



**RM6100 Technology Services 3 Agreement
Framework Schedule 4 - Annex 1
Lots 2, 3 and 5 Order Form**

Order Form

This Order Form is issued in accordance with the provisions of the Technology Services 3 Framework Agreement RM6100 dated 16 June 2021 between the Supplier (as defined below) and the Minister for the Cabinet Office (the "**Framework Agreement**") and should be used by Buyers after making a direct award or conducting a further competition under the Framework Agreement.

The Contract, referred to throughout this Order Form, means the contract between the Supplier and the Buyer (as defined below) (entered into pursuant to the terms of the Framework Agreement) consisting of this Order Form and the Call Off Terms. The Call-Off Terms are substantially the terms set out in Annex 2 to Schedule 4 to the Framework Agreement and copies of which are available from the Crown Commercial Service website <https://www.crowncommercial.gov.uk/agreements/RM6100> . The agreed Call-Off Terms for the Contract being set in this Order Form.

The Supplier shall provide the Services and/or Goods specified in this Order Form (including any attachments to this Order Form) to the Buyer on and subject to the terms of the Contract for the duration of the Contract Period.

In this Order Form, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) of the Call-Off Terms

This Order Form shall comprise:

1. This document headed "Order Form";
2. Attachment 1 – Services Specification;
3. Attachment 1 (b) - Crown Run Functional Requirements (overarching)
4. Attachment 1c- CQ Log
5. Attachment 2 – Charges and Invoicing,
6. Attachment 3 – Implementation Plan;
7. Attachment 4 – Service Levels and Service Credits;
8. Attachment 5 – Key Supplier Personnel and Key Sub-Contractors;
9. Attachment 6 – Software;
10. Attachment 7 – Financial Distress;
11. Attachment 8 - Governance
12. Attachment 9 – Schedule of Processing, Personal Data and Data Subjects;
13. Attachment 10 – Transparency Reports;
14. Attachment 11 – Buyer's Mandatory Terms; and
15. Annex 1 – Call Off Terms and Additional/Alternative Schedules and Clauses.

The Order of Precedence shall be as set out in Clause 2.2 of the Call-Off Terms being:

the Framework, except Framework Schedule 18 (Tender);
the Order Form;



- the Call Off Terms; and
- Tender (Framework Schedule 18).

The CQ Log at Attachment 1cIn respect of Part B-Additional Information Required for Additional Schedules/Clauses in Part A, Additional Schedule S3 (Security Requirements) is amended as follows:

- Security Plan “As of December 2020, Fujitsu Services is certified Cyber Essentials Plus across the whole organisation. A copy of the certificate is attached below for reference” is replaced with “Fujitsu Services’ Public Sector business has been certified to Cyber Essentials Plus level since 2016 and is currently in the renewal process. A new certificate will be provided within 3 Working days of such being provided to Fujitsu Services”



Section A General information

Contract Details	
Contract Reference:	SR284086718
Contract Title:	Crown Hosting Run
Contract Description:	The HMRC Crown Hosting environment provides a hosting platform for a wide mixture of business and technical services.
Contract Anticipated Potential Value: this should set out the total potential value of the Contract	£32 million (excluding extensions)
Estimated Year 1 Charges:	
Commencement Date: this should be the date of the last signature on Section E of this Order Form	Click here to enter text.
Service Commencement Date: this should be the date services shall commence following relevant transition/implementation	1st July, 2022

Buyer details
Buyer organisation name The Commissioners for Her Majesty's Revenue and Customs
Billing address 100 Parliament Street, London SW1A 2BQ
Buyer representative name
Buyer representative contact details Phone:
Buyer Project Reference SR284086718



Supplier details

Supplier name

Fujitsu Services Limited

Supplier address

22 Baker Street, London, W1U 3BW, United Kingdom

Supplier representative name

The name of the Supplier point of contact for this Order

[REDACTED]

Supplier representative contact details

Email and telephone contact details of the supplier's representative. This must include an email for the purpose of Clause 50.6 of the Contract.

Email: [REDACTED]

Mobile Phone number: [REDACTED]

Order reference number or the Supplier's Catalogue Service Offer Reference Number

A unique number provided by the supplier at the time of the Further Competition Procedure. Please provide the order reference number, this will be used in management information provided by suppliers to assist CCS with framework management. If a Direct Award, please refer to the Supplier's Catalogue Service Offer Reference Number.

SR284086718

Guarantor details

Guarantor Company Name

Not Applicable

Guarantor Company Number

Not Applicable

Guarantor Registered Address

Not Applicable



Section B

Part A – Framework Lot

Framework Lot under which this Order is being placed

- | | |
|--|-------------------------------------|
| 1. TECHNOLOGY STRATEGY & SERVICES DESIGN | <input type="checkbox"/> |
| 2. TRANSITION & TRANSFORMATION | <input type="checkbox"/> |
| 3. OPERATIONAL SERVICES | |
| a: End User Services | <input type="checkbox"/> |
| b: Operational Management | <input type="checkbox"/> |
| c: Technical Management | <input checked="" type="checkbox"/> |
| d: Application and Data Management | <input type="checkbox"/> |
| 5. SERVICE INTEGRATION AND MANAGEMENT | <input type="checkbox"/> |

Part B – The Services Requirement

Commencement Date

See above in Section A

Contract Period

Lot	Maximum Term (including Initial Term and Extension Period) – Months (Years)
3	60 (5)

Initial Term Months

Thirty-six (36) Months from Service Commencement Date

Extension Period (Optional) Months

Twenty-four (24) Months at 12 monthly intervals

Minimum Notice Period for exercise of Termination Without Cause 90

(Calendar days) *(see Clause 35.1.9 of the Call-Off Terms)*

Sites for the provision of the Services

.

Buyer Premises:

Not Applicable



Supplier Premises:

[REDACTED]

Third Party Premises:

[REDACTED]

Buyer Assets

[REDACTED]



Additional Standards

Listed in Attachment 1: Services Specifications

Buyer Security Policy

Available directly to the supplier via supplier accessible SharePoint site and updates shall be managed via Change Control Procedure.

Buyer ICT Policy

Available directly to the supplier via supplier accessible SharePoint site and updates shall be managed via Change Control Procedure.

Insurance

Third Party Public Liability Insurance (£) – 10 million

Professional Indemnity Insurance (£) – 1 million

Buyer Responsibilities

Buyer Responsibilities are those as stated in Attachment 1 – Services Specifications, Attachment 1(c) CQ Log this Order Form and the Call-Off Terms.

Goods

Not Applicable

Governance – Option Part A or Part B

Governance Schedule	Tick as applicable
Part A – Short Form Governance Schedule	<input type="checkbox"/>
Part B – Long Form Governance Schedule	<input checked="" type="checkbox"/>

The Part selected above shall apply this Contract.

Change Control Procedure – Option Part A or Part B

Change Control Schedule	Tick as applicable
Part A – Short Form Change Control Schedule	<input type="checkbox"/>
Part B – Long Form Change Control Schedule	<input checked="" type="checkbox"/>

The Part selected above shall apply this Contract. Where Part B is selected, the following information shall be incorporated into Part B of Schedule 5 (Change Control Procedure) of the Call Off Terms and Conditions:



- for the purpose of Paragraph 3.1.2 (a), the figure shall be £500,000; for the avoidance of doubt, the Supplier reserves the right to classify requirements gathering work as project work, where the Supplier, acting in accordance with Good Industry Practice, is unable to determine what the Buyer's requirements are; and,
- for the purpose of Paragraph 8.2.2, the figure shall be £500,000



Section C

Part A - Additional and Alternative Buyer Terms

Additional Schedules and Clauses

HMRC Mandatory Terms shown at Annex 1 (below)

Part A – Additional Schedules

Guidance Note: Tick any applicable boxes below

Additional Schedules	Tick as applicable
S1: Implementation Plan	X
S2: Testing Procedures	X
S3: Security Requirements (either Part A or Part B)	Part A <input type="checkbox"/> or Part B X
S4: Staff Transfer	X
S5: Benchmarking	<input type="checkbox"/>
S6: Business Continuity and Disaster Recovery	X
S7: Continuous Improvement	X
S8: Guarantee	<input type="checkbox"/>
S9: MOD Terms	<input type="checkbox"/>

Part B – Additional Clauses

Additional Clauses	Tick as applicable
C1: Relevant Convictions	<input type="checkbox"/>
C2: Security Measures	<input type="checkbox"/>
C3: Collaboration Agreement	X

Where selected above the Additional Schedules and/or Clauses set out in document RM6100 Additional and Alternative Terms and Conditions Lots 2, 3 and 5 shall be incorporated into this Contract.

