



# Crown Commercial Service

## G-Cloud 12 Call-Off Contract

This Call-Off Contract for the G-Cloud 12 Framework Agreement (RM1557.12) includes:

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## 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.

<b>Digital Marketplace service ID number</b>	1036 3198 8594 664
<b>Call-Off Contract reference</b>	21_10_02
<b>Call-Off Contract title</b>	Social Media Management Software 2021
<b>Call-Off Contract description</b>	<p>The scope of the contract includes the single-view management of the Buyer's social media accounts (Facebook, Twitter etc.) for customer engagement and marketing campaigns.</p> <p>The software will also actively monitor relevant online conversations and provide insight from reporting and analytics.</p>
<b>Start date</b>	As per the date signed for by both parties.
<b>Expiry date</b>	24 months after the Start Date.
<b>Call-Off Contract value</b>	<p>Contract value for the initial period of 24 months is £58,092 ex. VAT.</p> <p>Contract value including the one 12-month Extension Period is £87,138 ex. VAT.</p> <p>The total contract value including the extension and growth for future requirements. These can be called off up to a total contract value of £99,000 ex. VAT.</p>

<b>Charging method</b>	To be invoiced annually at the start of each Year.
<b>Purchase order number</b>	To be provided after contract signature.

This Order Form is issued under the G-Cloud 12 Framework Agreement (RM1557.12).

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 Deliverables 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. These are identified in the contract with square brackets.

<b>From the Buyer</b>	NHS Business Services Authority Stella House Goldcrest Way Newburn Riverside Newcastle-Upon-Tyne NE15 8NY
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<b>To the Supplier</b>	Social Signin Ltd (trading as Orlo)  0121 368 1420  hello@orlo.tech  Supplier's address:  7c, Centre City House  5-7 Hill Street  Birmingham  B5 5UA  Company number:  08237170
<b>Together the 'Parties'</b>	

## Principal contact details

### For the Buyer:

Title: Head of Communications and Marketing

Name: [REDACTED]

Email: [REDACTED]

Title: Head of Customer Operations

Name: [REDACTED]

Email: [REDACTED]

### For the Supplier:

Title: Head of Customer Success

Name: [REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

Title: Customer Success Manager

Name: [REDACTED]

Email: [REDACTED]

### Call-Off Contract term

<b>Start date</b>	This Call-Off Contract Starts on the date signed for and on behalf of the Buyer and is valid for 24 months.
<b>Ending (termination)</b>	<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).</p>
<b>Extension period</b>	<p>This Call-off Contract can be extended by the Buyer for 1 period of 12 months, by giving the Supplier 30 days written notice before its expiry. The extension periods are subject to clauses 1.3 and 1.4 in Part B below.</p> <p>Extensions which extend the Term beyond 24 months are only permitted if the Supplier complies with the additional exit plan requirements at clauses 21.3 to 21.8.</p>

### 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.

<b>G-Cloud lot</b>	<p>This Call-Off Contract is for the provision of Services under:</p> <ul style="list-style-type: none"><li>• Lot 2 - Cloud Software</li></ul>
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<b>G-Cloud services required</b>	The Services to be provided by the Supplier under the above Lot are listed in Framework Section 2 and detailed in Schedule 1 – Services.										
<b>Additional Services</b>	Not used										
<b>Location</b>	The Services will be delivered to the Buyer's main address at Stella House, Newcastle-Upon-Tyne.										
<b>Quality standards</b>	Not used										
<b>Technical standards:</b>	<p>The technical standards required for this Call-Off Contract are:</p> <ul style="list-style-type: none"> <li>• The Services must conform to the NCSC Software as a Service (SaaS) security principles; and</li> <li>• The Services must meet the guidance for Securing Technology at Official, including the NCSC 14 Cloud Security Principles.</li> </ul>										
<b>Service level agreement:</b>	<p>The service level and availability criteria required for this Call-Off Contract are:</p> <table border="1"> <thead> <tr> <th>SLA</th><th>Minimum Performance Level</th></tr> </thead> <tbody> <tr> <td>Availability</td><td>Uptime percentage of 99% per month.</td></tr> <tr> <td>Help Desk – live chat</td><td>Incident response provided within 3 hours</td></tr> <tr> <td>Help Desk – support email</td><td>Incident response provided within 4 hours</td></tr> <tr> <td>Help Desk - telephone</td><td>Incident response provided within 4 hours</td></tr> </tbody> </table> <p>The help desk is available between the hours of 08:30 to 17:00 Monday to Friday.</p>	SLA	Minimum Performance Level	Availability	Uptime percentage of 99% per month.	Help Desk – live chat	Incident response provided within 3 hours	Help Desk – support email	Incident response provided within 4 hours	Help Desk - telephone	Incident response provided within 4 hours
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Help Desk – live chat	Incident response provided within 3 hours										
Help Desk – support email	Incident response provided within 4 hours										
Help Desk - telephone	Incident response provided within 4 hours										

	<p>For issues outside of these hours that are urgent problems, the Buyer can contact a telephone number provided by the Supplier to reach an on-call member of the support team who will be available to help resolve issues.</p>
<b>Onboarding</b>	<p>The onboarding plan for this Call-Off Contract consists of:</p> <ul style="list-style-type: none"> <li>• Unlimited online training</li> <li>• Full service documentation provided</li> </ul>
<b>Offboarding</b>	<p>The offboarding plan for this Call-Off Contract consists of:</p> <ul style="list-style-type: none"> <li>• The Buyer is able to download any required data before the Expiry Date. There are no Charges associated with this.</li> </ul>
<b>Collaboration agreement</b>	Not used
<b>Limit on Parties' liability</b>	<p>The annual total liability of either Party for all Property defaults will not exceed £100,000 or 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term (whichever is the greater).</p> <p>The annual total liability for Buyer Data defaults will not exceed £100,000 or 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term (whichever is the greater).</p> <p>The annual total liability for all other defaults will not exceed the greater of £100,000 or 125% of the Charges payable by the Buyer to the Supplier during the Call-Off Contract Term.</p>

<b>Insurance</b>	<p>The insurance(s) required will be:</p> <ul style="list-style-type: none"> <li>• a minimum insurance period of 6 years following the expiration or Ending of this Call-Off Contract</li> <li>• 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)</li> <li>• employers' liability insurance with a minimum limit of £5,000,000 or any higher minimum limit required by Law</li> </ul>
<b>Force majeure</b>	A Party may End this Call-Off Contract if the Other Party is affected by a Force Majeure Event that lasts for more than 14 consecutive days.
<b>Audit</b>	Not used.
<b>Buyer's responsibilities</b>	Not used
<b>Buyer's equipment</b>	Not used.

### Supplier's information

<b>Subcontractors or partners</b>	Not used
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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.

<b>Payment method</b>	The payment method for this Call-Off Contract is BACS.
<b>Payment profile</b>	The payment profile for this Call-Off Contract is upfront for the full year upon Buyer's confirmation of access to the system.
<b>Invoice details</b>	The Supplier will issue an electronic invoice on the Start Date for the first Year and then on the anniversary of the Start Date for each subsequent Year thereafter. The Buyer will pay the Supplier within 30 days of receipt of a valid invoice.
<b>Who and where to send invoices to</b>	<p>Invoices will be sent:</p> <p>Via email (preferred) to: <a href="mailto:nhsbsa.accountspayable@nhs.net">nhsbsa.accountspayable@nhs.net</a></p> <p>Or by post to: Stella House, Goldcrest Way, Newburn Riverside Park, Newcastle-Upon-Tyne, Tyne &amp; Wear, NE15 8NY</p>
<b>Invoice information required</b>	All invoices must include the Purchase Order Reference, as provided by the Buyer in the initial order.
<b>Invoice frequency</b>	Invoice will be sent to the Buyer annually.
<b>Call-Off Contract value</b>	<p>Contract value for the initial period of 24 months is £58,092 ex. VAT.</p> <p>Contract value including the one 12-month Extension Period is £87,138 ex. VAT.</p> <p>The total contract value including the extension and growth for future requirements. These can be called off up to a total contract value of £99,000 ex. VAT.</p>

	This value is subject to the Variation process detailed in Clause 32.
<b>Call-Off Contract charges</b>	The breakdown of the Charges is detailed in Schedule 2 – Call Off Contract Charges.

