

**ITT4546 - Highways England Managed Print Service Competition - Managed Print
Services Framework RM3781 Lot 3**

FRAMEWORK SCHEDULE 4

CALL-OFF AGREEMENT

HIGHWAYS ENGLAND COMPANY LIMITED

- and –

XEROX UK LTD

AGREEMENT

relating to

THE PROVISION OF MANAGED PRINT SERVICES

CONTRACT REF:

CALL OFF ORDER FORM AND CALL OFF TERMS

SECTION A

This Call Off Order Form is issued in accordance with the provisions of the Managed Print Services Framework Agreement **RM3781 Lot 3** for the provision of **Managed Print Services** dated **26th October 2016**.

The Supplier agrees to supply the Goods and/or Services specified below on and subject to the terms of this Call Off Contract.

For the avoidance of doubt this Call Off Contract consists of the terms set out in this Call Off Order Form and the Call Off Terms.

Order Number	
From	Highways England Company Limited Bridge House, Walnut Tree Close, Guildford, Surrey, GU1 4GA Company Reg: 09346363 ("CUSTOMER")
To	Xerox UK Ltd Building 04, Uxbridge Business Park, Sanderson Road, Uxbridge, Middlesex UB8 1DH. Company Reg: 330754 ("SUPPLIER")

SECTION B

1. CALL OFF CONTRACT PERIOD

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1.1.	Commencement Date: Date of signature Effective Date: start of Services – 1st May 2020 Billing Start Date – will commence on the 1st day of the following month from the installation date of the Supplier Equipment. Should the installation date not coincide with the 1st day of the month the Call Off Contract Charges for the period between the installation date until the end of the month, will be collected with the first invoice. All invoicing will be Monthly and in arrears.
1.2.	Expiry Date: End date of Initial Period 30th April 2025 End date of Extension Period 30th April 2027 Minimum written notice to Supplier in respect of extension: 6 months

2. GOODS AND/OR SERVICES

2.1	Goods and/or Services required: In Call Off Schedule 2 (Goods and/or Services)as per - Annex 1: The Services – ITCR Managed Print Service Requirements Annex 2: The Goods - Hardware Requirements Summary

3. IMPLEMENTATION PLAN

3.1.	Implementation Plan: The Supplier shall provide the Customer with a draft Implementation Plan for Approval within 30 Working Days from the Call Off Commencement Date.

4. CONTRACT PERFORMANCE

4.1.	Standards and Quality: Number of Working Days within which Quality Plans must be develop by the Supplier: 90 from the Commencement Date
4.2	Service Levels/Service Credits: In Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) Service Credit Cap (Call Off Schedule 1 (Definitions)): The applicable percentage of Call Off Contract Charges shall have a Service Credit Cap of 10%. Should there not be sufficient charges to apply the Service Credit against in the next invoice the credit will carry forward to subsequent invoices until it is fully utilized. Customer periodic reviews of Service Levels (Clause 13.7.1 of the Call Off Terms): Customer and Supplier to review 12 months after the Effective Date and thereafter, every 12 months.
4.3	Critical Service Level Failure: In relation to the management of a break fix resolution, a Critical Service Level Failure shall include a loss of both Device type 4 or the whole Xerox Managed Print Solution (XWS) during core hours (07:00 – 19:00 Mon – Fri excluding bank holidays) for more than twenty-four (24) hours accumulated in any three (3) Month period, or forty eight (48) hours in any rolling twelve (12) Month period, or for a complete XWS Solution failure exceeding six (6) working hours over a three month period. Any downtime where in which Xerox are not at fault will not contribute to a Critical Service Level Failure.
4.4	Performance Monitoring: In Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)
4.5	Period for providing Rectification Plan: In Clause 38.2.1(a) of the Call Off Terms

4.6	Supplier Software, Customer Software and Third Party Software In Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software) Additional terms for: Xerox Device Manager (XDM) software is provided pursuant to the end user licence terms detailed in Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software). User Analytics software is provided pursuant to the end user licence terms detailed in Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software). Xerox Workplace Suite (XWS) software is provided pursuant to the end user licence terms detailed in Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software). Xerox FreeFlow software is provided pursuant to the end user licence terms detailed in Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software). Web2Print software is provided pursuant to the end user licence terms detailed in Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software). Xerox Service Manager (XSM) software is provided pursuant to the end user licence terms detailed in Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software). Print Awareness Tool software is provided pursuant to the end user licence terms detailed in Call Off Schedule 16 (Supplier Software, Customer Software and Third Party Software). Variations to the Call Off Contract: The definition of Supplier Software is replaced with the following: "Supplier Software" means software identified in paragraph 4.6 of this Order Form. Customer – The Customer will make available, the following services to enable the Supplier to deliver their Services: • Hosting services comprising of either Data Centre hosting Virtual Machines (VM) or Azure Cloud based VMs. These machines will be set-up and configured with a standard Highways England base Windows build, ready for the Supplier to load their Applications and then take full responsibility for the Supplier Services provided from these VMs.

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	• <i>Any further network, telecommunications or Azure componentry as specified in the finalised/approved design, subject to Supplier HLD and LLD approval by Highways England and external ratification by the Customer's IT Partners.</i> • <i>Any required supporting consultancy delivered by the Customer and/or by the Customer's IT Partners to assist with the build-up, testing and approval of the new Supplier Service.</i> • The packaging & distribution services for any agreed Supplier end user software.

5. PERSONNEL

5.1	Key Personnel: Customer – Service Delivery Manager/Executive Supplier – Client Manager Service Delivery Manager
5.2	Relevant Convictions (Clause 27.2 of the Call Off Terms): N/A

6. PAYMENT

6.1	Call Off Contract Charges (including any applicable discount(s), but excluding VAT): In Annex 1 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing) as per Annex 1 - Financial Model
6.2	Payment terms/profile (including method of payment e.g. Government Procurement Card (GPC) or BACS): In Annex 2 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing) and to include the additional payment terms – • Invoices payable Monthly in arrears via BACS. All invoices to include

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	supporting evidence. • Electronic invoices accepted to the defined address as detailed in 6.4 Customer billing address of this Call Off Order agreement. • Payment by the Customer 30 days of invoice receipt. • All invoices must reference a purchase order number supplied by the Customer to avoid rejection.
6.3	Reimbursable Expenses: Not permitted
6.4	Customer billing address (paragraph 7.6 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)): FS Payments, Highways England Finance Department, The Cube, 199 Wharfside Street, Birmingham, B1 1RN Email : INVOICES@highwaysengland.co.uk
6.5	Call Off Contract Charges fixed for (paragraph 8.2 of Schedule 3 (Call Off Contract Charges, Payment and Invoicing)): From the Call Off Commencement Date to the end of the Initial Period
6.6	Supplier periodic assessment of Call Off Contract Charges (paragraph 9.2 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)) will be carried out on:
6.7	Supplier request for increase in the Call Off Contract Charges (paragraph 10 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)): Permitted

7. LIABILITY AND INSURANCE

7.1	Estimated Year 1 Call Off Contract Charges: The sum of £ 361,481.00
7.2	Supplier's limitation of Liability (Clause 36.2.1 of the Call Off Terms);

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	In Clause 36.2.1 of the Call Off Terms
7.3	Insurance (Clause 37.3 of the Call Off Terms): The maximum levels of cover shall be - ▪ £5 million for employer's liability insurance ▪ £2m for public liability and products liability insurance ▪ £10 million for professional indemnity insurance.

8. TERMINATION AND EXIT

8.1	Termination on material Default (Clause 41.2.1(c) of the Call Off Terms): In Clause 41.2.1(c) of the Call Off Terms
8.2	Termination without cause notice period (Clause 41.7.1 of the Call Off Terms): In Clause 41.7.1 of the Call Off Terms
8.3	Undisputed Sums Limit: In Clause 42.1.1 of the Call Off Terms
8.4	Exit Management: In Call Off Schedule 9 (Exit Management)

9. SUPPLIER INFORMATION

9.1	Supplier's inspection of Sites, Customer Property and Customer Assets: N/A
9.2	Commercially Sensitive Information: Annex 1 to Schedule 2 Goods and/or Services Annex 2 to Schedule 2 Goods and/or Services Annex 1 to Schedule 3 (Call Off Contract Charges, Payments and Invoicing)

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	Annex 2 to Schedule 3 (Call Off Contract Charges, Payments and Invoicing) Annex 1 to Schedule 6 (Service Levels, Service Credits and Performance Monitoring) Schedule 15 Call Off Tender Schedule 16 Supplier Software, Customer Software and Third Party Software (Xerox Tools)
9.3	Maintenance of the ICT Environment - If required, both parties to comply in accordance with Highways England Change Management: Minor and Major Change Process.

10. OTHER CALL OFF REQUIREMENTS

10.1	Recitals (in preamble to the Call Off Terms): Recitals B to E Recital C - date of issue of the Statement of Requirements: 3rd May 2019 Recital D - date of receipt of Call Off Tender: 17th June 2019
10.2	Call Off Guarantee (Clause 4 of the Call Off Terms): Not required
10.3	Security: As per Call Off Schedule 7: Security – long form terms AND Annex 2, Security Policy as attached.
10.4	ICT Policy: All ICT Policy documents are referenced in Call-off Schedule 2, Annex 1: The Services ITCR Managed Print Requirements. In addition, specific Security policy documents provided by the Customer are attached in Call-Off Schedule 7, Annex 2 : Security Policy.
10.5	Testing:

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	In Call Off Schedule 5 (Testing)
10.6	Business Continuity & Disaster Recovery: Not applied
10.7	Failure of Supplier Equipment (Clause 32.8 of the call off Terms): For the purpose of that Clause the value for X shall be 5 and the value for Y shall be 3 months.
10.8	Protection of Customer Data (Clause 34.3.3 of the Call Off Terms): Including the terms set out in Schedule 17, GDPR - (Variation OF MULTIFUNCTIONAL DEVICES, MANAGED PRINT AND CONTENT SERVICES AND RECORDS INFORMATION MANAGEMENT (RM3781)).
10.9	Notices (Clause 55.6 of the Call Off Terms): Customer's postal address and email address: ██████████ Head of IT Commercial & Governance Highways England The Cube 199 Wharfside Street Birmingham B1 1RN Supplier's postal address and email address: ██████████ Xerox (UK) Limited Building 04 Uxbridge Business Park Sanderson Road Uxbridge Middlesex UB8 1DH
	Transparency Reports

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10.10	In Call Off Schedule 13 (Transparency Reports) The Supplier shall provide to the Customer for Approval draft Transparency Reports within: N/A
10.11	Alternative and/or additional provisions (including any Alternative and/or Additional Clauses under Call Off Schedule 14): (i) The Parties agree that the following Schedules/Annexes shall be excluded from the Call Off Order Form as they are not applicable – CALL OFF SCHEDULE 10: STAFF TRANSFER – Annex to Part A: Pensions Annex to Part B: Pensions For the avoidance of doubt the following Annexes to Schedule 10; Staff Transfer shall remain – Annex to Part C: No transfer of Employees at Commencement Date of Service Annex to Part D: Employment Exit Provisions Annex to Schedule 10: List of Notified Sub-Contractors (ii) The Parties agree that the following Schedules/Annexes shall be excluded from the Call Off Order Form as they are not applicable – CALL OFF SCHEDULE 14: ALTERNATIVE AND/OR ADDITIONAL CLAUSES - Clause 6. NHS Additional Clauses Clause 7. MOD Additional Clauses For the avoidance of doubt, all other clauses under Schedule 14 Alternative and/or Additional Clauses that are not called out herewith of this item 10.11, shall remain unchanged.
10.12	Call Off Tender: As set out in Schedule 15 (Call Off Tender) Call – Off Terms and Conditions (as attached to this Order Form) in Xerox written proposal dated 14/06/2019

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10.13	Training As set out in Schedule 15 (Call-Off Tender) in– Xerox written proposal dated 14/06/19

FORMATION OF CALL OFF CONTRACT

BY SIGNING AND RETURNING THIS CALL OFF ORDER FORM (which may be done by electronic means) the Supplier agrees to enter a Call Off Contract with the Customer to provide the Goods and/or Services in accordance with the terms set out in the Call Off Order Form and the Call Off Terms.

The Parties hereby acknowledge and agree that they have read the Call Off Order Form and the Call Off Terms and by signing below agree to be bound by this Call Off Contract.

In accordance with paragraph 7 of Framework Schedule 5 (Call Off Procedure), the Parties hereby acknowledge and agree that this Call Off Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of the Call Off Order Form from the Supplier within two (2) Working Days from such receipt.

For and on behalf of the Supplier:

Name and Title	 Senior Commercial Contracts Executive
Signature	
Date	25th November 2019

For and on behalf of the Customer:

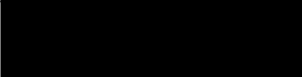
Name and Title	 Procurement Delivery Partner
Signature	
Date	25 November 2019

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**PART 2 CALL OFF TERMS
TERMS AND CONDITIONS**

RECITALS

- A. Where recital A has been selected in the Call Off Order Form, the Customer has followed the call off procedure set out in paragraph 1.2 of Framework Schedule 5 (Call Off Procedure) and has awarded this Call Off Contract to the Supplier by way of direct award.
- B. Where recitals B to E have been selected in the Call Off Order Form, the Customer has followed the call off procedure set out in paragraph 1.3 of Framework Schedule 5 (Call Off Procedure) and has awarded this Call Off Contract to the Supplier by way of further competition.
- C. The Customer issued its Statement of Requirements for the provision of the Goods and/or Services on the date specified at paragraph 10.1 of the Call Off Order Form.
- D. In response to the Statement of Requirements the Supplier submitted a Call Off Tender to the Customer on the date specified at paragraph 10.1 of the Call Off Order form through which it provided to the Customer its solution for providing the Goods and/or Services.
- E. On the basis of the Call Off Tender, the Customer selected the Supplier to provide the Goods and/or Services to the Customer in accordance with the terms of this Call Off Contract.

A. PRELIMINARIES

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Call Off Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Call Off Schedule 1 (Definitions) or the relevant Call Off Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in Call Off Schedule 1 (Definitions) or relevant Call Off Schedule, it shall have the meaning given to it in the Framework Agreement. If no meaning is given to it in the Framework Agreement, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Call Off Contract, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and vice versa;
 - 1.3.2 reference to a gender includes the other gender and the neuter;
 - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;

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- 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
 - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under this Call Off Contract;
 - 1.3.8 references to "**Clauses**" and "**Call Off Schedules**" are, unless otherwise provided, references to the clauses and schedules of this Call Off Contract and references in any Call Off Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Call Off Schedule in which these references appear; and
 - 1.3.9 the headings in this Call Off Contract are for ease of reference only and shall not affect the interpretation or construction of this Call Off Contract.
- 1.4 Subject to Clauses 1.5 and 1.6 (Definitions and Interpretation), in the event of and only to the extent of any conflict between the Call Off Order Form, the Call Off Terms and the provisions of the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:
- 1.4.1 the Framework Agreement, except Framework Schedule 21 (Tender);
 - 1.4.2 the Call Off Order Form;
 - 1.4.3 the Call Off Terms, except Call Off Schedule 15 (Call Off Tender);
 - 1.4.4 Call Off Schedule 15 (Call Off Tender); and
 - 1.4.5 Framework Schedule 21 (Tender).
- 1.5 Any permitted changes by the Customer to the Template Call Off Terms and the Template Call Off Order Form under Clause 5 (Call Off Procedure) of the Framework Agreement and Framework Schedule 5 (Call Off Procedure) prior to them becoming the Call Off Terms and the Call Off Order Form which comprise this Call Off Contract shall prevail over the Framework Agreement.
- 1.6 Where Call Off Schedule 15 (Call Off Tender) or Framework Schedule 21 (Tender) contain provisions which are more favourable to the Customer in relation to (the rest of) this Call Off Contract, such provisions of the Call Off Tender or the Tender shall prevail. The Customer shall in its absolute and sole discretion determine whether any provision in the Call Off Tender or Tender is more favourable to it in this context.

2. DUE DILIGENCE

2.1 The Supplier acknowledges that:

- 2.1.1 the Customer has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Call Off Contract;
- 2.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;
- 2.1.3 it has raised all relevant due diligence questions with the Customer before the Call Off Commencement Date;
- 2.1.4 it has satisfied itself of all relevant details, including but not limited to, details relating to the following:
 - (a) suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Call Off Commencement Date) future Operating Environment;
 - (b) operating processes and procedures and the working methods of the Customer;
 - (c) ownership, functionality, capacity, condition and suitability for use in the provision of the Goods and/or Services of the Customer Assets; and
 - (d) existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Call Off Contract and/or which the Supplier will require the benefit of for the provision of the Goods and/or Services;
- 2.1.5 it has advised the Customer in writing of:
 - (a) each aspect, if any, of the Operating Environment that is not suitable for the provision of the Goods and/or Services;
 - (b) the actions needed to remedy each such unsuitable aspect; and
 - (c) a timetable for and the costs of those actions;
- 2.1.6 it has undertaken all necessary due diligence and has entered into this Call Off Contract in reliance on its own due diligence alone; and
- 2.1.7 it shall not be excused from the performance of any of its obligations under this Call Off Contract on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges, arising as a result of any:
 - (a) unsuitable aspects of the Operating Environment;

- (b) misinterpretation of the requirements of the Customer in the Call Off Order Form or elsewhere in this Call Off Contract;
- (c) failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information; and/or
- (d) failure by the Supplier to undertake its own due diligence.

3. REPRESENTATIONS AND WARRANTIES

3.1 Each Party represents and warrants that:

- 3.1.1 it has full capacity and authority to enter into and to perform this Call Off Contract;
- 3.1.2 this Call Off Contract is executed by its duly authorised representative;
- 3.1.3 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it (or, in the case of the Supplier, any of its Affiliates) that might affect its ability to perform its obligations under this Call Off Contract; and
- 3.1.4 its obligations under this Call Off Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable (as the case may be for each Party) bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or Law).

3.2 The Supplier represents and warrants that:

- 3.2.1 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
- 3.2.2 it has all necessary consents (including, where its procedures so require, the consent of its Parent Company) and regulatory approvals to enter into this Call Off Contract;
- 3.2.3 its execution, delivery and performance of its obligations under this Call Off Contract does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a Default under any agreement by which it is bound;
- 3.2.4 as at the Call Off Commencement Date, all written statements and representations in any written submissions made by the Supplier as part of the procurement process, its Tender, Call Off Tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Call Off Contract;

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- 3.2.5 if the Call Off Contract Charges payable under this Call Off Contract exceed or are likely to exceed five (5) million pounds, as at the Call Off Commencement Date it has notified the Customer in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in connection with any Occasions of Tax Non Compliance;
 - 3.2.6 it has and shall continue to have all necessary rights in and to the Licensed Software, the Third Party IPR, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to the Customer which are necessary for the performance of the Supplier's obligations under this Call Off Contract including the receipt of the Goods and/or Services by the Customer;
 - 3.2.7 it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or Trojans, spyware or other malware) into systems, data, software or the Customer's Confidential Information (held in electronic form) owned by or under the control of, or used by, the Customer;
 - 3.2.8 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Call Off Contract;
 - 3.2.9 it is not affected by an Insolvency Event and 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
 - 3.2.10 for the Call Off Contract Period and for a period of twelve (12) months after the termination or expiry of this Call Off Contract, the Supplier shall not employ or offer employment to any staff of the Customer which have been associated with the provision of the Goods and/or Services without Approval or the prior written consent of the Customer which shall not be unreasonably withheld.
- 3.3 Each of the representations and warranties set out in Clauses 3.1 and 3.2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in this Call Off Contract.
- 3.4 If at any time a Party becomes aware that a representation or warranty given by it under Clauses 3.1 and 3.2 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.
- 3.5 For the avoidance of doubt, the fact that any provision within this Call Off Contract is expressed as a warranty shall not preclude any right of termination the Customer may have in respect of breach of that provision by the Supplier which constitutes a material Default.

4. CALL OFF GUARANTEE

- 4.1 Where the Customer has stipulated in the Call Off Order Form that this Call Off Contract shall be conditional upon receipt of a Call Off Guarantee, then, on or prior to the Call Off Commencement Date or on any other date specified by the Customer, the Supplier shall deliver to the Customer:
- 4.1.1 an executed Call Off Guarantee from a Call Off Guarantor; and
 - 4.1.2 a certified copy extract of the board minutes and/or resolution of the Call Off Guarantor approving the execution of the Call Off Guarantee.
- 4.2 The Customer may in its sole discretion at any time agree to waive compliance with the requirement in Clause 4.1 by giving the Supplier notice in writing.

B. DURATION OF CALL OFF CONTRACT

5. CALL OFF CONTRACT PERIOD

- 5.1 This Call Off Contract shall take effect on the Call Off Commencement Date and the term of this Call Off Contract shall be the Call Off Contract Period.
- 5.2 Where the Customer has specified a Call Off Extension Period in the Call Off Order Form, the Customer may extend this Call Off Contract for the Call Off Extension Period by providing written notice to the Supplier before the end of the Initial Call Off Period. The minimum period for the written notice shall be as specified in the Call Off Order Form.

C. CALL OFF CONTRACT PERFORMANCE

6. IMPLEMENTATION PLAN

- 6.1 Formation of Implementation Plan
- 6.1.1 Where an Implementation Plan has not been agreed and included in Call Off Schedule 4 (Implementation Plan) on the Call Off Commencement Date, but the Customer has specified in the Call Off Order Form that the Supplier shall provide a draft Implementation Plan prior to the commencement of the provision of the Goods and/or Services, the Supplier's draft must contain information at the level of detail necessary to manage the implementation stage effectively and as the Customer may require. The draft Implementation Plan shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
 - 6.1.2 The Supplier shall submit the draft Implementation Plan to the Customer for Approval (such decision of the Customer to Approve or not shall not be unreasonably delayed or withheld) within such period as specified by the Customer in the Call Off Order Form.
 - 6.1.3 The Supplier shall perform each of the Deliverables identified in the Implementation Plan by the applicable date assigned to that Deliverable in the Implementation Plan so as to ensure that each

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Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.

- 6.1.4 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and any other requirements of the Customer as set out in this Call Off Contract and report to the Customer on such performance.

6.2 Control of Implementation Plan

- 6.2.1 Subject to Clause 6.2.2, the Supplier shall keep the Implementation Plan under review in accordance with the Customer's instructions and ensure that it is maintained and updated on a regular basis as may be necessary to reflect the then current state of the provision of the Goods and/or Services. The Customer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
- 6.2.2 Changes to the Milestones (if any), Milestone Payments (if any) and Delay Payments (if any) shall only be made in accordance with the Variation Procedure and provided that the Supplier shall not attempt to postpone any of the Milestones using the Variation Procedure or otherwise (except in the event of a Customer Cause which affects the Supplier's ability to achieve a Milestone by the relevant Milestone Date).
- 6.2.3 Where so specified by the Customer in the Implementation Plan or elsewhere in this Call Off Contract, time in relation to compliance with a date, Milestone Date or period shall be of the essence and failure of the Supplier to comply with such date, Milestone Date or period shall be a material Default unless the Parties expressly agree otherwise.

6.3 Rectification of Delay in Implementation

- 6.3.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Call Off Contract:
- (a) it shall:
 - (i) notify the Customer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
 - (ii) include in its notification an explanation of the actual or anticipated impact of the Delay;
 - (iii) comply with the Customer's instructions in order to address the impact of the Delay or anticipated Delay; and
 - (iv) use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and
 - (b) if the Delay or anticipated Delay relates to a Milestone in respect which a Delay Payment has been specified in

the Implementation Plan, Clause 6.4 (Delay Payments) shall apply.

6.4 Delay Payments

6.4.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Customer such Delay Payments (calculated as set out by the Customer in the Implementation Plan) and the following provisions shall apply:

- (a) the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier's failure to Achieve the corresponding Milestone;
- (b) Delay Payments shall be the Customer's exclusive financial remedy for the Supplier's failure to Achieve a corresponding Milestone by its Milestone Date except where:
 - (i) the Customer is otherwise entitled to or does terminate this Call Off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); or
 - (ii) the delay exceeds the number of days (the "**Delay Period Limit**") specified in Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel) for the purposes of this sub-Clause, commencing on the relevant Milestone Date;
- (c) the Delay Payments will accrue on a daily basis from the relevant Milestone Date and shall continue to accrue until the date when the Milestone is Achieved (unless otherwise specified by the Customer in the Implementation Plan);
- (d) no payment or concession to the Supplier by the Customer or other act or omission of the Customer shall in any way affect the rights of the Customer to recover the Delay Payments or be deemed to be a waiver of the right of the Customer to recover any such damages unless such waiver complies with Clause 48 (Waiver and Cumulative Remedies) and refers specifically to a waiver of the Customer's rights to claim Delay Payments; and
- (e) the Supplier waives absolutely any entitlement to challenge the enforceability in whole or in part of this Clause 6.4.1 and Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 36 (Liability).