Part C - Alternative Clauses

The following Alternative Clauses will apply:

Alternative Clauses	Tick as applicable
Scots Law	<input type="checkbox"/>
Northern Ireland Law	<input type="checkbox"/>
Joint Controller Clauses	<input type="checkbox"/>

Where selected above the Alternative Clauses set out in document RM6100 Additional and Alternative Terms and Conditions Lots 2, 3 and 5 shall be incorporated into this Contract.



Part B - Additional Information Required for Additional Schedules/Clauses Selected in Part A

Additional Schedule S3 (Security Requirements)

Supplier's Security Management Plan (SMP) to be added here following contract award. Timescales for production of the Security Management Plan are to be agreed with the Supplier following contract award. ITT response below is to form the basis of the SMP

Security Plan



Additional Schedule S4 (Staff Transfer)

In line with clause 3.1.2 of Schedule 4 (Staff Transfer), Part C (No staff transfer on the commencement date) and Part D (Pensions) shall apply

In Line with clause 3.1.3 of Schedule 4 (Staff Transfer) Part E (Staff transfer on exit) shall apply

Additional Clause C1 (Relevant Convictions)

Not Applicable.

Additional Clause C3 (Collaboration Agreement)

A Collaboration Agreement is required.

Suppliers in scope:

[REDACTED]

An executed Collaboration Agreement shall be delivered from the Supplier to the Buyer within the stated number of Working Days from the Commencement Date:

60 Working Days, the Buyer reserves the right to amend this period should the need arise.

Section D

Supplier Response

Commercially Sensitive information

[REDACTED]

Section E

Contract Award



This Call Off Contract is awarded in accordance with the provisions of the Technology Services 3 Framework Agreement RM6100.

SIGNATURES

For and on behalf of the Supplier

Name	
Job role/title	
Signature	
Date	

For and on behalf of the Buyer

Name	
Job role/title	
Signature	
Date	



Attachment 1 – Services Specification

<< REDACTED >>



Attachment 1(c) – CQ Log





Attachment 2 – Charges and Invoicing

<< REDACTED >>

Part D – Risk Register

Table below is shown as an example of Risk Register, however, risk management format will be agreed between the Supplier and the Buyer following contract award to manage risks.

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 12
Risk Number	Risk Name	Description of risk	Timing	Likelihood	Impact (£)	Impact (description)	Mitigation (description)	Cost of mitigation	Post-mitigation impact (£)	Owner

Part E – Early Termination Fee(s)

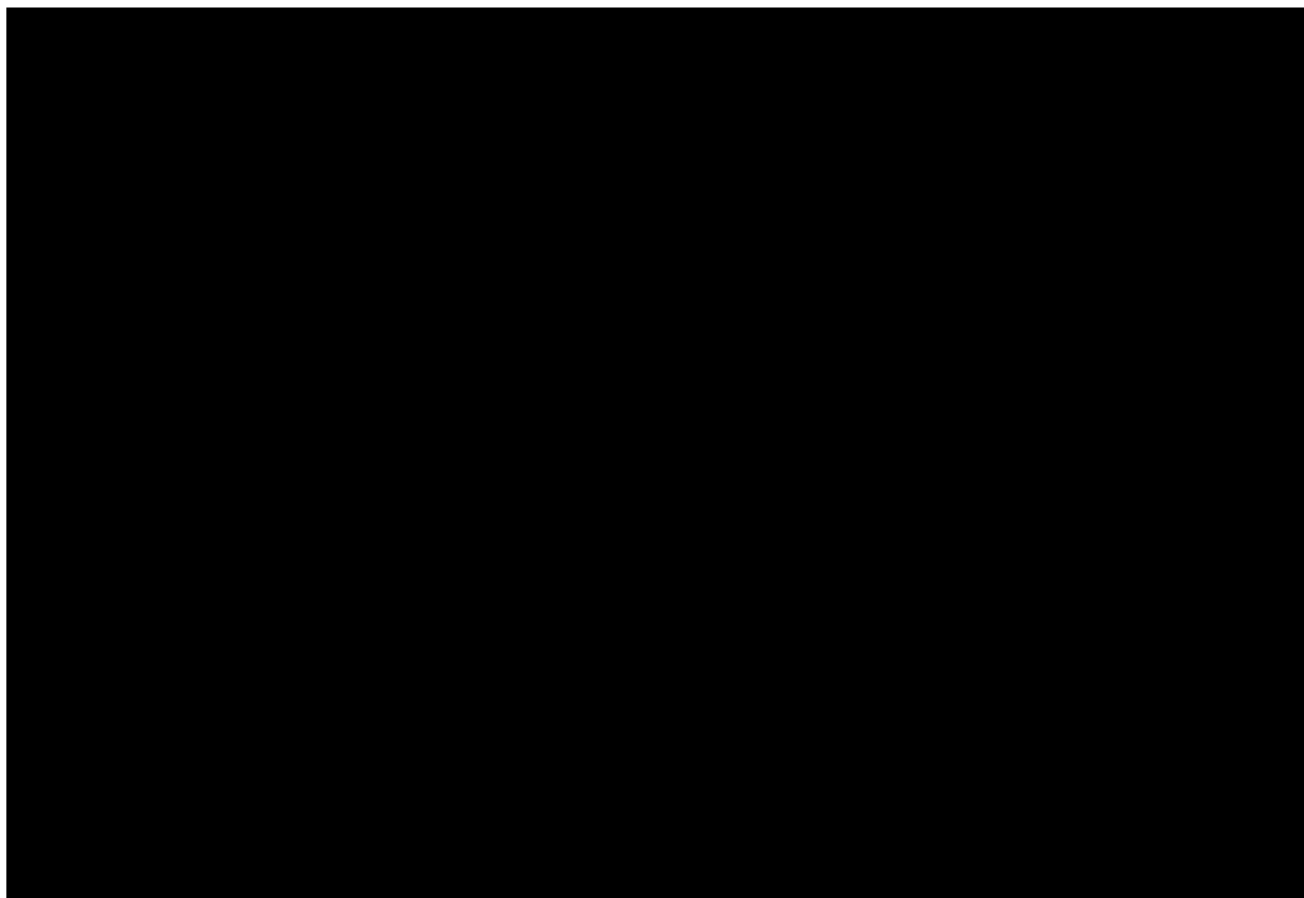
Not applicable



Attachment 3 – Outline Implementation Plan

The Parties acknowledge that a revised Detailed Implementation Plan is to be agreed within twenty (20) Working Days of the Contract Commencement Date.

Outline Implementation Plan



Detailed Implementation Plan

TBC



Attachment 4 – Service Levels and Service Credits

The Parties agree that further clarity on the operational practicalities of the agreed Service Levels will be defined prior to the Service Commencement Date which will include a review of:

1. The way in which each SLA will be measured, calculated and reported. Should the Parties agree that an SLA cannot be practically measured using the tools provided by the Buyer then the parties shall discuss in good faith and agree an alternative measure; and
2. The way in which responsibility for failures will be managed and attribution assigned for failures outside of the Supplier's control. The Supplier shall be entitled to relief from the Service Level Failures caused by the action or inaction by the Buyer or its 3rd Party suppliers who have direct contracts with the Buyer provided that the Supplier has notified the Buyer promptly and in any event as part of the report in which the relief is claimed.

