confidential Information in accordance with this Agreement; and (v) return or destroy all Confidential Information of the other Party upon termination or expiration of this Agreement. If the recipient is required by law or valid legal order to disclose Confidential Information, the recipient will, unless prohibited by law, give reasonable notice of such demand to allow the disclosing Party to seek a protective order or other remedy.

5 WARRANTIES

- 5.1 **Mutual Warranties:** Each Party represents and warrants that it has the full right and power to enter into and perform its obligations under this Agreement.
- 5.2 **Supplier Warranties:** Supplier warrants that: (i) the Cloud Services, when properly used, will perform substantially in accordance with the Documentation; and (ii) the Cloud Services are subject to standard virus scanning methods designed to detect and remove malware. SUPPLIER DOES NOT WARRANT THAT THE CLOUD SERVICES WILL OPERATE UNINTERRUPTED OR ERROR FREE. Supplier does not and cannot control or warrant the flow of data to or from Supplier's or Customer's network and other portions of the internet. THE WARRANTIES IN THIS CLAUSE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, STATUTORY, AND IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF ACCURACY, QUIET ENJOYMENT, NON- INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. **6 IPR INDEMNITY**

- 6.1 **Indemnity:** Supplier shall indemnify, defend, and hold Customer harmless from any action brought by a third-party against Customer to the extent that it is proximately caused by an allegation that the Cloud Services provided under this Agreement have infringed an intellectual property right or trade secret registered in the country of Supplier's residence, and pay those damages or costs related to the settlement of such action or finally awarded against Customer in such action, including but not limited to reasonable attorneys' fees, provided that Customer: (a) promptly notifies Supplier of any such action; and (b) gives Supplier full authority, information, and assistance to defend such claim; and (c) gives Supplier sole control of the defense of such claim and all negotiations for the compromise or settlement of such claim.
- 6.2 **Exceptions:** Supplier will have no indemnity obligation nor other liability under this Agreement to the extent the claim is based upon: (i) Cloud Services modified by anyone other than Supplier; (ii) use of other than the then-current release of any fat clients or plug-ins provided to Customer for the purposes of accessing and using the Cloud Services, if the infringement could have been avoided by use of the then-current release and such current release has been made available to Customer; (iii) use of the Cloud Services in conjunction with other software, hardware or Customer data, where such use gave rise to the infringement claim; (iv) use of the Cloud Services in a manner inconsistent with its Documentation; or (v) use of Cloud Services other than as expressly authorized in this Agreement.
- 6.3 **Remedy:** If Supplier determines that the Cloud Services are likely to be the subject of a claim of infringement, Supplier may, in its sole discretion: (i) replace or modify the Cloud Services; (ii) procure the right for Customer to continue using the Cloud Services; or (iii) terminate access to the Cloud Services and refund to Customer a pro-rated portion of the applicable unused Cloud Services fees. THIS SECTION STATES SUPPLIER'S EXCLUSIVE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY REGARDING ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT BY THE CLOUD SERVICES OR ANY MATERIALS OR SERVICES PROVIDED UNDER THIS AGREEMENT.
- 6.4 **Customer Indemnity:** Customer will indemnify Supplier from any third party action against Supplier to the extent proximately based upon an allegation arising from: (i) any access to or use of Customer Data with the Cloud Services; or (ii) modification or use of the Cloud Services with any Customer applications, provided that Supplier (a) promptly notifies Customer of any such action; (b) gives Customer full authority, information, and assistance to defend such claim; and (c) gives Customer sole control of the defense of such claim and all negotiations for the compromise or settlement of such claim. **7 LIMITATION OF LIABILITY**

- 7.1 **Limitation of Liability:** EXCEPT AS EXPRESSLY SPECIFIED IN THIS AGREEMENT, SUPPLIER IS NOT LIABLE FOR ANY LOSSES OR DAMAGES THAT MAY ARISE IN CONNECTION WITH CUSTOMER'S USE OF THE CLOUD SERVICES. SUPPLIER IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) FOR ANY CLAIM THAT ARISES FROM OR RELATES TO THIS AGREEMENT (INCLUDING THE CLOUD SERVICES), REGARDLESS OF THE FORM ALLEGED, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR SUPPLIER'S OBLIGATIONS UNDER SECTION 'IPR INDEMNITY' AND IN THE EVENT OF DEATH OR PERSONAL INJURY OF A PERSON NEGLIGENTLY CAUSED BY SUPPLIER SUPPLIER'S LIABILITY FOR MONETARY DAMAGES, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED THE FEES PAID UNDER THIS AGREEMENT FOR THE CLOUD SERVICES IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO THE LIABILITY. **8 USAGE LIMITS**

- 8.1 **Usage Limits:** Customer will ensure that its usage of the Cloud Services does not exceed the usage terms set forth in this Agreement and will be liable for any excess usage at Supplier's then current rates during the period in which usages exceeds the licensed amount.

9 SUSPENSION AND TERMINATION

- 9.1 **Suspension:** Supplier may suspend Customer's access to the Cloud Services in order to: (i) comply with any law, regulation, government or court order; or (ii) prevent any degradation of the Cloud Services caused by Customer. Supplier will promptly resume the Cloud Services if and when the cause of the suspension has been removed.

9.2 **Termination:** In the event of a material breach of this Agreement, the non-breaching party may terminate this Agreement if the material breach has not been cured within thirty (30) days after written notice specifying such breach. Failure to make any payment due under this Agreement is a material breach. In the event of termination by Customer for Supplier's material breach, Supplier will refund a pro-rated portion of the applicable unused Cloud Services fees. In the event of termination by Supplier for Customer's material breach, all remaining Cloud Services fees under any Order Form will be immediately due and payable. Any terms that by their nature extend beyond termination or expiration will survive notwithstanding the termination or expiration of this Agreement.