7. GOODS AND/OR SERVICES

7.1 Provision of the Goods and/or Services

- 7.1.1 The Supplier acknowledges and agrees that the Customer relies on the skill and judgment of the Supplier in the provision of the Goods and/or Services and the performance of its obligations under this Call Off Contract.
- 7.1.2 The Supplier shall ensure that the Goods and/or Services:
- (a) comply in all respects with the description of the Goods and/or Services in Call Off Schedule 2 (Goods and/or Services) or elsewhere in this Call Off Contract; and
 - (b) are supplied in accordance with the provisions of this Call Off Contract (including the Call Off Tender) and the Tender.
- 7.1.3 The Supplier shall perform its obligations under this Call Off Contract in accordance with:
- (a) all applicable Law;
 - (b) Good Industry Practice;
 - (c) the Standards;
 - (d) the Security Policy;
 - (e) the Quality Plans;
 - (f) the ICT Policy (if so required by the Customer); and
 - (g) the Supplier's own established procedures and practices to the extent the same do not conflict with the requirements of Clauses 7.1.3(a) to 7.1.3(e).
- 7.1.4 The Supplier shall:
- (a) at all times allocate sufficient resources with the appropriate technical expertise to supply the Deliverables and to provide the Goods and/or Services in accordance with this Call Off Contract;
 - (b) subject to Clause 22.1 (Variation Procedure), obtain, and maintain throughout the duration of this Call Off Contract, all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Goods and/or Services;
 - (c) ensure that the release of any new Supplier Software or upgrade to any Supplier Software complies with the interface requirements of the Customer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify

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- the Customer three (3) Months before the release of any new Supplier Software or Upgrade;
- (d) ensure that all Software including Upgrades, Updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
 - (e) ensure that any products /or services recommended or otherwise specified by the Supplier for use by the Customer in conjunction with the Deliverables and/or the Goods and/or the Services shall enable the Deliverables and/or the Goods and/or Services to meet the requirements of the Customer;
 - (f) ensure that the Supplier System and Supplier Assets will be free of all encumbrances (except as agreed in writing with the Customer) and will be Euro Compliant; and);
 - (g) ensure that the Goods and/or Services are fully compatible with any Customer Software, Customer System, Customer Property or Customer Assets described in Call Off Schedule 4 (Implementation Plan, Customer Responsibilities and Key Personnel) (or elsewhere in this Call Off Contract) or otherwise used by the Supplier in connection with this Call Off Contract;
 - (h) minimise any disruption to the Sites Services, the ICT Environment and/or the Customer's operations when providing the Goods and/or Services;
 - (i) ensure that any Documentation and training provided by the Supplier to the Customer are comprehensive, accurate and prepared in accordance with Good Industry Practice;
 - (j) co-operate with the Other Suppliers and provide reasonable information (including any Documentation), advice and assistance in connection with the Goods and/or Services to any Other Supplier to enable such Other Supplier to create and maintain technical or organisational interfaces with the Services and, on the Call Off Expiry Date for any reason, to enable the timely transition of the supply of the Goods and/or Services (or any of them) to the Customer and/or to any Replacement Supplier;
 - (k) assign to the Customer, or if it is unable to do so, shall (to the extent it is legally able to do so) hold on trust for the sole benefit of the Customer, all warranties and indemnities provided by third parties or any Sub-

Contractor in respect of any Deliverables and/or the Goods and/or Services. Where any such warranties are held on trust, the Supplier shall enforce such warranties in accordance with any reasonable directions that the Customer may notify from time to time to the Supplier;

- (l) provide the Customer with such assistance as the Customer may reasonably require during the Call Off Contract Period in respect of the supply of the Goods and/or Services;
- (m) deliver the Goods and/or Services in a proportionate and efficient manner;
- (n) ensure that neither it, nor any of its Affiliates, embarrasses the Customer or otherwise brings the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Supplier's obligations under this Call Off Contract; and
- (o) gather, collate and provide such information and co-operation as the Customer may reasonably request for the purposes of ascertaining the Supplier's compliance with its obligations under this Call Off Contract.
- (p) provide training to the Customer's personnel in accordance with paragraph 10.13 of the Call Off Order Form (if any) in respect of the use and maintenance of the Goods and, unless otherwise indicated in the Order Form, the Charges shall include all costs of training including the cost of instruction of the Customer's personnel in the use and maintenance of the Goods, such instruction to be in accordance with the specification for training set out in Schedule 2 of the Framework Agreement or as otherwise set out in the Order Form.

7.1.5 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that all Sub-Contractors and Supplier Personnel also do, or refrain from doing, such act or thing.

8. SERVICES

8.1 General application

8.1.1 This Clause 8 shall apply if any Services have been included in Annex 1 of Call Off Schedule 2 (Goods and/or Services).

8.2 Time of Delivery of the Services

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- 8.2.1 The Supplier shall provide the Services on the date(s) specified in the Call Off Order Form (or elsewhere in this Call Off Contract) and the Milestone Dates (if any).

8.3 Location and Manner of Delivery of the Services

- 8.3.1 Except where otherwise provided in this Call Off Contract, the Supplier shall provide the Services to the Customer through the Supplier Personnel at the Sites.
- 8.3.2 The Customer may inspect and examine the manner in which the Supplier provides the Services at the Sites and, if the Sites are not the Customer Premises, the Customer may carry out such inspection and examination during normal business hours and on reasonable notice.

8.4 Undelivered Services

- 8.4.1 In the event that any of the Services are not Delivered in accordance with Clauses 7.1 (Provision of the Goods and/or Services), 8.2 (Time of Delivery of the Services) and 8.3 (Location and Manner of Delivery of the Services) ("**Undelivered Services**"), the Customer, without prejudice to any other rights and remedies of the Customer howsoever arising, shall be entitled to withhold payment of the applicable Call Off Contract Charges for the Services that were not so Delivered until such time as the Undelivered Services are Delivered.
- 8.4.2 The Customer may, at its discretion and without prejudice to any other rights and remedies of the Customer howsoever arising, deem the failure to comply with Clauses 7.1, (Provision of the Goods and/or Services), 8.2 (Time of Delivery of the Services) and 8.3 (Location and Manner of Delivery of the Services) and meet the relevant Milestone Date (if any) to be a material Default.

8.5 Specially Written Software warranty

- 8.5.1 The Supplier warrants to the Customer that all components of the Specially Written Software shall:
- (a) be free from material design and programming errors;
 - (b) perform in all material respects in accordance with the relevant specifications contained in Call Off Schedule 2 (Goods and Services) and Documentation; and
 - (c) not infringe any Intellectual Property Rights.

8.6 Obligation to Remedy of Default in the Supply of the Services

- 8.6.1 Subject to Clauses 33.9 (IPR Indemnity) and without prejudice to any other rights and remedies of the Customer howsoever arising (including under Clauses 8.4 (Undelivered Services) and 38 (Customer Remedies for Default)), the Supplier shall, where practicable:
- (a) remedy any breach of its obligations in Clauses 7 and 8 within three (3) Working Days of becoming aware of

the relevant Default or being notified of the Default by the Customer or within such other time period as may be agreed with the Customer (taking into account the nature of the breach that has occurred); and

- (b) meet all the costs of, and incidental to, the performance of such remedial work.

8.7 Continuing Obligation to Provide the Services

8.7.1 The Supplier shall continue to perform all of its obligations under this Call Off Contract and shall not suspend the provision of the Services, notwithstanding:

- (a) any withholding or deduction by the Customer of any sum due to the Supplier pursuant to the exercise of a right of the Customer to such withholding or deduction under this Call Off Contract;
- (b) the existence of an unresolved Dispute; and/or
- (c) any failure by the Customer to pay any Call Off Contract Charges,

unless the Supplier is entitled to terminate this Call Off Contract under Clause 42.1 (Termination on Customer Cause for Failure to Pay) for failure by the Customer to pay undisputed Call Off Contract Charges.

9. GOODS

9.1 General application

9.1.1 This Clause 9 shall apply if any Goods have been included in Annex 2 of Call Off Schedule 2 (Goods and/or Services).

9.2 Time of Delivery of the Goods

9.2.1 The Supplier shall provide the Goods on the date(s) specified in the Call Off Order Form (or elsewhere in this Call Off Contract) and the Milestone Dates (if any) which shall not exceed twenty one (21) calendar days of receipt of an order. In the event of any delay in the delivery, the Supplier shall immediately notify the Customer, specifying reasons for the delay and the revised delivery date.

9.2.2 Subject to Clause 9.2.2 (Time of Delivery of the Goods), where the Goods are delivered by the Supplier, the point of delivery shall be to the point of use and shall be unpacked, sited, configured, connected and commissioned by the Supplier (commissioned within one (1) working day of delivery. The Supplier shall remove all packaging from the Customer's premises at the time of installation. Where the goods are collected by the Customer, the point of delivery shall be when the Goods are loaded onto the Customer's vehicle. Where the Customer has specified any Installation Works in the Call Off Order Form, Delivery shall include installation of the Goods by the Supplier Personnel at the Sites (or at such place as the Customer may

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reasonably direct) in accordance with Clause 10 (Installation Works) and the Call Off Order Form.

9.3 Location and Manner of Delivery of the Goods

- 9.3.1 Except where otherwise provided in this Call Off Contract, the Supplier shall deliver the Goods to the Customer through the Supplier Personnel at the Sites.
- 9.3.2 If requested by the Customer prior to Delivery, the Supplier shall provide the Customer with a sample or samples of Goods for evaluation and Approval, at the Supplier's cost and expense.
- 9.3.3 The Goods shall be marked, stored, handled and delivered in a proper manner and in accordance the Customer's instructions as set out in the Call Off Order Form (or elsewhere in this Call Off Contract), Good Industry Practice, any applicable Standards and any Law. In particular, the Goods shall be marked with the Order number and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.
- 9.3.4 On dispatch of any consignment of the Goods the Supplier shall send the Customer an advice note specifying the means of transport, the place and date of dispatch, the number of packages, their weight and volume together with the all other relevant documentation and information required to be provided under any Laws.
- 9.3.5 The Customer may inspect and examine the manner in which the Supplier supplies the Goods at the Sites and, if the Sites are not the Customer Premises, the Customer may carry out such inspection and examination during normal business hours and on reasonable notice.

9.4 Undelivered Goods

- 9.4.1 In the event that not all of the Goods are Delivered in accordance with Clauses 7.1 (Provision of the Goods and/or Services), 9.2 (Time of Delivery of the Goods) and 9.3 (Location and Manner of Delivery of the Goods) ("**Undelivered Goods**"), the Customer, without prejudice to any other rights and remedies of the Customer howsoever arising, shall be entitled to withhold payment of the applicable Call Off Contract Charges for the Goods that were not so Delivered until such time as the Undelivered Goods are Delivered.
- 9.4.2 The Customer, at its discretion and without prejudice to any other rights and remedies of the Customer howsoever arising deem the failure to comply with Clauses 7.1 (Provision of the Goods and/or Services), 9.2 (Time of Delivery of the Goods) and 9.3 (Location and Manner of Delivery of the Goods) and meet the relevant Milestone Date (if any) to be a material Default.

9.5 Over-Delivered Goods

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- 9.5.1 The Customer shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity specified in the Call Off Order Form (or elsewhere in this Call Off Contract) ("**Over-Delivered Goods**").
- 9.5.2 If the Customer elects not to accept such Over-Delivered Goods it may, without prejudice to any other rights and remedies of the Customer howsoever arising, give notice in writing to the Supplier to remove them within five (5) Working Days and to refund to the Customer any expenses incurred by the Customer as a result of such Over-Delivered Goods (including but not limited to the costs of moving and storing the Over-Delivered Goods).
- 9.5.3 If the Supplier fails to comply with the Customer's notice under Clause 9.5.2, the Customer may dispose of such Over-Delivered Goods and charge the Supplier for the costs of such disposal. The risk in any Over-Delivered Goods shall remain with the Supplier.
- 9.6 **Delivery of the Goods by Instalments**
 - 9.6.1 Unless expressly agreed to the contrary, the Customer shall not be obliged to accept delivery of the Goods by instalments. If, however, the Customer does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its Delivery shall, without prejudice to any other rights or remedies of the Customer howsoever arising, entitle the Customer to terminate the whole or any unfulfilled part of this Call Off Contract for material Default without further liability to the Customer.
- 9.7 **Risk and Ownership in Relation to the Goods**
 - 9.7.1 Without prejudice to any other rights or remedies of the Customer howsoever arising:
 - (a) risk in the Goods shall pass to the Customer at the time of Delivery; and
 - (b) ownership of the Goods shall pass to the Customer for Lots 1 and 2 where outright purchase is an option on the earlier of Delivery of the Goods or payment by the Customer of the Call Off Contract Charges;
- 9.8 **Responsibility for Damage to or Loss of the Goods**
 - 9.8.1 Without prejudice to the Supplier's other obligations to provide the Goods in accordance with this Call Off Contract, the Supplier accepts responsibility for all damage to or loss of the Goods if the:
 - (a) same is notified in writing to the Supplier within three (3) Working Days of receipt and inspection of the Goods by the Customer; and
 - (b) Goods have been handled by the Customer in accordance with the Supplier's instructions.
 - 9.8.2 Where the Supplier accepts responsibility under Clause 9.8.1, it shall, at its sole option, replace or repair the Goods (or part thereof)

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within such time as is reasonable having regard to the circumstances and as agreed with the Customer.

9.9 Warranty of the Goods

9.9.1 The Supplier hereby guarantees the Goods for the Warranty Period against faulty materials and workmanship.

9.9.2 If the Customer shall within such Warranty Period or within twenty five (25) Working Days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such Warranty Period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies of the Customer howsoever arising) promptly remedy such faults or defects (whether by repair or replacement as the Customer shall elect) free of charge.

9.10 Obligation to Remedy Default in the Supply of the Goods

9.10.1 Subject to Clauses 33.9 (IPR Indemnity) and without prejudice to any other rights and remedies of the Customer howsoever arising (including under Clauses 9.4 (Undelivered Goods) and 38 (Customer Remedies for Default)), the Supplier shall, where practicable:

- (a) remedy any breach of its obligations in this Clause 9 within three (3) Working Days of becoming aware of the relevant Default or being notified of the Default by the Customer or within such other time period as may be agreed with the Customer (taking into account the nature of the breach that has occurred); and
- (b) meet all the costs of, and incidental to, the performance of such remedial work.

9.11 Continuing Obligation to Provide the Goods

9.11.1 The Supplier shall continue to perform all of its obligations under this Call Off Contract and shall not suspend the provision of the Goods, notwithstanding:

- (a) any withholding or deduction by the Customer of any sum due to the Supplier pursuant to the exercise of a right of the Customer to such withholding or deduction under this Call Off Contract;
- (b) the existence of an unresolved Dispute; and/or
- (c) any failure by the Customer to pay any Call Off Contract Charges,

unless the Supplier is entitled to terminate this Call Off Contract under Clause 42.1 (Termination on Customer Cause for Failure to Pay) for failure to pay undisputed Call Off Contract Charges.

9.12 Provision and Removal of Supplier Equipment

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- 9.12.1 Unless otherwise stated in the Call Off Order Form, the Supplier shall provide all the Supplier Equipment necessary for the supply of the Goods and/or the Services.
- 9.12.2 The Supplier shall not deliver any Supplier Equipment nor begin any work on the Customer Premises without obtaining Approval.
- 9.12.3 All Supplier Equipment brought onto the Customer Premises shall be at the Supplier's own risk and the Customer shall have no liability for any loss of or damage to any Supplier Equipment unless and to the extent that the Supplier is able to demonstrate that such loss or damage was caused by or contributed to by the Customer's Default. The Supplier shall be wholly responsible for the haulage or carriage of the Supplier Equipment to the Customer Premises and the removal thereof when it is no longer required by the Customer and in each case at the Supplier's sole cost. Unless otherwise stated in this Call Off Agreement, Supplier Equipment brought onto the Customer Premises will remain the property of the Supplier.
- 9.12.4 The Supplier shall maintain all items of Supplier Equipment within the Customer Premises in a safe, serviceable and clean condition.
- 9.12.5 The Supplier shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:
 - (a) remove from the Customer Premises any Supplier Equipment which in the reasonable opinion of the Customer is either hazardous, noxious or not in accordance with the Call Off Agreement; and
 - (b) replace such item with a suitable substitute item of Supplier Equipment.
- 9.12.6 Upon termination or expiry of the Call Off Agreement, the Supplier shall remove the Supplier Equipment together with any other materials used by the Supplier to supply the Goods and Services and shall leave the Customer Premises in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Customer Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier or Supplier's Personnel.

9.13 Provision of Maintenance Services

- 9.13.1 This Clause 9.13 shall apply to the provision of the Maintenance Services.
- 9.13.2 The Supplier shall supply the Maintenance Services during the Call Off Contract Period in accordance with the specification for maintenance services set out in Schedule 2 of the Framework Agreement or as otherwise set out in the Call Off Order Form.
- 9.13.3 The Maintenance Services shall include the provision of spares, replacement parts, consumables, toner and staples and the Supplier shall not be entitled to make any additional charge for the supply of

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such items, except where expressly set out in the Call Off Order Form.

- 9.13.4 If any of the Goods breaks down and the Supplier is not able to repair the Goods in accordance with the specification and timescales set out in Schedule 2 of the Framework Agreement or as otherwise set out in this Call Off Agreement, the Supplier shall, at its own cost, without delay, replace any Goods that are not operational with goods of the same type and upon the same terms as the original Goods.
- 9.13.5 All replacement parts fitted to the Goods and all substitutions for the Goods shall remain the property of the Supplier.
- 9.13.6 Clause 9.13.5 shall not apply to upgrades or improvements to the Goods made in accordance with Clause 9.14.
- 9.13.7 The Supplier shall be entitled to inspect the Goods at any time having given reasonable notice to the Customer.

9.14 Upgrades and Improvements

- 9.14.1 At any time the Customer may upgrade or improve the Goods by replacing component parts (but not the Goods in their entirety) with new or used parts or by installing new software with the prior written consent of the Supplier (such consent not to be unreasonably withheld or delayed).
- 9.14.2 If the Customer upgrades or improves the Goods by replacing component parts of the Goods with new or used component parts or by installing software, such upgrades or improvements shall belong to the Customer and the Customer shall have the option to remove any such replacement parts, or uninstall any software that it has installed, before the Supplier collects the Goods on expiry or earlier termination of the Call Off Contract provided that the removal of such replacement parts shall not damage the Goods and the Customer shall:
 - (a) reinstate the original component parts or re-install the original software; or
 - (b) substitute component parts or install software (where possible from the same manufacturer) reasonably similar to the removed component parts or software; or
 - (c) offer for acceptance by the Supplier in substitution for the removed parts or uninstalled software (such acceptance not to be unreasonably withheld or delayed) any component parts or software used in upgrading or improving the Goods.

10. INSTALLATION WORKS

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- 10.1 Unless otherwise indicated in the Call Off Order Form, the Charges shall include the cost of installing the Goods to ensure that the Goods are fit for purpose for use by the Customer.
- 10.2 The Supplier shall carry out the Installation Works in good workmanship manner and in accordance with Good Industry Practice and shall notify the Customer when the Installation Works have been carried out. The Customer shall inspect the Installation Works and shall either:
- 10.2.1 accept the Installation Works, or
 - 10.2.2 reject the Installation Works and provide reasons to the Supplier if, in the Customer's reasonable opinion, the Installation Works do not meet the requirements set out in the Call Off Order Form (or elsewhere in this Call Off Contract).
- 10.3 If the Customer rejects the Installation Works in accordance with Clause 10.1, the Supplier shall immediately rectify or remedy any defects and if, in the Customer's reasonable opinion, the Installation Works do not, within five (5) Working Days of such rectification or remedy, meet the requirements set out in the Call Off Order Form (or elsewhere in this Call Off Contract), the Customer may terminate this Call Off Contract for material Default.
- 10.4 The Supplier shall make no delivery of materials, equipment or other things nor commence any work on the Customer's Premises without obtaining prior Approval.
- 10.5 Access to the Customer's Premises shall not be exclusive to the Supplier but shall be limited to such Supplier Personnel and Supplier's Sub-contractors as are necessary to enable the performance of the Call Off Agreement concurrently with the execution of work by others. The Supplier shall co-operate with such others as the Customer may reasonably require.
- 10.6 Where any access to the Customer's Premises is necessary in connection with delivery or installation, the Supplier and the Supplier's Personnel and Sub-contractors shall at all times comply with the reasonable requirements of the Customer's security procedures as notified to the Supplier from time to time.
- 10.7 Throughout the Call Off Contract Period, the Supplier shall have at all times all licences, approvals and consents necessary to enable the Supplier and the Supplier Personnel to carry out the Installation Works.

11. STANDARDS AND QUALITY

- 11.1 The Supplier shall at all times during the Call Off Contract Period comply with the Standards and maintain, where applicable, accreditation with the relevant Standards' authorisation body.
- 11.2 If so required by the Customer in the Call Off Order Form, the Supplier shall develop, in the timescales specified in the Call Off Order Form, quality plans that ensure that all aspects of the Goods and/or Services are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("Quality Plans").

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- 11.3 The Supplier shall seek Approval (the decision of the Customer to Approve or not shall not be unreasonably withheld or delayed) of the Quality Plans before implementing them. The Supplier acknowledges and accepts that Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Goods and/or Services are provided to the standard required by this Call Off Contract.
- 11.4 Throughout the Call Off Contract Period, the Parties shall notify each other of any new or emergent standards which could affect the Supplier's provision, or the receipt by the Customer, of the Goods and/or Services. The adoption of any such new or emergent standard, or changes to existing Standards (including any specified in the Call Off Order Form), shall be agreed in accordance with the Variation Procedure.
- 11.5 Where a new or emergent standard is to be developed or introduced by the Customer, the Supplier shall be responsible for ensuring that the potential impact on the Supplier's provision, or the Customer's receipt of the Goods and/or Services is explained to the Customer (within a reasonable timeframe), prior to the implementation of the new or emergent Standard.
- 11.6 Where Standards referenced conflict with each other or with best professional or industry practice adopted after the Call Off Commencement Date, then the later Standard or best practice shall be adopted by the Supplier. Any such alteration to any Standard or Standards shall require Approval (and the written consent of the Customer where the relevant Standard or Standards is/are included in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators) and shall be implemented within an agreed timescale.
- 11.7 Following the approval by the Customer of the Quality Plans:
- 11.7.1 the Supplier shall implement all Deliverables in accordance with the Quality Plans; and
 - 11.7.2 any Variation to the Quality Plans shall be agreed in accordance with the Variation Procedure.
- 11.8 The Supplier shall ensure that the Supplier Personnel shall at all times during the Call Off Contract Period:
- 11.8.1 be appropriately experienced, qualified and trained to supply the Goods and/or Services in accordance with this Call Off Contract;
 - 11.8.2 apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Good and/or Services; and
 - 11.8.3 obey all lawful instructions and reasonable directions of the Customer (including, if so required by the Customer, the ICT Policy) and provide the Goods and/or Services to the reasonable satisfaction of the Customer.
- 11.9 Where a standard, policy or document is referred to by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Customer and the Parties shall agree the impact of such change.

12. TESTING

- 12.1 This Clause 12 shall apply if so specified by the Customer in the Call Off Order Form.
- 12.2 The Parties shall comply with any provisions set out in Call Off Schedule 5 (Testing).

13. SERVICE LEVELS AND SERVICE CREDITS

- 13.1 This Clause 13 shall apply where the Customer has specified Service Levels and Service Credits in the Call Off Order Form. Where the Customer has specified Service Levels but not Service Credits, only sub-clauses 13.2, 13.3 and 13.7 shall apply.
- 13.2 When this Clause 13.2 applies, the Parties shall also comply with the provisions of Part A (Service Levels and Service Credits) of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).
- 13.3 The Supplier shall at all times during the Call Off Contract Period provide the Goods and/or Services to meet or exceed the Service Level Performance Measure for each Service Level Performance Criterion.
- 13.4 The Supplier acknowledges that any Service Level Failure may have a material adverse impact on the business and operations of the Customer and that it shall entitle the Customer to the rights set out in Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) including the right to any Service Credits.
- 13.5 The Supplier acknowledges and agrees that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Customer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 13.6 A Service Credit shall be the Customer's exclusive financial remedy for a Service Level Failure except where:
- 13.6.1 the Supplier has over the previous (twelve) 12 Month period accrued Service Credits in excess of the Service Credit Cap;
 - 13.6.2 the Service Level Failure:
 - (a) exceeds the relevant Service Level Threshold;
 - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier or any Supplier Personnel; and
 - (c) results in:
 - (i) the corruption or loss of any Customer Data (in which case the remedies under Clause 34.3.8 (Protection of Customer Data) shall also be available); and/or
 - (ii) the Customer being required to make a compensation payment to one or more third parties; and/or

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13.6.3 the Customer is otherwise entitled to or does terminate this Call Off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause).

13.7 Not more than once in each Call Off Contract Year, the Customer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Level Performance Criteria and the Supplier shall not be entitled to object to, or increase the Call Off Contract Charges as a result of such changes, provided that:

13.7.1 the total number of Service Level Performance Criteria for which the weighting is to be changed does not exceed the number set out, for the purposes of this clause, in the Call Off Order Form;

13.7.2 the principal purpose of the change is to reflect changes in the Customer's business requirements and/or priorities or to reflect changing industry standards; and

13.7.3 there is no change to the Service Credit Cap.

14. CRITICAL SERVICE LEVEL FAILURE

14.1 This Clause 14 shall apply if the Customer has specified both Service Credits and Critical Service Level Failure in the Call Off Order Form.

14.2 On the occurrence of a Critical Service Level Failure:

14.2.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

14.2.2 the Customer shall (subject to the Service Credit Cap set out in Clause 36.2.1(a) (Financial Limits)) be entitled to withhold and retain as compensation for the Critical Service Level Failure a sum equal to any Call Off Contract 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 Clause 14.2 shall be without prejudice to the right of the Customer to terminate this Call Off Contract and/or to claim damages from the Supplier for material Default as a result of such Critical Service Level Failure.

14.3 The Supplier:

14.3.1 agrees that the application of Clause 14.2 is commercially justifiable where a Critical Service Level Failure occurs; and

14.3.2 acknowledges that it has taken legal advice on the application of Clause 14.2 and has had the opportunity to price for that risk when calculating the Call Off Contract Charges.

15. BUSINESS CONTINUITY AND DISASTER RECOVERY

15.1 This Clause 15 shall apply if the Customer has so specified in the Call Off Order Form.

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15.2 The Parties shall comply with the provisions of Call Off Schedule 8 (Business Continuity and Disaster Recovery).