1. DEFINITIONS

1.1 In this attachment, the following words shall have the following meanings:

"Critical Service Level Failure"	shall be the failure to meet a critical failure target for any individual Service Level as specified in Annex A to Part A of this Attachment
"Earnback"	shall be the process of recovering Service Credits by the Supplier in response to demonstrated good performance
"Major Service Level Failure"	shall be the failure to meet a major failure target for any individual Service Level as specified in Annex A to Part A of this Attachment
"Minor Service Level Failure"	shall be the failure to meet a minor failure target for any individual Service Level as specified in Annex A to Part A of this Attachment
"Service Credits"	any service credits specified in Annex A to Part A of this Attachment being payable by the Supplier to the Buyer in respect of a Service Level Failure;
"Service Credit Cap"	has the meaning given to it in the Call Off Terms;
"Service Level Failure"	means a failure to meet the one or more of the targets in respect of all Key Performance Indicators assigned to a Service Level;
"Service Level Target"	shall be as set out against the relevant Service Level in Annex A to Part A of this Attachment;



“Key Performance Indicator” an individual measurement that supports the calculation of Service Level performance, as defined within Annex A of Part A of this Appendix.

2. WHAT HAPPENS IF THE SUPPLIER DOES NOT MEET THE SERVICE LEVELS

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Targets for each Service Level.
- 2.2 The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Attachment including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Targets.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Attachment.
- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:
- 2.4.1 the Supplier has over the previous (twelve) 12 Month period hit the Service Credit Cap; and/or
 - 2.4.2 the Service Level Failure:
 - a) is a Critical Service Level Failure, if relevant; and/or
 - b) has arisen due to a Prohibited Act or wilful Default by the Supplier; and/or
 - c) results in the corruption or loss of any Government Data; and/or
 - d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
 - 2.4.3 The Buyer is otherwise entitled to or does terminate this Contract pursuant to RM6100 Technology Services 3, Lots 2,3 and 5 Call off Terms.

Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

- 2.5 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 2.6 The Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"), provided that the operation of this paragraph **Error! Reference source not found.** shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.



2.7 If the level of performance of the Supplier is likely to cause or causes a Critical Service Failure to occur, the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

- 2.7.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;
- 2.7.2 instruct the Supplier to comply with the Rectification Plan Process;
- 2.7.3 if a Service Level Failure has occurred, deduct the applicable Service Credits payable by the Supplier to the Buyer; and/or
- 2.7.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).



Part A: Service Levels and Service Credits

1. Service Levels

- 1.1 For the purposes of Service Credits, each Service Level (as set out in Annex A to this Part A) is to be assessed independently of other Service Levels.
- 1.2 For any individual Service Level, a Service Level Failure for any of the Key Performance Indicators allocated to it will determine the Service Credits due to that Service Level, with materiality of failure determining preference e.g. a major failure in one Key Performance Indicator and a minor failure in a second Key Performance Indicator would determine a Major Service Level Failure for the Service Level.
- 1.3 Service Levels and Key Performance Indicators are to be assessed for each Service Period, except where specifically noted otherwise in this Attachment.

2. External Factors Affecting Service Levels

- 2.1 The Supplier shall be entitled to relief from the Service Level Failures caused by the action or inaction by the Buyer or its 3rd Party suppliers who have direct contracts with the Buyer provided that the Supplier has notified the Buyer promptly and in any event as part of the report in which the relief is claimed. Such relief should relate specifically to the external factor in question and does not void the Key Performance Indicator for the measurement period.
- 2.2 The Supplier shall explicitly identify any Service Level Failures that have been excluded either fully or partially from the calculation of performance and propose where relevant and reasonably possible which third party supplier and/or Buyer action or inaction should be allocated to that Service Level Failure. In the event of a partial exclusion, the Supplier shall also identify the proportion of any Service Points as listed in the tables in Annex A to Part A which should accrue to the Supplier as a result of that Service Level Failure.
- 2.3 For the purposes of calculating Service Credits and Service Points, if the Supplier fails to measure or report on a Service Level in accordance with this Attachment such that the Buyer cannot reasonably assess whether the Service Levels have been achieved, it shall be deemed to be Service Level Failure for that Service Level for that Service Period, unless otherwise agreed by the Buyer.

3. Service Credits

- 3.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier (as described in Part B (Performance Monitoring) of this Attachment) to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.
- 3.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in Annex A to Part A of this Attachment.



4. Repeat Failures

- 4.1 In addition to the Service Points incurred via a Service Level Failure for any particular month, repeat failures will incur additional Service Points with an additional 50% of the current month's relevant points for the duration of any failures. Such repeat failure calculations will only apply to an individual Service Level i.e. failures for one Service Level will not cause a repeat failure for other Service Levels.
- 4.2 For example, for a Service Level with Service Points of 15 (minor) and 20 (major):
- Month 1: Minor Service Level Failure = 15 Service Points
 - Month 2: Minor Service Level Failure = 22.5 Service Points
($15 + 15/2 \times 1$ repeat failure month)
 - Month 3: Major Service Level Failure = 40 Service Points
($20 + 20/2 \times 2$ repeat failure months)
 - Month 4: Minor Service Level Failure = 37.5 Service Points
($15 + 15/2 \times 3$ repeat failure months)
 - Month 5: No Service Level Failure for that Service Level = 0 Service Points

5. Earnback of Service Credits

- 5.1 Where a Service Level Failure occurs in any particular Service Period, and the Supplier has subsequently delivered three Service Periods of continuous service that have not caused a Service Level Failure in that same Service Level, the Supplier is eligible to recover 80% of the Service Credits attributable to the original Service Level Failure, excluding any Service Credits attributable to:
- 5.1.1 Associated repeat failure calculations for that Service Period, or
 - 5.1.2 Critical Service Level Failures for that Service Period.
- 5.2 Recovery via Earnback to be solely via the offset of Service Credits due in the same Service Period or any remaining Service Period under this Contract, excluding any Service Credits attributable to:
- 5.2.1 Repeat failure calculations, or
 - 5.2.2 Critical Service Level Failures.
- 5.3 For the purposes of clarity, where no further Service Credits are incurred over the Contract after the Supplier becomes eligible to recover Service Credits via Earnback, the Supplier is not eligible to any other form of remedy or compensation.
- 5.4 For example, if the example above is continued:
- 5.4.1 Month 6 : No Service Level Failure for that Service Level = 0 Service Points
 - 5.4.2 Month 7: No Service Level Failure for that Service Level = Earn back of 12 Service Points



6. Amendment of Service Levels and Service Points

- 6.1 Where a new application or other impacting change is introduced to this Contract, the Parties shall agree and document new or amendments to the Service Levels which shall apply prior to the release of that change onto the live environment.
- 6.2 A Service Level is not required to have all three types of Service Level Failure but will always have at least one Key Performance Indicator.
- 6.3 The Buyer may, at its sole discretion, amend the Service Points applicable to the Service Levels to reflect its changing or emergent priorities for the Services.
- 6.4 For clarity, this includes the allocation of Service Points to Key Performance Indicators that previously did not have any Service Points allocated. It may also include the removal of Service Points from that Key Performance Indicator.
- 6.5 Following two Major Service Level Failures for any individual Service Level within a six-month window, the Buyer may instigate a Critical Service Level Failure for that Service Level and therefore define a critical failure target for any/all of the Key Performance Indicators within the Service Level. Such critical failure targets should be comparable to other comparable services and in line with any other targets already defined for the relevant Key Performance Indicator.

7. Addition of new Service Levels

- 7.1 The Buyer may look to introduce new Service Levels either temporarily (e.g. during the delivery of a Change, or during key business events) or permanently (e.g. in response to changing standards or following a transition of the Services).
- 7.2 The Supplier will engage in good faith conversations to agree new Service Levels, along with associated Service Level Targets and Key Performance Indicators that are representative of, as a minimum, good industry standards and the Services.
- 7.3 Such new Service Levels will be agreed through the Change Control Procedure.



Annex A to Part A: Services Levels and Service Credits Table

To Note:

All the following Service Levels and Service Credits apply to all environments (i.e. Production, Non-Production, Dev/Test etc.) of the Crown Hosting platform.

Performance against the Service Levels should be reported separately for each environment, i.e. performance should not be pooled.

8. Service availability

- 1.1 The intent for the Services is to maximise the amount of time for which all aspects of the Services are available for use.
- 1.2 Availability is determined as non-planned outage time (HH:MM:SS) as a proportion of total time in the Service Period (excluding planned downtime).