10 GENERAL

- 10.1 **Assignment:** Customer may not assign, transfer, delegate, or sublicense any of Customer's rights or obligations under this Agreement without Supplier's prior written consent. Any assignment, transfer, delegation, or grant of sublicense without Supplier's consent is null and void. The Supplier shall be entitled to transfer this Agreement within the group of companies of which the Supplier is a member as well as to any third party in connection with the assignment to any such third party of the right of the Supplier to receive any sums payable by the Customer to it hereunder.
- 10.2 **Export Control:** To the extent that any national and international export control, sanctions and trade control laws and regulations apply to this Agreement, the Parties agree to comply with the same and obtain any required approval, reporting and/or information obligations. Customer shall defend and indemnify the Supplier against any liability arising from any breach of this clause by the Customer. Supplier is not required to perform any obligation under the Agreement if prohibited by such export control laws, regulations or restrictions.
- 10.3 **Usage restriction:** Customer will not use, access or provide access to the Cloud Services in any manner that violates an applicable economic, financial or trade prohibition, sanction or embargo, which may include but is not limited to such prohibitions, sanctions or embargoes enacted or imposed by law or other restrictive measure and administered or enforced by (i) the United Nations Security Council, (ii) the United States government, (iii) the European Union or any of its member states' governments, (iv) the United Kingdom, (v) the Singaporean government, (vi) the Swiss Confederation, or (vii) any other authority that has jurisdiction over the Customer, Supplier or the relevant project or activity for which the Cloud Services are being used, accessed or provided.
- 10.4 **Third Party Components:** If the Customer downloads any portion of the Cloud Service, including but not limited to plug-ins or connectors or fat clients ("Cloud Service Downloadable"), the Customer acknowledges that such Cloud Service Downloadable may contain or be distributed with certain open source, free, or commercial third party components ("Third Party Components"), which may be subject to special license terms and conditions ("Third Party Terms") located at <http://softwareag.com/licenses>. Third Party Terms include important licensing and warranty information and disclaimers of third party licensors. For the avoidance of doubt, if Customer uses the Cloud Service Downloadable in accordance with the Documentation, the Third Party Terms do not restrict the rights granted under this Agreement. In the event that a third party manufacturer no longer provides active support for any Third Party Component, Supplier will use commercially reasonable efforts to respond to any issues with the Cloud Service Downloadable related to the Third Party Components.
- 10.5 **Anti-Corruption:** The Parties will comply with all laws, regulations and requirements (whether international, federal, state, local, or provincial) prohibiting bribery, money laundering, and anti-corruption, including the U.S. Foreign Corrupt Practices Act.
- 10.6 **Dispute Resolution:** In the event of a dispute, each Party will appoint a senior management representative to negotiate in good faith to resolve the dispute before commencing formal proceedings. Formal proceedings may not commence until 30 days have passed since the initial request to negotiate the dispute; provided, however, that a Party may file for formal proceedings at any time to avoid the expiration of any limitations period, preserve a superior position with respect to other creditors, or apply for interim, injunctive, or equitable relief.
- 10.7 **Independent Contractors:** The Parties are independent contractors and have no power to bind or incur obligations on the other Party's behalf.
- 10.8 **Force Majeure:** Neither Party is liable for failing to perform an obligation under this Agreement if such failure is due to any act or condition beyond that Party's reasonable control.
- 10.9 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of England and Wales and the parties shall submit to the non-exclusive jurisdiction and procedure of the Courts of England.
- 10.10 **Marketing:** Customer agrees that, while this Agreement is in effect, Supplier is authorised to identify Customer as a customer in public relations and marketing materials, including identification on Supplier's website, and use Customer's corporate name and logo.
- 10.11 **Notices:** All notices, demands, or other communications by any party to the other shall be deemed to have been duly given when: (i) made in writing and delivered in person with signed receipt, or (ii) sent via a nationally recognized, traceable, overnight delivery carrier, to the address detailed above, or to such address as the parties may provide to each other in writing from time to time. Notice will be effective upon delivery.
- 10.12 **Entire Agreement; Waiver; Priority; Severability:** This Agreement constitutes the entire agreement between the Parties, and supersedes all prior written and oral agreements and communications related to the subject matter of this Agreement. Any modifications to this Agreement must be in writing and signed by the duly authorized representatives of the Parties. Any waiver under this Agreement must be in writing and signed by the Party granting the waiver. A waiver granted under this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other provision of this Agreement. No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right. In the event of any conflict between any provision of this Agreement and any Order Forms incorporated and made part of this Agreement, such conflict will be resolved by giving precedence to the Order Form(s). Any contrary or additional terms and conditions included in any purchase order or similar document (printed or online) related to this Agreement will be invalid and non-binding, even if received, accepted, approved, or signed by a Party. If any provision of this Agreement is held invalid or unenforceable, the provision will be limited to the minimum effect necessary and the remaining provisions of this Agreement will remain binding and enforceable. This Agreement may be executed in one or more counterparts, with the same effect as if the Parties had signed the same document. The Parties agree to the use of digital signatures.

The duly authorized representative(s) of each Party accepts the terms of this Agreement by signing below.