16. DISRUPTION

16.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under this Call Off Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer.

16.2 The Supplier shall immediately inform the Customer of any actual or potential industrial action, whether such action be by the Supplier Personnel or others, which affects or might affect the Supplier's ability at any time to perform its obligations under this Call Off Contract.

16.3 In the event of industrial action by the Supplier Personnel, the Supplier shall seek Approval to its proposals for the continuance of the supply of the Goods and/or Services in accordance with its obligations under this Call Off Contract.

16.4 If the Supplier's proposals referred to in Clause 16.3 are considered insufficient or unacceptable by the Customer acting reasonably then the Customer may terminate this Call Off Contract for material Default.

16.5 If the Supplier is temporarily unable to fulfil the requirements of this Call Off Contract owing to disruption of normal business solely due to a Customer Cause, then subject to Clause 17 (Supplier Notification of Customer Cause), an appropriate allowance by way of an extension of time will be Approved by the Customer. In addition, the Customer will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

17. SUPPLIER NOTIFICATION OF CUSTOMER CAUSE

17.1 Without prejudice to any other obligations of the Supplier in this Call Off Contract to notify the Customer in respect of a specific Customer Cause (including the notice requirements under Clause 42.1.1 (Termination on Customer Cause for Failure to Pay)), the Supplier shall:

17.1.1 notify the Customer as soon as reasonably practicable ((and in any event within two (2) Working Days of the Supplier becoming aware)) that a Customer Cause has occurred or is reasonably likely to occur, giving details of:

- (a) the Customer Cause and its effect, or likely effect, on the Supplier's ability to meet its obligations under this Call Off Contract; and
- (b) any steps which the Customer can take to eliminate or mitigate the consequences and impact of such Customer Cause; and
- (c) use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Customer Cause, including any Losses that the Supplier may incur and the duration and consequences of any Delay or anticipated Delay.

18. CONTINUOUS IMPROVEMENT

18.1 The Supplier shall have an ongoing obligation throughout the Call Off Contract Period to identify new or potential improvements to the provision of the Goods and/or Services in accordance with this Clause 18 with a view to reducing the Customer's costs (including the Call Off Contract Charges) and/or improving the quality and efficiency of the Goods and/or Services and their supply to the Customer. As part of this obligation the Supplier shall identify and report to the Customer once every twelve (12) months:

- 18.1.1 the emergence of new and evolving relevant technologies which could improve the ICT Environment, Sites and/or the provision of the Goods and/or Services, and those technological advances potentially available to the Supplier and the Customer which the Parties may wish to adopt;
- 18.1.2 new or potential improvements to the provision of the Goods and/or Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support goods and/or services in relation to the Goods and/or Services;
- 18.1.3 changes in business processes and ways of working that would enable the Goods and/or Services to be provided at lower costs and/or at greater benefits to the Customer; and/or
- 18.1.4 changes to the ICT Environment, Sites, business processes and ways of working that would enable reductions in the total energy consumed annually in the provision of the Goods and/or Services.

18.2 The Supplier shall ensure that the information that it provides to the Customer shall be sufficient for the Customer to decide whether any improvement should be implemented. The Supplier shall provide any further information that the Customer requests.

18.3 If the Customer wishes to incorporate any improvement identified by the Supplier, the Customer shall request a Variation in accordance with the Variation Procedure and the Supplier shall implement such Variation at no additional cost to the Customer.

D. CALL OFF CONTRACT GOVERNANCE

19. PERFORMANCE MONITORING

19.1 The Supplier shall comply with the monitoring requirements set out in Part B (Performance Monitoring) of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring).

20. REPRESENTATIVES

20.1 Each Party shall have a representative for the duration of this Call Off Contract who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Call Off Contract.

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20.2 The initial Supplier Representative shall be the person named as such in the Call Off Order Form. Any change to the Supplier Representative shall be agreed in accordance with Clause 27 (Supplier Personnel).

20.3 If the initial Customer Representative is not specified in the Call Off Order Form, the Customer shall notify the Supplier of the identity of the initial Customer Representative within five (5) Working Days of the Call Off Commencement Date. The Customer may, by written notice to the Supplier, revoke or amend the authority of the Customer Representative or appoint a new Customer Representative.

21. RECORDS, AUDIT ACCESS AND OPEN BOOK DATA

21.1 The Supplier shall keep and maintain for seven (7) years after the Call Off Expiry Date (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Call Off Contract including the Goods and/or Services provided under it, any Sub-Contracts and the amounts paid by the Customer.

21.2 The Supplier shall:

21.2.1 keep the records and accounts referred to in Clause 21.1 in accordance with Good Industry Practice and Law; and

21.2.2 afford any Auditor access to the records and accounts referred to in Clause 21.1 at the Supplier's premises and/or provide records and accounts (including copies of the Supplier's published accounts) or copies of the same, as may be required by any of the Auditors from time to time during the Call Off Contract Period and the period specified in Clause 21.1, in order that the Auditor(s) may carry out an inspection to assess compliance by the Supplier and/or its Sub-Contractors of any of the Supplier's obligations under this Call Off Contract including in order to:

- (a) verify the accuracy of the Call Off Contract Charges and any other amounts payable by the Customer under this Call Off Contract (and proposed or actual variations to them in accordance with this Call Off Contract);
- (b) verify the costs of the Supplier (including the costs of all Sub-Contractors and any third party suppliers) in connection with the provision of the Goods and/or Services;
- (c) verify the Open Book Data;
- (d) verify the Supplier's and each Sub-Contractor's compliance with the applicable Law;
- (e) identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Customer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;

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- (f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Framework Guarantor and/or the Call Off Guarantor and/or any Sub-Contractors or their ability to perform the Goods and/or Services;
- (g) obtain such information as is necessary to fulfil the Customer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (h) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Call Off Contract;
- (i) carry out the Customer's internal and statutory audits and to prepare, examine and/or certify the Customer's annual and interim reports and accounts;
- (j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;
- (k) review any Performance Monitoring Reports provided under Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) and/or other records relating to the Supplier's performance of the provision of the Goods and/or Services and to verify that these reflect the Supplier's own internal reports and records;
- (l) verify the accuracy and completeness of any information delivered or required by this Call Off Contract;
- (m) inspect the ICT Environment (or any part of it) and the wider service delivery environment (or any part of it);
- (n) review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
- (o) review the Supplier's quality management systems (including all relevant Quality Plans and any quality manuals and procedures);
- (p) review the Supplier's compliance with the Standards;
- (q) inspect the Customer Assets, including the Customer's IPRs, equipment and facilities, for the purposes of

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ensuring that the Customer Assets are secure and that any register of assets is up to date; and/or

- (r) review the integrity, confidentiality and security of the Customer Data.

21.3 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Goods and/or Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the control of the Customer.

21.4 Subject to the Supplier's rights in respect of Confidential Information, the Supplier shall on demand provide the Auditor(s) with all reasonable co-operation and assistance in:

- 21.4.1 all reasonable information requested by the Customer within the scope of the audit;
- 21.4.2 reasonable access to sites controlled by the Supplier and to any Supplier Equipment used in the provision of the Goods and/or Services; and
- 21.4.3 access to the Supplier Personnel.

21.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 21, unless the audit reveals a Default by the Supplier in which case the Supplier shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.

22. CHANGE

22.1 Variation Procedure

22.1.1 Subject to the provisions of this Clause 22 and of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), either Party may request a variation to this Call Off Contract provided that such variation does not amount to a material change of this Call Off Contract within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a "**Variation**".

22.1.2 A Party may request a Variation by completing, signing and sending the Variation Form to the other Party giving sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred.

22.1.3 Where the Customer has so specified on receipt of a Variation Form from the Supplier, the Supplier shall carry out an impact assessment of the Variation on the Goods and/or Services (the "**Impact Assessment**"). The Impact Assessment shall be completed in good faith and shall include:

- (a) details of the impact of the proposed Variation on the Goods and/or Services and the Supplier's ability to meet its other obligations under this Call Off Contract;

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- (b) details of the cost of implementing the proposed Variation;
- (c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Call Off Contract Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
- (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and
- (e) such other information as the Customer may reasonably request in (or in response to) the Variation request.

22.1.4 The Parties may agree to adjust the time limits specified in the Variation Form to allow for the preparation of the Impact Assessment.

22.1.5 Subject to 22.1.4, the receiving Party shall respond to the request within the time limits specified in the Variation Form. Such time limits shall be reasonable and ultimately at the discretion of the Customer having regard to the nature of the Goods and/or Services and the proposed Variation.

22.1.6 In the event that:

- (a) the Supplier is unable to agree to or provide the Variation; and/or
- (b) the Parties are unable to agree a change to the Call Off Contract Charges that may be included in a request of a Variation or response to it as a consequence thereof,

the Customer may:

- (i) agree to continue to perform its obligations under this Call Off Contract without the Variation; or
- (ii) terminate this Call Off Contract with immediate effect, except where the Supplier has already fulfilled part or all of the provision of the Goods and/or Services in accordance with this Call Off Contract or where the Supplier can show evidence of substantial work being carried out to provide the Goods and/or Services under this Call Off Contract, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure.

22.1.7 If the Parties agree the Variation, the Supplier shall implement such Variation and be bound by the same provisions so far as is

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applicable, as though such Variation was stated in this Call Off Contract.

22.2 Legislative Change

22.2.1 The Supplier shall neither be relieved of its obligations under this Call Off Contract nor be entitled to an increase in the Call Off Contract Charges as the result of a:

- (a) General Change in Law;
- (b) Specific Change in Law where the effect of that Specific Change in Law on the Goods and/or Services is reasonably foreseeable at the Call Off Commencement Date.

22.2.2 If a Specific Change in Law occurs or will occur during the Call Off Contract Period (other than as referred to in Clause 22.2.1(b)), the Supplier shall:

- (a) notify the Customer as soon as reasonably practicable of the likely effects of that change including:
 - (i) whether any Variation is required to the provision of the Goods and/or Services, the Call Off Contract Charges or this Call Off Contract; and
 - (ii) whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Service Level Performance Measures; and
- (b) provide to the Customer with evidence:
 - (i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors;
 - (ii) as to how the Specific Change in Law has affected the cost of providing the Goods and/or Services; and
 - (iii) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 18 (Continuous Improvement), has been taken into account in amending the Call Off Contract Charges.

22.2.3 Any change in the Call Off Contract Charges or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in Clause 22.2.1(b)) shall be implemented in accordance with the Variation Procedure.

E. PAYMENT, TAXATION AND VALUE FOR MONEY PROVISIONS

23. CALL OFF CONTRACT CHARGES AND PAYMENT

23.1 Call Off Contract Charges

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- 23.1.1 In consideration of the Supplier carrying out its obligations under this Call Off Contract, including the provision of the Goods and/or Services, the Customer shall pay the undisputed Call Off Contract Charges in accordance with the pricing and payment profile and the invoicing procedure in Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing).
- 23.1.2 Except as otherwise provided, each Party shall bear its own costs and expenses incurred in respect of compliance with its obligations under Clauses 12 (Testing), 21 (Records, Audit Access and Open Book Data), 34.6 (Freedom of Information) and 34.7 (Protection of Personal Data).
- 23.1.3 If the Customer fails to pay any undisputed Call Off Contract Charges properly invoiced under this Call Off Contract, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 23.1.4 If at any time during this Call Off Contract Period the Supplier reduces its Framework Prices for any Goods and/or Services which are provided under the Framework Agreement (whether or not such Goods and/or Services are offered in a catalogue, if any, which is provided under the Framework Agreement) in accordance with the terms of the Framework Agreement, the Supplier shall immediately reduce the Call Off Contract Charges for such Goods and/or Services under this Call Off Contract by the same amount.

23.2 VAT

- 23.2.1 The Call Off Contract Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Customer following delivery of a Valid Invoice.
- 23.2.2 The Supplier shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Customer at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Call Off Contract. Any amounts due under Clause 23.2 (VAT) shall be paid in cleared funds by the Supplier to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.

23.3 Retention and Set Off

- 23.3.1 The Customer may retain or set off any amount owed to it by the Supplier against any amount due to the Supplier under this Call Off Contract or under any other agreement between the Supplier and the Customer.

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23.3.2 If the Customer wishes to exercise its right pursuant to Clause 23.3.1 it shall give notice to the Supplier within thirty (30) days of receipt of the relevant invoice, setting out the Customer's reasons for retaining or setting off the relevant Call Off Contract Charges.

23.3.3 The Supplier shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has obtained a sealed court order requiring an amount equal to such deduction to be paid by the Customer to the Supplier.

23.4 Foreign Currency

23.4.1 Any requirement of Law to account for the Goods and/or Services in any currency other than Sterling, (or to prepare for such accounting) instead of and/or in addition to Sterling, shall be implemented by the Supplier free of charge to the Customer.

23.4.2 The Customer shall provide all reasonable assistance to facilitate compliance with Clause 23.4.1 by the Supplier.

23.5 Income Tax and National Insurance Contributions

23.5.1 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Call Off Contract, the Supplier shall:

- (a) at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
- (b) indemnify the Customer against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Goods and/or Services by the Supplier or any Supplier Personnel.

23.5.2 In the event that any one of the Supplier Personnel is a Worker as defined in Call Off Schedule 1 (Definitions) who receives consideration relating to the Goods and/or Services, then, in addition to its obligations under Clause 23.5.1, the Supplier shall ensure that its contract with the Worker contains the following requirements:

- (a) that the Customer may, at any time during the Call Off Contract Period, request that the Worker provides information which demonstrates how the Worker

- complies with the requirements of Clause 23.5.1, or why those requirements do not apply to it. In such case, the Customer may specify the information which the Worker must provide and the period within which that information must be provided;
- (b) that the Worker's contract may be terminated at the Customer's request if:
 - (i) the Worker fails to provide the information requested by the Customer within the time specified by the Customer under Clause 23.5.2(a); and/or
 - (ii) the Worker provides information which the Customer considers is inadequate to demonstrate how the Worker complies with Clause 23.5.1 or confirms that the Worker is not complying with those requirements; and
 - (c) that the Customer may supply any information it receives from the Worker to HMRC for the purpose of the collection and management of revenue for which they are responsible.

24. PROMOTING TAX COMPLIANCE

24.1 This Clause 24 shall apply if the Call Off Contract Charges payable under this Call Off Contract exceed or are likely to exceed five (5) million pounds during the Call Off Contract Period.

24.2 If, at any point during the Call Off Contract Period, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

24.2.1 notify the Customer in writing of such fact within five (5) Working Days of its occurrence; and

24.2.2 promptly provide to the Customer:

- (a) details of the steps that the Supplier is taking to address the Occasion of 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 Occasion of Tax Non-Compliance as the Customer may reasonably require.

24.3 In the event that the Supplier fails to comply with this Clause 24 and/or does not provide details of proposed mitigating factors which in the reasonable opinion of the Customer are acceptable, then the Customer reserves the right to terminate this Call Off Contract for material Default.

25. BENCHMARKING

25.1 Notwithstanding the Supplier's obligations under Clause 18 (Continuous Improvement), the Customer shall be entitled to regularly benchmark the Call

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Off Contract Charges and level of performance by the Supplier of the supply of the Goods and/or Services, against other suppliers providing goods and/or services substantially the same as the Goods and/or Services during the Call Off Contract Period.

- 25.2 The Customer, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking evaluation referred to in Clause 25.1 above.
- 25.3 The Customer shall be entitled to disclose the results of any benchmarking of the Call Off Contract Charges and provision of the Goods and/or Services to the Authority and any Contracting Authority (subject to the Contracting Authority entering into reasonable confidentiality undertakings).
- 25.4 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the Customer in order to undertake the benchmarking and such information requirements shall be at the discretion of the Customer.
- 25.5 Where, as a consequence of any benchmarking carried out by the Customer, the Customer decides improvements to the Goods and/or Services should be implemented such improvements shall be implemented by way of the Variation Procedure at no additional cost to the Customer.
- 25.6 The benefit of any work carried out by the Supplier at any time during the Call Off Contract Period to update, improve or provide the Goods and/or Services, facilitate their delivery to any other Contracting Authority and/or any alterations or variations to the Charges or the provision of the Goods and/or Services, which are identified in the Continuous Improvement Plan produced by the Supplier and/or as a consequence of any benchmarking carried out by the Authority pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking), shall be implemented by the Supplier in accordance with the Variation Procedure and at no additional cost to the Customer.

F. SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS

26. KEY PERSONNEL

- 26.1 This Clause 26 shall apply where the Customer has specified Key Personnel in the Call Off Order Form.
- 26.2 The Call Off Order Form lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Call Off Commencement Date.
- 26.3 The Supplier shall ensure that the Key Personnel fulfil the Key Roles at all times during the Call Off Contract Period.
- 26.4 The Customer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Personnel.
- 26.5 The Supplier shall not remove or replace any Key Personnel (including when carrying out its obligations under Call Off Schedule 9 (Exit Management)) unless:

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- 26.5.1 requested to do so by the Customer;
 - 26.5.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
 - 26.5.3 the person's employment or contractual arrangement with the Supplier or a Sub-Contractor is terminated for material breach of contract by the employee; or
 - 26.5.4 the Supplier obtains the Customer's prior written consent (such consent not to be unreasonably withheld or delayed).
- 26.6 The Supplier shall:
- 26.6.1 notify the Customer promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - 26.6.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
 - 26.6.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least three (3) Months' notice;
 - 26.6.4 ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Goods and/or Services; and
 - 26.6.5 ensure that any replacement for a Key Role:
 - (a) has a level of qualifications and experience appropriate to the relevant Key Role; and
 - (b) is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.
 - 26.6.6 shall and shall procure that any Sub-Contractor shall not remove or replace any Key Personnel during the Call Off Contract Period without Approval.
- 26.7 The Customer may require the Supplier to remove any Key Personnel that the Customer considers in any respect unsatisfactory. The Customer shall not be liable for the cost of replacing any Key Personnel.

27. SUPPLIER PERSONNEL

27.1 Supplier Personnel

- 27.1.1 The Supplier shall:
 - (a) provide a list of the names of all Supplier Personnel requiring admission to Customer Premises, specifying

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the capacity in which they require admission and giving such other particulars as the Customer may reasonably require;

- (b) ensure that all Supplier Personnel:
 - (i) are appropriately qualified, trained and experienced to provide the Goods and/or Services with all reasonable skill, care and diligence;
 - (ii) are vetted in accordance with Good Industry Practice and, where applicable, the Security Policy and the Standards;
 - (iii) obey all lawful instructions and reasonable directions of the Customer (including, if so required by the Customer, the ICT Policy) and provide the Goods and/or Services to the reasonable satisfaction of the Customer; and
 - (iv) comply with all reasonable requirements of the Customer concerning conduct at the Customer Premises, including the security requirements set out in Call Off Schedule 7 (Security);
- (c) subject to Call Off Schedule 10 (Staff Transfer), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or contractors of the Customer;
- (d) be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Call Off Contract shall be a Default by the Supplier;
- (e) use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
- (f) replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;
- (g) bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
- (h) procure that the Supplier Personnel shall vacate the Customer Premises immediately upon the Call Off Expiry Date.

27.1.2 If the Customer reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Call Off Contract, it may:

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- (a) refuse admission to the relevant person(s) to the Customer Premises; and/or
- (b) direct the Supplier to end the involvement in the provision of the Goods and/or Services of the relevant person(s).

27.1.3 The decision of the Customer as to whether any person is to be refused access to the Customer Premises shall be final and conclusive.

27.2 Relevant Convictions

27.2.1 This sub-clause 27.2 shall apply if the Customer has specified Relevant Convictions in the Call Off Order Form.

27.2.2 The Supplier shall ensure that no person who discloses that he has a Relevant Conviction, or who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Goods and/or Services without Approval.

27.2.3 Notwithstanding Clause 27.2.2, for each member of Supplier Personnel who, in providing the Goods and/or Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Customer owes a special duty of care, the Supplier shall (and shall procure that the relevant Sub-Contractor shall):

- (a) carry out a check with the records held by the Department for Education (DfE);
- (b) conduct thorough questioning regarding any Relevant Convictions; and
- (c) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Goods and/or Services any person who has a Relevant Conviction or an inappropriate record.

28. STAFF TRANSFER

28.1 This Clause 28 and Call Off Schedule 10 (Staff Transfer) shall apply to Lots 2, 3, 4 and 5 under this Call Off Contract.

28.2 The Parties agree that :

28.2.1 where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Call Off Schedule 10 (Staff Transfer) shall apply as follows:

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- (a) where the Relevant Transfer involves the transfer of Transferring Customer Employees, Part A of Call Off Schedule 10 (Staff Transfer) shall apply;
 - (b) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Call Off Schedule 10 (Staff Transfer) shall apply;
 - (c) where the Relevant Transfer involves the transfer of Transferring Customer Employees and Transferring Former Supplier Employees, Parts A and B of Call Off Schedule 10 (Staff Transfer) shall apply; and
 - (d) Part C of Call Off Schedule 10 (Staff Transfer) shall not apply;
- 28.2.2 where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Call Off Schedule 10 (Staff Transfer) shall apply and Parts A and B of Call Off Schedule 10 (Staff Transfer) shall not apply; and
- 28.2.3 Part D of Call Off Schedule 10 (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services;
- 28.3 The Supplier shall both during and after the Call Off Contract Period indemnify the Customer against all Employee Liabilities that may arise as a result of any claims brought against the Customer by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel.

29. SUPPLY CHAIN RIGHTS AND PROTECTION

29.1 Appointment of Sub-Contractors

- 29.1.1 The Supplier shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Supplier is able to:
 - (a) manage any Sub-Contractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Call Off Contract in the Delivery of the Goods and/or Services; and
 - (c) assign, novate or otherwise transfer to the Customer or any Replacement Supplier any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Call Off Contract.
- 29.1.2 Prior to sub-contacting any of its obligations under this Call Off Contract, the Supplier shall notify the Customer and provide the Customer with:
 - (a) the proposed Sub-Contractor's name, registered office and company registration number;
 - (b) the scope of any Goods and/or Services to be provided by the proposed Sub-Contractor; and

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- (c) where the proposed Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Customer that the proposed Sub-Contract has been agreed on "arm's-length" terms.

29.1.3 If requested by the Customer within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 29.1.2, the Supplier shall also provide:

- (a) a copy of the proposed Sub-Contract; and
- (b) any further information reasonably requested by the Customer.

29.1.4 The Customer may, within ten (10) Working Days of receipt of the Supplier's notice issued pursuant to Clause 29.1.2 (or, if later, receipt of any further information requested pursuant to Clause 29.1.3), object to the appointment of the relevant Sub-Contractor if they consider that:

- (a) the appointment of a proposed Sub-Contractor may prejudice the provision of the Goods and/or Services or may be contrary to the interests respectively of the Customer under this Call Off Contract;
- (b) the proposed Sub-Contractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
- (c) the proposed Sub-Contractor employs unfit persons,

in which case, the Supplier shall not proceed with the proposed appointment.

29.1.5 If:

- (a) the Customer has not notified the Supplier that it objects to the proposed Sub-Contractor's appointment by the later of ten (10) Working Days of receipt of:
 - (i) the Supplier's notice issued pursuant to Clause 29.1.2; and
 - (ii) any further information requested by the Customer pursuant to Clause 29.1.3; and
- (b) the proposed Sub-Contract is not a Key Sub-Contract which shall require the written consent of the Authority and the Customer in accordance with Clause 29.2 (Appointment of Key Sub-Contractors).

the Supplier may proceed with the proposed appointment.

29.2 Appointment of Key Sub-Contractors

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- 29.2.1 The Authority and the Customer have consented to the engagement of the Key Sub-Contractors listed in Framework Schedule 7 (Key Sub-Contractors).
- 29.2.2 Where the Supplier wishes to enter into a new Key Sub-Contract or replace a Key Sub-Contractor, it must obtain the prior written consent of the Authority and the Customer (the decision to consent or otherwise not to be unreasonably withheld or delayed). The Authority and/or the Customer may reasonably withhold its consent to the appointment of a Key Sub-Contractor if any of them considers that:
- (a) the appointment of a proposed Key Sub-Contractor may prejudice the provision of the Goods and/or Services or may be contrary to its interests;
 - (b) the proposed Key Sub-Contractor is unreliable and/or has not provided reliable goods and/or reasonable services to its other customers; and/or
 - (c) the proposed Key Sub-Contractor employs unfit persons.
- 29.2.3 Except where the Authority and the Customer have given their prior written consent under Clause 29.2.1, the Supplier shall ensure that each Key Sub-Contract shall include:
- (a) provisions which will enable the Supplier to discharge its obligations under this Call Off Contract;
 - (b) a right under CRTPA for the Customer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Customer;
 - (c) a provision enabling the Customer to enforce the Key Sub-Contract as if it were the Supplier;
 - (d) a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Customer or any Replacement Supplier;
 - (e) obligations no less onerous on the Key Sub-Contractor than those imposed on the Supplier under this Call Off Contract in respect of:
 - (i) data protection requirements set out in Clauses 34.1 (Security Requirements), 34.2 (Protection of Customer Data) and 34.7 (Protection of Personal Data);
 - (ii) FOIA requirements set out in Clause 34.6 (Freedom of Information);
 - (iii) the obligation not to embarrass the Customer or otherwise bring the Customer into disrepute set out in Clause 7.1.4(n) (Provision of Goods and/or Services);

- (iv) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data;
- (v) the conduct of audits set out in Clause 21 (Records, Audit Access & Open Book Data);
- (f) provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Customer under Clauses 41 (Customer Termination Rights), 43 (Termination by Either Party) and 45 (Consequences of Expiry or Termination) of this Call Off Contract;
- (g) a provision restricting the ability of the Key Sub-Contractor to Sub-Contract all or any part of the provision of the Goods and/or Services provided to the Supplier under the Sub-Contract without first seeking the written consent of the Customer;
- (h) a provision, where a provision in Call Off Schedule 10 (Staff Transfer) imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, requiring the Key Sub-Contractor to provide such indemnity, undertaking or warranty to the Customer, Former Supplier or the Replacement Supplier as the case may be.

