

Framework Schedule 6 (Order Form Template and Call-Off Schedules)

Order Form

CALL-OFF REFERENCE: **C238169 – [REDACTED]**

THE BUYER: **NHS England**

BUYER ADDRESS **7-8 Wellington Place, Leeds, LS1 4AP**

THE SUPPLIER: **Phoenix Software Ltd**

SUPPLIER ADDRESS: **Blenheim House, York Road, Pocklington,
York, YO42 1NS**

REGISTRATION NUMBER: **2548628**
[REDACTED]

SID4GOV ID: **N/A**

APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated 27th March 2024.

It's issued under the Framework Contract with the reference number RM6098 for the provision of Technology Products & Associated Service.

CALL-OFF LOT(S):

Lot 3 Software

CALL-OFF INCORPORATED TERMS

The following documents are incorporated into this Call-Off Contract. Where numbers are missing, we are not using those schedules. If the documents conflict, the following order of precedence applies:

1. This Order Form, including the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1 (Definitions and Interpretation) RM6098
3. Framework Special Terms

4. The following Schedules in equal order of precedence:

- Joint Schedules for RM6098
 - Joint Schedule 2 (Variation Form)
 - Joint Schedule 3 (Insurance Requirements)
 - Joint Schedule 4 (Commercially Sensitive Information)
 - [Joint Schedule 6 (Key Subcontractors)]

 - Joint Schedule 10 (Rectification Plan)
 - Joint Schedule 11 (Processing Data)
- Call-Off Schedules for C238169
 - Call-Off Schedule 5 (Pricing Details)
 - Call-Off Schedule 6 (ICT Services) including Annexes A to E

5. CCS Core Terms (version 3.0.11) as amended by the Framework Award Form

6. Joint Schedule 5 (Corporate Social Responsibility) RM6098

No other Supplier terms are part of the Call-Off Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

CALL-OFF SPECIAL TERMS

The following Special Terms are incorporated into this Call-Off Contract:

Special Term 1: **Cyber Security Requirements**

The following wording shall be included as a new Clause 3.4 of the Core Terms of the Call-Off Contract:

The Supplier warrants and represents that it has complied with and throughout the Contract Period will continue to comply with the Cyber Security Requirements. The “**Cyber Security Requirements**” means:

- a) compliance with the data security and protection toolkit (DSP Toolkit), an online self-assessment tool that allows organisations to measure their performance against the National Data Guardian’s 10 data security standards and supports key requirements of the UK GDPR, which can be accessed from <https://www.dsptoolkit.nhs.uk/>, as may be amended or replaced by the Buyer or the Department of Health and Social Care from time to time;
- b) such requirements as are identified by the Buyer in its Security Policy (if applicable); and
- c) any other cyber security requirements relating to the Services notified to the Supplier by the Buyer from time to time;

Special Term 2: **Supplier Staff**

The following wording shall be included as a new Clause 7.6 of the Core Terms of the Call-Off Contract:

- 7.6 Notwithstanding that Call-Off Schedule 9 (Security) has not been incorporated into this Order Form under the section headed “CALL-OFF INCORPORATED TERMS”, paragraph 3.4.3 of Part B of Call-Off Schedule 9 (Security) shall apply to this Order Form in any event.

Special Term 3: **Intellectual Property Rights (IPRs)**

Clause 9.1 of the Core Terms of the Call-Off Contract – Delete this Clause and replace with:

- 9.1. Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier’s Existing IPR to enable it to:
- receive and use the Deliverables
 - make use of the deliverables provided by a Replacement Supplier
 - develop and provide products and services to third parties

Special Term 4: **Execution and Counterparts**

The following wording shall be included as new Clause 36 of the Core Terms of the Call-Off Contract:

36 Execution and Counterparts

- 36.1 This Call-Off Contract may be executed in any number of counterparts (including by electronic transmission), each of which when executed shall constitute an original but all counterparts together shall constitute one and the same instrument.
- 36.2 Execution of this Call-Off Contract may be carried out in accordance with the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (SI 2016/696) and the Electronic Communications Act 2000. In the event each Party agrees to sign this Call-Off Contract by electronic signature (whatever form the electronic signature takes) it is confirmed that this method of signature is as conclusive of each Party’s intention to be bound by this Call-Off Contract as if signed by each Party’s manuscript signature. In such situation, this Call-Off Contract shall be formed on the date on which both Parties have electronically signed the Call-Off Contract as recorded in the Buyer’s electronic contract management system.