Agreement			
Duly authorised for and on behalf of Supplier		Duly authorised for and on behalf of Customer	
Signed	REDACTED TEXT FOIA Section 40, Personal Information	Signed	REDACTED TEXT FOIA Section 40, Personal Information

Name	REDACTED TEXT FOIA Section 40, Personal Information	Name	REDACTED TEXT FOIA Section 40, Personal Information
Title		Title	
	REDACTED TEXT FOIA Section 40, Personal Information		REDACTED TEXT FOIA Section 40, Personal Information
Date	29-Sep-2023 10:33:33 AM BST	Date	29-Sep-2023 2:21:10 AM PDT
Duly authorised for and on behalf of Supplier			
Signed	REDACTED TEXT FOIA Section 40, Personal Information		

Name	REDACTED TEXT FOIA Section 40, Personal Information
Title	REDACTED TEXT FOIA Section 40, Personal Information
Date	29-Sep-2023 2:51:07 AM PDT

ENTERPRISE ACTIVE CLOUD SUPPORT SERVICE

Customer is a user of certain Cloud Services under a Cloud Services Agreement that the Customer has executed with a Software AG subsidiary (hereinafter "**Supplier**"). The maintenance and support services that the Supplier has agreed to deliver as provided in the Cloud Services Agreement are defined herein, and this document forms an attachment to the Cloud Services Agreement.

1 DEFINITIONS

1.1 **Definitions:** Unless the context requires otherwise the following words and expressions shall bear the meanings set out below where used in this Agreement:

" Business Day "	means the days from Monday to Friday excluding public holidays in country as specified in the Customer address field on the first page of the underlying Cloud Services Agreement that correspond with Software AG's Global Support operating days.
" Business Hour "	means the hours from 8.00 am to 5.00 pm on a Business Day of the main support hub within Customer's region: (a) EMEA – 8 to 5 Central European Time (CET) (b) APJ – 8 to 5 Malaysia Time (MYT) (c) US – 8 to 5 Mountain Time (MT) Global Support operating hours may change from time to time.
" Cloud Services "	means the Supplier cloud services to be provided to the Customer under the Cloud Services Agreement.
" Cloud Services Agreement "	means the Cloud Services Agreement under which the Cloud Services are to be provided to the Customer.
" Documentation "	means the user manuals that the Supplier makes available to users of the Cloud Services.
" Error "	means any verifiable and reproducible failure of the Cloud Services to substantially conform to the specifications for such Cloud Services. Notwithstanding the foregoing, " Error " shall not include any such failure that is caused by: (i) the use or operation of the Cloud Services with any other software or code or in an environment other than that intended or recommended in the Documentation, (ii) modifications to the Cloud Services not made or approved by the Supplier in writing, or (iii) any bug, defect, or error in third-party software used with the Cloud Services.
" Error Correction "	means either a modification or addition to or deletion from the Cloud Services having the effect that such Cloud Services substantially conforms to the then current specifications, or a procedure or routine that, when exercised in the regular operation of the Cloud Services, eliminates any material adverse effect on the Customer caused by an Error. An Error Correction may be a correction, workaround or service update.
" Software AG Global Support "	means the Supplier's Global Support Organization providing the support and maintenance services for the respective Customer.
" Software AG's Support Portal "	means the Supplier's web-based Customer support system, designed with proactive services, information and Error Corrections.

2 SERVICE DESCRIPTION

2.1 **Enterprise Active Maintenance and Support Service:** Software AG's Enterprise Active Maintenance and Support Service consists of the following services:

- Twenty-four (24) hour access to Software AG's Support Portal including access for authorized technical contacts ("**ATC**") to Supplier's request reporting system for browsing and submitting incidents, online access to new product information, documentation and knowledge centre.
- 24x7 support service for all incidents with initial response from Software AG Global Support within the defined reaction time. The respective telephone number is available in Software AG's Support Portal. If not provided in local language, telephone support is provided in English. Telephone support is provided during after-Business Hours and on non-Business Days in English only.
- Information on new features, events, and Customer application articles.
- Resolution plan within first four hours after receipt of Crisis incident.
- Prioritized queuing of support incidents (identical severity levels only).
- Multi-region support – see "Processing Customer Requests" clause below.

- (g) Unlimited authorized technical contacts (ATC) of the Customer entitled to access Software AG's Support Portal. All ATCs shall have appropriate professional and technical qualifications and shall be assigned internally by Customer to process queries from users about the Cloud Services. To protect against improper use of services, services may only be requisitioned by these ATCs previously-reported to Supplier. Customer must review and update the list of ATCs once per year in order to ensure accuracy. ATC Group accounts that are used by multiple Customer representatives are not allowed. One customer representative equals one ATC only.
- (h) One-on-one web-based consulting sessions on a variety of topics limited to up to 4 consultations per year plus others upon request and subject to availability. A list of sessions is available on Software AG's Support Portal and is subject to change from time to time.
- (i) Documentation on updates to the Cloud Services. Information regarding availability of Cloud Services and Documentation updates are published by Supplier and available in Software AG's Support Portal.

3 PROCESSING CUSTOMER REQUESTS

3.1 **Introduction:** Customer requests will be received by Software AG Global Support and will be documented in Software AG's Support Portal for further processing. The Customer will be given a reference processing number for future reference.

- (a) All crisis incidents must be submitted to Software AG Global Support by telephone. When submitting Security Incidents to Software AG Global Support, Customer must indicate this aspect to the support representative or set the security flag in the support ticket if reported via customer support portal.
- (b) Global Support will respond within the defined reaction time. For critical and standard severity incidents, the active support region will initiate work on the solution. When the ATC's default support region comes online, it will take over the ownership of the incident.
- (c) After the default region takes ownership of the incident, critical and standard incidents will be progressed only during the business hours of the ATC's default region.
- (d) Default region of an ATC is the region where that ATC is located or has opted to define that region as their default region. For example the default region of an EMEA customer is EMEA, however an EMEA ATC may opt another region, say AME as their default region
- (e) On non-Business Days Customer must always report critical and standard incidents through Software AG's Support Portal and must follow up with Global Support service provider via telephone in order to receive an initial response from Global Support based on the agreed upon reaction time. The reaction time is measured from the time the Customer gets in contact with a Software AG Support Engineer.
- (f) During after-Business-Hours and non-Business Days, all communication will be in English only.
- (g) When reaching Software AG Global Support by telephone, Customer is to provide the incident/ticket number so that work on the incident can commence.
- (h) Software AG Global Support has no obligation to solve the Customer's issue within the reaction or any other time frame.
- (i) Management Assistance Process will be halted once Customer is provided a potential resolution and until Customer has tested the solution. If Customer informs Software AG Global Support that the resolution hasn't resolved the problem, Management Assistance Process will resume.