29.3 Supply Chain Protection

29.3.1 The Supplier shall ensure that all Sub-Contracts contain a provision:

- (a) requiring the Supplier to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a Valid Invoice;
- (b) requiring that any invoices submitted by a Sub-Contractor shall be considered and verified by the Supplier in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
- (c) requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards suitable provisions to impose, as between the parties to that Sub-Contract, requirements to the same effect as those required by sub-clauses (a) and (b) directly above; and
- (d) conferring a right to the Customer to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period.

29.3.2 The Supplier shall:

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- (a) pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days from the receipt of a Valid Invoice;
 - (b) include within the Performance Monitoring Reports required under Part B of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) a summary of its compliance with this Clause 29.3.2 (a), such data to be certified each quarter by a director of the Supplier as being accurate and not misleading.
- 29.3.3 Any invoices submitted by a Sub-Contractor to the Supplier shall be considered and verified by the Supplier in a timely fashion. Undue delay in doing so shall not be sufficient justification for the Supplier failing to regard an invoice as valid and undisputed.
- 29.3.4 Notwithstanding any provision of Clauses 34.4 (Confidentiality) and 35 (Publicity and Branding) if the Supplier notifies the Customer that the Supplier has failed to pay an undisputed Sub-Contractor's invoice within thirty (30) days of receipt, or the Customer otherwise discovers the same, the Customer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

29.4 Termination of Sub-Contracts

- 29.4.1 The Customer may require the Supplier to terminate:
 - (a) a Sub-Contract where:
 - (i) the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Customer's right of termination pursuant to any of the termination events in Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); and/or
 - (ii) the relevant Sub-Contractor or its Affiliates embarrassed the Customer or otherwise brought the Customer into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Customer, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Goods and/or Services or otherwise; and/or
 - (b) a Key Sub-Contract where there is a Change of Control of the relevant Key Sub-Contractor, unless:
 - (i) the Customer has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Customer has not served its notice of objection within six (6) months of the later of the date the

Change of Control took place or the date on which the Customer was given notice of the Change of Control.

29.5 Competitive Terms

- 29.5.1 If the Customer is able to obtain from any Sub-Contractor or any other third party more favourable commercial terms with respect to the supply of any materials, equipment, software, goods or services used by the Supplier or the Supplier Personnel in the supply of the Goods and/or Services, then the Customer may:
- (a) require the Supplier to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Customer in respect of the relevant item; or
 - (b) subject to Clause 29.4 (Termination of Sub-Contracts), enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.
- 29.5.2 If the Customer exercises the option pursuant to Clause 29.5.1, then the Call Off Contract Charges shall be reduced by an amount that is agreed in accordance with the Variation Procedure.
- 29.5.3 The Customer's right to enter into a direct agreement for the supply of the relevant items is subject to:
- (a) the Customer making the relevant item available to the Supplier where this is necessary for the Supplier to provide the Goods and/or Services; and
 - (b) any reduction in the Call Off Contract Charges taking into account any unavoidable costs payable by the Supplier in respect of the substituted item, including in respect of any licence fees or early termination charges.

29.6 Retention of Legal Obligations

- 29.6.1 Notwithstanding the Supplier's right to Sub-Contract pursuant to Clause 29 (Supply Chain Rights and Protection), the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.

G. PROPERTY MATTERS

30. CUSTOMER PREMISES

30.1 Licence to occupy Customer Premises

- 30.1.1 Any Customer Premises shall be made available to the Supplier on a non-exclusive licence basis free of charge and shall be used by the Supplier solely for the purpose of performing its obligations under this Call Off Contract. The Supplier shall have the use of such Customer Premises as licensee and shall vacate the same

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immediately upon completion, termination, expiry or abandonment of this Call Off Contract and in accordance with Call Off Schedule 9 (Exit Management).

- 30.1.2 The Supplier shall limit access to the Customer Premises to such Supplier Personnel as is necessary to enable it to perform its obligations under this Call Off Contract and the Supplier shall co-operate (and ensure that the Supplier Personnel co-operate) with such other persons working concurrently on such Customer Premises as the Customer may reasonably request.
- 30.1.3 Save in relation to such actions identified by the Supplier in accordance with Clause 2 (Due Diligence) and set out in the Call Off Order Form (or elsewhere in this Call Off Contract), should the Supplier require modifications to the Customer Premises, such modifications shall be subject to Approval and shall be carried out by the Customer at the Supplier's expense. The Customer shall undertake any modification work which it approves pursuant to this Clause 30.1.3 without undue delay. Ownership of such modifications shall rest with the Customer.
- 30.1.4 The Supplier shall observe and comply with such rules and regulations as may be in force at any time for the use of such Customer Premises and conduct of personnel at the Customer Premises as determined by the Customer, and the Supplier shall pay for the full cost of making good any damage caused by the Supplier Personnel other than fair wear and tear. For the avoidance of doubt, damage includes without limitation damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
- 30.1.5 The Parties agree that there is no intention on the part of the Customer to create a tenancy of any nature whatsoever in favour of the Supplier or the Supplier Personnel and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Call Off Contract, the Customer retains the right at any time to use any Customer Premises in any manner it sees fit.

30.2 Security of Customer Premises

- 30.2.1 The Customer shall be responsible for maintaining the security of the Customer Premises in accordance with the Security Policy. The Supplier shall comply with the Security Policy and any other reasonable security requirements of the Customer while on the Customer Premises.
- 30.2.2 The Customer shall afford the Supplier upon Approval (the decision to Approve or not will not be unreasonably withheld or delayed) an opportunity to inspect its physical security arrangements.

31. CUSTOMER PROPERTY

- 31.1 Where the Customer issues Customer Property free of charge to the Supplier such Customer Property shall be and remain the property of the Customer and the Supplier irrevocably licences the Customer and its agents to enter upon any

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premises of the Supplier during normal business hours on reasonable notice to recover any such Customer Property.

- 31.2 The Supplier shall not in any circumstances have a lien or any other interest on the Customer Property and at all times the Supplier shall possess the Customer Property as fiduciary agent and bailee of the Customer.
- 31.3 The Supplier shall take all reasonable steps to ensure that the title of the Customer to the Customer Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Customer's request, store the Customer Property separately and securely and ensure that it is clearly identifiable as belonging to the Customer.
- 31.4 The Customer Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies the Customer otherwise within five (5) Working Days of receipt.
- 31.5 The Supplier shall maintain the Customer Property in good order and condition (excluding fair wear and tear) and shall use the Customer Property solely in connection with this Call Off Contract and for no other purpose without Approval.
- 31.6 The Supplier shall ensure the security of all the Customer Property whilst in its possession, either on the Sites or elsewhere during the supply of the Goods and/or Services, in accordance with the Customer's Security Policy and the Customer's reasonable security requirements from time to time.
- 31.7 The Supplier shall be liable for all loss of, or damage to the Customer Property, (excluding fair wear and tear), unless such loss or damage was solely caused by a Customer Cause. The Supplier shall inform the Customer immediately of becoming aware of any defects appearing in or losses or damage occurring to the Customer Property.

32. SUPPLIER EQUIPMENT

- 32.1 Unless otherwise stated in the Call Off Order Form (or elsewhere in this Call Off Contract), the Supplier shall provide all the Supplier Equipment necessary for the provision of the Goods and/or Services.
- 32.2 The Supplier shall not deliver any Supplier Equipment nor begin any work on the Customer Premises without obtaining Approval.
- 32.3 The Supplier shall be solely responsible for the cost of carriage of the Supplier Equipment to the Sites and/or any Customer Premises, including its off-loading, removal of all packaging and all other associated costs. Likewise on the Call Off Expiry Date the Supplier shall be responsible for the removal of all relevant Supplier Equipment from the Sites and/or any Customer Premises, including the cost of packing, carriage and making good the Sites and/or the Customer Premises following removal.
- 32.4 All the Supplier's property, including Supplier Equipment, shall remain at the sole risk and responsibility of the Supplier, except that the Customer shall be liable for loss of or damage to any of the Supplier's property located on

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Customer Premises which is due to the negligent act or omission of the Customer.

- 32.5 Subject to any express provision of the BCDR Plan to the contrary, the loss or destruction for any reason of any Supplier Equipment shall not relieve the Supplier of its obligation to supply the Goods and/or Services in accordance with this Call Off Contract, including the Service Level Performance Measures.
- 32.6 The Supplier shall maintain all Supplier Equipment within the Sites and/or the Customer Premises in a safe, serviceable and clean condition.
- 32.7 The Supplier shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:
- 32.7.1 remove from the Customer Premises any Supplier Equipment or any component part of Supplier Equipment which in the reasonable opinion of the Customer is either hazardous, noxious or not in accordance with this Call Off Contract; and
 - 32.7.2 replace such Supplier Equipment or component part of Supplier Equipment with a suitable substitute item of Supplier Equipment.
- 32.8 For the purposes of this Clause 32.8, 'X' shall be the number of Service Failures, and 'Y' shall be the period in months, as respectively specified for 'X' and 'Y' in the Call Off Order Form. If this Clause 32.8 has been specified to apply in the Call Off Order Form, and there are no values specified for 'X' and/or 'Y', in default, 'X' shall be two (2) and 'Y' shall be twelve (12). Where a failure of Supplier Equipment or any component part of Supplier Equipment causes X or more Service Failures in any Y Month period, the Supplier shall notify the Customer in writing and shall, at the Customer's request (acting reasonably), replace such Supplier Equipment or component part thereof at its own cost with a new item of Supplier Equipment or component part thereof (of the same specification or having the same capability as the Supplier Equipment being replaced).

MAINTENANCE OF THE ICT ENVIRONMENT

- 32.9 If specified by the Customer in the Order Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**").
- 32.10 The Supplier shall provide to the Customer a draft Maintenance Schedule for Approval within such period of time and in accordance with any other instructions of the Customer as specified in the Call Off Order Form.
- 32.11 Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 32.12 The Supplier shall give as much notice as is reasonably practicable to the Customer prior to carrying out any Emergency Maintenance.
- 32.13 The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried

out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Goods and/or Services.

H. INTELLECTUAL PROPERTY AND INFORMATION

33. INTELLECTUAL PROPERTY RIGHTS

33.1 Allocation of title to IPR

33.1.1 Save as expressly granted elsewhere under this Call Off Contract:

- (a) the Customer shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, including:
 - (i) the Supplier Background IPR;
 - (ii) the Third Party IPR; and
 - (iii) the Project Specific IPR.
- (b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Customer or its licensors, including the:
 - (i) Customer Background IPR; and
 - (ii) Customer Data.

33.1.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause **Error! Reference source not found.**, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

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

33.2 Licence granted by the Supplier: Project Specific IPR

33.2.1 The Supplier hereby grants to the Customer, or shall procure the direct grant to the Customer of, a perpetual, royalty-free, irrevocable, non-exclusive licence to use the Project Specific IPR including but not limited to the right to copy, adapt, publish and distribute such Project Specific IPR.

33.3 Licence granted by the Supplier: Supplier Background IPR

33.3.1 The Supplier hereby grants to the Customer a perpetual, royalty-free and non-exclusive licence to use the Supplier Background IPR for any purpose relating to the Goods and/or Services (or substantially equivalent goods and/or services) or for any purpose relating to the exercise of the Customer's (or, if the Customer is a Central Government Body, any other Central Government Body's) business or function.

- 33.3.2 At any time during the Call Off Contract Period or following the Call Off Expiry Date, the Supplier may terminate a licence granted in respect of the Supplier Background IPR under Clause 33.3.1 by giving thirty (30) days' notice in writing (or such other period as agreed by the Parties) if there is a Customer Cause which constitutes a material breach of the terms of **Error! Reference source not found.** which, if the breach is capable of remedy, is not remedied within twenty (20) Working Days after the Supplier gives the Customer written notice specifying the breach and requiring its remedy.
- 33.3.3 In the event the licence of the Supplier Background IPR is terminated pursuant to Clause **Error! Reference source not found.**, the Customer shall:
- (a) immediately cease all use of the Supplier Background IPR;
 - (b) at the discretion of the Supplier, return or destroy documents and other tangible materials that contain any of the Supplier Background IPR, provided that if the Supplier has not made an election within six (6) Months of the termination of the licence, the Customer may destroy the documents and other tangible materials that contain any of the Supplier Background IPR; and
 - (c) ensure, so far as reasonably practicable, that any Supplier Background IPR that is held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Customer) from any computer, word processor, voicemail system or any other device containing such Supplier Background IPR.

33.4 Customer's right to sub-license

- 33.4.1 The Customer shall be freely entitled to sub-license the rights granted to it pursuant to Clause 33.2 (Licence granted by the Supplier: Project Specific IPR).
- 33.4.2 The Customer may sub-license:
- (a) the rights granted under Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) to a third party (including for the avoidance of doubt, any Replacement Supplier) provided that:
 - (i) the sub-license is on terms no broader than those granted to the Customer; and
 - (ii) the sub-license only authorises the third party to use the rights licensed in Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) for purposes relating to the Goods and/or Services (or substantially equivalent goods and/or services) or for any purpose relating to the exercise of the Customer's (or, if the

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Customer is a Central Government Body, any other Central Government Body's) business or function; and

- (b) the rights granted under Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) to any Approved Sub-Licensee to the extent necessary to use and/or obtain the benefit of the Project Specific IPR provided that the sub-licence is on terms no broader than those granted to the Customer.

33.5 Customer's right to assign/novate licences

- 33.5.1 The Customer shall be freely entitled to assign, novate or otherwise transfer its rights and obligations under the licence granted to it pursuant to Clause 33.2 (Licence granted by the Supplier: Project Specific IPR).
- 33.5.2 The Customer may assign, novate or otherwise transfer its rights and obligations under the licence granted pursuant to Clause **Error! Reference source not found.** (Licence granted by the Supplier: Supplier Background IPR) to:
 - (a) a Central Government Body; or
 - (b) to any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer.
- 33.5.3 Where the Customer is a Central Government Body, any change in the legal status of the Customer which means that it ceases to be a Central Government Body shall not affect the validity of any licence granted in Clause 33.2 (Licence granted by the Supplier: Project Specific IPR) and/or Clause 33.3 (Licences granted by the Supplier: Supplier Background IPR). If the Customer ceases to be a Central Government Body, the successor body to the Customer shall still be entitled to the benefit of the licences granted in Clause **Error! Reference source not found.** (Licence granted by the Supplier: Project Specific IPR) and Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR).
- 33.5.4 If a licence granted in Clause 33.2 (Licence granted by the Supplier: Project Specific IPR) and/or Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) is novated under Clauses 33.5.1 and/or 33.5.2 or there is a change of the Customer's status pursuant to Clause 33.5.3 (both such bodies being referred to as the **"Transferee"**), the rights acquired by the Transferee shall not extend beyond those previously enjoyed by the Customer.

33.6 Third Party IPR

- 33.6.1 The Supplier shall procure that the owners or the authorised licensors of any Third Party IPR grant a direct licence to the Customer on terms at least equivalent to those set out in Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR)

and Clause 33.5 (Customer's right to assign/novate licences). If the Supplier cannot obtain for the Customer a licence materially in accordance with the licence terms set out in Clause 33.3 (Licences granted by the Supplier: Supplier Background IPR) and Clause 33.5 (Customer's right to assign/novate licences) in respect of any such Third Party IPR, the Supplier shall:

- (a) notify the Customer in writing giving details of what licence terms can be obtained from the relevant third party and whether there are alternative providers which the Supplier could seek to use; and
- (b) only use such Third Party IPR if the Customer Approves the terms of the licence from the relevant third party.

33.7 Licence granted by the Customer

33.7.1 The Customer hereby grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call Off Contract Period to use the Customer Background IPR and the Customer Data solely to the extent necessary for providing the Goods and/or Services in accordance with this Call Off Contract, including (but not limited to) the right to grant sub-licences to Sub-Contractors provided that:

- (a) any relevant Sub-Contractor has entered into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 34.3 (Confidentiality); and
- (b) the Supplier shall not without Approval use the licensed materials for any other purpose or for the benefit of any person other than the Customer.

33.8 Termination of licenses

33.8.1 Subject to Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR), all licences granted pursuant to Clause 33 (Intellectual Property Rights) (other than those granted pursuant to Clause 33.6 (Third Party IPR) and 33.7 (Licence granted by the Customer)) shall survive the Call Off Expiry Date.

33.8.2 The Supplier shall, if requested by the Customer in accordance with Call Off Schedule 9 (Exit Management), grant (or procure the grant) to the Replacement Supplier of a licence to use any Supplier Background IPR and/or Third Party IPR on terms equivalent to those set out in Clause 33.3 (Licence granted by the Supplier: Supplier Background IPR) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.

33.8.3 The licence granted pursuant to Clause 33.7 (Licence granted by the Customer) and any sub-licence granted by the Supplier in accordance with Clause 33.7 (Licence granted by the Customer) shall terminate automatically on the Call Off Expiry Date and the Supplier shall:

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- (a) immediately cease all use of the Customer Background IPR and the Customer Data (as the case may be);
- (b) at the discretion of the Customer, return or destroy documents and other tangible materials that contain any of the Customer Background IPR and the Customer Data, provided that if the Customer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Customer Background IPR and the Customer Data (as the case may be); and
- (c) ensure, so far as reasonably practicable, that any Customer Background IPR and Customer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Customer Background IPR and/or Customer Data.

33.9 IPR Indemnity

- 33.9.1 The Supplier shall, during and after the Call Off Contract Period, on written demand, indemnify the Customer against all Losses incurred by, awarded against, or agreed to be paid by the Customer (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.
- 33.9.2 If an IPR Claim is made, or the Supplier anticipates that an IPR Claim might be made, the Supplier may, at its own expense and sole option, either:
 - (a) procure for the Customer the right to continue using the relevant item which is subject to the IPR Claim; or
 - (b) replace or modify the relevant item with non-infringing substitutes provided that:
 - (i) the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item;
 - (ii) the replaced or modified item does not have an adverse effect on any other Goods and/or Services;
 - (iii) there is no additional cost to the Customer; and
 - (iv) the terms and conditions of this Call Off Contract shall apply to the replaced or modified Goods and/or Services.
- 33.9.3 If the Supplier elects to procure a licence in accordance with Clause **Error! Reference source not found.** or to modify or replace an item pursuant to Clause 33.9.2(a), but this has not avoided or resolved the IPR Claim, then:

- (i) the Customer may terminate this Call Off Contract by written notice with immediate effect; and
- (ii) without prejudice to the indemnity set out in Clause 33.9.1, the Supplier shall be liable for all reasonable and unavoidable costs of the substitute goods and/or services including the additional costs of procuring, implementing and maintaining the substitute items.

34. SECURITY AND PROTECTION OF INFORMATION

34.1 Security Requirements

- 34.1.1 The Supplier shall comply with the Security Policy and the requirements of Call Off Schedule 7 (Security) including the Security Management Plan (if any) and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 34.1.2 The Customer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 34.1.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Goods and/or Services it may propose a Variation to the Customer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Call Off Contract Charges shall then be subject to the Variation Procedure.
- 34.1.4 Until and/or unless a change to the Call Off Contract Charges is agreed by the Customer pursuant to the Variation Procedure the Supplier shall continue to provide the Goods and/or Services in accordance with its existing obligations.

34.2 Malicious Software

- 34.2.1 The Supplier shall, as an enduring obligation throughout the Call Off Contract Period use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between the Parties).
- 34.2.2 Notwithstanding Clause 34.2.1, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Customer Data, assist each other to mitigate any losses and to restore the provision of the Goods and/or Services to its desired operating efficiency.

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34.2.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 34.2.2 shall be borne by the Parties as follows:

- (a) by the Supplier, where the Malicious Software originates from the Supplier Software, the Third Party Software supplied by the Supplier (except where the Customer has waived the obligation set out in Clause 34.2.1) or the Customer Data (whilst the Customer Data was under the control of the Supplier) unless the Supplier can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Customer when provided to the Supplier; and
- (b) by the Customer if the Malicious Software originates from the Customer Software (in respect of which the Customer has waived its obligation set out in Clause 34.2.1) or the Customer Data (whilst the Customer Data was under the control of the Customer).

34.3 Protection of Customer Data

- 34.3.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- 34.3.2 The Supplier shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Supplier of its obligations under this Call Off Contract or as otherwise Approved by the Customer.
- 34.3.3 To the extent that the Customer Data is held and/or Processed by the Supplier, the Supplier shall supply that Customer Data to the Customer as requested by the Customer and in the format (if any) specified by the Customer in the Call Off Order Form and, in any event, as specified by the Customer from time to time in writing.
- 34.3.4 The Supplier shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.
- 34.3.5 The Supplier shall perform secure back-ups of all Customer Data and shall ensure that up-to-date back-ups are stored off-site at an Approved location in accordance with any BCDR Plan or otherwise. The Supplier shall ensure that such back-ups are available to the Customer (or to such other person as the Customer may direct) at all times upon request and are delivered to the Customer at no less than six (6) Monthly intervals (or such other intervals as may be agreed in writing between the Parties).
- 34.3.6 The Supplier shall ensure that any system on which the Supplier holds any Customer Data (and data about Customer data), including

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back-up data, is a secure system that complies with the Security Policy and the Security Management Plan (if any).

34.3.7 If at any time the Supplier suspects or has reason to believe that the Customer Data is corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Customer immediately and inform the Customer of the remedial action the Supplier proposes to take.

34.3.8 If the Customer Data is corrupted, lost or sufficiently degraded as a result of a Default so as to be unusable, the Customer may:

- (a) require the Supplier (at the Supplier's expense) to restore or procure the restoration of Customer Data to the extent and in accordance with the requirements specified in Call Off Schedule 8 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer, and the Supplier shall do so as soon as practicable but not later than five (5) Working Days from the date of receipt of the Customer's notice; and/or
- (b) itself restore or procure the restoration of Customer Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Call Off Schedule 8 (Business Continuity and Disaster Recovery) or as otherwise required by the Customer.

34.4 Confidentiality

34.4.1 For the purposes of Clause 34.4 the term **"Disclosing Party"** shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and **"Recipient"** shall mean the Party which receives or obtains directly or indirectly Confidential Information.

34.4.2 Except to the extent set out in Clause 34.4 or where disclosure is expressly permitted elsewhere in this Call Off Contract, the Recipient shall:

- (a) treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials); and
- (b) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Call Off Contract or without obtaining the owner's prior written consent;
- (c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Call Off Contract; and

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- (d) immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

34.4.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 34.6 (Freedom of Information) shall apply to disclosures required under the FOIA or the EIRs;
- (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Customer arising out of or in connection with this Call Off Contract;
 - (ii) the examination and certification of the Customer's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer is making use of any Goods and/or Services provided under this Call Off Contract; or
 - (iii) the conduct of a Central Government Body review in respect of this Call Off Contract; or
- (c) the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.

34.4.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.

34.4.5 Subject to Clauses 34.4.2, the Supplier may only disclose the Confidential Information of the Customer on a confidential basis to:

- (a) Supplier Personnel who are directly involved in the provision of the Goods and/or Services and need to know the Confidential Information to enable performance of the Supplier's obligations under this Call Off Contract; and

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- (b) its professional advisers for the purposes of obtaining advice in relation to this Call Off Contract.

34.4.6 Where the Supplier discloses Confidential Information of the Customer pursuant to Clause 34.4.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Call Off Contract by the persons to whom disclosure has been made.

34.4.7 The Customer may disclose the Confidential Information of the Supplier:

- (a) to any Central Government Body on the basis that the information may only be further disclosed to Central Government Bodies;
- (b) to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 34.4.7(a) (including any benchmarking organisation) for any purpose relating to or connected with this Call Off Contract;
- (e) on a confidential basis for the purpose of the exercise of its rights under this Call Off Contract; or
- (f) to a proposed transferee, assignee or novatee of, or successor in title to the Customer,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under Clause 34.4.

34.4.8 Nothing in Clause 34.4 shall prevent a Recipient from using any techniques, ideas or Know-How gained during the performance of this Call Off Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

34.4.9 In the event that the Supplier fails to comply with Clauses 34.4.2 to 34.4.5, the Customer reserves the right to terminate this Call Off Contract for material Default.

34.5 Transparency

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- 34.5.1 The Parties acknowledge and agree that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Call Off Contract and any Transparency Reports under it is not Confidential Information and shall be made available in accordance with the procurement policy note 13/15
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/458554/Procurement_Policy_Note_13_15.pdf and the Transparency Principles referred to therein. The Customer shall determine whether any of the content of this Call Off Contract is exempt from disclosure in accordance with the provisions of the FOIA. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 34.5.2 Notwithstanding any other provision of this Call Off Contract, the Supplier hereby gives his consent for the Customer to publish this Call Off Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Call Off Contract agreed from time to time.
- 34.5.3 The Supplier shall assist and cooperate with the Customer to enable the Customer to publish this Call Off Contract.

34.6 Freedom of Information

- 34.6.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the EIRs. The Supplier shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its Information disclosure obligations under the FOIA and EIRs;
 - (b) transfer to the Customer all Requests for Information relating to this Call Off Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
 - (c) provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - (d) not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 34.6.2 The Supplier acknowledges that the Customer may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or

obtaining consent from the Supplier. The Customer shall take reasonable steps to notify the Supplier of a Request for Information (in accordance with the Secretary of State's Section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Call Off Contract) the Customer shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

34.7 Protection of Personal Data

34.7.1 Where any Personal Data are Processed in connection with the exercise of the Parties' rights and obligations under this Call Off Contract, the Parties acknowledge that the Customer is the Data Controller and that the Supplier is the Data Processor.