Special Term 5: **Auto Renew**

The Parties acknowledge and agree that this Call-Off Contract shall not automatically renew. The Supplier shall invite the Buyer to renew the Red Gate licence 90 days before the licence renewal date, the Call-Off Expiry Date. The Buyer will decide no less than 30 days in advance of the Call-Off Expiry Date whether the Red Gate licence shall be renewed for a further term.

Special Term 6: **Publicity and Branding**

The Supplier shall not make any press announcements or publicise this Call-Off Contract or its contents in any way without the prior written consent of the Buyer.

The Supplier confirms that it and any of its Subcontractors shall not use NHS England's name, logo or brand, or any other NHS names, logos or branding without the prior written consent of the relevant owner, and in each case, only as permitted by the NHS identity guidelines (<https://www.england.nhs.uk/nhsidentity/>).

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

CALL-OFF START DATE: 28th March 2024

CALL-OFF EXPIRY DATE: 27th March 2025

CALL-OFF INITIAL PERIOD: 12 months

CALL-OFF OPTIONAL EXTENSION PERIOD This Call-Off Contract may be extended for a maximum period of 24 Months, in increments of up to 12 months.

MINIMUM PERIOD OF NOTICE FOR WITHOUT REASON TERMINATION - 30 Days

CALL-OFF DELIVERABLES

		Subscription Term (Months)	Quantity
Product Code	Product Description		
TMP-169996880	SQL CLONE SUBSCRIPTION (SKU-144) QTY 50 TB (S) 28		
0348-18346-1	MAR 2024 - 27 MAR 2025	12	

LOCATION FOR DELIVERY

Electronic Delivery to plat-inf.procurement@nhs.net

DATES FOR DELIVERY

Within 7 calendar days of receipt of the purchase order.

TESTING OF DELIVERABLES

None

WARRANTY PERIOD

The warranty period for the purposes of Clause 3.1.2 of the Core Terms shall be 90 calendar days. However, for software licensing subscription, the period will be as per the subscription term (of either 12, 36 or 60 months).

MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract is stated in Clause 11.2 of the Core Terms.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is **£54,261.66**

CALL-OFF CHARGES

The Supplier is a Reseller as referenced in the [REDACTED] Master Subscription EULA (as set out in Annex B of Call-Off Schedule 6 (ICT Services)). The Seller acknowledges therefore that as the Buyer has purchased the software from a Reseller, the Charges payable will only be payable by the Buyer to the Supplier.

All transactions under this Call-Off Contract will be subject to the Buyer's spend controls and governance processes, ensuring that the appropriate approvals are in place for any expenditure in addition to the initial purchase.

REIMBURSABLE EXPENSES

None

PAYMENT METHOD

The Supplier is to be paid via BACS following the receipt of a matching invoice that references the Buyer's purchase order number.

BUYER'S INVOICE ADDRESS:

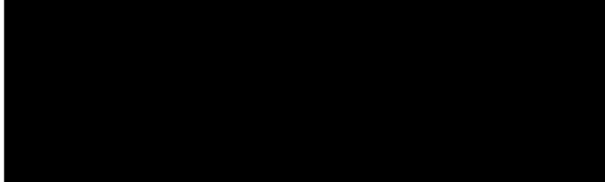
Any queries regarding outstanding payments should be directed to NHS England's Accounts Payable section by email at financialaccounts@nhs.net

RM6098 Framework Schedule 6 (Order Form Template and Call-Off Schedules)

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Invoices should clearly quote the purchase order number, be addressed to NHS England, X24 Payables K005, PO Box 312, LEEDS LS11 1HP and be sent as a PDF attachment by email to the following email address;
sbs.apinvoicing@nhs.net (one invoice per PDF) and emails must not exceed 10Mb and quote, 'X24 Invoice Scanning' in subject line or alternatively invoices can be sent via post to the above address.