### Additional Buyer terms

<b>Performance of the Service and Deliverables</b>	Not used.
<b>Guarantee</b>	Not used.
<b>Warranties, representations</b>	Not used.
<b>Supplemental requirements in addition to the Call-Off terms</b>	Not used.
<b>Alternative clauses</b>	Not used.
<b>Buyer specific amendments to/refinements of the Call-Off Contract terms</b>	Not used.
<b>Public Services Network (PSN)</b>	Not used.
<b>Personal Data and Data Subjects</b>	Detailed in Annex 1 of Schedule 7.

## 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 Call-Off 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 RM1557.12.
- 2.2 The Buyer provided an Order Form for Services to the Supplier.

<b>Signed</b>	For and on behalf of the Supplier	For and on behalf of the Buyer
	<b><i>Signed via DocuSign on 08/11/2021</i></b>	<b><i>Signed via DocuSign on 03/11/2021</i></b>

## Schedule 1: Services

The Services shall meet the following Requirements:

Requirement Type	Requirement
<b>Planning &amp; Publishing</b>	<ul style="list-style-type: none"><li>• Multiple account posting (16+)</li><li>• Support for our channels (Twitter, LinkedIn, Facebook, Instagram)</li><li>• Scheduled post calendar</li><li>• Campaign management</li><li>• Bulk scheduling</li><li>• Multi-channel scheduling</li><li>• Automated scheduling</li><li>• Dashboard – feed of content from the partners and stakeholders we follow</li><li>• Custom workflow for multiple approvers.</li><li>• Mobile app</li></ul>
<b>Analytics &amp; Reporting</b>	<ul style="list-style-type: none"><li>• Real-time reporting of likes, reach, engagements, follower growth, and click through rate.</li><li>• Reporting dashboard for separate accounts to monitor individual performance</li><li>• Report generation – create and automate custom reports each week, fortnight, month, etc</li><li>• Team performance – number of interactions / response time</li><li>• Sentiment analysis – ability to track negative, positive and neutral sentiment over a given time period or responses to specific campaigns or posts.</li><li>• Measure and collate growth across all channels.</li></ul>
<b>Monitoring</b>	<ul style="list-style-type: none"><li>• Monitor specific keywords or phrases</li><li>• Listen for mentions of our brand name and services</li><li>• Immediate alerts</li><li>• Target listen to specific regions</li><li>• Filter activity we don't need</li></ul>
<b>Collaboration</b>	<ul style="list-style-type: none"><li>• Individual logins and audit trails</li><li>• Assign admin roles and responsibilities</li><li>• Protection of social media assets</li><li>• Structured workflows</li><li>• Task assignment</li><li>• Approval queue</li><li>• Team progress – reports on response time</li></ul>
<b>Engagement / Customer service</b>	<ul style="list-style-type: none"><li>• Audit trail of responses to specific customers and stakeholders</li></ul>

	<ul style="list-style-type: none"> <li>• Automated workflows between different teams, locations and accounts</li> <li>• Ability to have template tweets stored</li> <li>• Database of influencers</li> </ul>
<b>Compliance &amp; integration</b>	<ul style="list-style-type: none"> <li>• GDPR compliant</li> <li>• Data stored in the UK</li> <li>• Integration with other tools e.g. PR Gloop</li> </ul>

## Schedule 2: Call-Off Contract charges

1.1 For each individual Service, the applicable Call-Off Contract Charges (in accordance with the Supplier's Digital Marketplace pricing document) cannot be amended during the term of the Call-Off Contract.

1.2 The initial contract value is £58,092 ex. VAT, with a breakdown as follows:

- Year 1: £29,046
- Year 2: £29,046

1.3 The total maximum value of this Call-Off Contract, including the one optional Extension Periods is £87,138 ex. VAT, with a breakdown as follows:

- Year 1: £29,046
- Year 2: £29,046
- Year 3: £29,046

1.4 The Charges consist of one-off payments, on-going payments made on an annual basis and fixed prices for additional items that may be called-off during the Term. The detailed breakdown of the Charges for the provision of Services is detailed in Tables 1 to 2c of this Schedule 2.

### Key

/pm – means per month

/pa – means per annum

### Ongoing Charges

Table 1

Item Description	Volume	Price Per Unit	Total Price (21/22)
<u>Licences</u>			
Enterprise Licences (Volume Band 5-49)	31	£68/pm	£25,296
<b>Sub-Total</b>			<b>£25,296</b>

<u>Additional Social Media Accounts</u>			
Facebook (4 covered within licence)	5	£250/pa	£1,250
Twitter (4 covered within licence)	9	£250/pa	£2,250
LinkedIn (0 covered within licence)	1	£250/pa	£250
Youtube (4 covered within licence)	0	£250/pa	£0
Instagram (2 covered within licence)	0	£250/pa	£0
<b>Sub-Total</b>			<b>£3,750</b>

<b>Items included in Licence Fee</b>			
Standard Media Monitoring			£0
Unlimited online training via webinar			£0
Support via email, live chat & phone			£0
<b>Sub-Total</b>			<b>£0</b>

<b>Monitoring Dashboards</b>	12	Inc. in licence	£0
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<b>Total Ongoing Price Per Annum</b>			<b>£29,046</b>
<b>Total Ongoing Price for 4 Years</b>			

#### Charges for any additional items that may be required during the Term

Table 2

Additional Licences		
Volume Banding	Price Per User Per Month	
	Business User Licence	Enterprise Licence
5 - 49 Users	£60	£68
50 - 99 Users	£47	£55
100 - 149 Users	£34	£42
150+ Users	To be agreed between Buyer and Supplier	

Table 2b

Additional Social Media Accounts		
Social Media Type	Number of Free Accounts Before Charges Apply	Price Per Account Per Annum
Facebook	4	£250
Twitter	4	£250
Instagram	2	£250
Youtube	4	£250
LinkedIn	0	£250

Table 2c

Other Extra Items	
Item	Price Per Annum
Advanced Media Monitoring	£6,000 per stream



## Customer Benefits

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

[G-Cloud 12 Customer Benefits 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 24 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 2 periods of up to 12 months each.
- 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 extend the contract beyond 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:

- 4.1 (Warranties and representations)
- 4.2 to 4.7 (Liability)
- 4.11 to 4.12 (IR35)
- 5.4 to 5.5 (Force majeure)
- 5.8 (Continuing rights)
- 5.9 to 5.11 (Change of control)
- 5.12 (Fraud)
- 5.13 (Notice of fraud)
- 7.1 to 7.2 (Transparency)
- 8.3 (Order of precedence)
- 8.6 (Relationship)
- 8.9 to 8.11 (Entire agreement)
- 8.12 (Law and jurisdiction)
- 8.13 to 8.14 (Legislative change)
- 8.15 to 8.19 (Bribery and corruption)
- 8.20 to 8.29 (Freedom of Information Act)
- 8.30 to 8.31 (Promoting tax compliance)
- 8.32 to 8.33 (Official Secrets Act)
- 8.34 to 8.37 (Transfer and subcontracting)
- 8.40 to 8.43 (Complaints handling and resolution)
- 8.44 to 8.50 (Conflicts of interest and ethical walls)
- 8.51 to 8.53 (Publicity and branding)
- 8.54 to 8.56 (Equality and diversity)
- 8.59 to 8.60 (Data protection)