Service Level Target: Availability	
	% Availability
Target	99.9%

Type of Service Level Failure	Key Performance Indicator	Service Points
Minor failure	<99.9%	15
Major failure	<99.8%	20
Critical failure	<99.7%	N/A

To Note:

The availability Service Level applies to all environments of Crown Hosting with 99.9% being the target for each environment individually, and not pooled across them.

The availability Service Level of 99.9% does not apply to any infrastructure hosted in Azure.

2. Incident resolution times & priority definitions

- 2.1 The intent for the Services is to reasonably minimise the time taken to resolve an incident, based on the priority of incidents and the contracted supported hours for the Services, which are 24 x7 across all incident priorities.
- 2.2 Incident resolution time to be determined from ServiceNow, being the allocation of the incident through to the point where the ticket is set to resolved. Dataset based on incidents that have been closed during the month.



Priority	Service Level Target: Incident Resolution Time (24x7)
P1	4 Hours
P2	8 Hours
P3	1 Day (24:00 Hours)
P4	3 Days (72:00 Hours)
P5	5 Days (120:00 Hours)

Cat	Incident Volume Threshold	Type of Service Level Failure	Key Performance Indicator	Service Points
P1	N/A	Minor failure	>1 fail target	Any Minor failure (and no Major failure): 15 Any Major failure: 20
	N/A	Major failure	>2 fail target	
P2	N/A	Minor failure	>2 fail target	
	N/A	Major failure	>4 fail target	
P3	>20 incidents	Minor failure	>15% fail target	
	>20 incidents	Major failure	>20% fail target	
	<20 incidents	Minor failure	>1 P3 fail target	
	<20 incidents	Major failure	>2 P3 fail target	
P4	>20 incidents	Minor failure	>10% fail target	
	>20 incidents	Major failure	>15% fail target	
	<20 incidents	Minor failure	>1 P4 fail target	
	<20 incidents	Major failure	>2 P4 fail target	
P5	>20 incidents	Minor failure	>5% fail target	
	>20 incidents	Major failure	>10% fail target	
	<20 incidents	Minor failure	>1 P5 fail target	
	<20 incidents	Major failure	>2 P5 fail target	

- 2.3 The intent for the Services is to reasonably classify the priority of incidents based on their impact to the Crown Hosting Platform rather than to the applications which it hosts. The incident priority descriptions and associated incidents relate to all environments of the platform.



Priority	Description
P1	Means: (i) total loss of a core component of the platform, such as SAN storage; (ii) total loss of a technology type or its primary function, such as ability to auto scale; (iii) a security issue impacting the whole platform or all a technology type, such as a Windows vulnerability
P2	Means: (i) multiple server instances are unavailable; (ii) multiple server instances have degraded performance; (iii) multiple server instances are unable to perform normal transactions The resilience of the platform is impacted (iv) degraded performance of a core component of the platform, such as SAN storage; (v) degraded performance of a technology type or its primary function, such as ability to auto scale;
P3	Means: (i) multiple server instances are unavailable; (ii) multiple server instances have degraded performance; (iii) multiple server instances are unable to perform normal transactions The resilience of the platform is not impacted
P4	Means: (i) one server instance is unavailable; (ii) one server instance is unable to perform normal transactions i.e. is in a hung state
P5	Means one server instance has degraded performance

3. Problem assessment

- 3.1 The intent for the Services is to reasonably minimise the time taken to assess and confirm the problem. Problems are to be assessed against a standard Buyer configuration working schedule of Monday-Friday 8am-6pm .
- 3.2 The time taken from the creation of the problem record to the completion of the assessment (i.e. validation of the problem and check against existing records). The Key Performance Indicator to include all problems where the assessment deadline is within the Service Period under assessment.

Service Level Target: Time to Complete Problem Assessment, i.e. between the states of new and RCA
Target Time
5 Working Days (M-F 8-6pm)

Problem Volume Threshold	Type of Service Level Failure	Key Performance Indicator	Service Points
--------------------------	-------------------------------	---------------------------	----------------



>20 problems	Minor failure	>2% fail target	10
>20 problems	Major failure	>5% fail target	15
<20 problems	Minor failure	>1 fail target	10
<20 problems	Major failure	>2 fail target	15

4. Problem resolution

- 4.1 The intent for the Services is to reasonably minimise the time taken to resolve and rectify problems, based on their priority.
- 4.2 Resolutions are measured from the start of the root cause analysis through to the date the problem is set to resolved in ServiceNow. The Key Performance Indicator is to include all problems where the problem target resolution date falls within the Service Period under assessment.

		Service Level Target: Closure Time
	Type	Target Time
Priority 1 & 2	Closed date	3 Calendar Months
Priority 3 & 4	Closed date	6 Calendar Months

Cat	Problem Volume Threshold	Type of Service Level Failure	Key Performance Indicator	Service Points
P1-2	>20 problems	Minor failure	>10% fail target	Any Minor failure (and no Major failure): 15 Any Major failure: 20
	>20 problems	Major failure	>15% fail target	
	<20 problems	Minor failure	>1 fail target	
	<20 problems	Major failure	>2 fail target	



P3-4	>20 problems	Minor failure	>10% fail target
	>20 problems	Major failure	>15% fail target
	<20 problems	Minor failure	>1 fail target
	<20 problems	Major failure	>2 fail target

5. Security patch compliance reporting

- 5.1 The intent for the Services is to understand patch compliance against the Buyer's policy. This measurement period will be assessed on a monthly basis.
- 5.2 This assessment is to produce and issue patch compliance report for each Reporting Period, by Working Day 3 of the following month, providing the patch compliance status of all agreed assets to Buyer patch Policy. There are no Service Points or Service Credits associated with this metric.

Service Level Target: Issue Patch Compliance Report
By Working Day 3

6. Security patch implementation

- 6.1 The intent for the Services is to prioritise a secure service and protect Service Data. This measurement period will be assessed on a monthly basis.
- 6.2 This assessment is calculated as the time taken from the Vendor release to the implementation of the urgent security patch.

Service Level Target: Time to Implement urgent security patches
5 Working Days or Agreed implementation timescale

Type of Service Level Failure	Key Performance Indicator	Service Points
Minor failure	>0 implementations fail target	10
Major failure	>2 implementations fail target	15
Critical failure	>5 implementations fail target	N/A



7. Vulnerability assessment reporting

- 7.1 The intent for the Services is to understand current vulnerabilities in line with the Buyer's policy. This measurement period will be assessed on a monthly basis.
- 7.2 This assessment is to produce and issue a vulnerability assessment report for each Reporting Period, by Working Day 3 of the following month, providing the vulnerability assessment of all agreed assets, systems & Services to Buyer policy. There are no Service Points or Service Credits associated with this metric.

Service Level Target: Issue vulnerability assessment report
By Working Day 3

8. Vulnerability Mitigation & Remediation

- 8.1 The intent for the Services is to mitigate and remediate known vulnerabilities in line with the Buyer's Security Policy. This measurement period will be assessed on a monthly basis.
- 8.2 This assessment is taken as the time taken to mitigate and remediate known vulnerabilities in line with the timescales by vulnerability severity level as set out in the Buyer Security Policy and in the table below:

Service Level Target: Time to Mitigate and Remediate Vulnerabilities		
Severity	Time to Mitigate	Time to Remediate
Zero Day	Within 24 hours	Within 72 hours when technically feasible
Critical	N/A	Within 14 days
High	N/A	Within 30 days
Medium	N/A	Next Patch/Upgrade Cycle or within 90 days, whichever is the soonest
Low	N/A	Best Effort

Type of Service Level Failure	Key Performance Indicator	Service Points
Minor failure	>0 mitigations or remediations fail target	10
Major failure	>2 mitigations or remediations fail target	15
Critical failure	>5 mitigations or remediations fail target	N/A

9. Change management accuracy



- 9.1 The intent for the Services is to target quality change management to minimise risk to the live service.
- 9.2 This measurement period will be assessed on a monthly basis with incidents counted where change is identified as a factor in the cause of the incident through the root cause analysis process or where otherwise agreed. Incidents in scope of assessment where they have been resolved in the last month.