3.2 **Service Expectations:** The following support severities are used for classifying the Customer's incidents. These classifications ensure consistent treatment of incidents handled by Software AG Global Support. Software AG Global Support will determine the appropriate severity level according to the following table:

Severity Level	Crisis	Critical	Standard
Definition	Customer's problem has a severe business impact, e.g. production down. Customer is unable to use the Cloud Services, resulting in a major impact on Customer's operations. Work cannot reasonably continue.	Customer's problem has a significant business impact; however, operations can continue in a restricted fashion. The Cloud Services are usable but severely limited. There is no acceptable workaround available. Customer is experiencing a significant loss of service.	Customer's problem has some business impact. The Cloud Services are usable and cause only minor inconvenience. It may be a minor Error, documentation Error, or incorrect operation of the Cloud Services, which does not significantly impede the operation of the Cloud Services.
Reaction Time	30 minutes: call-back or electronic reply	2 Hours: call-back or electronic reply	1 Day: call-back or electronic reply
Prioritized Queuing	Incidents are prioritized ahead of Standard Support incidents of the same severity level		
Software AG Management Assistance Process	After 1 Day: Regional Director Support After 2 Days: Global Vice President Support After 3 Days: Global Senior Vice President Support After 5 Days: Chief Operating Officer	After 5 Business Days: Regional Director Support After 7 Business Days: Vice President Global Support After 9 Business Days: Senior Vice President Global Support After 11 Business Days: Chief Operating Officer	None
Reporting (timeframe)	As agreed between Software AG Global Support and Customer	Daily or as agreed between Software AG Global Support and Customer	As agreed with Software AG Global Support and Customer on a case-by- case basis

Reaction Measure	Resolution plan provided within first four (4) hours after receipt of Crisis incident to include - in Supplier's sole discretion - EITHER : (i) a definition of the intended solution to the problem, OR (ii) a definition of a work-around while Supplier develops or defines a solution, OR (iii) a documented action plan that will include: - current status of the resolution - target timeline for next feedback	Customer is provided with a timeline for Error Correction	<ul style="list-style-type: none"> Information about publication date of the Cloud Services release that will solve the issue Indication that changes/ enhancements are being handled in accordance with Software AG's strategy
	- responsible Supplier resource(s) - Customer obligations (e.g., provisioning of log files, etc.)		
Required Effort	Economically justifiable effort within standard scope of resources	Reasonable effort within standard scope of resources	Reasonable effort within standard scope of resources

4 CUSTOMER RESPONSIBILITIES

- 4.1 **Customer Responsibilities:** Customer shall co-operate with Software AG Global Support and provide relevant information to enable Supplier to reproduce, troubleshoot and resolve the experienced error.
- 4.2 **Customer Consent:** In case that an incident is submitted to Software AG's Support Portal Customer authorizes Supplier, for the purposes of troubleshooting and resolving such incident, to access Customer's cloud environment for the duration of the submitted incident on the basis set out in the Cloud Services Agreement.

DATA PROCESSING AGREEMENT

This Data Processing Agreement ("**DPA**") is an integral part of the Agreement and any Attachments dated the same date as the date of this DPA (hereinafter together referred to as "**Agreement**") and is entered into by and between:

Parties		
between	Software AG (UK) Limited (" Supplier " and " Processor ")	His Majesty's Treasury on behalf of His Majesty's Government (" Customer " and " Controller ") n/a
Reg. No.	1310740	His Majesty's Treasury, Government Offices Great George Street, 1 Horse
Registered office	Pride Park, 24 Orient Way, DERBY, Derbyshire DE24 8BY, UNITED KINGDOM	Guards Rd, London, SW1A 2HQ., United Kingdom

each a "**Party**", together the "**Parties**".

1 DEFINITIONS

1.1 The following terms apply to this DPA in addition to those defined in the EU General Data Protection Regulation ("**GDPR**"):

" Applicable Data Protection Law "	means any data protection law that applies to Customer's processing of personal data such as the GDPR and the UK GDPR.
" Member State "	means a country belonging to the European Union (" EU ") or the European Economic Area (" EEA ").
" Services "	means activities carried out by Supplier on behalf of Customer as set out in the Agreement and the Appendix to this DPA.
" Standard Contractual Clauses ("SCCs") "	means the Standard Contractual Clauses for the transfer of personal data to Third Countries pursuant to Commission Decision 2021/914. If the data exporter of a particular transfer or category of transfers is established in the UK, the UK International Data Transfer Addendum to the EU Commission Standard Contractual Clauses shall also apply.
" Subprocessor "	means a sub-contractor that Processor engages to process personal data on behalf of Controller when carrying out the subcontracted Services. The list of Subprocessors is available here: www.softwareag.com/dpa-processors
" Third Countries "	mean countries outside of the EU/EEA for which the European Commission has not issued an adequacy decision.