- 8.64 to 8.65 (Severability)
- 8.66 to 8.69 (Managing disputes and Mediation)
- 8.80 to 8.88 (Confidentiality)
- 8.89 to 8.90 (Waiver and cumulative remedies)
- 8.91 to 8.101 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement glossary and interpretation
- any audit provisions from the Framework Agreement set out by the Buyer in the Order Form

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' 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 4 (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 14-digit 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 Call-Off 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 its 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 invoiced 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 Call-Off 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 Subject to clause 24.1 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 the Data Protection Legislation or under incorporated Framework Agreement clauses 8.80 to 8.88. 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 Unless otherwise specified in this Call-Off Contract, a Party will not acquire any right, title or interest in or to the Intellectual Property Rights (IPRs) of the other Party or its Licensors.
- 11.2 The Supplier grants the Buyer a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to use the Project Specific IPRs and any Background IPRs embedded within the Project Specific IPRs for the Buyer's ordinary business activities.
- 11.3 The Supplier must obtain the grant of any third-party IPRs and Background IPRs so the Buyer can enjoy full use of the Project Specific IPRs, including the Buyer's right to publish the IPR as open source.
- 11.4 The Supplier must promptly inform the Buyer if it can't comply with the clause above and the Supplier must not use third-party IPRs or Background IPRs in relation to the Project Specific IPRs if it can't obtain the grant of a licence acceptable to the Buyer.

- 11.5 The Supplier will, on written demand, fully indemnify the Buyer and the Crown 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:
  - 11.5.1 rights granted to the Buyer under this Call-Off Contract
  - 11.5.2 Supplier's performance of the Services
  - 11.5.3 use by the Buyer of the Services
- 11.6 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:
  - 11.6.1 modify the relevant part of the Services without reducing its functionality or performance
  - 11.6.2 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
  - 11.6.3 buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer
- 11.7 Clause 11.5 will not apply if the IPR Claim is from:
  - 11.7.2 the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract
  - 11.7.3 other material provided by the Buyer necessary for the Services
- 11.8 If the Supplier does not comply with clauses 11.2 to 11.6, 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/security-policy-framework> and the Government Security Classification policy:  
<https://www.gov.uk/government/publications/government-security-classifications>
  - 13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management:  
<https://www.cpni.gov.uk/content/adopt-risk-management-approach> and Protection of Sensitive Information and Assets:  
<https://www.cpni.gov.uk/protection-sensitive-information-and-assets>

13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance:

<https://www.ncsc.gov.uk/collection/risk-management-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/technology-code-of-practice/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-cloud-security-principles>

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/technology-code-of-practice/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 Call-Off 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 (and the Buyer of any Buyer Confidential Information breach). 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 is reasonable compensation and covers 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); incorporated Framework Agreement clauses: 4.2 to 4.7 (Liability)

- 8.44 to 8.50 (Conflicts of interest and ethical walls)
- 8.89 to 8.90 (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 24 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 18 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 extend the Term beyond 24 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 extension 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 the number of consecutive days set out in the Order Form, 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 4.2 to 4.7, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract (whether expressed as an indemnity or otherwise) will be set as follows:
- 24.1.1 Property: for all Defaults by either party resulting in direct loss to the property (including technical infrastructure, assets, IPR or equipment but excluding any loss or damage to Buyer Data) of the other Party, will not exceed the amount in the Order Form
  - 24.1.2 Buyer Data: for all Defaults by the Supplier resulting in direct loss, destruction, corruption, degradation or damage to any Buyer Data, will not exceed the amount in the Order Form
  - 24.1.3 Other Defaults: for all other Defaults by either party, claims, Losses or damages, whether arising from breach of contract, misrepresentation (whether under common law or statute), tort (including negligence), breach of statutory duty or otherwise will not exceed the amount in the Order Form.

## 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 Call-Off 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

- 29.3 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.
- 29.4 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.
- 29.5 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.
- 29.6 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:
- 29.6.1 its failure to comply with the provisions of this clause
  - 29.6.2 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
- 29.7 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.
- 29.8 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 G-Cloud 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, clauses 8.59 and 8.60 of the Framework Agreement are incorporated into this Call-Off Contract. For reference, the appropriate GDPR templates which are required to be completed in accordance with clauses 8.59 and 8.60 are reproduced in this Call-Off Contract document at schedule 7.

### Schedule 3: Collaboration agreement

Not used.

### Schedule 4: Alternative clauses

Not used.

### Schedule 5: Guarantee

Not used.

## Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
<b>Additional Services</b>	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Section 2 (Services Offered) which a Buyer may request.
<b>Admission Agreement</b>	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
<b>Application</b>	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Digital Marketplace).
<b>Audit</b>	An audit carried out under the incorporated Framework Agreement clauses specified by the Buyer in the Order (if any).
<b>Background IPRs</b>	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> <li>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</li> <li>created by the Party independently of this Call-Off Contract, or</li> </ul> <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>
<b>Buyer</b>	The contracting authority ordering services as set out in the Order Form.
<b>Buyer Data</b>	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
<b>Buyer Personal Data</b>	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
<b>Buyer Representative</b>	The representative appointed by the Buyer under this Call-Off Contract.

<b>Buyer Software</b>	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.
<b>Call-Off Contract</b>	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.
<b>Charges</b>	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
<b>Collaboration Agreement</b>	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.
<b>Commercially Sensitive Information</b>	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.
<b>Confidential Information</b>	<p>Data, Personal Data and any information, which may include (but isn't limited to) any:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').</li> </ul>
<b>Control</b>	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
<b>Controller</b>	Takes the meaning given in the GDPR.
<b>Crown</b>	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.

<b>Data Loss Event</b>	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Framework Agreement and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
<b>Data Protection Impact Assessment (DPIA)</b>	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
<b>Data Protection Legislation (DPL)</b>	Data Protection Legislation means: (i) the GDPR, the LED and any applicable national implementing Laws 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 including if applicable legally binding guidance and codes of practice issued by the Information Commissioner
<b>Data Subject</b>	Takes the meaning given in the GDPR
<b>Default</b>	<p>Default is any:</p> <ul style="list-style-type: none"> <li>• breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term)</li> <li>• 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</li> </ul> <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>
<b>Deliverable(s)</b>	The G-Cloud Services the Buyer contracts the Supplier to provide under this Call-Off Contract.
<b>Digital Marketplace</b>	The government marketplace where Services are available for Buyers to buy. ( <a href="https://www.digitalmarketplace.service.gov.uk/">https://www.digitalmarketplace.service.gov.uk/</a> )
<b>DPA 2018</b>	Data Protection Act 2018.
<b>Employment Regulations</b>	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') which implements the Acquired Rights Directive.
<b>End</b>	Means to terminate; and Ended and Ending are construed accordingly.



<b>Environmental Information Regulations or EIR</b>	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.
<b>Equipment</b>	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.
<b>ESI Reference Number</b>	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
<b>Employment Status Indicator test tool or ESI tool</b>	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: <a href="https://www.gov.uk/guidance/check-employment-status-for-tax">https://www.gov.uk/guidance/check-employment-status-for-tax</a>
<b>Expiry Date</b>	The expiry date of this Call-Off Contract in the Order Form.
<b>Force Majeure</b>	<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"> <li>• acts, events or omissions beyond the reasonable control of the affected Party</li> <li>• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare</li> <li>• acts of government, local government or Regulatory Bodies</li> <li>• fire, flood or disaster and any failure or shortage of power or fuel</li> <li>• industrial dispute affecting a third party for which a substitute third party isn't reasonably available</li> </ul> <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> <li>• any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain</li> <li>• 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</li> <li>• the event was foreseeable by the Party seeking to rely on Force Majeure at the time this Call-Off Contract was entered into</li> <li>• 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</li> </ul>
<b>Former Supplier</b>	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).
<b>Framework Agreement</b>	The clauses of framework agreement RM1557.12 together with the Framework Schedules.
<b>Fraud</b>	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.
<b>Freedom of Information Act or FoIA</b>	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.
<b>G-Cloud Services</b>	The cloud services described in Framework Agreement Section 2 (Services Offered) 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.
<b>GDPR</b>	General Data Protection Regulation (Regulation (EU) 2016/679)
<b>Good Industry Practice</b>	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.
<b>Government Procurement Card</b>	The government's preferred method of purchasing and payment for low value goods or services.
<b>Guarantee</b>	The guarantee described in Schedule 5.
<b>Guidance</b>	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.