Service Level Target: number of incidents where root cause/factor is change	
Priority 1 & 2	0
Priority 3 & 4	2

Cat	Type of Service Level Failure	Key Performance Indicator	Service Points
P1/2	Minor failure	>0 incidents caused by change control	Any Minor failure (and no Major failure): 10 Any Major failure: 15
	Major failure	>1 incidents caused by change control	
P3/4	Minor failure	>2 incidents caused by change control	
	Major failure	>4 incidents caused by change control	

10. Platform Backup reliability

- 10.1 The intent for the Services is to ensure consistent reliable platform backups and provide confidence in the ability to restore.
- 10.1.1 This measurement period will be assessed on a monthly basis. Platform backups that have completed successfully, against the total number of platform backups initiated during the month.
- 10.1.2 For backups completed successfully the target to be met is 99%.

Service Level Target: backups completed successfully
99%

Type of Service Level Failure	Key Performance Indicator	Service Points
Minor failure	<99%	5
Major failure	<95%	10

11. Work Request response



- 11.1 The intent for the Services is to ensure the Buyer can respond to stakeholder requests in respect of forecast changing needs in a timely manner.
- 11.2 This measurement period will be assessed on a monthly basis and is calculated:
- 11.2.1 For work requests, the time from when the work request has been submitted to the Supplier until an impact assessment has been provided to the Buyer.
- 11.2.2 For work request impact assessments, target to be met is 10 Working Days.

Service Level Target: Impact Assessment provided
10 Working Days

Type of Service Level Failure	Key Performance Indicator	Service Points
Minor failure	>0 impact assessment deadlines missed	Any Minor failure (and no Major failure): 5 Any Major failure: 10
Major failure	>1 impact assessment deadlines missed	

12. Service Request response

- 12.1 The intent for the Services is to ensure the platform is maintained in respect of known changing needs, such as a server capacity increase, in a timely manner.
- 12.2 This measurement period will be assessed on a monthly basis and is calculated:
- 12.2.1 For service requests, the time from when the service request has been submitted to the Supplier until the service request is fulfilled.
- 12.2.2 For service request fulfilments the target to be met is 95% within the delivery timescales which are agreed between the Buyer and the Supplier.

Service Level Target: Impact Assessment provided
95% within the agreed timescales

Type of Service Level Failure	Key Performance Indicator	Service Points
Minor failure	<95%	5
Major failure	<93%	10



13. Operating System Remediation (reverse credit)

- 13.1 The intent for the Services is to encourage focus on the currency of the operating systems on the platform, remediating those which are unsupported and in extended support.
- 13.2 The approach is to be proposed to and agreed by the Buyer before inclusion and is required to be delivered at no detriment to the operation and maintenance of the Services, or any other priorities which the Buyer has. The measurement period is to be no more frequent than quarterly.
- 13.3 As a reverse Service Credit, this metric can be offset against the total Service Points for the Period being assessed. This metric can be dropped by the Supplier from Service Credit mechanism at their sole discretion, although the Supplier will continue to have obligations to review platform user experience as part of the Buyer's supplier management obligations.

Service Level Target: operating systems Upgraded
Number of Operating Systems upgraded from out of support to extended support
and/or
From extended support to standard support

Type of Service Level Failure	Key Performance Indicator	Service Points
Minor success	>20 Operating Systems upgraded	-10
Major success	>40 Operating Systems upgraded	-15

14. Service Credit Calculations

- 14.1 The calculation for Service Credits is as follows:

$$\text{Service Credits} = \frac{\text{Min 0-Max 150 (Total Service Points for Key Performance Indicators in the Service Period)}}{150} \times 12.5\% \text{ of Charges applicable to the Service Period}$$



- 14.2 For clarity, Service Credits are capped at 0% (minimum) and 12.5% (maximum) of the Charges applicable to the Period being assessed, known as the Service Level Cap.



Part B: Performance Monitoring

15. Performance Monitoring and Performance Review

- 15.1 Within twenty (20) Working Days of the Commencement Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 15.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph **Error! Reference source not found.** of Part B of this Attachment which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 15.2.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 15.2.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 15.2.3 details of any Critical Service Level Failures;
 - 15.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 15.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 15.2.6 such other details as the Buyer may reasonably require from time to time.
- 15.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
 - 15.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
 - 15.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
 - 15.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 15.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 15.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

16. Satisfaction Surveys



- 16.1 The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the satisfaction surveys reasonably suggest are not in accordance with this Contract.



Attachment 5 – Key Supplier Personnel and Key Sub-Contractors

The Parties agree that they will complete Part A of this Attachment 5 within twenty (20) Working Days of the Contract Commencement Date and update this Attachment 5 periodically to record any changes to Key Supplier Personnel and/or any Key Sub-Contractors appointed by the Supplier after the Commencement Date for the purposes of the delivery of the Services.

Part A – Key Supplier Personnel

Part B – Key Sub-Contractors – NOT APPLICABLE

Details to be added following contract award.

Key Sub-contractor name and address (if not the same as the registered office)	Registered office and company number	Related product/Service description	Key Sub-contract price expressed as a percentage of total projected Charges over the Contract Period	Key role in delivery of the Services

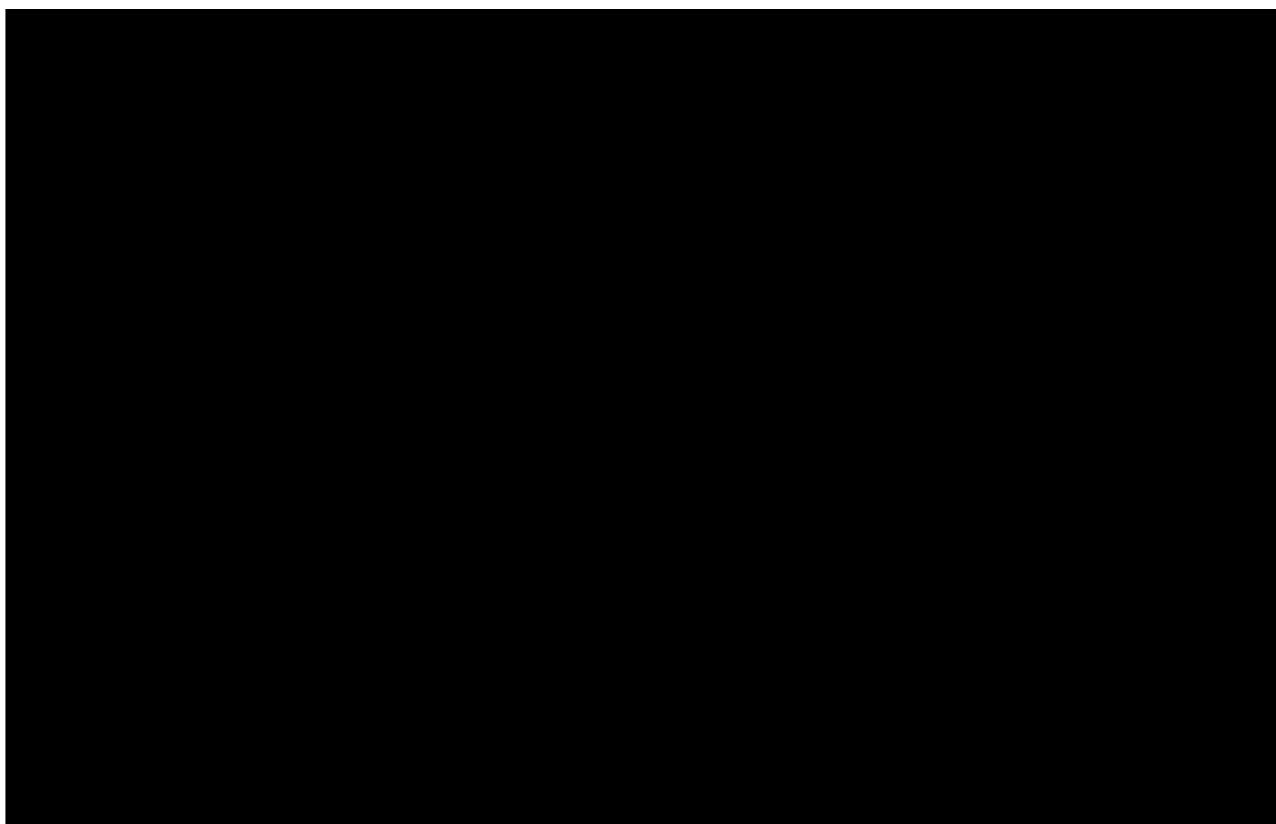


Attachment 6 – Software

The Software below is licensed to the Buyer in accordance with Clauses 20 (*Intellectual Property Rights*) and 21 (*Licences Granted by the Supplier*).