34.7.2 The Supplier shall:

- (a) Process the Personal Data only in accordance with instructions from the Customer to perform its obligations under this Call Off Contract;
- (b) ensure that at all times it has in place appropriate technical and organisational measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction, or damage to the Personal Data, including the measures as are set out in Clauses 34.1 (Security Requirements) and 34.3 (Protection of Customer Data);
- (c) not disclose or transfer the Personal Data to any third party or Supplier Personnel unless necessary for the provision of the Goods and/or Services and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the Customer (save where such disclosure or transfer is specifically authorised under this Call Off Contract)
- (d) take reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:
 - (i) are aware of and comply with the Supplier's duties under Clause 34.7.2 and Clauses 34.1 (Security Requirements), 34.3 (Protection of Customer Data) and 34.4 (Confidentiality);
 - (ii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in

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- writing to do so by the Customer or as otherwise permitted by this Call Off Contract; and
- (iii) have undergone adequate training in the use, care, protection and handling of personal data (as defined in the DPA);
 - (e) notify the Customer within five (5) Working Days if it receives:
 - (i) from a Data Subject (or third party on their behalf) a Data Subject Access Request (or purported Data Subject Access Request) a request to rectify, block or erase any Personal Data or any other request, complaint or communication relating to the Customer's obligations under the DPA;
 - (ii) any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data; or
 - (iii) a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
 - (f) provide the Customer with full cooperation and assistance (within the timescales reasonably required by the Customer) in relation to any complaint, communication or request made (as referred to at Clause 34.7.2(e)), including by promptly providing:
 - (i) the Customer with full details and copies of the complaint, communication or request;
 - (ii) where applicable, such assistance as is reasonably requested by the Customer to enable the Customer to comply with the Data Subject Access Request within the relevant timescales set out in the DPA; and
 - (iii) the Customer, on request by the Customer, with any Personal Data it holds in relation to a Data Subject; and
 - (g) if requested by the Customer, provide a written description of the measures that has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to this Clause 34.7.2 and provide to the Customer copies of all documentation relevant to such compliance including, protocols, procedures, guidance, training and manuals.

34.7.3 The Supplier shall not Process or otherwise transfer any Personal Data in or to any country outside the European Economic Area or any country which is not determined to be adequate by the European Commission pursuant to Article 25(6) of Directive

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95/46/EC (together “**Restricted Countries**”). If, after the Call Off Commencement Date, the Supplier or any Sub-Contractor wishes to Process and/or transfer any Personal Data in or to any outside the European Economic Area, the following provisions shall apply:

- (a) the Supplier shall propose a Variation to the Customer which, if it is agreed by the Customer, shall be dealt with in accordance with the Variation Procedure and Clauses 34.7.3(b) to 34.7.3(c);
- (b) the Supplier shall set out in its proposal to the Customer for a Variation details of the following:
 - (i) the Personal Data which will be transferred to and/or Processed in or to any Restricted Countries;
 - (ii) the Restricted Countries to which the Personal Data will be transferred and/or Processed; and
 - (iii) any Sub-Contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries;
 - (iv) how the Supplier will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Customer’s compliance with the DPA;
- (c) in providing and evaluating the Variation, the Parties shall ensure that they have regard to and comply with then-current Customer, Central Government Bodies and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing in and/or transfers of Personal Data to any Restricted Countries; and
- (d) the Supplier shall comply with such other instructions and shall carry out such other actions as the Customer may notify in writing, including:
 - (i) incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the DPA) into this Call Off Contract or a separate data processing agreement between the Parties; and
 - (ii) procuring that any Sub-Contractor or other third party who will be Processing and/or receiving or accessing the Personal Data in any Restricted Countries either enters into:

- (A) a direct data processing agreement with the Customer on such terms as may be required by the Customer; or
 - (B) a data processing agreement with the Supplier on terms which are equivalent to those agreed between the Customer and the Sub-Contractor relating to the relevant Personal Data transfer, and
 - (iii) in each case which the Supplier acknowledges may include the incorporation of model contract provisions (which are approved by the European Commission as offering adequate safeguards under the DPA) and technical and organisation measures which the Customer deems necessary for the purpose of protecting Personal Data.
- 34.7.4 The Supplier shall use its reasonable endeavours to assist the Customer to comply with any obligations under the DPA and shall not perform its obligations under this Call Off Contract in such a way as to cause the Customer to breach any of the Customer's obligations under the DPA to the extent the Supplier is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

35. PUBLICITY AND BRANDING

35.1 The Supplier shall not:

- 35.1.1 make any press announcements or publicise this Call Off Contract in any way; or
- 35.1.2 use the Customer's name or brand in any promotion or marketing or announcement of orders,
- 35.1.3 without Approval (the decision of the Customer to Approve or not shall not be unreasonably withheld or delayed).

35.2 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 Goods and/or Services, Equipment, the Supplier System and the Customer System) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

I. LIABILITY AND INSURANCE

36. LIABILITY

36.1 Unlimited Liability

- 36.1.1 Neither Party excludes or limits its liability for:

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- (a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
- (b) bribery or Fraud by it or its employees;
- (c) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) any liability to the extent it cannot be excluded or limited by Law.

36.1.2 The Supplier does not exclude or limit its liability in respect of the indemnity in 33.9 (IPR Indemnity) and in each case whether before or after the making of a demand pursuant to the indemnity therein.

36.2 Financial Limits

36.2.1 Subject to Clause 36.1 (Unlimited Liability), the Supplier's total aggregate liability:

- (a) in respect of all:
 - (i) Service Credits; and
 - (ii) Compensation for Critical Service Level Failure;incurred in any rolling period of 12 Months shall be subject in aggregate to the Service Credit Cap;
- (b) in respect of all other Losses incurred by the Customer under or in connection with this Call Off Contract as a result of Defaults by the Supplier shall in no event exceed:
 - (i) in relation to any Defaults occurring from the Call Off Commencement Date to the end of the first Call Off Contract Year, the higher of ten million pounds (£10,000,000) or a sum equal to one hundred and fifty per cent (150%) of the Estimated Year 1 Call Off Contract Charges;
 - (ii) in relation to any Defaults occurring in each subsequent Call Off Contract Year that commences during the remainder of the Call Off Contract Period, the higher of ten million pounds (£10,000,000) in each such Call Off Contract Year or a sum equal to one hundred and fifty percent (150%) of the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the previous Call Off Contract Year; and
 - (iii) in relation to any Defaults occurring in each Call Off Contract Year that commences after the end of the Call Off Contract Period, the higher of ten million pounds (£10,000,000) in each such Call Off Contract Year or a

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sum equal to one hundred and fifty percent (150%) of the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the last Call Off Contract Year commencing during the Call Off Contract Period;

unless the Customer has specified different financial limits in the Call Off Order Form.

36.2.2 Subject to Clauses 36.1 (Unlimited Liability) and 36.2 (Financial Limits) and without prejudice to its obligation to pay the undisputed Call Off Contract Charges as and when they fall due for payment, the Customer's total aggregate liability in respect of all Losses as a result of Customer Causes shall be limited to:

- (a) in relation to any Customer Causes occurring from the Call Off Commencement Date to the end of the first Call Off Contract Year, a sum equal to the Estimated Year 1 Call Off Contract Charges;
- (b) in relation to any Customer Causes occurring in each subsequent Call Off Contract Year that commences during the remainder of the Call Off Contract Period, a sum equal to the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the previous Call Off Contract Year; and
- (c) in relation to any Customer Causes occurring in each Call Off Contract Year that commences after the end of the Call Off Contract Period, a sum equal to the Call Off Contract Charges payable to the Supplier under this Call Off Contract in the last Call Off Contract Year commencing during the Call Off Contract Period.

36.3 Non-recoverable Losses

36.3.1 Subject to Clause 36.1 (Unlimited Liability) neither Party shall be liable to the other Party for any:

- (a) indirect, special or consequential Loss;
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

36.4 Recoverable Losses

36.4.1 Subject to Clause 36.2 (Financial Limits), and notwithstanding Clause 36.3 (Non-recoverable Losses), the Supplier acknowledges that the Customer may, amongst other things, recover from the Supplier the following Losses incurred by the Customer to the extent that they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Customer, including costs relating to time spent by or on behalf of the

Customer in dealing with the consequences of the Default;

- (b) any wasted expenditure or charges;
- (c) the additional cost of procuring Replacement Goods and/or Services for the remainder of the Call Off Contract Period and/or replacement Deliverables, which shall include any incremental costs associated with such Replacement Goods and/or Services and/or replacement Deliverables above those which would have been payable under this Call Off Contract;
- (d) any compensation or interest paid to a third party by the Customer; and
- (e) any fine, penalty or costs incurred by the Customer pursuant to Law.

36.5 Miscellaneous

- 36.5.1 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Call Off Contract.
- 36.5.2 Any Deductions shall not be taken into consideration when calculating the Supplier's liability under Clause 36.2 (Financial Limits).
- 36.5.3 Subject to any rights of the Customer under this Call Off Contract (including in respect of an IPR Claim), any claims by a third party where an indemnity is sought by that third party from a Party to this Call Off Contract shall be dealt with in accordance with the provisions of Framework Schedule 20 (Conduct of Claims).

37. INSURANCE

- 37.1 This Clause 37 will only apply where specified in the Call Off Order Form or elsewhere in this Call Off Contract.
- 37.2 Notwithstanding any benefit to the Customer of the policy or policies of insurance referred to in Clause 31 (Insurance) of the Framework Agreement, the Supplier shall effect and maintain such further policy or policies of insurance or extensions to such existing policy or policies of insurance procured under the Framework Agreement in respect of all risks which may be incurred by the Supplier arising out of its performance of its obligations under this Call Off Contract.
- 37.3 Without limitation to the generality of Clause 37.2 the Supplier shall ensure that it maintains the policy or policies of insurance as stipulated in the Call Off Order Form.
- 37.4 The Supplier shall effect and maintain the policy or policies of insurance referred to in Clause 37 for six (6) years after the Call Off Expiry Date.
- 37.5 The Supplier shall give the Customer, on request, copies of all insurance policies referred to in Clause 37 or a broker's verification of insurance to

demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

- 37.6 If, for whatever reason, the Supplier fails to give effect to and maintain the insurance policies required under Clause 37 the Customer may make alternative arrangements to protect its interests and may recover the premium and other costs of such arrangements as a debt due from the Supplier.
- 37.7 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liability under this Call Off Contract. It shall be the responsibility of the Supplier to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability in relation to the performance of its obligations under this Call Off Contract.
- 37.8 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Customer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

J. REMEDIES AND RELIEF

38. CUSTOMER REMEDIES FOR DEFAULT

38.1 Remedies

38.1.1 Without prejudice to any other right or remedy of the Customer howsoever arising (including under Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring)) and subject to the exclusive financial remedy provisions in Clauses 13.6 (Service Levels and Service Credits) and 6.4.1(b) (Delay Payments), if the Supplier commits any Default of this Call Off Contract then the Customer may (whether or not any part of the Goods and/or Services have been Delivered) do any of the following:

- (a) at the Customer's option, give the Supplier the opportunity (at the Supplier's expense) to remedy the Default together with any damage resulting from such Default (where such Default is capable of remedy) or to supply Replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of this Call Off Contract are fulfilled, in accordance with the Customer's instructions;
- (b) carry out, at the Supplier's expense, any work necessary to make the provision of the Goods and/or Services comply with this Call Off Contract;
- (c) if the Default is a material Default that is capable of remedy (and for these purposes a material Default

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may be a single material Default or a number of Defaults or repeated Defaults - whether of the same or different obligations and regardless of whether such Defaults are remedied - which taken together constitute a material Default):

- (i) instruct the Supplier to comply with the Rectification Plan Process;
- (ii) suspend this Call Off Contract (whereupon the relevant provisions of Clause 44 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) the Goods and/or Services;
- (iii) without terminating or suspending the whole of this Call Off Contract, terminate or suspend this Call Off Contract in respect of part of the provision of the Goods and/or Services only (whereupon the relevant provisions of Clause 44 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) such part of the Good and/or Services;

38.1.2 Where the Customer exercises any of its step-in rights under Clauses 38.1.1(c)(ii) or 38.1.1(c)(iii), the Customer shall have the right to charge the Supplier for and the Supplier shall on demand pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Goods and/or Services by the Customer or a third party and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining Replacement Goods and/or Replacement Goods and/or Services.

38.2 Rectification Plan Process

38.2.1 Where the Customer has instructed the Supplier to comply with the Rectification Plan Process pursuant to Clause 38.1.1(c)(i):

- (a) the Supplier shall submit a draft Rectification Plan to the Customer for it to review as soon as possible and in any event within 10 (ten) Working Days (or such other period as may be agreed between the Parties) from the date of Customer's instructions. The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Default giving rise to the Customer's request for a draft Rectification Plan.
- (b) the draft Rectification Plan shall set out:

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- (i) full details of the Default that has occurred, including a root cause analysis;
 - (ii) the actual or anticipated effect of the Default; and
 - (iii) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable).
- 38.2.2 The Supplier shall promptly provide to the Customer any further documentation that the Customer requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with paragraph 5 of Call Off Schedule 11 (Dispute Resolution Procedure).
- 38.2.3 The Customer may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
 - (a) is insufficiently detailed to be capable of proper evaluation;
 - (b) will take too long to complete;
 - (c) will not prevent reoccurrence of the Default; and/or
 - (d) will rectify the Default but in a manner which is unacceptable to the Customer.
- 38.2.4 The Customer shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the Customer rejects the draft Rectification Plan, the Customer shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to the Customer for review within five (5) Working Days (or such other period as agreed between the Parties) of the Customer's notice rejecting the first draft.
- 38.2.5 If the Customer consents to the Rectification Plan, the Supplier shall immediately start work on the actions set out in the Rectification Plan.

39. SUPPLIER RELIEF DUE TO CUSTOMER CAUSE

- 39.1 If the Supplier has failed to:
 - 39.1.1 Achieve a Milestone by its Milestone Date;
 - 39.1.2 provide the Goods and/or Services in accordance with the Service Levels;
 - 39.1.3 comply with its obligations under this Call Off Contract,
(each a "Supplier Non-Performance"),

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and can demonstrate that the Supplier Non-Performance would not have occurred but for a Customer Cause, then (subject to the Supplier fulfilling its obligations in Clause 17 (Supplier Notification of Customer Cause)):

- (a) the Supplier shall not be treated as being in breach of this Call Off Contract to the extent the Supplier can demonstrate that the Supplier Non-Performance was caused by the Customer Cause;
 - (b) the Customer shall not be entitled to exercise any rights that may arise as a result of that Supplier Non-Performance to terminate this Call Off Contract pursuant to Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause);
 - (c) where the Supplier Non-Performance constitutes the failure to Achieve a Milestone by its Milestone Date:
 - (i) the Milestone Date shall be postponed by a period equal to the period of Delay that the Supplier can demonstrate was caused by the Customer Cause;
 - (ii) if the Customer, acting reasonably, considers it appropriate, the Implementation Plan shall be amended to reflect any consequential revisions required to subsequent Milestone Dates resulting from the Customer Cause;
 - (iii) if failure to Achieve a Milestone attracts a Delay Payment, the Supplier shall have no liability to pay any such Delay Payment associated with the Milestone to the extent that the Supplier can demonstrate that such failure was caused by the Customer Cause; and/or
 - (d) where the Supplier Non-Performance constitutes a Service Level Failure:
 - (i) the Supplier shall not be liable to accrue Service Credits;
 - (ii) the Customer shall not be entitled to any Compensation for Critical Service Level Failure pursuant to Clause 14 (Critical Service Level Failure); and
 - (iii) the Supplier shall be entitled to invoice for the Call Off Contract Charges for the provision of the relevant Goods and/or Services affected by the Customer Cause,
- in each case, to the extent that the Supplier can demonstrate that the Service Level Failure was caused by the Customer Cause.

39.2 In order to claim any of the rights and/or relief referred to in Clause 39.1, the Supplier shall:

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- 39.2.1 comply with its obligations under Clause 17 (Notification of Customer Cause); and
- 39.2.2 within ten (10) Working Days of becoming aware that a Customer Cause has caused, or is likely to cause, a Supplier Non-Performance, give the Customer notice (a “**Relief Notice**”) setting out details of:
 - (a) the Supplier Non-Performance;
 - (b) the Customer Cause and its effect on the Supplier’s ability to meet its obligations under this Call Off Contract; and
 - (c) the relief claimed by the Supplier.
- 39.3 Following the receipt of a Relief Notice, the Customer shall as soon as reasonably practicable consider the nature of the Supplier Non-Performance and the alleged Customer Cause and whether it agrees with the Supplier’s assessment set out in the Relief Notice as to the effect of the relevant Customer Cause and its entitlement to relief, consulting with the Supplier where necessary.
- 39.4 Without prejudice to Clauses 8.7 (Continuing obligation to provide the Goods and/or Services) and 9.11 (Continuing obligation to provide the Goods), if a Dispute arises as to:
 - 39.4.1 whether a Supplier Non-Performance would not have occurred but for a Customer Cause; and/or
 - 39.4.2 the nature and/or extent of the relief claimed by the Supplier,either Party may refer the Dispute to the Dispute Resolution Procedure. Pending the resolution of the Dispute, both Parties shall continue to resolve the causes of, and mitigate the effects of, the Supplier Non-Performance.
- 39.5 Any Variation that is required to the Implementation Plan or to the Call Off Contract Charges pursuant to Clause 39 shall be implemented in accordance with the Variation Procedure.

40. FORCE MAJEURE

- 40.1 Subject to the remainder of Clause 40 (and, in relation to the Supplier, subject to its compliance with any obligations in Clause 15 (Business Continuity and Disaster Recovery)), a Party may claim relief under Clause 40 from liability for failure to meet its obligations under this Call Off Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Call Off Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 40.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its

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effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

40.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under Clause 40 to the extent that consequences of the relevant Force Majeure Event:

40.3.1 are capable of being mitigated by any of the provision of any Goods and/or Services, including any BCDR Goods and/or Services, but the Supplier has failed to do so; and/or

40.3.2 should have been foreseen and prevented or avoided by a prudent provider of goods and/or services similar to the Goods and/or Services, operating to the standards required by this Call Off Contract.

40.4 Subject to Clause 40.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Goods and/or Services affected by the Force Majeure Event.

40.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

40.6 Where, as a result of a Force Majeure Event:

40.6.1 an Affected Party fails to perform its obligations in accordance with this Call Off Contract, then during the continuance of the Force Majeure Event:

- (a) the other Party shall not be entitled to exercise any rights to terminate this Call Off Contract in whole or in part as a result of such failure unless the provision of the Goods and/or Services is materially impacted by a Force Majeure Event which endures for a continuous period of more than ninety (90) days; and
- (b) the Supplier shall not be liable for any Default and the Customer shall not be liable for any Customer Cause arising as a result of such failure;

40.6.2 the Supplier fails to perform its obligations in accordance with this Call Off Contract:

- (a) the Customer shall not be entitled:
 - (i) during the continuance of the Force Majeure Event to exercise its step-in rights under Clause 38.1.1(b) and 38.1.1(c) (Customer Remedies for Default) as a result of such failure;

- (ii) to receive Delay Payments pursuant to Clause 6.4 (Delay Payments) to the extent that the Achievement of any Milestone is affected by the Force Majeure Event; and
- (iii) to receive Service Credits or withhold and retain any of the Call Off Contract Charges as Compensation for Critical Service Level Failure pursuant to Clause 14 (Critical Service Level Failure) to the extent that a Service Level Failure or Critical Service Level Failure has been caused by the Force Majeure Event; and
- (b) the Supplier shall be entitled to receive payment of the Call Off Contract Charges (or a proportional payment of them) only to the extent that the Goods and/or Services (or part of the Goods and/or Services) continue to be provided in accordance with the terms of this Call Off Contract during the occurrence of the Force Majeure Event.

40.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Call Off Contract.

40.8 Relief from liability for the Affected Party under Clause 40 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Call Off Contract and shall not be dependent on the serving of notice under Clause 40.7.

K. TERMINATION AND EXIT MANAGEMENT

41. CUSTOMER TERMINATION RIGHTS

41.1 Termination in Relation to Call Off Guarantee

41.1.1 Where this Call Off Contract is conditional upon the Supplier procuring a Call Off Guarantee pursuant to Clause 4 (Call Off Guarantee), the Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where:

- (a) the Call Off Guarantor withdraws the Call Off Guarantee for any reason whatsoever;
- (b) the Call Off Guarantor is in breach or anticipatory breach of the Call Off Guarantee;
- (c) an Insolvency Event occurs in respect of the Call Off Guarantor; or
- (d) the Call Off Guarantee becomes invalid or unenforceable for any reason whatsoever,

and in each case the Call Off Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Customer; or

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- (e) the Supplier fails to provide the documentation required by Clause 4.1 by the date so specified by the Customer.

41.2 Termination on Material Default

41.2.1 The Customer may terminate this Call Off Contract for material Default by issuing a Termination Notice to the Supplier where:

- (a) the Supplier commits a Critical Service Level Failure;
- (b) the representation and warranty given by the Supplier pursuant to Clause 3.2.5 (Representations and Warranties) is materially untrue or misleading, and the Supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of the Customer are acceptable;
- (c) as a result of any Defaults, the Customer incurs Losses in any Contract Year which exceed 80% (unless stated differently in the Call Off Order Form) of the value of the Supplier's aggregate annual liability limit for that Contract Year as set out in Clauses 36.2.1(a) and 36.2.1(b) (Liability);
- (d) the Customer expressly reserves the right to terminate this Call Off Contract for material Default, including pursuant to any of the following Clauses: 6.2.3 (Implementation Plan), 8.4.2 (Goods and/or Services), 9.4.2 and 9.6.1 (Goods), 10.3 (Installation Works), 14.1 (Critical Service Level Failure), 16.4 (Disruption), 21.5 (Records, Audit Access and Open Book Data), 24.3 (Promoting Tax Compliance), 34.4.9 (Confidentiality), 50.6.2 (Prevention of Fraud and Bribery), Paragraph 1.2.4 of the Annex to Part A and Paragraph 1.2.4 of the Annex to Part B of Call Off Schedule 10 (Staff Transfer);
- (e) the Supplier commits any material Default of this Call Off Contract which is not, in the reasonable opinion of the Customer, capable of remedy; and/or
- (f) the Supplier commits a Default, including a material Default, which in the opinion of the Customer is remediable but has not remedied such Default to the satisfaction of the Customer in accordance with the Rectification Plan Process.

41.2.2 For the purpose of Clause 41.2.1, a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default.

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41.3 Termination in Relation to Financial Standing

41.3.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where in the reasonable opinion of the Customer there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:

- (a) adversely impacts on the Supplier's ability to supply the Goods and/or Services under this Call Off Contract; or
- (b) could reasonably be expected to have an adverse impact on the Suppliers ability to supply the Goods and/or Services under this Call Off Contract.

41.4 Termination on Insolvency

41.4.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier where an Insolvency Event affecting the Supplier occurs.

41.5 Termination on Change of Control

41.5.1 The Supplier shall notify the Customer immediately in writing and as soon as the Supplier is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law.

41.5.2 The Supplier shall ensure that any notification made pursuant to Clause 41.5.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

41.5.3 The Customer may terminate this Call Off Contract under Clause 41.5 by issuing a Termination Notice to the Supplier within six (6) Months of:

- (a) being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or
- (b) where no notification has been made, the date that the Customer becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

41.6 Termination for breach of Regulations

41.6.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier on the occurrence of any of the statutory provisos contained in Regulation 73 (1) (a) to (c).

41.7 Termination Without Cause

41.7.1 The Customer shall have the right to terminate this Call Off Contract at any time by issuing a Termination Notice to the Supplier giving at

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least thirty (30) Working Days written notice (unless stated differently in the Call Off Order Form).

41.8 Termination in Relation to Framework Agreement

41.8.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier if the Framework Agreement is terminated for any reason whatsoever.

41.9 Termination In Relation to Benchmarking

41.9.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in paragraphs 1 and 2 of Framework Schedule 12 (Continuous Improvement and Benchmarking).

41.10 Termination in Relation to Variation

41.10.1 The Customer may terminate this Call Off Contract by issuing a Termination Notice to the Supplier for failure of the Parties to agree or the Supplier to implement a Variation in accordance with the Variation Procedure.

42. SUPPLIER TERMINATION RIGHTS

42.1 Termination on Customer Cause for Failure to Pay

42.1.1 The Supplier may, by issuing a Termination Notice to the Customer, terminate this Call Off Contract if the Customer fails to pay an undisputed sum due to the Supplier under this Call Off Contract which in aggregate exceeds an amount equal to one month's average Call Off Contract Charges (unless a different amount has been specified in the Call Off Order Form), for the purposes of this Clause 42.1.1 (the "**Undisputed Sums Limit**"), and the said undisputed sum due remains outstanding for forty (40) Working Days (the "**Undisputed Sums Time Period**") after the receipt by the Customer of a written notice of non-payment from the Supplier specifying:

- (a) the Customer's failure to pay; and
- (b) the correct overdue and undisputed sum; and
- (c) the reasons why the undisputed sum is due; and
- (d) the requirement on the Customer to remedy the failure to pay; and

this Call Off Contract shall then terminate on the date specified in the Termination Notice (which shall not be less than twenty (20) Working Days from the date of the issue of the Termination Notice), save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under this Call Off Contract including Clause 23.3 (Retention and Set off).

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- 42.1.2 The Supplier shall not suspend the supply of the Goods and/or Services for failure of the Customer to pay undisputed sums of money (whether in whole or in part).

43. TERMINATION BY EITHER PARTY

43.1 Termination for continuing Force Majeure Event

- 43.1.1 Either Party may, by issuing a Termination Notice to the other Party, terminate this Call Off Contract in accordance with Clause 40.6.1(a) (Force Majeure).

44. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION

- 44.1 Where the Customer has the right to terminate this Call Off Contract, the Customer shall be entitled to terminate or suspend all or part of this Call Off Contract provided always that, if the Customer elects to terminate or suspend this Call Off Contract in part, the parts of this Call Off Contract not terminated or suspended can, in the Customer's reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Call Off Contract.

- 44.2 Any suspension of this Call Off Contract under Clause 44.1 shall be for such period as the Customer may specify and without prejudice to any right of termination which has already accrued, or subsequently accrues, to the Customer.

- 44.3 The Parties shall seek to agree the effect of any Variation necessitated by a partial termination, suspension or partial suspension in accordance with the Variation Procedure, including the effect that the partial termination, suspension or partial suspension may have on the provision of any other Goods and/or Services and the Call Off Contract Charges, provided that the Supplier shall not be entitled to:

- 44.3.1 an increase in the Call Off Contract Charges in respect of the provision of the Goods and/or Services that have not been terminated if the partial termination arises due to the exercise of any of the Customer's termination rights under Clause 41 (Customer Termination Rights) except Clause 41.7 (Termination Without Cause); and

- 44.3.2 reject the Variation.

45. CONSEQUENCES OF EXPIRY OR TERMINATION

- 45.1 Consequences of termination under Clauses 41.1 (Termination in Relation to Guarantee), 41.2 (Termination on Material Default), 41.3 (Termination in Relation to Financial Standing), 41.8 (Termination in Relation to Framework Agreement), 41.9 (Termination in Relation to Benchmarking) and 41.10 (Termination in Relation to Variation)

- 45.1.1 Where the Customer:

- (a) terminates (in whole or in part) this Call Off Contract under any of the Clauses referred to in Clause 45.1; and

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- (b) then makes other arrangements for the supply of the Goods and/or Services,

the Customer may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Call Off Contract Period provided that Customer shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by the Customer to the Supplier until the Customer has established the final cost of making those other arrangements.

45.2 Consequences of termination under Clauses 41.7 (Termination without Cause) and 42.1 (Termination on Customer Cause for Failure to Pay)

45.2.1 Where the Customer terminates (in whole or in part) this Call Off Contract under Clause 41.7 (Termination without Cause) the Customer shall:

- (a) in respect of the Goods that are no longer required by the Customer the customer shall pay to the Supplier upon termination:
 - (i) all arrears of Charges; and
 - (ii) the sum of all the Charges that would (but for the termination) have been due during the remainder of the Term each discounted at a rate of at least 10% in respect of the period between the date of actual payment and the date when the Charges would have become due.
- (b) in respect of the Services that are no longer required by the Customer, indemnify the Supplier against any reasonable and proven Losses which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call Off Contract, provided that the Supplier takes all reasonable steps to mitigate such Losses. The Supplier shall submit a fully itemised and costed list of such Losses, with supporting evidence including such further evidence as the Customer may require, reasonably and actually incurred by the Supplier.

45.2.2 Where the Supplier terminates this Call Off Contract pursuant to Clause 42.1 (Termination on Customer Cause for Failure to Pay) the Customer shall indemnify the Supplier against any reasonable and proven Losses which would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call Off Agreement, provided that the Supplier takes all reasonable steps to mitigate such Losses. The Supplier shall submit a fully itemised and costed list of such Losses, with supporting evidence including such further evidence as the Customer may require, reasonably and actually incurred by the Supplier.

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45.2.3 The Customer shall not be liable under Clause 45.2.1 or 45.2.2 to pay any sum which:

- (a) was claimable under insurance held by the Supplier, and the Supplier has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
- (b) when added to any sums paid or due to the Supplier under this Call Off Contract, exceeds the total sum that would have been payable to the Supplier if this Call Off Contract had not been terminated.

45.2.4 The Supplier shall be expected to provide flexibility in the management of Contracting Authorities' fleet and shall not charge a settlement fee to Contracting Authorities where the Goods are redundant due to re-organisation, merger or closure and all reasonable efforts have been made to re-site the Goods within Contracting Authorities organisation.

45.3 Consequences of termination under Clause 43.1 (Termination for Continuing Force Majeure Event)

45.3.1 The costs of termination incurred by the Parties shall lie where they fall if either Party terminates or partially terminates this Call Off Contract for a continuing Force Majeure Event pursuant to Clause 43.1 (Termination for Continuing Force Majeure Event).

45.4 Consequences of Termination for Any Reason

45.4.1 Save as otherwise expressly provided in this Call Off Contract:

- (a) termination or expiry of this Call Off Contract shall be without prejudice to any rights, remedies or obligations accrued under this Call Off Contract prior to termination or expiration and nothing in this Call Off Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and
- (b) termination of this Call Off Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Supplier under Clauses 21 (Records, Audit Access & Open Book Data), 33 (Intellectual Property Rights), 34.4 (Confidentiality), 34.6 (Freedom of Information) 34.7 (Protection of Personal Data), 36 (Liability), 45 (Consequences of Expiry or Termination), 51 (Severance), 53 (Entire Agreement), 54 (Third Party Rights) 56 (Dispute Resolution) and 57 (Governing Law and Jurisdiction), and the provisions of Call Off Schedule 1 (Definitions), Call Off Schedule 3 (Call Off Contract Charges, Payment

and Invoicing), Call Off Schedule 9 (Exit Management), Call Off Schedule 10 (Staff Transfer), Call Off Schedule 11 (Dispute Resolution Procedure) and, without limitation to the foregoing, any other provision of this Call Off Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the Call Off Expiry Date.

45.5 Exit management

45.5.1 The Parties shall comply with the exit management provisions set out in Call Off Schedule 9 (Exit Management).

L. MISCELLANEOUS AND GOVERNING LAW

46. COMPLIANCE

46.1 Health and Safety

46.1.1 The Supplier shall perform its obligations under this Call Off Contract (including those in relation to the Goods and/or Services) in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Customer's health and safety policy (as provided to the Supplier from time to time) whilst at the Customer Premises.

46.1.2 Each Party shall promptly notify the other of as soon as possible of any health and safety incidents or material health and safety hazards at the Customer Premises of which it becomes aware and which relate to or arise in connection with the performance of this Call Off Contract

46.1.3 While on the Customer Premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of Supplier Personnel and other persons working there and any instructions from the Customer on any necessary associated safety measures.

46.2 Equality and Diversity

46.2.1 The Supplier shall:

- (a) perform its obligations under this Call Off Contract (including those in relation to provision of the Goods and/or Services) in accordance with:
 - (i) all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
 - (ii) any other requirements and instructions which the Customer reasonably imposes in connection with any

equality obligations imposed on the Customer at any time under applicable equality Law;

- (b) take all necessary steps, and inform the Customer of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

46.3 Official Secrets Act and Finance Act

46.3.1 The Supplier shall comply with the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

46.4 Environmental Requirements

46.4.1 The Supplier shall, when working on the Sites, perform its obligations under this Call Off Contract in accordance with the Environmental Policy of the Customer.

46.4.2 The Customer shall provide a copy of its written Environmental Policy (if any) to the Supplier upon the Supplier's written request.

47. ASSIGNMENT AND NOVATION

47.1 The Supplier shall not assign, novate, Sub-Contract or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Call Off Contract or any part of it without Approval.

47.2 The Customer may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Call Off Contract or any part thereof to:

- 47.2.1 any other Contracting Authority; or
- 47.2.2 any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Customer; or
- 47.2.3 any private sector body which substantially performs the functions of the Customer,

and the Supplier shall, at the Customer's request, enter into a novation agreement in such form as the Customer shall reasonably specify in order to enable the Customer to exercise its rights pursuant to this Clause 47.2.

47.3 A change in the legal status of the Customer shall not, subject to Clause 47.4 affect the validity of this Call Off Contract and this Call Off Contract shall be binding on any successor body to the Customer.

47.4 If the Customer assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Call Off Contract to a private sector body in accordance with Clause 47.2.3 (the "**Transferee**" in the rest of this Clause 47.4) the right of termination of the Customer in Clause 41.4 (Termination on Insolvency) shall be available to the Supplier in the event of insolvency of the

Transferee (as if the references to Supplier in Clause 41.4 (Termination on Insolvency) and to Supplier or Framework Guarantor or Call Off Guarantor in the definition of Insolvency Event were references to the Transferee).

48. WAIVER AND CUMULATIVE REMEDIES

48.1 The rights and remedies under this Call Off Contract may be waived only by notice in accordance with Clause 55 (Notices) and in a manner that expressly states that a waiver is intended. A failure or delay by a Party in ascertaining or exercising a right or remedy provided under this Call Off Contract or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of that right or remedy.

48.2 Unless otherwise provided in this Call Off Contract, rights and remedies under this Call Off Contract are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

49. RELATIONSHIP OF THE PARTIES

49.1 Except as expressly provided otherwise in this Call Off Contract, nothing in this Call Off Contract, nor any actions taken by the Parties pursuant to this Call Off Contract, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

50. PREVENTION OF FRAUD AND BRIBERY

50.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, have at any time prior to the Call Off Commencement Date:

50.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

50.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

50.2 The Supplier shall not during the Call Off Contract Period:

50.2.1 commit a Prohibited Act; and/or

50.2.2 do or suffer anything to be done which would cause the Customer or any of the Customer's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

50.3 The Supplier shall during the Call Off Contract Period:

50.3.1 establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are

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- adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
- 50.3.2 keep appropriate records of its compliance with its obligations under Clause 50.3.1 and make such records available to the Customer on request;
- 50.3.3 if so required by the Customer, within twenty (20) Working Days of the Call Off Commencement Date, and annually thereafter, certify to the Customer in writing that the Supplier and all persons associated with it or its Sub-Contractors or other persons who are supplying the Goods and/or Services in connection with this Call Off Contract are compliant with the Relevant Requirements. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request; and
- 50.3.4 have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Customer on request) to prevent it and any Supplier Personnel or any person acting on the Supplier's behalf from committing a Prohibited Act.
- 50.4 The Supplier shall immediately notify the Customer in writing if it becomes aware of any breach of Clause 50.1, or has reason to believe that it has or any of the Supplier Personnel have:
- 50.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- 50.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- 50.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Call Off Contract or otherwise suspects that any person or Party directly or indirectly connected with this Call Off Contract has committed or attempted to commit a Prohibited Act.
- 50.5 If the Supplier makes a notification to the Customer pursuant to Clause 50.4, the Supplier shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit any books, records and/or any other relevant documentation in accordance with Clause 21 (Records, Audit Access and Open Book Data).
- 50.6 If the Supplier breaches Clause 50.3, the Customer may by notice:
- 50.6.1 require the Supplier to remove from performance of this Call Off Contract any Supplier Personnel whose acts or omissions have caused the Supplier's breach; or
- 50.6.2 immediately terminate this Call Off Contract for material Default.
- 50.7 Any notice served by the Customer under Clause 50.4 shall specify the nature of the Prohibited Act, the identity of the Party who the Customer believes has committed the Prohibited Act and the action that the Customer has elected to

take (including, where relevant, the date on which this Call Off Contract shall terminate).

51. SEVERANCE

51.1 If any provision of this Call Off Contract (or part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Call Off Contract are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions of this Call Off Contract shall not be affected.

51.2 In the event that any deemed deletion under Clause 51.1 is so fundamental as to prevent the accomplishment of the purpose of this Call Off Contract or materially alters the balance of risks and rewards in this Call Off Contract, either Party may give notice to the other Party requiring the Parties to commence good faith negotiations to amend this Call Off Contract so that, as amended, it is valid and enforceable, preserves the balance of risks and rewards in this Call Off Contract and, to the extent that is reasonably practicable, achieves the Parties' original commercial intention.

51.3 If the Parties are unable to resolve the Dispute arising under Clause 51 within twenty (20) Working Days of the date of the notice given pursuant to Clause 51.2, this Call Off Contract shall automatically terminate with immediate effect. The costs of termination incurred by the Parties shall lie where they fall if this Call Off Contract is terminated pursuant to Clause 51.

52. FURTHER ASSURANCES

52.1 Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of this Call Off Contract.

53. ENTIRE AGREEMENT

53.1 This Call Off Contract and the documents referred to in it constitute the entire agreement between the Parties in respect of the matter and supersede and extinguish all prior negotiations, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

53.2 Neither Party has been given, nor entered into this Call Off Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Call Off Contract.

53.3 Nothing in Clause 53 shall exclude any liability in respect of misrepresentations made fraudulently.

54. THIRD PARTY RIGHTS

54.1 The provisions of paragraphs 2.1 and 2.6 of Part A, paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, paragraphs 2.1 and 2.3 of Part C and paragraphs 1.4, 2.3 and 2.8 of Part D of Call Off Schedule 10 (Staff Transfer) and the provisions of paragraph 9.9 of Call Off Schedule 9 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named in such provisions other than

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the Parties (each such person a “**Third Party Beneficiary**”) and are intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

54.2 Subject to Clause 54.1, a person who is not a Party to this Call Off Contract has no right under the CTRPA to enforce any term of this Call Off Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

54.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Customer, which may, if given, be given on and subject to such terms as the Customer may determine.

54.4 Any amendments or modifications to this Call Off Contract may be made, and any rights created under Clause 54.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

55. NOTICES

55.1 Except as otherwise expressly provided within this Call Off Contract, any notices sent under this Call Off Contract must be in writing. For the purpose of Clause 55, an e-mail is accepted as being "in writing".

55.2 Subject to Clause 55.3, the following table sets out the method by which notices may be served under this Call Off Contract and the respective deemed time and proof of service:

Manner of delivery	Deemed time of delivery	Proof of Service
Email (Subject to Clauses 55.3 and 55.4)	9.00am on the first Working Day after sending	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day	Properly addressed and delivered as evidenced by signature of a delivery receipt
Royal Mail Signed For™ 1 st Class or other prepaid, next Working Day service providing proof of delivery	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt

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	9.00am) or on the next Working Day (if after 5.00pm)	

55.3 The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or Royal Mail Signed For™ 1st Class or other prepaid in the manner set out in the table in Clause 55.2:

55.3.1 any Termination Notice (Clause 41 (Customer Termination Rights)),

55.3.2 any notice in respect of:

(a) partial termination, suspension or partial suspension (Clause 44 (Partial Termination, Suspension and Partial Suspension)),

(b) waiver (Clause 48 (Waiver and Cumulative Remedies))

(c) Default or Customer Cause; and

55.3.3 any Dispute Notice.

55.4 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 55.3 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in Clause 55.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

55.5 Clause 55 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 (other than the service of a Dispute Notice under the Dispute Resolution Procedure).

55.6 For the purposes of Clause 55, the address and email address of each Party shall be as specified in the Call Off Order Form.

56. DISPUTE RESOLUTION

56.1 The Parties shall resolve Disputes arising out of or in connection with this Call Off Contract in accordance with the Dispute Resolution Procedure.

56.2 The Supplier shall continue to provide the Goods and/or Services in accordance with the terms of this Call Off Contract until a Dispute has been resolved.

57. GOVERNING LAW AND JURISDICTION

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

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57.2 Subject to Clause 56 (Dispute Resolution) and Call Off Schedule 11 (Dispute Resolution Procedure) (including the Customer's right to refer the Dispute to arbitration), the Parties agree that the courts of England and Wales (unless stated differently in the Call Off Order Form) shall have exclusive jurisdiction to settle any Dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Call Off Contract or its subject matter or formation.

CALL OFF SCHEDULE 1: DEFINITIONS

1. In accordance with Clause 1 (Definitions and Interpretation) of this Call Off Contract including its recitals the following expressions shall have the following meanings:

"Achieve"	means in respect of a Test, to successfully pass such Test without any Test Issues in accordance with the Test Strategy Plan and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "Achieved" , "Achieving" and "Achievement" shall be construed accordingly;
"Acquired Rights Directive"	means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
"Additional Clauses"	means the additional Clauses in Call Off Schedule 14 (Alternative and/or Additional Clauses) and any other additional Clauses set out in the Call Off Order Form or elsewhere in this Call Off Contract;
"Affected Party"	means the party seeking to claim relief in respect of a Force Majeure;
"Affiliates"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Alternative Clauses"	means the alternative Clauses in Call Off Schedule 14 (Alternative and/or Additional Clauses) and any other alternative Clauses set out in the Call Off Order Form or elsewhere in this Call Off Contract;
"Approval"	means the prior written consent of the Customer and "Approve" and "Approved" shall be construed accordingly;
"Approved Sub-Licensee"	means any of the following: a) a Central Government Body; b) any third party providing goods and/or services to a Central Government Body; and/or c) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Customer;
"Auditor"	means:

	a) the Customer's internal and external auditors; b) the Customer's statutory or regulatory auditors; c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; d) HM Treasury or the Cabinet Office; e) any party formally appointed by the Customer to carry out audit or similar review functions; and f) successors or assigns of any of the above;
"Authority"	has the meaning given to it in Framework Schedule 1 (Definitions);
"BACS"	means the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;
"BCDR Goods and/or Services"	means the Business Continuity Goods and/or Services and Disaster Recovery Goods and/or Services;
"BCDR Plan"	means the plan prepared pursuant to paragraph 2 of Call Off Agreement Schedule 8 (Business Continuity and Disaster Recovery), as may be amended from time to time;
"Business Continuity Goods and/or Services"	has the meaning given to it in paragraph 4.2.2 of Call Off Schedule 8 (Business Continuity and Disaster Recovery);
"Call Off Commencement Date"	means the date of commencement of this Call Off Contract set out in the Call Off Order Form;
"Call Off Contract"	means this contract between the Customer and the Supplier (entered into pursuant to the provisions of the Framework Agreement), which consists of the terms set out in the Call Off Order Form and the Call Off Terms. The Call Off Contract shall also be known as Call Off Agreement;
"Call Off Contract Charges"	means the prices (inclusive of any Milestone Payments and exclusive of any applicable VAT), payable to the Supplier by the Customer under this Call Off Contract, as set out in Annex 1 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing), for the full and proper performance by the Supplier of its obligations under this Call Off Contract less any Deductions;

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"Call Off Contract Period"	means the term of this Call Off Contract from the Call Off Commencement Date until the Call Off Expiry Date;
"Call Off Effective Date"	means the date when Services of this Call Off Contract set out in the Call Off Order Form shall begin;
"Call Off Expiry Date"	means: (a) the end date of the Call Off Initial Period or any Call Off Extension Period; or (b) if this Call Off Contract is terminated before the date specified in (a) above, the earlier date of termination of this Call Off Contract;
"Call Off Extension Period"	means such period or periods up to a maximum of the number of years in total as may be specified by the Customer, pursuant to Clause 5.2 and in the Call Off Order Form;
"Call Off Guarantee"	means a deed of guarantee that may be required under this Call Off Contract in favour of the Customer in the form set out in Framework Schedule 13 (Guarantee) granted pursuant to Clause 7 (Call Off Guarantee);
"Call Off Guarantor"	means the person, in the event that a Call Off Guarantee is required under this Call Off Contract, acceptable to the Customer to give a Call Off Guarantee;
"Call Off Initial Period"	means the initial term of this Call Off Contract from the Call Off Effective Date to the end date of the initial term stated in the Call Off Order Form;
"Call Off Order Form"	means the order form applicable to and set out in Part 1 of this Call Off Contract;
"Call Off Procedure"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Call Off Schedule"	means a schedule to this Call Off Contract;
"Call Off Tender"	means the tender submitted by the Supplier in response to the Customer's Statement of Requirements following a Further Competition Procedure and set out at Call Off Schedule 15 (Call Off Tender);
"Call Off Terms"	means the terms applicable to and set out in Part 2 of this Call Off Contract;

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"Central Government Body"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Change in Law"	means any change in Law which impacts on the supply of the Goods and/or Services and performance of the Call Off Contract which comes into force after the Call Off Commencement Date;
"Change of Control"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Charges"	means the charges raised under or in connection with this Call Off Contract from time to time, which shall be calculated in a manner that is consistent with the Charging Structure;
"Charging Structure"	means the structure to be used in the establishment of the charging model which is applicable to the Call Off Contract, which is set out in Framework Schedule 3 (Framework Prices and Charging Structure);
"Commercially Sensitive Information"	means the Confidential Information listed in the Call Off Order Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Customer that, if disclosed by the Customer, would cause the Supplier significant commercial disadvantage or material financial loss;
"Comparable Supply"	means the supply of Goods and/or Services to another customer of the Supplier that are the same or similar to the Goods and/or Services;
"Compensation for Critical Service Level Failure"	has the meaning given to it in Clause 14.2.2 (Critical Service Level Failure);
"Confidential Information"	means the Customer's Confidential Information and/or the Supplier's Confidential Information, as the context specifies;
"Continuous Improvement Plan"	means a plan for improving the provision of the Goods and/or Services and/or reducing the Charges produced by the Supplier pursuant to Framework Schedule 12 (Continuous Improvement and Benchmarking);
"Contracting Authority"	means the Authority, the Customer and any other bodies listed in the OJEU Notice;
"Control"	has the meaning given to it in Framework Schedule 1 (Definitions);

"Conviction"

means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order, or being placed on a list kept pursuant to section 1 of the Protection of Children Act 1999 or being placed on a list kept pursuant to the Safeguarding Vulnerable Groups Act 2006;

"Costs"

the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Goods and/or Services:

- a) the cost to the Supplier or the Key Sub-Contractor (as the context requires), calculated per Man Day, of engaging the Supplier Personnel, including:
 - i) base salary paid to the Supplier Personnel;
 - ii) employer's national insurance contributions;
 - iii) pension contributions;
 - iv) car allowances;
 - v) any other contractual employment benefits;
 - vi) staff training;
 - vii) work place accommodation;
 - viii) work place IT equipment and tools reasonably necessary to provide the Goods and/or Services (but not including items included within limb (b) below); and
 - ix) reasonable recruitment costs, as agreed with the Customer;
- b) costs incurred in respect of those Supplier Assets which are detailed on the Registers and which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Customer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually

incurred by the Supplier in respect of those Supplier Assets;

- c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Goods and/or Services;
- d) Reimbursable Expenses to the extent these have been specified as allowable in the Call Off Order Form and are incurred in delivering any Goods and/or Services where the Call Off Contract Charges for those Goods and/or Services are to be calculated on a Fixed Price or Firm Price pricing mechanism (as set out in Framework Schedule 3 (Framework Prices and Charging Structure));

but excluding:

- a) Overhead;
- b) financing or similar costs;
- c) maintenance and support costs to the extent that these relate to maintenance and/or support Goods and/or Services provided beyond the Call Off Contract Period whether in relation to Supplier Assets or otherwise;
- d) taxation;
- e) fines and penalties;
- f) amounts payable under Clause 25 (Benchmarking); and
- g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

"COTS Licence Terms"

means the terms that shall apply to all elements of COTS Software;

"COTS Software"

means software identified as such in paragraph [XX] of the Call Off Order Form;

"Critical Service Level Failure"

means any instance of critical service level failure specified in the Call Off Order Form;

"Crown"

has the meaning given to it in Framework Schedule 1 (Definitions);

"Crown Body"

has the meaning given to it in Framework Schedule 1 (Definitions);

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"CRTPA"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Customer"	means the customer(s) identified in the Call Off Order Form;
"Customer Assets"	means the Customer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Customer and which is or may be used in connection with the provision of the Goods and/or Services;
"Customer Background IPR"	means: a) IPRs owned by the Customer before the Call Off Commencement Date, including IPRs contained in any of the Customer's Know-How, documentation, software, processes and procedures; b) IPRs created by the Customer independently of this Call Off Contract; and/or c) Crown Copyright which is not available to the Supplier otherwise than under this Call Off Contract; d) but excluding IPRs owned by the Customer subsisting in the Customer Software;
"Customer Cause"	means any breach of the obligations of the Customer or any other default, act, omission, negligence or statement of the Customer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Customer is liable to the Supplier;
"Customer Data"	means: 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, including any Customer's Confidential Information, and which: i) are supplied to the Supplier by or on behalf of the Customer; or ii) the Supplier is required to generate, process, store or transmit pursuant to this Call Off Contract; or b) any Personal Data for which the Customer is

	the Data Controller;
"Customer Premises"	means premises owned, controlled or occupied by the Customer which are made available for use by the Supplier or its Sub-Contractors for the provision of the Goods and/or Services (or any of them);
"Customer Property"	means the property, other than real property and IPR, including the Customer System, any equipment issued or made available to the Supplier by the Customer in connection with this Call Off Contract;
"Customer Representative"	means the representative appointed by the Customer from time to time in relation to this Call Off Contract;
"Customer Responsibilities"	means the responsibilities of the Customer set out in Call Off Schedule 4 (Implementation Plan) and any other responsibilities of the Customer in the Call Off Order Form or agreed in writing between the Parties from time to time in connection with this Call Off Contract;
"Customer Software"	means any software identified as such in the Call Off Order Form together with all other software which is not identified as such in the Call Off Order Form but which is owned by or licensed to the Customer and which is or will be used by the Supplier for the purposes of providing the Goods and/or Services;
"Customer System"	means the Customer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Customer or the Supplier in connection with this Call Off Contract which is owned by or licensed to the Customer by a third party and which interfaces with the Supplier System or which is necessary for the Customer to receive the Goods and/or Services;
"Customer's Confidential Information"	means: a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Customer (including all Customer Background IPR and Project Specific IPR); b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has

	come) to the Customer's attention or into the Customer's possession in connection with this Call Off Contract; and
	c) information derived from any of the above;
"Data Controller"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Data Processor"	has the meaning given to it in Framework Schedule 1 (Definitions);;
"Data Protection Legislation" or "DPA"	has the meaning given to it in Framework Schedule 1 (Definitions);;
"Data Subject"	has the meaning given to it in Framework Schedule 1 (Definitions);;
"Data Subject Access Request"	means a request made by a Data Subject in accordance with rights granted pursuant to the DPA to access his or her Personal Data;
"Deductions"	means all Service Credits, Delay Payments or any other deduction which the Customer is paid or is payable under this Call Off Contract;
"Default"	means any breach of the obligations of the Supplier (including but not limited to including abandonment of this Call Off Contract in breach of its terms) or any other default (including material Default), act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Supplier is liable to the Customer;
"Defect"	means any of the following: a) any error, damage or defect in the manufacturing of a Deliverable; or b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or c) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Customer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required

under this Call Off Contract; or

- d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Customer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Call Off Contract;