2 DETAILS OF PROCESSING

2.1 The Appendix to this DPA details the processing operations that Processor provides to Controller.

3 OBLIGATIONS OF CONTROLLER

3.1 Controller shall comply with Applicable Data Protection Law and demonstrate such compliance as required under the Applicable Data Protection Law.

3.2 If required by Applicable Data Protection Law Controller shall provide to Processor a copy of the privacy notice that Controller provided to the data subjects.

4 INSTRUCTIONS

- 4.1 Controller engages Processor to process the personal data on behalf of Controller in accordance with GDPR Article 28. Controller instructs Processor to process Personal Data on its behalf of Controller for the purposes of performing the Services. Controller shall ensure that any instruction given to Processor complies with Applicable Data Protection Law. If Customer is a processor, Customer warrants that its instructions and actions with respect to the processing of the personal data provided to the Supplier, including the appointment of Supplier as another processor, have been authorized by the relevant controller.
- 4.2 Processor shall process the personal data only in accordance with the instructions given by the Controller unless otherwise required by European Union law, Member State law or other applicable data protection law (in the latter case clause 5.4 (b) applies).
- 4.3 Any further instructions that go beyond the instructions contained in this DPA or the Agreement must be within the subject matter of this DPA and the Agreement. If the implementation of such further instructions results in costs for Processor, Processor shall inform Controller about such costs with an explanation of the costs before implementing the instructions. Only after Controller's confirmation to bear such costs for the implementation of the instructions, Processor is required to implement such further instructions. Controller shall give further instructions generally in writing, unless the urgency or other specific circumstances require another (e.g., oral, electronic) form. Instructions in another form than in writing shall be confirmed by Controller in writing without delay.
- 4.4 Processor shall immediately inform Controller if, in its opinion, an instruction infringes the GDPR or other Applicable Data Protection Law and request Controller to withdraw, amend or confirm the relevant instruction. Processor shall be entitled to suspend implementation of the relevant instruction pending Controller's decision to withdraw, amend or confirm such instruction.

5 OBLIGATIONS OF PROCESSOR

- 5.1 Processor shall ensure that all persons authorized by Processor to process personal data on behalf of Controller, particularly personnel of Processor or any Subprocessor, have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 5.2 Before processing personal data to provide the Services, Processor shall implement the following technical and organizational measures: www.softwareag.com/dpa-toms. Processor may amend the technical and organizational measures from time to time provided that the amended technical and organizational measures are not less protective than those in place as of date that the Parties concluded this DPA.
- 5.3 Processor shall make available to Controller all information necessary to demonstrate compliance with the obligations in GDPR Article 28. The Parties agree that this information obligation is met by providing Controller with an audit report upon request. To the extent additional audit activities are required by Applicable Data Protection Law, Controller may request inspections conducted by Controller or another auditor mandated by Controller. Such on-site audit must:
- (a) be limited to processing facilities and personnel of Processor involved in the processing activities covered by this DPA; 2023 Software AG. All rights reserved.

reserved.

- (b) occur no more than once annually or as required by Applicable Data Protection Law or by a competent supervisory authority or immediately after a material personal data breach affecting personal data processed by Processor under this DPA; and
- (c) may occur only during regular business hours, after reasonable prior notice, in accordance with Processor's security policies and without substantially disrupting Processor's business operations.

Each Party shall bear its own costs arising out of or in connection with the on-site audit at Controller and Processor. Controller shall create an audit report summarizing the findings and observations of the on-site audit. All audit reports are confidential information of Processor and shall not be disclosed to third parties unless required by Applicable Data Protection Law or with Processor's consent.

- 5.4 Processor shall notify Controller without undue delay:
- (a) about any legally binding request for disclosure of the personal data by a law enforcement authority, unless otherwise prohibited, such as by a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;
 - (b) if EU law, Member State law or other Applicable Data Protection Law to which Processor or Subprocessor is subject requires Processor or Subprocessor to process the personal data beyond Controller's instructions, before performing such processing, unless that European Union law, Member State law or other Applicable Data Protection Law prohibits such information on important grounds of public interest. In this case Processor's notification to Controller must specify the applicable legal requirement; and
 - (c) after Processor has documented reason to believe that a personal data breach has occurred at Processor or at Subprocessors that may affect the personal data of Controller covered by this DPA. In this case, Processor shall assist Controller with Controller's obligation under Applicable Data Protection Law to inform the data subjects and the supervisory authorities, as applicable, by providing information in accordance to GDPR Article 33 (3) or other Applicable Data Protection Law as available to Processor. Processor shall implement remediation measure to prevent future breaches.
- 5.5 Processor shall take commercially reasonable measures to provide necessary information and assist Controller with its obligation to carry out a data protection impact assessment or prior consultation in relation to the Services as may be required by GDPR Article 35 or 36. Processor must provide such assistance only if Controller cannot meet its obligation through other means.
- 5.6 At the choice of Controller, Processor shall delete or return to Controller all personal data (including any data storage media) processed on Controller's behalf under this DPA after the end of the provision of Services and delete any existing copies unless European Union or Member State law requires Processor to retain such personal data.

6 DATA SUBJECT RIGHTS

- 6.1 Controller is primarily responsible for handling and responding to requests made by data subjects. If a data subject contacts Processor directly, Processor shall communicate the data subject's request to Controller. Processor shall not respond to any data subject independently.
- 6.2 Processor shall assist Controller using appropriate and possible technical and organizational measures to respond to data subjects' requests to exercise the rights set out in Chapter III of the GDPR or other Applicable Data Protection Laws.