<b>Implementation Plan</b>	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.
<b>Indicative test</b>	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
<b>Information</b>	Has the meaning given under section 84 of the Freedom of Information Act 2000.
<b>Information security management system</b>	The information security management system and process developed by the Supplier in accordance with clause 16.1.
<b>Inside IR35</b>	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
<b>Insolvency event</b>	<p>Can be:</p> <ul style="list-style-type: none"> <li>• a voluntary arrangement</li> <li>• a winding-up petition</li> <li>• the appointment of a receiver or administrator</li> <li>• an unresolved statutory demand</li> <li>• a Schedule A1 moratorium</li> </ul>
<b>Intellectual Property Rights or IPR</b>	<p>Intellectual Property Rights are:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• 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</li> <li>• all other rights having equivalent or similar effect in any country or jurisdiction</li> </ul>
<b>Intermediary</b>	<p>For the purposes of the IR35 rules an intermediary can be:</p> <ul style="list-style-type: none"> <li>• the supplier's own limited company</li> <li>• a service or a personal service company</li> <li>• a partnership</li> </ul> <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>

<b>IPR claim</b>	As set out in clause 11.5.
<b>IR35</b>	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.
<b>IR35 assessment</b>	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.
<b>Know-How</b>	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 CCS's possession before the Start date.
<b>Law</b>	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply.
<b>LED</b>	Law Enforcement Directive (EU) 2016/680.
<b>Loss</b>	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 ' <b>Losses</b> ' will be interpreted accordingly.
<b>Lot</b>	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
<b>Malicious Software</b>	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.
<b>Management Charge</b>	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.

<b>Management Information</b>	The management information specified in Framework Agreement section 6 (What you report to CCS).
<b>Material Breach</b>	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.
<b>Ministry of Justice Code</b>	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.
<b>New Fair Deal</b>	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.
<b>Order</b>	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
<b>Order Form</b>	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
<b>Ordered G-Cloud Services</b>	G-Cloud Services which are the subject of an order by the Buyer.
<b>Outside IR35</b>	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
<b>Party</b>	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
<b>Personal Data</b>	Takes the meaning given in the GDPR.
<b>Personal Data Breach</b>	Takes the meaning given in the GDPR.
<b>Processing</b>	Takes the meaning given in the GDPR.
<b>Processor</b>	Takes the meaning given in the GDPR.

<b>Prohibited act</b>	<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"> <li>• induce that person to perform improperly a relevant function or activity</li> <li>• reward that person for improper performance of a relevant function or activity</li> <li>• commit any offence: <ul style="list-style-type: none"> <li>○ under the Bribery Act 2010</li> <li>○ under legislation creating offences concerning Fraud</li> <li>○ at common Law concerning Fraud</li> <li>○ committing or attempting or conspiring to commit Fraud</li> </ul> </li> </ul>
<b>Project Specific IPRs</b>	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.
<b>Property</b>	Assets and property including technical infrastructure, IPRs and equipment.
<b>Protective Measures</b>	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.
<b>PSN or Public Services Network</b>	The Public Services Network (PSN) is the government's high-performance network which helps public sector organisations work together, reduce duplication and share resources.
<b>Regulatory body or bodies</b>	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.
<b>Relevant person</b>	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.
<b>Relevant Transfer</b>	A transfer of employment to which the employment regulations applies.

<b>Replacement Services</b>	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.
<b>Replacement supplier</b>	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).
<b>Security management plan</b>	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.
<b>Services</b>	The services ordered by the Buyer as set out in the Order Form.
<b>Service data</b>	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
<b>Service definition(s)</b>	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 Section 2 (Services Offered) of the Framework Agreement.
<b>Service description</b>	The description of the Supplier service offering as published on the Digital Marketplace.
<b>Service Personal Data</b>	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.
<b>Spend controls</b>	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see <a href="https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service">https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service</a>
<b>Start date</b>	The Start date of this Call-Off Contract as set out in the Order Form.
<b>Subcontract</b>	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.

<b>Subcontractor</b>	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.
<b>Subprocessor</b>	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
<b>Supplier</b>	The person, firm or company identified in the Order Form.
<b>Supplier Representative</b>	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.
<b>Supplier staff</b>	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.
<b>Supplier terms</b>	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.
<b>Term</b>	The term of this Call-Off Contract as set out in the Order Form.
<b>Variation</b>	This has the meaning given to it in clause 32 (Variation process).
<b>Working Days</b>	Any day other than a Saturday, Sunday or public holiday in England and Wales.
<b>Year</b>	A contract year.



## Schedule 7 - GDPR Information

This schedule reproduces the annexes to the GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract.

### 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: Chris Gooday, [chris.gooday@nhs.net](mailto:chris.gooday@nhs.net).
- 1.2 The contact details of the Supplier's Data Protection Officer are: Ben Nimmo, Chief Technology Officer
- 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><b>The Buyer is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with paragraph 2-15 Framework Agreement Schedule 4 (Where the Party is a Controller and the other Party is Processor) and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"><li>• Data disclosed by customers in private messages</li><li>• Information of Buyer's users of the Services (i.e. employee names)</li></ul>
Duration of the Processing	The Processing will continue for the Term.
Nature and purposes of the Processing	Personal Data will be Processed for the purpose of providing the Services in accordance with the terms of the Contract.
Type of Personal Data	The nature of the application is a mere repository for messages from the Buyer's social media followers and the Buyer's users with the functionality for the users to manage those messages. As such, the Supplier's provision of the Services may require the

	Processing of any type of personal data.
Categories of Data Subject	<p>Processing may involve Personal Data about any of the following Data Subjects:</p> <ul style="list-style-type: none"> <li>• Buyer employees using the Services</li> <li>• Buyer's customers and social media followers</li> <li>• Any other person that the Buyer employees refer to in their messages</li> </ul>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Union or Member State law to preserve that type of data</p>	All Personal Data will be deleted at the end of the Term.

## Annex 2: Joint Controller Agreement

Not used.

## Part C – Supplier Terms and Conditions

SocialSignin Ltd, trading as Orlo, is a private company limited by shares incorporated and registered in England and Wales with company number 08237170 and whose registered office is located at 7c, Centre City House, 5-7 Hill Street, Birmingham. B5 4UA, England, United Kingdom. Wherever used in these terms and conditions of business (“**T&Cs**”), “Orlo”, “we”, “our” or “us” refer to SocialSignin Ltd (and our permitted successors and/or assigns). Wherever used in these T&Cs, “you”, “your” or similar terms mean the person utilising and/or accessing the Services (as stated in the order form), including persons for which you are responsible such as your employees and other permitted third parties (as applicable). These T&Cs, together with the Data Protection Addendum and the order form (produced by us), constitute a binding legal agreement between Orlo and you (the “**Contract**”). Any purported order by you for the Services shall not form a legally binding contract unless and until we countersign the order form (which has been signed by you) or commence providing the Services (whichever is the later). This Contract governs your access to and use of our products, software, services, and website (collectively “**Services**”), and any and all information, text, graphics, photos or other materials uploaded, downloaded, or appearing on the Services (collectively “**Content**”). By accessing and using the Services, you agree to be exclusively bound by the Contract to the exclusion of any other terms and conditions which seek to have effect, and you warrant that you have read, understood and accepted the terms of the Contract. If you do not agree to be bound by the Contract, you are not permitted to use the Services and/or Content under any circumstances. By accessing and using the Services you are consenting to (or promising that you have obtained appropriate consent for) the collection and use of personal data by Orlo in accordance with Orlo’s privacy policy (currently available at <https://socialsignin.net/privacy-policy>).