Part A – Supplier Software

Fujitsu will be responsible for all service licenses and associated maintenance costs for the following products as used in Service Delivery under this Call-Off Contract:





Part B – Third Party Software

1. No Third Party Software at the Contract Commencement Date
2. The Parties agree that they will update this Attachment 6 periodically to record any Supplier Software or Third Party Software subsequently licensed by the Supplier or third parties for the purposes of the delivery of the Services.
3. Third Party Non-COTs Software will not be classed within the definition of “Transferable Contracts” and this contract/IPR will not be made available to HMRC including for novation to them following termination/expiry of the Agreement

Attachment 7 – Financial Distress

For the purpose of Schedule 8 (Financial Distress) of the Call-Off Terms, the following shall apply:

PART A – CREDIT RATING THRESHOLD

Entity	Credit Rating (long term) <i>(insert credit rating issued for the entity at the Commencement Date)</i>	
[REDACTED]	[REDACTED]	
	[REDACTED]	

Attachment 8 – Governance

PART A – SHORT FORM GOVERNANCE – Not Applicable

PART B – LONG FORM GOVERNANCE

For the purpose of Part B of Schedule 7 (Long Form Governance) of the Call-Off Terms, the following boards shall apply:

The Parties agree that they will complete Part B of this Attachment 8 within twenty (20) Working Days of the Contract Commencement Date

Service Management Board	
Buyer Members of Service Management Board (include details of chairperson)	
Supplier Members of Service Management Board	
Start Date for Service Management Board meetings	
Frequency of Service Management Board meetings	
Location of Service Management Board meetings	

Programme Board	
Buyer members of Programme Board (include details of chairperson)	
Supplier members of Programme Board	
Start date for Programme Board meetings	
Frequency of Programme Board meetings	
Location of Programme Board meetings	

Change Management Board	
Buyer Members of Change Management Board (include details of chairperson)	
Supplier Members of Change Management Board	
Start Date for Change Management Board meetings	
Frequency of Change Management Board meetings	
Location of Change Management Board meetings	

Technical Board	
Buyer Members of Technical Board (include details of chairperson)	
Supplier Members of Technical Board	
Start Date for Technical Board meetings	
Frequency of Technical Board meetings	
Location of Technical Board meetings	

Risk Management Board	
Buyer Members for Risk Management Board (include details of chairperson)	
Supplier Members for Risk Management Board	
Start Date for Risk Management Board meetings	
Frequency of Risk Management Board meetings	
Location of Risk Management Board meetings	

Attachment 9 – Schedule of Processing, Personal Data and Data Subjects

This Attachment 9 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 Schedule shall be with the Buyer at its absolute discretion.

- The contact details of the Buyer's Data Protection Officer are: [REDACTED]
- The contact details of the Supplier's Data Protection Officer are: [REDACTED]
- The Processor shall comply with any further written instructions with respect to processing by the Controller.
- Any such further instructions shall be incorporated into this Attachment 9.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with Clause 34.2 to 34.15 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"> • <i>HMRC Email Addresses</i> • <i>HMRC Display Names</i> • <i>HMRC Personal ID (PID) number</i>
Duration of the processing	<i>Data will be processed from Contract Signature to end of Contract.</i>
Nature and purposes of the processing	<i>The supplier will work with HMRC Personal Data to manage technical access to systems only.</i>
Type of Personal Data	<p><i>IT related data such as:</i></p> <ul style="list-style-type: none"> • <i>HMRC Email addresses</i> • <i>Display name</i> • <i>PID</i>
Categories of Data Subject	<i>Staff</i>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>Data will be retained for the full contract life and destroyed on exit.</i>

Attachment 10 – Transparency Reports

The Parties agree that they will complete Attachment 10 within twenty (20) Working Days of the Contract Commencement Date

The list in the transparency table below is not comprehensive. It includes but is not limited to the following. The Buyer reserves the right to request other reports that may be required as part of the service delivery.

Title	Content	Format	Frequency
SLA/KPI attainment	SLA outputs including incidents, problems and change	spreadsheet	monthly
Consumption	Unit consumption measures (for re-charge)	spreadsheet	monthly
Capacity & Demand	Headroom variations, trends, demand reconciliation, projections, recommendations	spreadsheet + PowerPoint	Monthly plus live alerting in case of threshold breaches
DCIM metrics	Power, heat, assets, cabinet occupancy, space usage and availability,	spreadsheet	monthly
Backups/recovery	Volumetrics including success/failure/retrievals/ rto/rpo achievements	spreadsheet	monthly
Payload profiles	Schedule of payloads by hosting (bare metal / hypervisor / container), OS version, by CG, creation date; changes/trends (increases/decreases)	spreadsheet	monthly
Technology Debt List	Schedule of out of standard support components	spreadsheet	monthly
Lifecycle	Operating System / Hardware uplifts / removals	spreadsheet	3-monthly
Catalogue Changes	Supplier catalogue changes	spreadsheet	3-monthly
RAID	Major risks, assumptions, issues, decisions for escalation/awareness	spreadsheet	monthly
CSI	Improvements to availability, performance; reduced costs;	PowerPoint / spreadsheet	3-monthly major report / monthly tracking report

	improved efficiency; reduction in tech debt; standardisation, simplification, commoditisation and automation		
Innovation	Major innovations proposed / delivered to evolve platforms to private cloud, provide improvements to availability, performance; reduced costs; improved efficiency; reduction in tech debt; standardisation, simplification, commoditisation and automation [think we had a few more listed]	PowerPoint	3-monthly
Tech Hall Audits	Detailed report on regular audit of halls	spreadsheet	monthly
Knowledge	Additions/changes/re moval of key documentation	spreadsheet	6-monthly
Financial Triggers	Contractual changes/impacts		
Carbon Net Zero tracker	Estimate of the carbon impact of the HMRC Crown Hosting estate and any improvements over time	spreadsheet	6-monthly

Supplier also to provide the following Transparency Reports (as mentioned in the ITT response):

- Customer Satisfaction reporting
- Service Dashboard (configuration and environmental detail) – Power BI
- Orchestration Dashboard – vRealize
- Modernisation Roadmap
- Carbon Footprint Assessment
- Social Value Portal – Dashboard
- Transition Artefacts (as per response to question 3.8.1)
- Infrastructure Availability
- Chargeable Operating Systems by Platform
- Chargeable Operating Systems by Customer Group
- Storage Capacity
- Platform Database Capacity
- Platform Capacity by Operating System
- Backup Performance and Capacity
- Patching

Attachment 11 – Buyer’s Mandatory Terms

- A. For the avoidance of doubt, references to ‘the Agreement’ mean the attached Call-Off Contract between the Supplier and the Buyer. References to ‘the Buyer’ mean ‘the Buyer’ (the Commissioners for Her Majesty’s Revenue and Customs).
- B. The Agreement incorporates the Buyer’s mandatory terms set out in this Annex 1.
- C. In case of any ambiguity or conflict, the Buyer’s mandatory terms in this Annex 1 will supersede any other terms in the Agreement.