7 SUBPROCESSING

- 7.1 Controller authorises the use of Subprocessors engaged by Processor for the provision of the Services under this DPA. The same applies to the use of further Subprocessors engaged by Subprocessors, in which case the below applies accordingly. Processor shall choose such Subprocessor diligently. Processor remains responsible for any acts or omissions of its Subprocessors in the same manner as for its own acts and omissions hereunder. Controller approves the Subprocessors listed here: www.softwareag.com/dpa-processors.
- 7.2 Processor shall pass on in writing (electronic form is sufficient) to Subprocessors the obligations of Processor under this DPA to the extent applicable to the subcontracted Services.
- 7.3 Processor may replace or appoint suitable and reliable Subprocessors at its discretion in accordance with this clause:
- (a) Processor shall after Controller's registration on the SAG Support Portal (https://www.softwareag.com/en_corporate/tc/dpa-toms/subscription.html) notify Controller in advance of any changes to the list of Subprocessor(s) as set out under clause 7.1 by sending changes to the list of Subprocessor(s) to the given e-mail address of the Controller.
 - (b) If Controller does not object in accordance with this clause within 30 days of receiving Processor's notice the Subprocessor(s) will be deemed accepted. If Controller has a legitimate reason to object to a Subprocessor, Controller shall notify Processor thereof in writing within 30 days after receipt of Processor's notice. If Controller objects to the use of the Subprocessor, Processor shall have the right to cure the objection within 30 days after

Processor's receipt of Controller's objection. If the objection has not been cured within 30 days after Processor's receipt of Controller's objection, either party may terminate the affected Service with reasonable written notice.

8 INTERNATIONAL TRANSFER OF PERSONAL DATA

8.1 In providing Services personal data will be transferred to Third Countries by the Processor in compliance with Chapter V of the GDPR. The Customer agrees that where the Processor engages a Subprocessor in accordance with Clause 7 of this DPA for the provision of Services and those involve a transfer of personal data within the meaning of Chapter V of the GDPR, the Processor and the Subprocessor can ensure compliance with Chapter V of the GDPR (i) e.g. by using the SCC's and where necessary; (ii) that additional supplementary contractual, organisational and technical measures are in place to provide a sufficient level of data protection.

9 TERM

9.1 The term of this DPA is the term of the Agreement.

10 GENERAL

10.1 Any liability arising out of or in connection with a violation of the obligations of this DPA or under applicable data protection law, shall follow, and be governed by, the liability provisions set forth in, or otherwise applicable to, the Agreement, unless otherwise provided within this DPA.

10.2 In the event of inconsistencies between the provisions of this DPA and any other agreements between the Parties, the provisions of this DPA will prevail regarding the Parties' data protection obligations. In case of doubt as to whether clauses in such other agreements relate to the Parties' data protection obligations, this DPA will prevail. If any provision of this DPA is held to be invalid, illegal or unenforceable, the remaining provisions shall not be affected or impaired.

Agreement			
Duly authorised for and on behalf of Supplier		Duly authorised for and on behalf of Customer	
Signed	REDACTED TEXT FOIA Section 40, Personal Information	Signed	REDACTED TEXT FOIA Section 40, Personal Information
Name	REDACTED TEXT FOIA Section 40, Personal Information	Name	REDACTED TEXT FOIA Section 40, Personal Information
Title	REDACTED TEXT FOIA Section 40, Personal Information	Title	REDACTED TEXT FOIA Section 40, Personal Information
Date	29-Sep-2023 10:33:33 AM BST	Date	29-Sep-2023 2:21:10 AM PDT

Duly authorised for and on behalf of Supplier	
Signed	REDACTED TEXT FOIA Section 40, Personal Information
Name	REDACTED TEXT FOIA Section 40, Personal Information
Title	REDACTED TEXT FOIA Section 40, Personal Information
Date	29-Sep-2023 2:51:07 AM PDT

APPENDIX: DETAILS OF PROCESSING

Controller	Cloud Services: The Controller is providing business data necessary in course of use of and to assist in the analysis and resolution of Support Incidents reported in the Cloud Services of Processor.
	Support: The Controller is providing business data to assist in the analysis and resolution of Support Incidents reported in software products of Processor.
	Professional Services: The Controller is providing business data to or granting access to Processor to help develop or implement solutions for Controller.
	Training, Onboarding, Customer Success Services: The Controller is providing business data to assist with training, onboarding and customer success services.
Processor	The Supplier is the Processor.
Data subjects	<ul style="list-style-type: none"> employees of Controller end-customers of Controller potential end-customers of the Controller any person with whom Controller maintains a business relationship
Categories of data	<ul style="list-style-type: none"> Name Corporate Personnel ID Business e-mail address Telephone number IP Address Data of the Controller used within the systems which are in the scope as defined in the relevant Statement of Work Data of the Controller used within the products offered by Processor
Special categories of data (if appropriate)	Cloud Services: The Controller decides which data is transmitted for the purpose of providing Cloud Services.
	Support: The Controller decides which data is transmitted for the purpose of providing customer support.
	Professional Services: The Controller decides which data is made available to the Processor in the scope of the systems as defined in the relevant Statement of Work.
	Training, Onboarding, Customer Success Services: The Controller decides which data is transmitted for the purpose of providing training, onboarding and customer success services.
Processing operations	Cloud Services: Processor processes Controller Data with a Software as a Service /Platform as a Service in a public cloud infrastructure as defined in the Cloud Services agreement.
	Support: Support incident solution research using Controller business data to analyse or reproduce incidents reported by the Controller.
	Professional Services: The Processor will use the personal data of the Controller only as defined in the Service Agreement.
	Training, Onboarding, Customer Success Services: Maintaining a record of application users and training sessions.