## A – The Services

1. You are solely and exclusively responsible for the use of the Services and for any Content accessed or made available to others through your account (even if that Content is accessed or made available by others). You assume all risks associated with the Services and any Content accessed or made available to others through your account. Orlo will not be held responsible under any circumstances for your use of the Services or for any such Content.
2. To access or use the Services, you must be able to form a binding contract with Orlo and you must not be prohibited from receiving the Services under any applicable laws. You warrant that you have the ability and continuing authority to form a legally binding contract with us.
3. You acknowledge that the Services allow you to access and use content and services offered by third party service providers (e.g., Twitter, Facebook) (“**Third Party Service Providers**”). It is a condition precedent of this Contract that you agree to comply with the relevant terms and conditions of any such Third Party Service Provider.
4. Your access to and use of the Services must be in accordance with these T&Cs at all times. If you commit a breach of these T&Cs, we may without notice suspend or terminate your use and/or access to the Services in accordance with the remaining provisions of these T&Cs.
5. You agree that any of your group companies who use the Services (listed in the order form or for which we have given our express written consent) shall be bound by these T&Cs at all times and you shall procure that they adhere to these T&Cs, and

you shall be wholly responsible for all of their actions and/or omissions.

6. You agree that the Data Protection Addendum incorporates all data protection requirements relating to the Services and the Contract and you and we will comply with its provisions.

7. Orlo will operate the Services in accordance with any Orlo service level agreement in operation from time to time (“ **Orlo SLA** ”). The current Orlo SLA will be annexed to the order form and available at our website. Orlo’s failure to achieve Monthly Uptime Percentage or support targets set out in the Orlo SLA shall not be a material breach of the Contract. The Orlo SLA shall only apply during the Contract period.

## **B – Your Account**

1. You must provide your legal full name (i.e. company name and number), address for service of any notices, a valid email address and contact details of an authorised representative, and any other information requested by us in order to complete the account sign-up process.

2. You are responsible for maintaining the security of your account login information and for any activities or actions occurring under your account. Orlo encourages you to use a “strong” password (passwords that use a combination of upper and lower case letters, numbers and symbols) for your account. Orlo will not be responsible for any loss or damages whatsoever resulting from your failure to comply with this obligation.

3. You are responsible for maintaining the security of your account login information and for any activities or actions occurring under your account. Orlo encourages you to use a “strong” password (passwords that use a combination of upper and lower case letters, numbers and symbols) for your account. Orlo will not be responsible for any loss or damages whatsoever resulting from your failure to comply with this obligation.

4. The number of accounts to be used shall be set out in the order form. Each account login may only be used by one person. A single login shared by multiple people is not permitted

## **C – Term, Use and Restrictions**

1. We agree to supply the Services, and you agree to accept the Services for the period as set out in the order form (the “ **Initial Term** ”). Unless we receive written notice from you to cancel the Contract before the 60 day period prior to the natural expiry of the Initial Term (and/or each anniversary thereafter) then the Contract shall automatically continue for a further term equal to the Initial Term (the “ **Additional Term** ”), and continue on a rolling basis thereafter upon the expiry of each Additional Term unless the aforementioned notice is received by us. Should you cancel the Contract then the provisions of clauses G4 to G7 (inclusive) and clause G9 shall apply.

2. Any renewal of the Contract in accordance with clause C1 shall be at the current price being charged to you unless notice is sent by us to you prior to 60 days of the anniversary of the renewal that there will be a price increase (notwithstanding clause F3). Upon any automatic renewal of the Contract or otherwise the provisions of the Contract shall continue to apply in all respects.

3. Should the Customer be granted service credit in accordance with the Orlo SLA,

such time will be added onto the end of the Initial Term (or any subsequent Additional Term) but the 60 day notice for cancellation will not be varied and will still apply from the original natural expiry date of the Initial Term (or subsequent Additional Term) without including the service credit time. Any subsequent Additional Term will begin on the expiry of the service credit time.

4. You may only use the Services to: (a) access Content on Orlo's website; and (b) access, manage and obtain information about your accounts with Third Party Service Providers in accordance with these T&Cs and any terms specified by the Third Party Service Providers. You may only use the Services in relation to your own genuine and legitimate social media management requirements.

5. You may not use the Services for any illegal or unauthorised purpose, including in any way that violates copyright, privacy or other laws applicable in England and Wales or which are applicable to you.

6. You may not use the Services in a way that is detrimental to the operation of the Services or the access or use of the Services by anyone else. This restriction applies to any use that interferes or attempts to interfere with the normal operations of the Services, including by hacking, deleting, augmenting or altering the Services or any Content.

7. You may not, without Orlo's prior written permission (including the permissions granted by these T&Cs): (a) copy, distribute (including by framing any of the Services on any website), modify, enhance, translate, reproduce, sell, resell, sublicense, rent, lease, or otherwise attempt to exploit the Services; (b) decompile, disassemble, reverse engineer, or otherwise attempt to discover the source code (except to the extent that this restriction is expressly prohibited by law); (c) make derivative works of the Services; or (d) modify another website so as to falsely imply that it is associated with the Services, Orlo or any other Orlo products or services.

## **D – Content**

1. You understand that by using the Services you may be exposed to Content that might be unlawful, offensive, harmful, inaccurate, or otherwise inappropriate or deceptive. Orlo does not pre-screen Content and cannot be responsible for the Content accessed or made available to others through the Services.

2. Orlo and its designees have the right (but not the obligation) in their sole discretion to refuse or remove any Content that is available via the Services. Orlo may (but has no obligation to) remove Content and accounts containing Content that Orlo determines in its sole discretion to be unlawful, offensive, harmful, inaccurate, or otherwise inappropriate or deceptive (including Content that Orlo determines in its sole discretion to: (a) be libellous, defamatory, pornographic, obscene, or otherwise objectionable; or (b) violate any party's intellectual property).

3. You must not upload, post, host, transmit or otherwise make available to others unlawful unsolicited email, SMSs, or "spam" messages through the Services.

4. You must not transmit or otherwise make available to others any worms or viruses or any code of a destructive nature (" **Viruses** ") through the Services.

## **E – Payment Matters**

1. Payment shall be made by bank transfer to an account specified by Orlo. Such

account will be detailed on the order form. Should Orlo wish to alter the method of payment it will notify you in writing and agree the same with you before altering it.

2. You shall pay for the Services at such times and at such amounts as specified in the order form, and in the absence of the aforementioned you shall pay for each 12 month period in full within 30 days of the date when Orlo commence providing the Services.

3. Purchased Services are only refundable at the sole discretion of Orlo.

4. All fees are exclusive of VAT or any equivalent taxes, levies, withholdings or duties imposed by taxation authorities in any other jurisdiction, and you shall be responsible for payment of all such taxes, levies, withholdings or duties in addition to the fees (as specified in the order form or otherwise).

5. You must specify the country of your business so that SocialSignIn can understand its obligations to any applicable taxation authorities.

6. All fees and other sums paid to Orlo shall be paid in full and cleared funds in pounds sterling by telegraphic transfer without any right of set off, counterclaim or delay.

7. Orlo may charge interest on all late payments (and any other costs and/or expenses) at the rate of 4% above the Bank of England base rate from time to time.

## **F – Modifications to the Services and Prices**

1. Orlo may change the Services or the format or delivery of the Services from time to time and where reasonable will endeavour to notify the customer. Any changes to the Services, including releases of new features, tools or resources, shall be subject to these T&Cs.