1. Definitions

“Affiliate”	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
“Buyer Data”	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to the Supplier by or on behalf of the Buyer; and/or</p> <p>(ii) which the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>(b) any Personal Data for which the Buyer is the Controller, or any data derived from such Personal Data which has had any designatory data identifiers removed so that an individual cannot be identified;</p>
“Charges” “Connected Company”	the charges for the Services as specified in Schedule 6 means, in relation to a company, entity or other person, the Affiliates of that company, entity or other person or any other person associated with such company, entity or other person;
“Control”	the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “Controls” and “Controlled” shall be interpreted accordingly;
“Controller”, “Processor”, “Data Subject”, “Data Protection Legislation”	<p>take the meaning given in the UK GDPR;</p> <p>(a) "the data protection legislation" as defined in section 3(9) of the Data Protection Act 2018; and;</p> <p>(b) all applicable Law about the processing of personal data and privacy;</p>
“Key Subcontractor”	any Subcontractor:

	<ul style="list-style-type: none"> (a) which, in the opinion of the Buyer, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or (b) with a Subcontract with a contract value which at the time of appointment exceeds (or would exceed if appointed) ten per cent (10%) of the aggregate Charges forecast to be payable under this Call-Off Contract;
“Law”	any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“Personal Data”	has the meaning given in the UK GDPR;
“Purchase Order Number”	the Buyer’s unique number relating to the supply of the Services;
“Services”	the services to be supplied by the Supplier to the Buyer under the Agreement, including the provision of any Goods;
“Subcontract”	any contract or agreement (or proposed contract or agreement) between the Supplier (or a Subcontractor) and any third party whereby that third party agrees to provide to the Supplier (or the Subcontractor) all or any part of the Services, or facilities or services which are material for the provision of the Services, or any part thereof or necessary for the management, direction or control of the Services or any part thereof;
“Subcontractor”	<p>any third party with whom:</p> <ul style="list-style-type: none"> (a) the Supplier enters into a Subcontract; or (b) a third party under (a) above enters into a Subcontract, <p>or the servants or agents of that third party;</p>
“Supplier Personnel”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;
“Supporting Documentation”	sufficient information in writing to enable the Buyer to reasonably verify the accuracy of any invoice;
“Tax”	<ul style="list-style-type: none"> (a) all forms of tax whether direct or indirect; (b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction; (c) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and (d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above,

	in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;
“Tax Non-Compliance”	where an entity or person under consideration meets all 3 conditions contained in the relevant excerpt from HMRC’s “Test for Tax Non-Compliance”, as set out in Annex 1, where: <ul style="list-style-type: none"> (a) the “Economic Operator” means the Supplier or any agent, supplier or Subcontractor of the Supplier requested to be replaced pursuant to Clause 4.3; and (b) any “Essential Subcontractor” means any Key Subcontractor;
“UK GDPR”	the UK General Data Protection Regulation, the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);
“VAT”	value added tax as provided for in the Value Added Tax Act 1994.

2. Payment and Recovery of Sums Due

- 2.1 The Supplier shall invoice the Buyer as specified in schedule 2 Call Off Terms . Without prejudice to the generality of the invoicing procedure specified in the Agreement, the Supplier shall procure a Purchase Order Number from the Buyer prior to the commencement of any Services and the Supplier acknowledges and agrees that should it commence Services without a Purchase Order Number:
- 2.1.1 the Supplier does so at its own risk; and
 - 2.1.2 the Buyer shall not be obliged to pay any invoice without a valid Purchase Order Number having been provided to the Supplier.
- 2.2 Each invoice and any Supporting Documentation required to be submitted in accordance with the invoicing procedure specified in the Agreement shall be submitted by the Supplier, as directed by the Buyer from time to time via the Buyer’s electronic transaction system.
- 2.3 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Buyer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Buyer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Buyer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Buyer in order to justify withholding payment of any such amount in whole or in part.

3. Warranties

- 3.1 The Supplier represents and warrants that:
- 3.1.1 in the three years prior to the Effective Date, it has been in full compliance with all applicable securities and Laws related to Tax in the United Kingdom and in the jurisdiction in which it is established;
 - 3.1.2 it has notified the Buyer in writing of any Tax Non-Compliance it is involved in; and
 - 3.1.3 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier’s assets or revenue and the

Supplier has notified the Buyer of any profit warnings issued in respect of the Supplier in the three years prior to the Effective Date.

- 3.2 If at any time the Supplier becomes aware that a representation or warranty given by it under Clause 3.1.1, 3.1.2 and/or 3.1.3 has been breached, is untrue, or is misleading, it shall immediately notify the Buyer of the relevant occurrence in sufficient detail to enable the Buyer to make an accurate assessment of the situation.
- 3.3 In the event that the warranty given by the Supplier pursuant to Clause 3.1.2 is materially untrue, the Buyer shall be entitled to terminate the Agreement pursuant to the Call-Off clause which provides the Buyer the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

4. Promoting Tax Compliance

- 4.1 All amounts stated are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Buyer following delivery of a valid VAT invoice.
- 4.2 To the extent applicable to the Supplier, the Supplier shall at all times comply with all Laws relating to Tax and with the equivalent legal provisions of the country in which the Supplier is established.
- 4.3 The Supplier shall provide to the Buyer the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or self-assessment reference of any agent, supplier or Subcontractor of the Supplier prior to the provision of any material Services under the Agreement by that agent, supplier or Subcontractor. Upon a request by the Buyer, the Supplier shall not contract, or will cease to contract, with any agent, supplier or Subcontractor supplying Services under the Agreement.
- 4.4 If, at any point during the Term, there is Tax Non-Compliance, the Supplier shall:
 - 4.4.1 notify the Buyer in writing of such fact within five (5) Working Days of its occurrence; and
 - 4.4.2 promptly provide to the Buyer:
 - (a) details of the steps which the Supplier is taking to resolve the Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (b) such other information in relation to the Tax Non-Compliance as the Buyer may reasonably require.
- 4.5 The Supplier shall indemnify the Buyer on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Buyer at any time in respect of the Supplier's failure to account for or to pay any Tax relating to payments made to the Supplier under this Agreement. Any amounts due under this Clause 4.5 shall be paid in cleared funds by the Supplier to the Buyer not less than five (5) Working Days before the date upon which the Tax or other liability is payable by the Buyer.
- 4.6 Upon the Buyer's request, the Supplier shall provide (promptly or within such other period notified by the Buyer) information which demonstrates how the Supplier complies with its Tax obligations.
- 4.7 If the Supplier:
 - 4.7.1 fails to comply (or if the Buyer receives information which demonstrates to it that the Supplier has failed to comply) with Clauses 4.2, 4.4.1 and/or 4.6 this may be a material breach of the Agreement;

- 4.7.2 fails to comply (or if the Buyer receives information which demonstrates to it that the Supplier has failed to comply) with a reasonable request by the Buyer that it must not contract, or must cease to contract, with any agent, supplier or Subcontractor of the Supplier as required by Clause 4.3 on the grounds that the agent, supplier or Subcontractor of the Supplier is involved in Tax Non-Compliance this shall be a material breach of the Agreement; and/or
- 4.7.3 fails to provide details of steps being taken and mitigating factors pursuant to Clause 4.4.2 which in the reasonable opinion of the Buyer are acceptable this shall be a material breach of the Agreement;

and any such material breach shall allow the Buyer to terminate the Agreement pursuant to the Call-Off Clause which provides the Buyer the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

- 4.8 The Buyer may internally share any information which it receives under Clauses 4.3 to 4.4 (inclusive) and 4.6, for the purpose of the collection and management of revenue for which the Buyer is responsible.

5. Use of Off-shore Tax Structures

- 5.1 Subject to the principles of non-discrimination against undertakings based either in member countries of the European Union or in signatory countries of the World Trade Organisation Agreement on Government Procurement, the Supplier shall not, and shall ensure that its Connected Companies, Key Subcontractors (and their respective Connected Companies) shall not, have or put in place (unless otherwise agreed with the Buyer) any arrangements involving the use of off-shore companies or other off-shore entities the main purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom Tax of any description which would otherwise be payable by it or them on or in connection with the payments made by or on behalf of the Buyer under or pursuant to this Agreement or (in the case of any Key Subcontractor and its Connected Companies) United Kingdom Tax which would be payable by it or them on or in connection with payments made by or on behalf of the Supplier under or pursuant to the applicable Key Subcontract ("**Prohibited Transactions**"). Prohibited Transactions shall not include transactions made between the Supplier and its Connected Companies or a Key Subcontractor and its Connected Companies on terms which are at arms-length and are entered into in the ordinary course of the transacting parties' business.
- 5.2 The Supplier shall notify the Buyer in writing (with reasonable supporting detail) of any proposal for the Supplier or any of its Connected Companies, or for a Key Subcontractor (or any of its Connected Companies), to enter into any Prohibited Transaction. The Supplier shall notify the Buyer within a reasonable time to allow the Buyer to consider the proposed Prohibited Transaction before it is due to be put in place.
- 5.3 In the event of a Prohibited Transaction being entered into in breach of Clause 5.1 above, or in the event that circumstances arise which may result in such a breach, the Supplier and/or the Key Subcontractor (as applicable) shall discuss the situation with the Buyer and, in order to ensure future compliance with the requirements of Clauses 5.1 and 5.2, the Parties (and the Supplier shall procure that the Key Subcontractor, where applicable) shall agree (at no cost to the Buyer) timely and appropriate changes to any such arrangements by the undertakings concerned, resolving the matter (if required) through the escalation process in the Agreement.
- 5.4 Failure by the Supplier (or a Key Subcontractor) to comply with the obligations set out in Clauses 5.2 and 5.3 shall allow the Buyer to terminate the Agreement pursuant to the Clause that provides the Buyer the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