Subject matter of the processing	Cloud Services: The subject matter of the data processing under this addendum are the Controller data processed in the cloud services as defined in the Cloud Services Attachment including the operation of a Cloud Service platform. To access the operated platform users need to be authenticated and authorized. User details will be used to create unique user id's that are used for authentication and authorization. Email addresses might be used to send notifications to the users as result of using services of the Cloud Service platform and corresponding support systems (e.g. Ticket system).
	Support: As described in the applicable Maintenance and Support Service description.
	Professional Services: The subject matter of the processing is described in the relevant Statement of Work.
	Training, Onboarding, Customer Success Services: As described in the applicable Service description.
Nature and purpose of the processing	Cloud Services: The purpose of the data processing under this addendum the provisioning of the Cloud Services initiated by the Controller. The Cloud Services processing systems and respective processing properties are defined in the Cloud Services Attachment.
	Support: Processor processes the personal data of the data subjects on behalf of Controller in order to solve problems in software products of Processor.
	Professional Services: Processor processes the personal data of the data subjects on behalf of Controller in order to provide the Consulting Services described in detail in the relevant Statement of Work.
	Training, Onboarding, Customer Success Services: Onboarding of new users; Support on questions and ideas (e.g. written request, chat, comments, feature requests); Customer success; Share reports with the Controller/Data Exporter.

Schedule 2: Call-Off Contract charges

Charges and Invoicing Terms	
Cloud Service Fee	£124,000.00 per annum (excluding VAT). Cloud Service Fees include application management, infrastructure, licence and Maintenance Services.
Payment Terms	30 days from the date of receipt by the Buyer of an undisputed invoice
Invoice Terms	Invoice Date
	Immediately on signature of this Call Off Contract.

T Schedule 3: Collaboration agreement Not used

Schedule 4: Alternative clauses Not used

Schedule 5: Guarantee Not applicable

Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
Additional Services	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Clause 2 (Services) which a Buyer may request.
Admission Agreement	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
Application	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Platform).
Audit	An audit carried out under the incorporated Framework Agreement clauses.

Background IPRs	<p>For each Party, IPRs:</p> <ul style="list-style-type: none">• owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes• created by the Party independently of this Call-Off Contract, or <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>
Buyer	The contracting authority ordering services as set out in the Order Form.
Buyer Data	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
Buyer Personal Data	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
Buyer Representative	The representative appointed by the Buyer under this Call-Off Contract.

Buyer Software	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.
Call-Off Contract	This call-off contract entered into following the provisions of the Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.
Charges	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.

Collaboration Agreement	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
Commercially Sensitive Information	Information, which the Buyer has been notified about by the Supplier in writing before the Start date with full details of why the Information is deemed to be commercially sensitive.
Confidential Information	<p>Data, Personal Data and any information, which may include (but isn't limited to) any:</p> <ul style="list-style-type: none">• information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above• other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').

Control	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
Controller	Takes the meaning given in the UK GDPR.
Crown	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.
Data Loss Event	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Call-Off Contract and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

Data Protection Impact Assessment (DPIA)	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
Data Protection Legislation (DPL)	(i) the UK GDPR as amended from time to time; (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy; (iii) all applicable Law about the Processing of Personal Data and privacy.
Data Subject	Takes the meaning given in the UK GDPR
Default	<p>Default is any:</p> <ul style="list-style-type: none"> • breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) • other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
DPA 2018	Data Protection Act 2018.

Employment Regulations	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') .
End	Means to terminate; and Ended and Ending are construed accordingly.
Environmental Information Regulations or EIR	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department about the regulations.
Equipment	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.
ESI Reference Number	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.

Employment Status Indicator test tool or ESI tool	<p>The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here:</p> <p>https://www.gov.uk/guidance/check-employment-status-fortax</p>
Expiry Date	<p>The expiry date of this Call-Off Contract in the Order Form.</p>

Force Majeure	<p>A force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none">• acts, events or omissions beyond the reasonable control of the affected Party• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare• acts of government, local government or Regulatory Bodies• fire, flood or disaster and any failure or shortage of power or fuel• industrial dispute affecting a third party for which a substitute third party isn't reasonably available <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none">• any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain• any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure• the event was foreseeable by the Party seeking to rely on Force <p>Majeure at the time this Call-Off Contract was entered into</p> <ul style="list-style-type: none">• any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans
Former Supplier	<p>A supplier supplying services to the Buyer before the Start date that are the same as or substantially similar to the Services. This also includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).</p>

Framework Agreement	The clauses of framework agreement RM1557.13 together with the Framework Schedules.
Fraud	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or
	defrauding or attempting to defraud or conspiring to defraud the Crown.
Freedom of Information Act or FoIA	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to the legislation.

G-Cloud Services	The cloud services described in Framework Agreement Clause 2 (Services) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
UK GDPR	The retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679).
Good Industry Practice	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances.
Government Procurement Card	The government's preferred method of purchasing and payment for low value goods or services.
Guarantee	The guarantee described in Schedule 5.

Guidance	Any current UK government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK government guidance and the Crown Commercial Service guidance, current UK government guidance will take precedence.
Implementation Plan	The plan with an outline of processes (including data standards for migration), costs (for example) of implementing the services which may be required as part of Onboarding.
Indicative test	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
Information	Has the meaning given under section 84 of the Freedom of Information Act 2000.
Information security management system	The information security management system and process developed by the Supplier in accordance with clause 16.1.

Inside IR35	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
Insolvency event	Can be: <ul style="list-style-type: none">• a voluntary arrangement• a winding-up petition• the appointment of a receiver or administrator• an unresolved statutory demand• a Schedule A1 moratorium• a Dun & Bradstreet rating of 10 or less
Intellectual Property Rights or IPR	Intellectual Property Rights are: <ul style="list-style-type: none">• copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information• applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction• all other rights having equivalent or similar effect in any country or jurisdiction

Intermediary	<p>For the purposes of the IR35 rules an intermediary can be:</p> <ul style="list-style-type: none">• the supplier's own limited company• a service or a personal service company• a partnership <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>
IPR claim	As set out in clause 11.5.
IR35	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.
IR35 assessment	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.