2. Subject to the below clause F3, the price for all Services are as set out in the order form (or as subsequently agreed in writing from time to time).

3. Prices of all Services are subject to change upon 30 days' notice from Orlo. Such notice shall be provided in writing to the customer's contact details set out on the order form.

4. Orlo may change the Orlo SLA upon 30 days' notice from Orlo. Such notice shall be provided in writing to the customer's contact details set out on the order form.

## **G – Suspension, Cancellation and Termination**

1. Orlo shall endeavour to provide you with uninterrupted access to the Services however from time to time the Services may be suspended without notice or even withdrawn due to essential maintenance and/or any other extenuating circumstances (in our sole discretion). Orlo will try to keep such maintenance to times that are outside of normal business hours in the United Kingdom (being 8.30am to 5.00pm Monday to Friday on a day that is not a bank holiday), but it may not always be able to ensure this. Our uptime can be reviewed at any time here:  
<https://orlo.statuspage.io/>

2. Orlo may suspend or restrict your access to the Services at any time and without any liability whatsoever for any good and/or valid reason (in our sole discretion), including:

a. in accordance with clause G1;  
b. due to any of the reasons set out in clause G8;  
c. dealing with any actual or suspected security breach, virus or attack;  
d. when required to by any regulatory, judicial, governmental, police or other competent body;  
e. when we suspect any abuse of the Services; and  
f. for any emergency action that a competent supplier would consider reasonable,  
and Orlo shall endeavour to inform the customer of any such suspension or restriction as soon as reasonable and shall lift the suspension or restriction as soon as conditions allow (unless it chooses to terminate in accordance with clause G8).

3. The Orlo SLA shall not apply to downtime for the reasons stated in clauses G2b to G2f (inclusive) and any such downtime shall not be deducted from the Monthly Uptime Percentage.

4. If you cancel the Contract before the anticipated expiration of the term as stated in the order form (including any agreed extension thereof), you shall remain fully responsible for all fees and expenses for the duration of the aforementioned term.

5. Your cancellation will take effect immediately and Orlo will delete all of your Content from the Services after cancellation. Once you cancel your account, your Content cannot be recovered.

6. Should your Contract be terminated for any reason Orlo will delete all of your Content from the Services after termination. Once you cancel your account, your Content cannot be recovered.

7. Orlo does not accept any responsibility for loss of Content due to account cancellation or termination.

8. Orlo are permitted to terminate the Contract immediately without any liability whatsoever in the event of you  
(a) committing a material breach of contract; or  
(b) failing to pay any monies due and owing to us; or  
(c) ceasing or threatening to cease a material part of your business; or  
(d) entering into insolvency proceedings or scheme of arrangement or fail to pay any of your creditors when due in your relevant place of jurisdiction.

9. The provisions regarding "Use and Restrictions", "Payment Matters", "Suspension, Cancellation and Termination", "Ownership and Licenses", "Disclaimer and Limitation of Liability" and "General" and any provisions which by their nature survive, shall survive the termination of these the Contract.

## **H – Ownership and Licenses**

1. Orlo retains all rights, title and interest of any and all nature whatsoever in the intellectual property rights (including but not limited to copyright, trade-mark, patent, trade secret and all other intellectual property rights) in the Services and Orlo's Content. You acquire no rights whatsoever to all or any part of the Services except for the limited right to use the Services granted by these T&Cs. All rights not expressly granted to you are reserved by Orlo absolutely.

2. You agree not to assert or attempt to assert any intellectual property rights in or over the Services and/or the Content. You further agree not to publish or reproduce any part of the Services and/or our Content.



3. If you become aware of anyone infringing, about to infringe or attempting to infringe our intellectual property rights belonging to us then you shall inform us immediately and agree to abide by our reasonable instructions in relation to assisting us in protecting our intellectual property rights.

4. We claim no intellectual property rights over the Content made available to others through your account. Additionally, your profile and other Content you provide to Orlo in connection with the Services remain yours. However, by making that Content available to others through the Services, or providing it to Orlo through the Services, you grant Orlo a worldwide, non-exclusive, royalty-free, fully paid up license (with a right to sublicense) to use, copy, reproduce, process, adapt, modify, publish, transmit, display and distribute such Content through any or all media or distribution methods (whether now known or hereafter developed). You also acknowledge that the purpose of the Services is to access the services of Third Party Service Providers, and that as a result you are agreeing to grant to Orlo any and all other rights you grant to applicable Third Party Service Providers.

5. By posting an orlo.uk link using the Service, you agree that you are following the relevant terms and conditions of the Third Party Service Provider you are linking to.

6. By posting an orlo.uk link, you agree that Orlo may present the target site within a frame, and that the frame may contain advertising and tools related to the Services.

## **I – Disclaimer and Limitation of Liability**

1. This section I sets out the entire financial liability of the parties (including any liability for the acts or omissions of employees, agents and subcontractors) in respect of:

- (a) any breach of the Contract however arising;
- (b) any use made by you of the Service and/or the Content; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

2. Nothing in these T&Cs shall limit or exclude the liability of either party for:

- (a) death or personal injury resulting from negligence; or
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) breach of section 2 of the Consumer Protection Act 1987.

3. Without prejudice to clause I2 and clause I10, neither party shall under any circumstances whatsoever be liable to the other, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise for any:

- (a) loss of profit; or
- (b) loss of goodwill; or
- (c) loss of business; or
- (d) loss of business opportunity; or
- (e) loss of anticipated saving; or
- (f) loss or corruption of data or information; or
- (g) special, indirect or consequential damage suffered by a party that arises under or in connection with the Contract.

4. Without prejudice to clause I2 and clause I10, Orlo's total liability arising under or in connection with this Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to the amount having been paid by you to Orlo in the

previous 12 months (or such lesser period) under the Contract in relation to the Services.

5. Without prejudice to clause I2, clause I7 and clause I10 your total liability arising under or in connection with this Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to 100% of the total charges paid and due to be paid during the Initial Term or Additional Term in which the breach occurred (with no set off for amounts already paid or due to be paid under the Contract.

6. Nothing in this clause I shall restrict or limit the general obligation at law to mitigate a loss a party may suffer or incur as a result of an event that may give rise to a claim.

7. Nothing in this clause I shall restrict or limit your payment obligations under the Contract.

8. Orlo shall not be liable to you or any third party in the event of any piece of social media (e.g. a tweet) not being released by us for any reason and you are solely responsible to ensure that any such social media has been properly released from time to time.

9. For the avoidance of doubt, Orlo shall not be liable to you or to any third party for any change to the Services including reasonable price changes, suspension, restriction and/or discontinuance of the Services.

10. Neither party may benefit from the limitations and exclusions set out in this clause I in respect of any liability arising from its deliberate default.

## **J – General**

1. Technical support is only provided to paying account holders and is available via live chat, telephone and email during office hours.

2. You understand that Orlo uses third party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to run the Services.

3. You understand that the technical processing and transmission of the Services, including your Content, may be transferred unencrypted and involve: (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

4. If your bandwidth usage exceeds 300 MB/month, or significantly exceeds the average bandwidth usage of other Orlo customers (as determined by Orlo in its sole discretion), Orlo reserves the right to immediately disable or impose restrictions upon your account until you reduce your bandwidth consumption.

5. If either party is prevented, hindered or delayed in or from performing any of its obligations under this Contract by a force majeure event (i.e. an event beyond its reasonable control), it shall not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

6. The failure of Orlo to exercise or enforce any right or provision of the T&Cs shall not constitute a waiver of such right or provision. A printed version of these T&Cs and of

any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these T&Cs to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. Subject to Orlo's ability to amend these T&Cs, they cannot be changed.