6 Data Protection and off-shoring

- 6.1 The parties agree that the Supplier shall, whether it is the Controller or Processor, in relation to any Personal Data processed in connection with its obligations under the Agreement:
- 6.1.1 not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Buyer has been obtained and the following conditions are fulfilled:
- (a) the Supplier or any applicable Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or, where relevant, section 75 of the Data Protection Act 2018) as determined by either the Buyer or the Supplier when it is the Controller;
 - (b) the Data Subject has enforceable rights and effective legal remedies;
 - (c) the Supplier or any applicable Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist either the Buyer or the Supplier when it is the Controller in meeting its obligations); and
 - (d) the Supplier or any applicable Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- 6.2 Failure by the Supplier or any applicable Processor to comply with the obligations set out in Clause 6.1 shall allow the Buyer to terminate the Agreement pursuant to the Clause that provides the Buyer the right to terminate the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

7 Commissioners for Revenue and Customs Act 2005 and related Legislation

- 7.1 The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Buyer Data comply with the obligations set out in Section 18 of the Commissioners for Revenue and Customs Act 2005 ('CRCA') to maintain the confidentiality of Buyer Data. Further, the Supplier acknowledges that (without prejudice to any other rights and remedies of the Buyer) a breach of the aforesaid obligations may lead to a prosecution under Section 19 of CRCA.
- 7.2 The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Buyer Data comply with the obligations set out in Section 123 of the Social Security Administration Act 1992, which may apply to the fulfilment of some or all of the Services. The Supplier acknowledges that (without prejudice to any other rights and remedies of the Buyer) a breach of the Supplier's obligations under Section 123 of the Social Security Administration Act 1992 may lead to a prosecution under that Act.
- 7.3 The Supplier shall regularly (not less than once every six (6) months) remind all Supplier Personnel who will have access to, or are provided with, Buyer Data in writing of the obligations upon Supplier Personnel set out in Clause 7.1 above. The Supplier shall monitor the compliance by Supplier Personnel with such obligations.
- 7.4 The Supplier shall ensure that all Supplier Personnel who will have access to, or are provided with, Buyer Data sign (or have previously signed) a Confidentiality Declaration, in the form provided at Annex 2. The Supplier shall provide a copy of each such signed declaration to the Buyer upon demand.
- 7.5 In the event that the Supplier or the Supplier Personnel fail to comply with this Clause **Commissioners for Revenue and Customs Act 2005 and related Legislation**, the Buyer reserves the right to terminate the Agreement with immediate effect pursuant to the clause that

provides the Buyer the right to terminate the Agreement for Supplier fault (termination for Supplier cause).

Annex 1
Excerpt from HMRC's "Test for Tax Non-Compliance"

Condition one (An in-scope entity or person)

1. There is a person or entity which is either: ("X")
 - 1) The Economic Operator or Essential Subcontractor (EOS)
 - 2) Part of the same Group of companies of EOS. An entity will be treated as within the same Group of EOS where that entities' financial statements would be required to be consolidated with those of EOS if prepared in accordance with *IFRS 10 Consolidated Financial Accounts*¹;
 - 3) Any director, shareholder or other person (P) which exercises control over EOS. 'Control' means P can secure, through holding of shares or powers under articles of association or other document that EOS's affairs are conducted in accordance with P's wishes.

Condition two (Arrangements involving evasion, abuse or tax avoidance)

2. X has been engaged in one or more of the following:
 - a. Fraudulent evasion²;
 - b. Conduct caught by the General Anti-Abuse Rule³;
 - c. Conduct caught by the Halifax Abuse principle⁴;
 - d. Entered into arrangements caught by a DOTAS or VADR scheme⁵;
 - e. Conduct caught by a recognised 'anti-avoidance rule'⁶ being a statutory provision which targets arrangements where either a main purpose, or an expected benefit, is to obtain a tax advantage or where the arrangement is not effected for commercial purposes. 'Targeted Anti-Avoidance Rules' (TAARs). It may be useful to confirm that the Diverted Profits Tax is a TAAR for these purposes;
 - f. Entered into an avoidance scheme identified by HMRC's published Spotlights list⁷;
 - g. Engaged in conduct which falls under rules in other jurisdictions which are equivalent or similar to (a) to (f) above.

Condition three (Arrangements are admitted, or subject to litigation/prosecution or identified in a published list (Spotlights))

3. X's activity in *Condition 2* is, where applicable, subject to dispute and/or litigation as follows:

¹ <https://www.iasplus.com/en/standards/ifrs/ifrs10>

² 'Fraudulent evasion' means any 'UK tax evasion offence' or 'UK tax evasion facilitation offence' as defined by section 52 of the Criminal Finances Act 2017 or a failure to prevent facilitation of tax evasion under section 45 of the same Act.

³ "General Anti-Abuse Rule" means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions

⁴ "Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others

⁵ A Disclosure of Tax Avoidance Scheme (DOTAS) or VAT Disclosure Regime (VADR) scheme caught by rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Section 19 and Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Section 19 and Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

⁶ The full definition of 'Anti-avoidance rule' can be found at Paragraph 25(1) of Schedule 18 to the Finance Act 2016 and Condition 2 (a) above shall be construed accordingly.

⁷ Targeted list of tax avoidance schemes that HMRC believes are being used to avoid paying tax due and which are listed on the Spotlight website: <https://www.gov.uk/government/collections/tax-avoidance-schemes-currently-in-the-spotlight>

1. In respect of (a), either X:
 1. Has accepted the terms of an offer made under a Contractual Disclosure Facility (CDF) pursuant to the Code of Practice 9 (COP9) procedure⁸; or,
 2. Has been charged with an offence of fraudulent evasion.
2. In respect of (b) to (e), once X has commenced the statutory appeal process by filing a Notice of Appeal and the appeal process is ongoing including where the appeal is stayed or listed behind a lead case (either formally or informally). NB Judicial reviews are not part of the statutory appeal process and no supplier would be excluded merely because they are applying for judicial review of an HMRC or HMT decision relating to tax or national insurance.
3. In respect of (b) to (e), during an HMRC enquiry, if it has been agreed between HMRC and X that there is a pause with the enquiry in order to await the outcome of related litigation.
4. In respect of (f) this condition is satisfied without any further steps being taken.
5. In respect of (g) the foreign equivalent to each of the corresponding steps set out above in (i) to (iii).

For the avoidance of doubt, any reference in this Annex 1 to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time including any implementing or successor legislation.

⁸ The Code of Practice 9 (COP9) is an investigation of fraud procedure, where X agrees to make a complete and accurate disclosure of all their deliberate and non-deliberate conduct that has led to irregularities in their tax affairs following which HMRC will not pursue a criminal investigation into the conduct disclosed.

Annex 2 Form
CONFIDENTIALITY DECLARATION

CONTRACT REFERENCE: [for Supplier to insert Contract reference number and contract date] ('the Agreement')

DECLARATION:

I solemnly declare that:

1. I am aware that the duty of confidentiality imposed by section 18 of the Commissioners for Revenue and Customs Act 2005 applies to Buyer Data (as defined in the Agreement) that has been or will be provided to me in accordance with the Agreement.
2. I understand and acknowledge that under Section 19 of the Commissioners for Revenue and Customs Act 2005 it may be a criminal offence to disclose any Buyer Data provided to me.

SIGNED:
FULL NAME:
POSITION:
COMPANY:
DATE OF SIGNATURE:

**Annex 1 – Call Off Terms and Additional/Alternative Schedules and
Clauses**