Know-How	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or Buyer's possession before the Start date.
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Law	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply.
Loss	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' Losses ' will be interpreted accordingly.
Lot	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
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.

Management Charge	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
Management Information	The management information specified in Framework Agreement Schedule 6.
Material Breach	Those breaches which have been expressly set out as a Material Breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.
Ministry of Justice Code	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.

New Fair Deal	The revised Fair Deal position in the HM Treasury guidance: “Fair Deal for staff pensions: staff transfer from central government” issued in October 2013 as amended.
Order	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
Order Form	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
Ordered G-Cloud Services	G-Cloud Services which are the subject of an order by the Buyer.

Outside IR35	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
Party	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.

Personal Data	Takes the meaning given in the UK GDPR.
Personal Data Breach	Takes the meaning given in the UK GDPR.

Platform	The government marketplace where Services are available for Buyers to buy.
Processing	Takes the meaning given in the UK GDPR.
Processor	Takes the meaning given in the UK GDPR.

Prohibited act	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none">• induce that person to perform improperly a relevant function or activity• reward that person for improper performance of a relevant function or activity• commit any offence:<ul style="list-style-type: none">○ under the Bribery Act 2010○ under legislation creating offences concerning Fraud○ at common Law concerning Fraud○ committing or attempting or conspiring to commit Fraud
Project Specific IPRs	<p>Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.</p>
Property	<p>Assets and property including technical infrastructure, IPRs and equipment.</p>

Protective Measures	Appropriate technical and organisational measures which may include: pseudonymisation and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
PSN or Public Services Network	The Public Services Network (PSN) is the government's high performance network which helps public sector organisations work together, reduce duplication and share resources.
Regulatory body or bodies	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.

Relevant person	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
Relevant Transfer	A transfer of employment to which the employment regulations applies.
Replacement Services	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.
Replacement supplier	Any third-party service provider of replacement services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).

Security management plan	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.
Services	The services ordered by the Buyer as set out in the Order Form.
Service data	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
Service definition(s)	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Clause 2 (Services) of the Framework Agreement.

Service description	The description of the Supplier service offering as published on the Platform.
Service Personal Data	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.

Spend controls	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see https://www.gov.uk/service-manual/agiledelivery/spend-controlscheck-if-you-needapproval-to-spendmoney-on-a-service
Start date	The Start date of this Call-Off Contract as set out in the Order Form.

Subcontract	Any contract or agreement or proposed agreement between the Supplier and a subcontractor in which the subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
Subcontractor	Any third party engaged by the Supplier under a subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
Subprocessor	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
Supplier	The person, firm or company identified in the Order Form.

Supplier Representative	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.
Supplier staff	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Call-Off Contract.
Supplier Terms	The relevant G-Cloud Service terms and conditions as set out in the Terms and Conditions document supplied as part of the Supplier's Application.
Term	The term of this Call-Off Contract as set out in the Order Form.

Variation	This has the meaning given to it in clause 32 (Variation process).
Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.
Year	A contract year.

Schedule 7: UK GDPR Information

This schedule reproduces the annexes to the UK GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract and clause and schedule references are to those in the Framework Agreement but references to CCS have been amended.

Annex 1: Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the

Processors, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

- 1.1 The contact details of the Buyer’s Data Protection Officer are: [Insert Contact details]
- 1.2 The contact details of the Supplier’s Data Protection Officer are: [Insert Contact details]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with paragraphs 2 to paragraph 15 of Schedule 7 and for the purposes of the Data Protection Legislation, Buyer is the Controller and the Supplier is the Processor of the Personal Data recorded below [Insert the scope of Personal Data which the purposes and means of the Processing by the Supplier is determined by the Buyer]</p> <p>The Supplier is Controller and the Buyer is Processor</p>

	<p>The Parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the Controller and the Buyer is the Processor in accordance with paragraph 2 to paragraph 16 of the following Personal Data:</p> <ul style="list-style-type: none">• [Insert] <i>the scope of Personal Data which the purposes and means of the Processing by the Buyer is determined by the Supplier]</i> <p>The Parties are Joint Controllers</p> <p>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none">• [Insert] <i>the scope of Personal Data which the purposes and means of the Processing is determined by both Parties together]</i> <p>The Parties are Independent Controllers of Personal Data</p> <p>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none">• <i>Business contact details of Supplier Personnel for which the Supplier is the Controller,</i>• <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of the Buyer (excluding the Supplier</i>
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	<p><i>Personnel) engaged in the performance of the Buyer's duties under the Contract) for which the Buyer is the Controller,</i></p>
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	<ul style="list-style-type: none">• [Insert] the scope of other Personal Data provided by one Party who is Controller to the other Party who will separately determine the nature and purposes of its Processing the Personal Data on receipt e.g. where (1) the Supplier has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Buyer cannot dictate the way in which Personal Data is processed by the Supplier, or (3) where the Supplier comes to the transaction with Personal Data for which it is already Controller for use by the Buyer] <p>[Guidance] where multiple relationships have been identified above, please address the below rows in the table in respect of each relationship identified]</p>
Duration of the Processing	[Clearly set out the duration of the Processing including dates]

Nature and purposes of the Processing	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i></p>
Type of Personal Data	<p><i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i></p>
Categories of Data Subject	<p><i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i></p>

<p>Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data</p>	<p><i>[Describe how long the data will be retained for, how it be returned or destroyed]</i></p>
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