7. If any of the provisions contained in these T&Cs are determined to be void, invalid or otherwise unenforceable by a court of competent jurisdiction, that provision shall be enforced to the maximum extent permissible so as to effect the intent of these T&Cs and such determination shall not affect the remaining provisions contained herein.

8. You may not assign these T&Cs or any of your rights or obligations under the Contract. Subject to the foregoing, these T&Cs shall enure to the benefit of and be binding upon you and Orlo and our respective successors (including any successor by reason of amalgamation) and assigns.

9. Any notice given to a party under or in connection with the Contract shall be in writing and shall be: (a) delivered by hand or pre-paid first-class post or other next working day business service at its registered office (if a company) or its principal place of business (in any other case); or  
(b) (if notice is to be served by post outside the country from which it is sent) sent by registered airmail; or  
(c) Sent by e-mail to:  
(i) Orlo: support@orlo.tech  
(ii) You: as listed in the order form.

10. Any notice shall be deemed to have been received:  
(a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; or  
(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second business day after posting or at the time recorded by the delivery service; or  
(c) if sent by registered airmail, five days from the date of posting; or  
(d) if sent by e-mail, at the time of transmission unless a delivery failure report is received.

11. This section J does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

12. The order form and these T&Cs constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relation to its subject matter. You acknowledge and agree that in agreeing to purchase the Services and be bound by these T&Cs you have not relied on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the order form and these T&Cs.

13. A person who is not a party to these T&Cs shall not have any rights in or under or in connection with it.

14. Nothing in these T&Cs is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

15. You agree to adhere to our reasonable instructions from time to time in relation to the Services and you further agree to deal with us in good faith at all times in respect of any aspect of the Services including but not limited to these T&Cs.

16. You agree to indemnify us in respect of any breach of these T&Cs including our professional fees in relation to enforcing the terms of the Contract (including for recovering late payments).

17. These T&Cs and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes and claims) shall be governed by and construed in accordance with the laws of England and Wales. You irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these T&Cs or its subject matter or formation (including non-contractual disputes and claims).

18. The laws of England and Wales apply to your access to or use of the Services, notwithstanding your domicile, residency or physical location. The Services are intended for use only in jurisdictions where they may lawfully be offered for use.

## **K – Interpretation provisions of these T&Cs**

In these T&Cs, the following rules apply:

- (a) words in the singular include the plural and vice versa;
- (b) reference to a person includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality);
- (c) reference to a party includes its personal representatives, successors or permitted assigns;
- (d) an obligation to do something includes an obligation not to do something;
- (e) these T&Cs are jointly and severally liable as amongst the obligors (someone who legally agrees to do something);
- (f) reference to writing or written includes post and emails but not faxes

## **L – License Obligations**

If you are subscribing to an Advanced Monitoring Stream, please note that you will also need to acquire a Web End-User License (WEUL) from the Newspaper Licensing Agency (NLA). This license will have to be purchased by yourselves and obtained directly from the NLA. It is a legal requirement that provides the permission needed to receive and access copyrighted online content, such as the results provided by our Advanced Monitoring service (news alerts and links to online newspaper articles). Please visit the NLA's website for more information.

## **Data Protection Addendum**

Forming part of and incorporated into the Contract between you and Orlo.

This Addendum sets out the provisions that will govern the processing of personal data by the parties to the Contract and its provisions take precedence over every other term of the Contract unless expressly stated otherwise.

# Definitions

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The following definitions have the meanings shown:

**Controller, Processor, data subject, personal data and Processing** each have the meaning given to them in the Data Protection Laws and Process and Processed will be construed accordingly.

**Data Breach** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

**Data Protection Laws** means all applicable privacy and data protection laws including the Data Protection Act 1998 (as replaced by the GDPR with effect from 25 May 2018) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended) and all subordinate and ancillary legislation, directions of any competent privacy regulator, common law and other relevant court decisions that relate to privacy and/or data protection in each case as may be amended or replaced from time to time.

**Data Security Measures** means the technical and organisational security measures described in Annex 2 (as may be improved upon from time to time by Orlo or which have been agreed by the parties in accordance with Annex 2) as being those required to be used by Orlo and which have been approved by you as complying with the Data Protection Laws when Processing Your Data.

**Deliverables** means the goods, services, software, licences and any other deliverables to be provided by or on behalf of Orlo under the Contract.

**GDPR** means the General Data Protection Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data which came into force on 24 May 2016 (together with any associated derogations and amendments imposed by the United Kingdom) and which will apply from 25 May 2018.

**Personnel** means any employee, officer, agent, consultant, auditor, subcontractor, Subprocessor or other third party acting on behalf of Orlo in connection with the provision of the Deliverables.

**Processing Requirements** means the your requirements for the Processing of Your Data by or on behalf of Orlo under the Contract as described in Annex 1.

**Orlo Approved Subcontractor List** means the internal list of subcontractors that have been approved by Orlo to provide services that involve the subcontractor Processing Your Data.

**Subprocessor** means any third party engaged by Orlo including any of its affiliates, subsidiaries and/or subcontractors or agents that may Process Your Data.

**Your Data** means all personal data relating to data subjects that are Processed in the course of using or providing the Deliverables and includes any copies included in back-ups made by or on behalf of Orlo.

**Your Instructions** means your instructions for the Processing of Your Data as described in this Addendum and the Processing Requirements or otherwise agreed by you and Orlo.

## Obligations and rights

1. Intellectual property rights. All intellectual property rights in and to Your Data will be and will remain vested in you.
2. Compliance with Data Protection Laws. Each of the parties will ensure that it complies with the Data Protection Laws when Processing Your Data under the Contract.
3. Causing breach. Each of the parties will not (and will ensure that none of the Personnel may) do anything that would cause itself or the other or any or any other person to be in breach of the Data Protection Laws.
4. Compliance with Your Instructions. When Processing Your Data on behalf your behalf, Orlo will comply with Your Instructions. If Orlo is unable, for any reason, to comply with Your Instructions, we will notify you promptly. If we believe any of Your Instructions infringes Data Protection Law, we will notify you as soon reasonably practicable.
5. Specific requirements and permitted Processing. Orlo will ensure that, when it Processes Your Data, it will use the Data Security Measures. You have determined that compliance with the Data Security Measures when Processing Your Data by or on behalf of Orlo is satisfactory to comply with the Data Protection Laws. If you require a change to our standard Data Security Measures, we reserve the right to charge for implementing, maintaining and operating as you require.
6. Processing limitations. Orlo will not Process Your Data for any purpose beyond providing the Deliverables and the scope of Your Instructions or, to the extent otherwise necessary, to comply with the Data Protection Laws.
7. International transfers. Orlo will not transfer or allow any other person to transfer Your Data outside the European Economic without your prior written approval.
8. Acknowledgement. You acknowledge and accept that access and use of the Deliverables by your authorised users may occur outside the European Economic Area and, in such circumstances, Your Data may be viewed outside the European Economic Area by the relevant user. Orlo will not be in breach of paragraph 7 in such circumstances.
9. Personnel. Orlo will: (i) take reasonable steps to ensure the reliability of Personnel that may have access to Your Data; (ii) carry out appropriate checks of its Personnel before allowing them to Process Your Data; (iii) ensure the Personnel are appropriately trained in the handling and secure Processing of Your Data.
10. Subcontracting. Orlo will only appoint Subprocessors in connection with the Processing of Your Data where: (i) the Subprocessor has provided sufficient guarantees to ensure the Data Security Measures are met or exceeded; (ii) the Subprocessor is on the Orlo Approved Subcontractor List; and (iii) the Subprocessor is appointed under a written agreement that complies with the Data Protection Laws. Orlo will remain liable for the defaults of its Subprocessors as if it carried out the actions of the Subprocessors itself.
11. Confidentiality. Orlo will ensure that: (i) any persons authorised by or on behalf of Orlo to Process Your Data are bound by obligations to maintain the confidentiality of Your Data; and (ii) its disclosure of Your Data will be limited to the extent necessary to provide the Deliverables or as otherwise permitted under the Contract, by you or by applicable Data Protection Law.
12. Data subject rights. You and your users have full access to Your Data through the Deliverables and, as such, it is your responsibility to comply with the rights of data subjects

under the Data Protection Laws. If, for any reason you need the help of Orlo to comply, we will assist you but reserve the right to charge for the assistance at our then prevailing rate.