BUYER'S AUTHORISED REPRESENTATIVE



BUYER'S ENVIRONMENTAL POLICY

NHS England Social Value Charter available online at: [NHS England Social value charter](#)

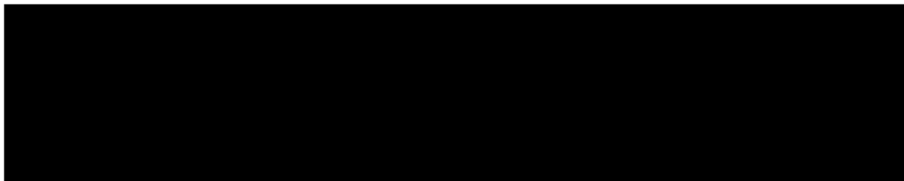
&

NHS England's [Sustainable development management plan: summary report](#)

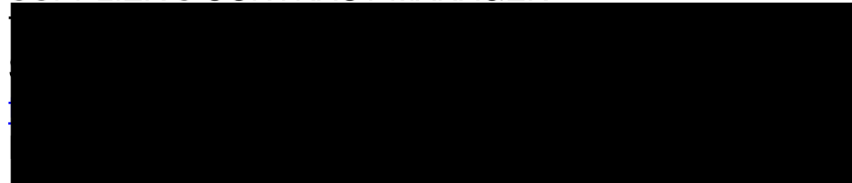
BUYER'S SECURITY POLICY

N/A

SUPPLIER'S AUTHORISED REPRESENTATIVE



SUPPLIER'S CONTRACT MANAGER



PROGRESS REPORT FREQUENCY

N/A

PROGRESS MEETING FREQUENCY

N/A

KEY STAFF

N/A

KEY SUBCONTRACTOR(S)



COMMERCIALY SENSITIVE INFORMATION
N/A

SERVICE CREDITS
N/A

ADDITIONAL INSURANCES
N/A

GUARANTEE
N/A

SOCIAL VALUE COMMITMENT
N/A

BUYER CORE GOODS AND/OR SERVICES REQUIREMENTS

- 1 The following requirements shall take priority above all terms, conditions and specifications set out in this Call-Off Contract (including without limitation any embedded documents and terms), and the Supplier shall ensure that the [REDACTED] [REDACTED] licence meets and conforms with the following requirements:
 - 1.1 The Buyer shall be entitled, free of charge, to sub licence the software to any contractor and/or sub-contractor of the Buyer who is working towards and/or is providing services to the Buyer.
 - 1.2 The Buyer's role as national information and technology partner to the NHS and social care bodies involves the Buyer buying services for or on behalf of the NHS and social care entities. Nothing in the licences for any of the software shall have the effect of restricting the Buyer from discharging its role as the national information and technology partner for the health and care system, which includes the ability of the Buyer to offer software and services to the NHS and social care entities. Specifically, any software licensing clause prohibiting 'white labelling', 'provision of outsourcing services' or similar, shall not be interpreted as prohibiting the Buyer's services.
 - 1.3 The Buyer shall be entitled to deploy the software at any location from which the Buyer and/or any contractor and/or sub-contractor of the Buyer is undertaking services pursuant to which the software is being licenced.
 - 1.4 Any software licenced to the Buyer on a named users basis shall permit the transfer from one user to another user, free of charge provided that the Supplier is notified of the same (including without limitation to a named user who is a contractor and/or Subcontractor of the Buyer).
 - 1.5 The Supplier shall ensure that the Buyer shall be entitled to assign or novate all or any of the software licences free of charge to any other central government entity, by giving the licensor prior written notice.

- 1.6 The Supplier shall notify the Buyer in advance if any software or service permits the Supplier or any third party remote access to the software or systems of the Buyer.
- 1.7 Where the Supplier is responsible for the calculation of the appropriate number of users for software, and it is later shown there is a shortfall of licences, the Supplier shall be responsible for all costs of the Buyer.
- 1.8 Where applicable, where the Supplier is responsible for the calculation of the appropriate number of users for software, and it is later shown there is a shortfall of licences, the Supplier shall be responsible for all costs of the Buyer.
- 2 Nothing in this Call-Off Contract shall be interpreted as the provision of permission by the Buyer to use, access or process Government Data to develop or train AI or machine learning systems.