"Delay"

means:

- a) a delay in the Achievement of a Milestone by its Milestone Date; or
- b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;

"Delay Payments"

means the amounts payable by the Supplier to the Customer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;

"Delay Period Limit"

shall be the number of days specified in Call Off Schedule 4 (Implementation Plan) for the purposes of Clause 6.4.1(b)(ii);

"Deliverable"

means an item or feature in the supply of the Goods and/or Services delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan (if any) or at any other stage during the performance of this Call Off Contract;

"Delivery"

means delivery in accordance with the terms of this Call Off Contract as confirmed by the issue by the Customer of a Satisfaction Certificate in respect of the relevant Milestone thereof (if any) or otherwise in accordance with this Call Off Contract and accepted by the Customer and **"Deliver"** and **"Delivered"** shall be construed accordingly;

"Disaster"

means the occurrence of one or more events which, either separately or cumulatively, mean that the Goods and/or Services, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Call Off Order Form (for the purposes of this definition the **"Disaster Period"**);

"Disaster Recovery Goods"

means the Goods and/or Services embodied in the processes and procedures for restoring the provision

and/or Services"	of Goods and/or Services following the occurrence of a Disaster, as detailed further in Call Off Schedule 8 (Business Continuity and Disaster Recovery);
"Disclosing Party"	has the meaning given to it in Clause 34.4.1 (Confidentiality);
"Dispute"	means any dispute, difference or question of interpretation arising out of or in connection with this Call Off Contract, including any dispute, difference or question of interpretation relating to the Goods and/or Services, failure to agree in accordance with the Variation Procedure or any matter where this Call Off Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Dispute Notice"	means a written notice served by one Party on the other stating that the Party serving the notice believes that there is a Dispute;
"Dispute Resolution Procedure"	means the dispute resolution procedure set out in Call Off Schedule 11 (Dispute Resolution Procedure);
"Documentation"	means all documentation as: a) is required to be supplied by the Supplier to the Customer under this Call Off Contract; b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Customer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Goods and/or Services; c) is required by the Supplier in order to provide the Goods and/or Services; and/or d) has been or shall be generated for the purpose of providing the Goods and/or Services;
"DOTAS"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Due Diligence Information"	means any information supplied to the Supplier by or on behalf of the Customer prior to the Call Off Commencement Date;
"Emergency Maintenance"	means ad hoc and unplanned maintenance provided by the Supplier where: a) the Customer reasonably suspects that the ICT

Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault, and notifies the Supplier of the same; or

- b) the Supplier reasonably suspects that the ICT Environment or the Services, or any part the ICT Environment or the Services, has or may have developed a fault;

"Employee Liabilities"

means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Customer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-Contractor if such payment should have been made prior to the Service Transfer Date;
- f) claims whether in tort, contract or statute or otherwise;
- g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may

	arise from such investigation;
"Employment Regulations"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;
"Environmental Policy"	means to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Customer;
"Environmental Information Regulations or EIRs"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Estimated Year 1 Call Off Contract Charges"	means the sum in pounds estimated by the Customer to be payable by it to the Supplier as the total aggregate Call Off Contract Charges from the Call Off Commencement Date until the end of the first Call Off Contract Year stipulated in the Call Off Order Form;
"Euro Compliant"	means that: (i) the introduction of the euro within any part(s) of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect the Customer's business; (ii) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and (iii) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data): a) be able to perform all such functions in any number of currencies and/or in Euros; b) during any transition phase applicable to the relevant part(s) of the UK, be able to deal with multiple currencies and, in relation to the euro and the national currency of the relevant part(s) of the UK, dual denominations; c) recognise accept, display and print all the euro currency symbols and alphanumeric codes

which may be adopted by any government and other European Union body in relation to the euro;

- d) incorporate protocols for dealing with rounding and currency conversion;
- e) recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any output data in the national currency of the relevant part(s) of the UK and/or the euro; and

permit the input of data in euro and display an outcome in euro where such data, supporting the Customer's normal business practices, operates in euro and/or the national currency of the relevant part(s) of the UK;

"Exit Plan"

means the exit plan described in paragraph 5 of Call Off Schedule 9 (Exit Management);

"Expedited Dispute Timetable"

means the timetable set out in paragraph 5 of Call Off Schedule 11 (Dispute Resolution Procedure);

"FOIA"

has the meaning given to it in Framework Schedule 1 (Definitions);

"Force Majeure"

means any event, occurrence, circumstance, matter or cause affecting the performance by either the Customer or the Supplier of its obligations arising from:

- a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under this Call Off Contract;
- b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;
- c) acts of the Crown, local government or Regulatory Bodies;
- d) fire, flood or any disaster; and
- e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:
 - i) any industrial dispute relating to the Supplier, the Supplier Personnel (including

	any subsets of them) or any other failure in the Supplier or the Sub-Contractor's supply chain; and
	ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and
	iii) any failure of delay caused by a lack of funds;
"Force Majeure Notice"	means a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"Former Supplier"	means a supplier supplying the goods and/or services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Goods and/or Services (or any part of the Goods and/or Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
"Framework Agreement"	means the framework agreement between the Authority and the Supplier referred to in the Call Off Order Form;
"Framework Commencement Date"	means the date of commencement of the Framework Agreement as stated in the Call Off Schedule 1 (Definitions);
"Framework Period"	means the period from the Framework Commencement Date until the expiry or earlier termination of the Framework Agreement;
"Framework Price(s)"	means the price(s) applicable to the provision of the Goods and/or Services set out in Framework Schedule 3 (Framework Prices and Charging Structure);
"Framework Schedule"	means a schedule to the Framework Agreement;
"Fraud"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Further Competition Procedure"	means the further competition procedure described in paragraph 3 of Framework Schedule 5 (Call Off Procedure);
"General Anti-Abuse Rule"	has the meaning given to it in Framework Schedule 1 (Definitions);

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"General Change in Law"	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
"Good Industry Practice"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Goods"	means the goods to be provided by the Supplier to the Customer as specified in Annex 2 of Call Off Schedule 2 (Goods and and/or Services);
"Government"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Government Procurement Card"	means the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Halifax Abuse Principle"	has the meaning given to it in Framework Schedule 1 (Definitions);
"HMRC"	means Her Majesty's Revenue and Customs;
"Holding Company"	has the meaning given to it in Framework Schedule 1 (Definitions);
"ICT Environment"	means the Customer System and the Supplier System;
"ICT Policy"	means the Customer's policy in respect of information and communications technology, referred to in the Call Off Order Form, which is in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	has the meaning given to it in Clause 22.1.3 (Variation Procedure);
"Implementation Plan"	means the plan set out in the Call Off Schedule 4 (Implementation Plan);
"Information"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Installation Works"	means all works which the Supplier is to carry out at the beginning of the Call Off Contract Period to install the Goods in accordance with the Call Off Order Form;
"Insolvency Event"	means, in respect of the Supplier or Framework Guarantor or Call Off Guarantor (as applicable):

- a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
- b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
- c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or
- d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
- f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- h) where the Supplier or Framework Guarantor or Call Off Guarantor is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or
- i) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;

**"Intellectual
Property Rights"
or "IPR"**

means

- a) 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 or business names, designs, Know-How, trade secrets and other rights in Confidential Information;

- b) 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; and
- c) all other rights having equivalent or similar effect in any country or jurisdiction;

"IPR Claim"

means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Goods and/or Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Customer in the fulfilment of its obligations under this Call Off Contract;

"Key Performance Indicators" or "KPIs"

means the performance measurements and targets in respect of the Supplier's performance of the Framework Agreement set out in Part B of Framework Schedule 2 (Goods and/or Services and Key Performance Indicators);

"Key Personnel"

means the individuals (if any) identified as such in the Call Off Order Form;

"Key Role(s) "

has the meaning given to it in Clause 26.1 (Key Personnel);

"Key Sub-Contract"

means each Sub-Contract with a Key Sub-Contractor;

"Key Sub-Contractor"

means any Sub-Contractor:

- a) listed in Framework Schedule 7 (Key Sub-Contractors);
- b) which, in the opinion of the Authority and the Customer, performs (or would perform if appointed) a critical role in the provision of all or any part of the Goods and/or Services; and/or
- c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Call Off Contract Charges forecast to

	be payable under this Call Off Contract;
"Know-How"	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Goods and/or Services but excluding know-how already in the other Party's possession before the Call Off Commencement Date;
"Law"	means 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 Supplier is bound to comply;
"Licensed Software"	means all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Customer for the purposes of or pursuant to this Call Off Contract, including any Supplier Software, Third Party Software and/or any Specially Written Software;
"Losses"	means 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 "Loss" shall be interpreted accordingly;
"Maintenance Schedule"	has the meaning given to it in Clause 32.9 (Maintenance of the ICT Environment);
"Maintenance Services"	means the maintenance services set out in Schedule 2 of the Framework Agreement and more particularly described at 9.13.3;
"Malicious Software"	means 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;
"Man Day"	means 7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;

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"Man Hours"	means the hours spent by the Supplier Personnel properly working on the provision of the Goods and/or Services including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Milestone"	means an event or task described in the Implementation Plan which, if applicable, must be completed by the relevant Milestone Date;
"Milestone Date"	means the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Milestone Payment"	means a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;
"Month"	means a calendar month and "Monthly" shall be interpreted accordingly;
"New Release"	means an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
"Occasion of Tax Non-Compliance"	means: a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime in any jurisdiction; and/or b) any tax return of the Supplier submitted to a

Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Call Off Commencement Date or to a civil penalty for fraud or evasion;

"Open Book Data "

means complete and accurate financial and non-financial information which is sufficient to enable the Customer to verify the Call Off Contract Charges already paid or payable and Call Off Contract Charges forecast to be paid during the remainder of this Call Off Contract, including details and all assumptions relating to:

- a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware, software, goods and/or services;
- b) operating expenditure relating to the provision of the Goods and/or Services including an analysis showing:
 - i) the unit costs and quantity of Goods and any other consumables and bought-in goods and services;
 - ii) manpower resources broken down into the number and grade/role of all Supplier Personnel (free of any contingency) together with a list of agreed rates against each manpower grade;
 - iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier's Profit Margin; and
 - iv) Reimbursable Expenses, if allowed under the Call Off Order Form;
- c) Overheads;
- d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Goods and/or Services;
- e) the Supplier Profit achieved over the Call Off Contract Period and on an annual basis;
- f) confirmation that all methods of Cost apportionment and Overhead allocation are

	consistent with and not more onerous than such methods applied generally by the Supplier;
	g) an explanation of the type and value of risk and contingencies associated with the provision of the Goods and/or Services, including the amount of money attributed to each risk and/or contingency; and
	h) the actual Costs profile for each Service Period.
"Open Source Software"	means computer software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPR in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge;
"Operating Environment"	means the Customer System and the Sites;
"Order"	means the order for the provision of the Goods and/or Services placed by the Customer with the Supplier in accordance with the Framework Agreement and under the terms of this Call Off Contract;
"Other Supplier"	means any supplier to the Customer (other than the Supplier) which is notified to the Supplier from time to time and/or of which the Supplier should have been aware;
"Over-Delivered Goods"	has the meaning given to it in Clause 9.5.1 (Over-Delivered Goods);
"Overhead"	means those amounts which are intended to recover a proportion of the Supplier's or the Key Sub-Contractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Personnel and accordingly included within limb (a) of the definition of "Costs";
"Parent Company"	means any company which is the ultimate Holding Company of the Supplier and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged by the same or similar business to the Supplier. The term

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	"Holding or Parent Company" shall have the meaning ascribed by the Companies Act 2006 or any statutory re-enactment or amendment thereto;
"Party"	means the Customer or the Supplier and "Parties" shall mean both of them;
"Performance Monitoring System"	has the meaning given to it in paragraph 1.1.2 in Part B of Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Performance Monitoring Reports"	has the meaning given to it in paragraph 3.1 of Part B of Schedule 6 (Service Level, Service Credit and Performance Monitoring);
"Personal Data"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Permitted Maintenance"	has the meaning given to it in Clause 32.11 (Maintenance of the ICT Environment);
"PQQ Response"	means, where the Framework Agreement has been awarded under the Restricted Procedure, the response submitted by the Supplier to the Pre-Qualification Questionnaire issued by the Authority, and the expressions "Restricted Procedure" and "Pre-Qualification Questionnaire" shall have the meaning given to them in the Regulations;
"Proactive Service"	means that Supplier Equipment/ Devices are connected to Xerox Tools and Xerox Client Tools. The benefits of this Proactive Service are provided by Xerox Device Manager via Xerox Tools and Xerox Client Tools as detailed in Call Off Schedule 1, Definitions "Xerox Tools" and as detailed throughout this Call Off Order agreement;
"Processing"	has the meaning given to it in the Data Protection Legislation but, for the purposes of this Call Off Contract, it shall include both manual and automatic processing and "Process" and "Processed" shall be interpreted accordingly;
"Prohibited Act"	means any of the following: a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer and/or the Authority or other Contracting Authority or any other public body a financial or other advantage to: i) induce that person to perform improperly a

relevant function or activity; or

- ii) reward that person for improper performance of a relevant function or activity;
- b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
- c) committing any offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or
 - ii) under legislation or common law concerning fraudulent acts; or
 - iii) defrauding, attempting to defraud or conspiring to defraud the Customer; or
 - iv) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

"Project Specific IPR"

means:

- a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract and updates and amendments of these items including (but not limited to) database schema; and/or
- b) IPR in or arising as a result of the performance of the Supplier's obligations under this Call Off Contract and all updates and amendments to the same;

but shall not include the Supplier Background IPR or the Specially Written Software;

"Quality Plans"

shall have the meaning given in Clause 11.2 (Standards and Quality);

"Reactive Service"

has the meaning that Supplier Equipment/ Devices are not connected to Xerox Tools and Xerox Client Tools and that the Customer is responsible for providing meter reads on the Portal by the 15th of each month. Failure to comply could result in a

£135 administration charge per period per Supplier Equipment/Device. The Customer is also responsible for ordering consumables for these Supplier Equipment/ Devices.

"Recipient"	has the meaning given to it in Clause 34.4.1 (Confidentiality);
"Rectification Plan"	means the rectification plan pursuant to the Rectification Plan Process;
"Rectification Plan Process"	means the process set out in Clause 38.2 (Rectification Plan Process);
"Registers"	has the meaning given to in Call Off Schedule 9 (Exit Management);
"Regulations"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Reimbursable Expenses"	has the meaning given to it in Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing);
"Related Supplier"	means any person who provides goods and/or services to the Customer which are related to the Goods and/or Services from time to time;
"Relevant Conviction"	means a Conviction that is relevant to the nature of the Goods and/or Services to be provided or as specified in the Call Off Order Form;
"Relevant Requirements"	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Relevant Transfer"	means a transfer of employment to which the Employment Regulations applies;
"Relevant Transfer Date"	means, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
"Relief Notice"	has the meaning given to it in Clause 39.2.2 (Supplier Relief Due to Customer Cause);
"Replacement Goods"	means any goods which are substantially similar to any of the Goods and which the Customer receives in substitution for any of the Goods following the Call Off Expiry Date, whether those goods are provided by the Customer internally and/or by any

	third party;
"Replacement Services"	means any services which are substantially similar to any of the Goods and/or Services and which the Customer receives in substitution for any of the Services following the Call Off Expiry Date, whether those services are provided by the Customer internally and/or by any third party;
"Replacement Sub-Contractor"	means a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
"Replacement Supplier"	means any third party provider of Replacement Goods and/or Services appointed by or at the direction of the Customer from time to time or where the Customer is providing Replacement Goods and/or Services for its own account, shall also include the Customer;
"Request for Information"	means a request for information or an apparent request relating to this Call Off Contract or the provision of the Goods and/or Services or an apparent request for such information under the FOIA or the EIRs;
"Restricted Countries"	has the meaning given to it in Clause 34.7.3 (Protection of Personal Data);
"Satisfaction Certificate"	means the certificate materially in the form of the document contained in Call Off Schedule 5 (Testing) granted by the Customer when the Supplier has Achieved a Milestone or a Test;
"Security Management Plan"	means the Supplier's security management plan prepared pursuant to paragraph 3 of Call Off Schedule 7 (Security) a draft of which has been provided by the Supplier to the Customer in accordance with paragraph 3 of Call Off Schedule 7 (Security) and as updated from time to time;
"Security Policy"	means the Customer's security policy, referred to in the Call Off Order Form, in force as at the Call Off Commencement Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Security Policy Framework"	the current HMG Security Policy Framework that can be found at https://www.gov.uk/government/publications/security-policy-framework ;
"Service Credit"	has the meaning given to it in the Call Off Order

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Cap"	Form;
"Service Credits"	means any service credits specified in Annex 1 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) being payable by the Supplier to the Customer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Failure"	means an unplanned failure and interruption to the provision of the Goods and/or Services, reduction in the quality of the provision of the Goods and/or Services or event which could affect the provision of the Goods and/or Services in the future;
"Service Level Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level Performance Criterion;
"Service Level Performance Criteria"	has the meaning given to it in paragraph 3.2 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Performance Measure"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Level Threshold"	shall be as set out against the relevant Service Level Performance Criterion in Annex 1 of Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Levels"	means any service levels applicable to the provision of the Goods and/or Services under this Call Off Contract specified in Annex 1 to Part A of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Period"	has the meaning given to in paragraph 4.1 of Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring);
"Service Transfer"	means any transfer of the Goods and/or Services (or any part of the Goods and/or Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
"Service Transfer Date"	means the date of a Service Transfer;
"Services"	means the services to be provided by the Supplier to the Customer as referred to in Annex A of Call Off

	Schedule 2 (Goods and Services);
"Sites"	means any premises (including the Customer Premises, the Supplier's premises or third party premises) from, to or at which: a) the Goods and/or Services are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Goods and/or Services; or c) where: any part of the Supplier System is situated; or d) any physical interface with the Customer System takes place;
"Software"	means Specially Written Software, Supplier Software and Third Party Software;
"Software Supporting Materials"	has the meaning given to it in Clause 33.2 and 33.3 Licences granted by the Supplier: Specially Written Software and Project Specific IPR);
"Source Code"	means computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
"Specially Written Software"	means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Call Off Contract, including any modifications or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Call Off Contract;
"Specific Change in Law"	means a Change in Law that relates specifically to the business of the Customer and which would not affect a Comparable Supply;
"Staffing Information"	has the meaning give to it in Call Off Schedule 10 (Staff Transfer);
"Standards"	means any: a) standards published by BSI British Standards, the National Standards Body of the United

Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;

- b) standards detailed in the specification in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators);
- c) standards detailed by the Customer in the Call Off Order Form or agreed between the Parties from time to time;
- d) relevant Government codes of practice and guidance applicable from time to time.

"Statement of Requirements"

means a statement issued by the Customer detailing its requirements in respect of Goods and/or Services, issued in accordance with the Call Off Procedure;

"Sub-Contract"

means any contract or agreement (or proposed contract or agreement), other than this Call Off Contract or the Framework Agreement, pursuant to which a third party:

- a) provides the Goods and/or Services (or any part of them);
- b) provides facilities or Goods and/or Services necessary for the provision of the Goods and/or Services (or any part of them); and/or
- c) is responsible for the management, direction or control of the provision of the Goods and/or Services (or any part of them);

"Sub-Contractor"

means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;

"Supplier"

means the person, firm or company with whom the Customer enters into this Call Off Contract as identified in the Call Off Order Form;

"Supplier Assets"

means all assets and rights used by the Supplier to provide the Goods and/or Services in accordance with this Call Off Contract but excluding the Customer Assets;

"Supplier"

means

Background IPR"	a) Intellectual Property Rights owned by the Supplier before the Call Off Commencement Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or b) Intellectual Property Rights created by the Supplier independently of this Call Off Contract, c) but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;
"Supplier Personnel"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier's obligations under this Call Off Contract;
"Supplier Equipment"	means the Supplier's Device, hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Customer) in the performance of its obligations under this Call Off Contract; or means the definition as set out in Framework Schedule 2 (Part A: Goods and Services), as applicable;
"Supplier Non-Performance"	has the meaning given to it in Clause 39.1 (Supplier Relief Due to Customer Cause);
"Supplier Personnel"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier's obligations under this Call Off Contract;
"Supplier Profit"	means, in relation to a period or a Milestone (as the context requires), the difference between the total Call Off Charges (in nominal cash flow terms but excluding any Deductions) and total Costs (in nominal cash flow terms) for the relevant period or in relation to the relevant Milestone;
"Supplier Profit Margin"	means, in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone

	divided by the total Call Off Contract Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Representative"	means the representative appointed by the Supplier named in the Call Off Order Form;
"Supplier Software"	means any software which is proprietary to the Supplier (or an Affiliate of the Supplier) and identified as such in the Call Off Order Form together with all other such software which is not identified in the Call Off Order Form but which is or will be used by the Supplier or any Sub-Contractor for the purposes of providing the Goods and/or Services or is embedded in and in respect of such other software as required to be licensed in order for the Customer to receive the benefit of and/or make use of the Goods and/or Services;
"Supplier System"	means the information and communications technology system used by the Supplier in supplying the Goods and/or Services, including the Supplier Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Customer System);
"Supplier's Confidential Information"	means a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Background IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Call Off Contract; c) information derived from any of the above.
"Template Call Off Order Form"	means the template Call Off Order Form in Annex 1 of Framework Schedule 4 (Template Call Off Order Form and Template Call Off Terms);
"Template Call Off Terms"	means the template terms and conditions in Annex 2 of Framework Schedule 4 (Template Call Off Order Form and Template Call Off Terms);

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"Tender"	means the tender submitted by the Supplier to the Authority and annexed to or referred to in Framework Schedule 21;
"Termination Notice"	means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Call Off Contract on a specified date and setting out the grounds for termination;
"Test Issue"	means any variance or non-conformity of the Goods and/or Services or Deliverables from their requirements as set out in the Call Off Contract;
"Test Plan"	means a plan: a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones, as described further in paragraph 6 of Call of Schedule 5 (Testing);
"Test Strategy"	means a strategy for the conduct of Testing as described further in paragraph 5 of Call Off Schedule 5 (Testing);
"Tests and Testing"	means any tests required to be carried out pursuant to this Call Off Contract as set out in the Test Plan or elsewhere in this Call Off Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software;
"Third Party Software"	means any software identified as such in the Call Off Order Form together with all other software which is not listed in the Call Off Order Form which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source Software which is or will be used by the Supplier for the purposes of providing the Goods and/or Services);
"Transferring Customer Employees"	those employees of the Customer to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date;

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"Transferring Supplier Employees"	means those employees of the Supplier and/or the Supplier's Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.
"Transparency Principles"	has the meaning given to it in Framework Schedule 1 (Definitions);
"Transparency Reports"	means the information relating to the Services and performance of this Call Off Contract which the Supplier is required to provide to the Authority in accordance with the reporting requirements in Schedule 13;
"Undelivered Goods"	has the meaning given to it in Clause 9.4.1 (Goods);
"Undelivered Goods and/or Services"	has the meaning given to it in Clause 8.4.1 (Goods and/or Services);
"Undisputed Sums Time Period"	has the meaning given to it Clause 42.1.1 (Termination of Customer Cause for Failure to Pay);
"Update"	means in relation to any Software and/or any Deliverable means a version of such item which has been produced primarily to overcome Defects in, or to improve the operation of, that item;
"Upgrade"	means any patch, New Release or upgrade of Software and/or a Deliverable, including standard upgrades, product enhancements, and any modifications, but excluding any Update which the Supplier or a third party software supplier (or any Affiliate of the Supplier or any third party) releases during the Call Off Contract Period;
"Valid Invoice"	means an invoice issued by the Supplier to the Customer that complies with the invoicing procedure in paragraph 7 (Invoicing Procedure) of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing);
"Variation"	has the meaning given to it in Clause 22.1 (Variation Procedure);
"Variation Form"	means the form set out in Call Off Schedule 12 (Variation Form);
"Variation Procedure"	means the procedure set out in Clause 22.1 (Variation Procedure);
"VAT"	has the meaning given to it in Framework Schedule 1 (Definitions);

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"Warranty Period"	means, in relation to any Goods, the warranty period specified in the Call Off Order Form;
"Worker"	means any one of the Supplier Personnel which the Customer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees applies in respect of the Goods and/or Services.
"Xerox Client Tools"	means the proprietary tools (excluding equipment) developed and owned by Xerox and any modifications, enhancements, improvements thereto and derivative works thereof, that are licensed to the Customer for their installation, use and access via an accompanying click wrap End User License Agreement.
"Xerox Tools"	means certain proprietary tools (excluding Devices) developed and used by the Supplier to provide certain services to the Customer, and any modifications, enhancements, improvements thereto and derivative works thereof providing a Proactive Service via Xerox Device Manager. Xerox Tools may include software-based components, documentation and methodology-based components used for the provision of the Services under this Call-Off Agreement.
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in this Call Off Contract.