13. Regulator and other third-party correspondence. If we receive a communication from a regulator, other competent authority or any other person (each a Competent Person) in respect of Your Data we will, unless we are prohibited by the Competent Person or applicable laws, forward it to you for you to address and reserve the right to notify the Competent Person that we have done so. If Orlo is required to respond to the communication directly, we will do so.

14. Data breach. Orlo will maintain a Data Breach incident response plan that documents the procedures to be followed and contacts to be notified in the event of a Data Breach. In the event Orlo suffers a Data Breach as a result of or in connection with the performance of its rights or obligations under the Contract, Orlo will notify you of all material facts without undue delay after becoming aware of the Data Breach.

15. Data breach management. Orlo will cooperate and assist you in handling the Data Breach referred to in paragraph 14, by investigating the Data Breach, facilitating meetings with those involved in the data breach and making available all relevant records, logs, files and data, reports including those regarding the facts relating to the Data Breach, its effects and the remedial action taken or to be taken. If the Data Breach is not attributable to Orlo or any of its Subprocessors, we reserve the right to charge for the assistance at our then prevailing rate.

16. Confidentiality in respect of Data Breaches. Except as required by Data Protection Laws, neither party will do, say or report anything to any person that may affect the other's reputation without the approval of such other party (such approval not to be unreasonably withheld or delayed).

17. Data protection impact assessments. Orlo will cooperate, and provide reasonable assistance to you with, any data protection impact assessment that you are required by the Data Protection Laws to carry out in connection Orlo's Processing of Your Data. If such co-operation or assistance requires Orlo or any Subprocessor to provide any additional professional services, Orlo will notify you of the proposed charges and no work will be commenced until the parties have agreed the charges and the scope of work in writing.

18. Returning Your Data on termination or expiry. You are able to export Your Data at any time during the term of our contract. After expiry (or termination if that is earlier) we will delete Your Data (normally within one month) but will retain the shortened links you have created using our code so that your users are redirected to the correct location.

19. Demonstration of compliance. Orlo will appoint an independent third party to carry out an annual assessment to verify Orlo's compliance with the terms of this Addendum. Orlo will provide you with a copy of the latest report produced on request.

20. Audit. If a court or regulatory body requires us to give you access to our premises or systems, we will do so but will require you comply with our prevailing security and health and safety requirements.

## **Annex 1 – Processing requirements**

### **Subject matter**

You have appointed Orlo to provide certain Deliverables (as specified in Contract. To facilitate the provision of these, Orlo will need to Process Your Data in respect of which you are the Controller.

**Duration of Processing**

The Processing will continue for the term of the Contract (as the same may be terminated and/or extended in accordance with the terms of the Contract).

**Nature and purpose of Processing**

Your Data will be Processed for the purpose of providing the Deliverables to you in accordance with the terms of the Agreement.

**Type of personal data**

The nature of our application is a mere repository for messages from your followers and users with the functionality for your users to manage those messages. As such, our provision of the Deliverables may require the Processing of any type of personal data.

**Data subjects**

The provision of the Deliverables may involve the Processing of personal data about any or all of the following data subjects:

- your users
- your customers and followers
- any other person that your users, customers or followers refer to in their messages or in our application

## **Annex 2 – Data Security Measures**

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1. Knowledge and resources. Orlo will ensure that it has the appropriate knowledge to Process Your Data and has the necessary resources to implement the technical and organisational measures required under this Addendum.
2. Security of Your Data. Orlo will implement and maintain the following technical and organisational measures when Processing Your Data and you have determined and are satisfied that:
  - (a) these are sufficient to ensure compliance with the Data Protection Laws and the protection of the rights of data subjects; and
  - (b) they take into account the risks that are presented by the Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Your Data when it is transmitted, stored or otherwise Processed.

**Security measure and Details of the measure****Compliance framework**

We have internal policies and procedures that are kept under review, a designated privacy officer and external specialist data protection advisers to support our compliance.

**Training**

All relevant personnel are trained to understand data protection and to apply its principles within their roles.

**Firewalls**

Network devices are managed within a secure management network and servers are secured by firewalls. In both instances SSL/TLS secure encryption protocols are used.

**Anti virus**

All of the servers we manage have antivirus and malware scanners installed and have updates applied frequently.

**Encryption**



Data in transit is always encrypted to a minimum standard of 256 bit

### **Access controls**

We offer various options for you to choose from including:

- email / password
- strong passwords
- two-factor authentication
- SAML (Okta and OneLogin or any other agreed by us)
- Google Account Login

### **Data partitioning**

Each client's data is logically separated from that of other clients in our databases. Our code automatically tests to ensure each client's data is not mixed with that of another client.

### **Access limitations**

Your Data is only accessible by a small number of personnel in our development team on a 'need to know' basis.

### **Resilience**

Our infrastructure is designed to be resilient. Our main database is 'highly available' such that, if one server goes offline, the other servers will pick up the work and contains replica data to ensure there is no downtime.

All servers that serve our application are load balanced and can distribute load/requests to at least 3 servers.

### **Monitoring**

We perform daily port scanning on public IP addresses to ensure there are no unexpected changes. Configuration management is dealt with by scripts which are kept and managed in our private version control system.

### **Security testing**

Our entire application is scanned by external technically skilled individuals to try to break, gain unsolicited access to, and "hack" our systems in a safe way in order to find flaws or potential weaknesses in our platform.

We have some continual end-to-end testing of our server cluster to ensure specific key indicators are working correctly and use software to log and track these with a combination of active checks and, for back-ups, passive checks. Team members are alerted if an expected behaviour has not executed as expected.

### **Critical events**

Our code is written to log any critical events for our developers to address.

### **Back-ups**

Our databases are backed-up continuously. Whilst our main datastore holds replicas of data at all times, we also run our other databases with duplicate data in them ready to swap over should the need arise.

Multiple snapshots of the entire database are taken daily and they are stored on a separate server from the one that holds live data.

From these various back-ups, we are able to restore the entire database in the event of a physical or technical incident in a timely manner.

### **Disaster recovery**

We maintain a disaster recovery plan to test our disaster recovery which is tested at least annually.

### **Secure hosting**

We currently use leading third parties to provide hosting services. They have all been vetted

and authorised by a designated approver within Orlo as part of our supplier on-boarding process and we have written contracts with each of them incorporating appropriate data protection provisions to protect your personal data.

#### **Audit trails**

Our software normally maintains a record of many of your users' activities when using our application such as which user creates or edits a post, or created any free text notes on your followers messages. You can view these audit logs through the application.

#### **Other measures**

If we agree any alternative or additional measures in writing specifically referring to this Annex 2 of the Addendum, we will implement and maintain these accordingly.

## **Annex 3 – Orlo Brand Ambassador Programme**

In signing the Orlo Agreement you agree to participate in the Orlo Brand Ambassador Programme as outline below:

1. Logo to be used on Orlo website and relevant collateral - slideware, thought leadership etc
2. Announcement of service press release to be published on Orlo website, shared through social media and sold in to relevant industry and sector press - to be drafted by Orlo team with full approval from brand - release should feature quote from senior decision maker, brand side, explaining why they have chosen Orlo and the value they see in the relationship
3. Enter at least one industry award in collaboration with Orlo per year
4. Act as a reference customer for Orlo prospects and industry analysts