CALL OFF SCHEDULE 2: GOODS AND/OR SERVICES

1. INTRODUCTION

1.1 This Call Off Schedule 2 specifies the:

1.1.1 Services to be provided under this Call Off Contract, in Annex 1; and

1.1.2 Goods to be provided under this Call Off Contract, in Annex 2.

ANNEX 1: THE SERVICES

Annex 1 – ITCR Managed Print Service Requirements

Key

P=Priority Type: I - Information Only, M – Must, D – Desirable

C=Compliance: Y – Fully Compliant, N – Not Compliant, Q – Partially Compliant with caveat

Note that reference to Annexes in this table refers to the Customer's original tender document structure.

ID	Heading	Sub Heading	Requirement	P	C
Definitions					
FR-DEF-001	Definitions	The Service Provider	The Supplier providing the new Managed Print Service and any sub contracted Suppliers	I	
FR-DEF-002	Definitions	Customer	The organisation consuming the service - Highways England and any contracted suppliers or third parties.	I	
FR-DEF-003	Definitions	Device	Individual Printing Devices providing the Print Service	I	
FR-DEF-004	Definitions	Fleet	The cumulative term for all the Devices deployed on the estate	I	
FR-DEF-005	Definitions	Knowledge Based Users	Knowledge Based Users comprise the majority of the Customer's Users. They use the standard set of rich productivity tools and print according to business need on an ad-hoc basis.	I	
			Knowledge Based Users must be able to work from designated Customer Premises, and will also move between Customer Premises or work from home.		
FR-DEF-006	Definitions	Operational Users	Knowledge Based Users normally work within the hours of 0700 – 1900, Monday – Friday	I	
			This group of Users have specific operational requirements, and work shifts as part of a 24/7 x 365 service, comprising of Traffic Officers, Senior Officers on-call, Regional Control Centre staff and Customer Contact staff in the National Traffic Operations Centre.		

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ID	Heading	Sub Heading	Requirement	P	C
FR-DEF-007	Definitions	Traffic Officers	Traffic Officers spend their shift on-road, with a limited number of Traffic Officer Team Leaders located at Regional Control Centres and Outstations. These staff require access to ICT Services on a 24/7 basis at their designated Highways England Premises (such as a RCC or Outstation). These users will need to be able to print from tablets and other mobile devices whilst mobile and be able to retrieve print from a Highways England location at a later time. This could be a depot, Outstation or RCC, but most likely to be the Outstation at which they are based.	I	
FR-DEF-008	Definitions	Senior Officers On call	A number of staff are designated as Senior Officers On-Call. These Users are not on-road, but are on-call, and require support at Customer Premises or at home on a 24/7 basis. They require access to the same services as Knowledge Based Users. This group also includes Press Officers and internal ICT Service Delivery staff, who may be on-call	I	
FR-DEF-009	Definitions	Customer Contact	The CCC is a business unit within the NTOC building. Its purpose is to provide a first line of contact to the Customer's customers and stakeholders. CCC Users will also have access to a separate Capita Command & Control desktop which places one additional monitor on the desk and allows them to interface when dealing with network events with RCCs. This equipment is connected to a different network. The RCC s and some Outstations have printing solutions.	I	
FR-DEF-010	Definitions	Regional Control Centre Operators	Regional Control Centre Operators are standard Knowledge Based Users working from the Regional Control Centre control rooms. These Users can switch between Operational Systems and the standard Highways England desktop. They can be responsible for managing incidents using a system called Control Works, which will be included in the print services.	I	
FR-DEF-011	Definitions	Designated Homeworkers	Designated Home Workers are defined as staff working from home and/or at an external customer's/contractor's premises for at least the major part of the week on a regular basis. The remainder of the working week is spent at the officer's permanent station. A print service is required to be supplied at their preferred premise. Where a print upgrade or training or support is to be provided, this should be at the home workers location of choice (normally their primary place of work). Designated home workers would require support on the same time basis as Knowledge Based workers	I	

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ID	Heading	Sub Heading	Requirement	P	C
FR-DEF-012	Definitions	Users with accessibility needs.	There are a limited number of Users with accessibility needs, who will require specific software and/or hardware to be made available to them. These Users could fit into any of the other User Groups, and are generally likely to be Knowledge Based Users or designated Home Workers. Examples of specialist software used includes: • Dragon Naturally Speaking • Zoomtext • Texthelp Read & Write 8.1/Gold/9 Examples of hardware requirements include a height adjustable interface to be accessible via wheelchair.	I	
FR-DEF-013	Definitions	Creative and Specialist Print	The Creative team are the design and publishing specialists within Highways England, offering expertise in the following: • Design and delivery of communications collateral for all scheme public consultations • Corporate publications such as the annual report and delivery plan • Video editing, illustrations, e-learning, technical diagrams and animations • Film and photography and management of the company's image library • Scheme and diagrammatic mapping • A fully managed internal and external print and distribution service The Creative team also make use of specialist print and scanning services and associated Print consumables.	I	
	Functional Requirements				
	Hardware Provision and Management				
FR-HRD-001	Hardware		The Service Provider shall install, manage and support the Hardware required to deliver the Manage Print Service at all other Customer Premises including Home Worker locations and Outstations. This is currently provided by print Devices detailed in Annex 2. For the avoidance of doubt, The Manged Print Service shall include operational consumables for the general office based Print service, and Creative Services' specialist print unit and plotters such as toner and ink required to keep the machinery operational. However the Customer is responsible for the provision of all paper and in particular the Creative Service is responsible for provision of specialist print consumables such as rolls of paper for plotters,. This will be excluded from the contract.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
FR-HRD-002	Hardware		The Service Provider shall provide the Managed Print Service to all Highways England locations as detailed in Annex 2.	M	Y
FR-HRD-003	Hardware		The Service Provider shall provide additional Managed Print Services to any new locations during the transition and lifetime of the contract. Any new locations known prior to the start of the contract shall be included in the operational cost model. These are currently: 1) An Annex to the main Woodlands Building to hold an additional 150 staff with a requirement for 2 MFD s 2) A new depot style office in Cambridge to hold 50 staff with a requirement for 1 MFD 3) A new depot style office in Ipswich to hold 50 staff with a requirement for 1 MFD Further additional locations shall be treated as separate projects and be subject to change control and will be added to the Financial Model.	M	Y
FR-HRD-004	Hardware		The Service Provider shall provide an audit of Customer print functionality currently provided outside the scope of the current contract with a view to introducing efficiencies and bringing the print functionality securely within the scope of the contract. Current examples are, but not limited to: 1) The Customer owned incident management system - Control Works, which prints out incident related information and documents.	M	Y
FR-HRD-005	Hardware		The Service Provider shall provide a network print solution compatible with the Customer's network as detailed in 'Infrastructure' and which delivers the required Service Levels.	M	Y
FR-HRD-006	Hardware		The Service Provider shall provide a User interface to a print Devices which facilitates accessibility by wheelchair users.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
FR-HRD-007	Hardware		The Service Provider is expected to provide a print solution to support the internal Managed Print unit located in the Woodlands office in Bedford, managed by Creative Services to provide bulk printing. This includes the following functionality: • 2 x colour print Devices with 100+ pages per minute output - production press capable of printing between 150,000 and 250,000 impressions per month • High capacity stacker and feeder trays (approx. 2,000 sheets), plus an inserter tray • High quality print production with consistently good colour accuracy. • Digital front end controllers, ideally powered by external Fiery (up-to-date Command Workstation) • Auto duplex • Sheet sizes ranging from A4 to SRA3 (greater range preferred to accept larger and smaller stock) • Ability to accept a mixture of media - coated and uncoated stocks, polyester, plus labels. • 90gsm – 350gsm weights accepted. • Mixed stock jobs accepted. • At least one print Device requires photocopying and scanning capability. • At least one print Device needs to be able to provide a 2 and 4-hole punch capability, plus single and double staple (50+ sheets). • Both print Devices need similar inline booklet making facilities - with 'square back' finish, accepting up to 50 sheets of paper (weights between 90 and 250gsm). Crease and full trim (top, bottom and creep sides). • Multiple finishing sizes – generally between A5 and A4, but greater size range preferred (e.g. occasional A6 booklets). • Ability for the operator to be able to make adjustments to minimise skew. • Ability to hand-feed. Details of the volumes and locations of the current provision are detailed in Annex 2, for the avoidance of doubt, the Service Provider shall provide a proposal for the replacement and lease of all Devices.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
FR-HRD-008	Hardware		The Service Provider is expected to provide additional finishing and print services to support the Specialist Managed Print units, managed by Creative Services. These include the following: • Digital guillotine able to handle at least a ream of SRA3, trimming down to business card size, with programmable memory functions including safety training provided every 6 months. • Large format printer and scanner with high resolution output and good colour reproduction (scanning up to oversize A0 size). • Electronic comb binding and wire binding machines. • Digital, suction fed folding machine with at least 2 plates to enable folding A4 to DL, and folding A3 to A4 (single fold or half z-fold). Additional folding capabilities are desirable (e.g. cross folds).	M	Y
FR-HRD-009	Hardware		The Service Provider is expected to provide further print services to support Creative Services at the 6 regional offices (The Cube, Bridge House, Lateral, Piccadilly Gate, Woodlands, Temple Quay). These include the following: • 6 MFDs. • The ability to print SRA3 • The ability to print duplex • Equipped with a manual feed tray • The ability to print on a variety of weights and types of paper/board • The ability to scan A3 • The ability to produce reasonably colour accurate impressions • Provision of PostScript • Provision of finishing capabilities including folding and stapling • 6 x graphics offices plotters (currently HP DesignJet Z6200 Photo Printer 44)	M	Y
FR-HRD-010	Hardware		The Service Provider shall provide an optional service to allow Creative Services to automatically fold and insert leaflets and mailshots into envelopes.	D	Y
FR-HRD-011	Hardware		The Service Provider shall install, manage and support print solutions for 'Designated Homeworkers' as defined in the 'Definitions Section' above. The Service Provider is expected to liaise with the Designated Homeworker to determine an agreed timetable for installation, and home visits if required.	M	Y
FR-HRD-012	Hardware		The Service Provider shall work with the Customer and contracted Suppliers to facilitate the optimisation of Capacity and increase or decrease Capacity for the Print Services to maximise Customer satisfaction and provide the optimal Service.	M	Y
FR-HRD-013	Hardware		The Service Provider shall work with the Customer to facilitate the optimal process and method for disposal and recycling of consumables, ink and toner cartridges etc.	M	Y
Software Solution Provision and Management					

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ID	Heading	Sub Heading	Requirement	P	C
FR-SFT-001	Software Provision and Management		The Service Provider shall provide a solution which will allow the Customer to proactively manage consumables, such as an automatic alerting system.	M	Y
FR-SFT-002	Software Provision and Management		The Service Provider shall provide a solution which will allow the Customer to easily print from any location. This is currently provided by 'Follow me' software and is embedded in the Customer's identity tag.	M	Y
FR-SFT-003	Software Provision and Management		The Service Provider shall provide a mobile printing solution, allowing the Customer to print while travelling to a destination for retrieval at that destination. It should be compatible with both Android and iOS devices.	M	Y
FR-SFT-004	Software Provision and Management		The Service Provider shall provide a solution which will proactively encourage large scale colour printing to be Serviced by the Customer owned Print production facility instead of locally, thus facilitating economies of scale.	M	Y
FR-SFT-005	Software Provision and Management		The Service Provider shall provide a solution which will enable the Customer to reduce its print volume by 15% each year.	M	Y
FR-SFT-006	Software Provision and Management		The Service Provider shall provide a solution which will guide Customer behaviour to print more efficiently	M	Y
FR-SFT-007	Software Provision and Management		The Service Provider shall provide a solution which allows for visibility of trends of print usage, and establishes mechanism to record this usage against specific budget centres or accounting codes.	M	Y
FR-SFT-008	Software Provision and Management		The Service Provider shall provide a solution which will allow for interrogation of the print usage	M	Y
FR-SFT-009	Software Provision and Management		The Service Provider shall provide a solution which can actively monitor, track and report print usage and trends historically at a various levels within the organisation down to the individual level.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
FR-SFT-010	Software Provision and Management		The Service Provider shall provide a dash board report, which will be configurable by the Customer and enable the Customer to interrogate print analysis data in various ways including but not limited to: 1) By department; 2) By location; 3) By document type; 4) By colour or mono; 5) By day, month and year; 6) By individual; 7) By Device; 8) Highlighting peak flows over days, months and years. 9) Highlighting peak costs and savings over various time periods.	M	Y
FR-SFT-011	Software Provision and Management		The Service Provider shall provide a scanning solution which is able to move images from MFDs to email	M	Y
FR-SFT-012	Software Provision and Management		The Service Provider shall be able to provide a scanning solution which is able to move images from MFDs document repositories.	D	Y
FR-SFT-013	Software Provision and Management		The Service Provider shall distribute software by packing the software for the Customer's Service Providers to distribute according to the Customer's policies and the Service Levels.	M	Y
FR-SFT-014	Software Provision and Management		The Service Provider shall ensure that all Devices are compatible with the standard Windows 10 build and Office365 including the standard productivity suite, email but also with backwards compatibility to other versions of Windows.	M	Y
FR-SFT-015	Software Provision and Management		The Service Provider shall install the appropriate software on Devices or where required to resolve an Incident.	M	Y
FR-SFT-016	Software Provision and Management		The Service Provider shall provide a rules based solution, which will allow for configuration and workflow and the Customer to control cost and implement efficiencies.	D	Y
FR-SFT-017	Software Provision and Management		The Service Provider shall provide a solution which can actively monitor, track and report print usage and trends and spend.	M	Y
FR-SFT-018	Software Provision and Management		The Service Provider shall provide a solution which can monitor and project savings over various time periods, months, years.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
FR-SFT-019	Software Provision and Management		The Service Provider shall provide a solution which will allow individual users to be allocated a print target and to monitor their performance against it, and provide guidance at an individual level as to how to improve on print efficiency.	D	Y
FR-SFT-020	Software Provision and Management		The Service Provider shall provide a solution which will allow external Suppliers and third parties to print using Customer owned facilities	D	Y
FR-SFT-021	Software Provision and Management		The Service Provider shall provide a solution which will allow for a similar User experience in terms of User interface and functionality regardless of location, be it an outstation or a main office or anything in between.	M	Y
	Non-Functional Requirements				
	Service Levels and Support				
NFR-SLS-001	Service Levels and Support		The Service Provider shall provide support to all User Groups in accordance with their support needs as specified in the above definitions (or as notified by the Customer from time to time through the Change Control Procedure) and detailed in Annex 4 - Service Levels	M	Y
NFR-SLS-002	Service Levels and Support		All updates (patches, bug fixes, etc) for existing versions will be provided as and when required. All upgrades shall be provided within a day of availability and all upgrades shall follow the Customer's change and readiness review processes.	M	Y
	Continual Service Improvement and Innovation				
NFR-CSI-001	Continual Service Improvement		Throughout the life of the contract, the Service Provider shall continue to identify opportunities to make efficiencies, reduce costs and improve support to better meet service and business needs. The Service Provider shall be strategic, innovative and engage with Highways England in identifying the potential for service change by taking a proactive approach to continual service improvement.	M	Y
NFR-CSI-002	Continual Service Improvement		From the initial stand-still position and the transition, the Service Provider shall monitor and report usage and performance and make recommendations around continual improvements associated with the managed print service. This may include, but not be limited to; 1) rationalisation of the number of devices; 2) recommendations for amendments and enhancements to the current service design; 3) recommendations around new and emerging services and devices,	M	Y
NFR-CSI-003	Continual Service Improvement		Highways England operates a flexible desktop provision where the majority of staff use mobile devices, such as laptops and smartphones. The Service Provider will be required to provide a solution which supports this strategy and will provide knowledge input and options appraisal in relation to better supporting the strategy in an ongoing basis.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-CSI-004	Continual Service Improvement		The Service Provider shall attend a process improvement review every other month, whereby the Service Provider shall work with the Customer to recommend process efficiencies and recommend potential innovations.	D	Y
NFR-CSI-005	Continual Service Improvement		The Service Provider shall use innovative solutions to educate and encourage the user to reduce their print output and print in the most cost-effective manner this could include but not limited to: 1) Reducing the ratio of colour to mono print 2) Directing bulk printing jobs to the print unit 3) Highlighting, individual users and departments producing the greatest output.	M	Y
NFR-CSI-006	Continual Service Improvement		The Service Provider shall use innovative solutions to enable the Creative print unit to manage and respond to print job requests in an efficient manner.	M	Y
NFR-CSI-007	Continual Service Improvement		The Service Provider shall communicate and evidence potential service improvement opportunities within the reporting processes associated with the service requirements.	M	Y
Infrastructure					
NFR-INF-001	Infrastructure	Background	At the time of publishing the ITT, Highway England's current business communications network adopts a traditional Wide Area Network (WAN) topology with HE locations of work (offices, Regional Control Centres (RCC) and Traffic Officer outstations) connecting into what is a private network based on MPLS1 technology. The current solution is compliant with the requirements of a Public Services Network (PSN) meaning that the network is encrypted and designed to be secure and trusted. Please refer to Annex 5 for a more detailed view of the Customer strategy and Network landscape.	I	
NFR-INF-002	Infrastructure	Background	It is proposed that Highways England will replace the current PSN based WAN and move to using the Public Internet to meet the majority of HE ICT requirements. The Customer is working towards a complete implementation date of the first quarter 2020, currently it is operating a hybrid model, with some new & smaller locations adopting the new model, during the period H2 2019 migration to the target model will commence. Please refer to Annex 5 for a more detailed description of the Customer Strategy.	I	

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ID	Heading	Sub Heading	Requirement	P	C
NFR-INF-003	Infrastructure	Background	Knowledge based workers using desktop computers make use of a Local Area Network (LAN) formed by structured cabling connecting each desk to a comms room where switches and routers provide onward connection to the WAN. However, the workforce is becoming more mobile, preferring to use Wi-Fi connections. This Customer therefore proposes to enhance the Wi-Fi capabilities of all HE offices whilst retaining a LAN for the immediate future for individuals and teams (such as Creative teams) that have a particular need for LAN connectivity. Where the Customer is creating new office locations where structured cabling doesn't already exist the Customer is adopting a 'Wireless only' approach. In the long term it's envisaged that most Customer offices will move completely to wireless network access.	I	
NFR-INF-004	Infrastructure		The Service Provider shall provide a Managed Print Service which will work effectively across the Customer's current infrastructure, but which can support the Customer's aspiration to move towards the new infrastructure and which will still meet SLA s, be secure and fulfil the Customer's requirements. The Managed Print Service shall therefore be compatible with both a Wi-Fi and a wired based infrastructure.	M	Y
NFR-INF-005	Infrastructure		The Service Provider shall demonstrate the ability to deliver a flexible solution, which can allow for the transition away from the PSN, by being able to deliver a fully cloud based Software as a Service model but with a local option to facilitate the hybrid state. The Customer will evaluate the design as part of the submission.	M	Y
NFR-INF-006	Infrastructure		The Service Provider shall control and secure each User's access to the facilities they are entitled to use via the Service through the use of authentication and authorisation services based on an appropriate, industry standards-based system.	M	Y
NFR-INF-007	Infrastructure		The Service Provider is required to understand, support and integrate with the Customer's systems and networks with an overview of the state of the environment that is currently in place being: • Window server 2019 as the preference • On premise Azure Active Directory	M	Y
NFR-INF-008	Infrastructure		The Service Provider shall provide a fully managed service for any print related Infrastructure including installing, managing and decommissioning the underlying (local) server and storage infrastructure. The Service Provider is expected to collaborate with any Customer contracted Service Providers in providing an end to end solution and with the Customer to manage communications between parties.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-INF-009	Infrastructure		In providing the Managed Print Service, the Service Provider shall: • Install, manage and support any related infrastructure and storage; • administer access to Network Printer Devices and MFDs by Users in order to generate hard copy prints of documents; • provide and administer access for end Users to restricted queues on specified Network Printer Devices; • support application spooling to Network Printer Devices; • add new Network Printer Devices to the print servers in response to Service Requests.	M	Y
NFR-INF-010	Infrastructure		The Service Provider shall work with the Customer and contracted Suppliers to facilitate the migration to cloud printing in accordance with the Customer's proposed strategy of Cloud first with Software as a Service and associated implementation plan. During the migration the Service Provider is expected to deliver a Managed Print Service which will meet current service levels.	M	Y
	Sustainability and Environment				
NFR-SUS-001	Sustainability and Environment		The Service Provider shall provide a Device Power Management Service (PMS) to reduce the power consumption of the Devices and provide intelligent power management in support of the Services and in accordance with the Customer's policies.	M	Y
NFR-SUS-002	Sustainability and Environment		The Service Provider must ensure that the Service supports the commitments and principles outlined in the Greening Government ICT strategy. - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/155098/greening-government-ict-strategy.pdf	M	Y
NFR-SUS-003	Sustainability and Environment		The solution provided should to be compliant with at least level AA of the Web Content Accessibility Guidelines 2.0 (W3C, 2008), including RNIB standards where relevant.	M	Y
	User Support				
NFR-USR-001	User Support		The Service Provider shall provide support to all User Groups in accordance with their support needs as specified in the above definitions (or as notified by the Customer from time to time through the Change Control Procedure.	M	Y
NFR-USR-002	User Support		The Service Provider shall comply with the Customer's Planned Engineering Works (PEW) and MCH1881 Permit to Access (PtA) processes.	M	Y
NFR-USR-003	User Support		The Service Provider shall comply with the Customer's office security requirements and physical access arrangements and the HMG Security Policy Framework for access to any Customer Premises including Home Workers.	M	Y
NFR-USR-004	User Support		The Service Provider shall provide advice and guidance on the operability and inter-operability of Hardware and Software.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-USR-005	User Support		The Service Provider shall advise the Customer of any developments in best practice, research findings, and User guidance in respect of its obligations under this Agreement and in relation to the Management of Health and Safety at Work Regulations as soon as it becomes aware of any change.	M	Y
NFR-USR-006	User Support		The Service Provider shall assist the Customer in promulgating advice approved by the Customer to Users via appropriate channels (normally corporate email).	M	Y
NFR-USR-007	User Support		The Service Provider shall co-operate with any third party employed by the Customer to carry out testing of the Devices which shall include equipment provided by the Service Provider.	M	Y
	User Training				
NFR-UST-001	User Training		The Service Provider shall demonstrate specific Device functionality to the Customer and or specific Users in the first two (2) weeks following deployment of a new or upgraded Device.	M	Y
NFR-UST-002	User Training		The Service Provider shall, as an Additional Service, conduct Device familiarisation training to enable Users to: • access and make use of the Device, including built-in help facilities and tutorials; • understand the potential of the services available to them to support business processes; • build the skills to use the Device effectively in their work and obtain additional support as required.	D	Y
	Device Repair and Maintenance				
NFR-RPM-001	Device Repair and Maintenance		The Service Provider shall ensure that all Device support and maintenance shall utilise manufacturer warranties where available.	M	Y
NFR-RPM-002	Device Repair and Maintenance		The Service Provider shall provide a repair and maintenance service for all Devices, and other associated Peripherals and Device components. This will include replacement of faulty parts.	M	Y
NFR-RPM-003	Device Repair and Maintenance		The Service Provider shall schedule preventive maintenance Service Assets outside of normal business hours (07:00-19:00) and only within agreed maintenance windows, except in exceptional circumstances and with the agreement of the Customer.	M	Y
NFR-RPM-004	Device Repair and Maintenance		The Service Provider shall comply with the Customers or 3rd Party Code of Connections should it wish to make connection to the Customer's network for any reason.	M	Y
	Installation, Moves, Adds, Changes and Disposals (IMACD)				

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ID	Heading	Sub Heading	Requirement	P	C
NFR-IMA-001	IMACD		The Service Provider shall carry out all tasks associated with Devices in relation to any office re-organisation, re-location to a new office, and changes and upgrades to existing configurations, affecting anything from a single Device to multiple Devices. For the avoidance of doubt, the Service Provider shall ensure that Service Levels shall be maintained whilst undertaking IMACD Services.	M	Y
NFR-IMA-002	IMACD		The Service Provider shall provide a flexible, agile and scalable installation service, to allow the Customer to respond and adapt to the demands of a quickly expanding estate.	M	Y
NFR-IMA-003	IMACD		If the installation of new cabling is required, the Service Provider shall liaise with the Customer and any related Customer contracted suppliers or internal staff.	M	Y
NFR-IMA-004	IMACD		In delivering the IMACD service: • Requests for installs, moves and changes relating to 5 or less Devices in any single request shall be considered as normal business operation; • Requests for installs, moves and changes relating to more than 5 Devices in any single request shall be regarded as a Project.	M	Y
	Change and Evaluation Management				
NFR-CEM-001	Change and Evaluation Management		The Service Provider shall cater for all categories of Change under the direction of the Customer, including without limitation: • Operational Change requests • Standard (pre-approved) Change requests e.g. via the Request able Service Catalogue • Emergency Change requests.	M	Y
NFR-CEM-002	Change and Evaluation Management		The Service Provider shall schedule, plan assess and implement Changes in accordance with the Customer's policies and processes.	M	Y
NFR-CEM-003	Change and Evaluation Management		The Service Provider shall participate in Change Management Board, Operational Change Advisory Board, Service Readiness Reviews and Post Implementation Reviews.	M	Y
NFR-CEM-004	Change and Evaluation Management		The Service Provider shall assess the impact of Changes on the Print Services including without limitation: • Verified Implementation Plans; • Post Implementation Review • Acceptance Criteria • Back Out Plans or Remediation Plans; and • Plans for handover to support.	M	Y
NFR-CEM-005	Change and Evaluation Management		The Customer uses a process referred to as an Impact Assessment (IA). This provides the Customer with the ability to send work packages through to suppliers to evaluate and offer costs for the delivery of works and timescales entailed.	I	

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ID	Heading	Sub Heading	Requirement	P	C
NFR-CEM-006	Change and Evaluation Management		The Service Provider shall complete and return the Impact Assessment within five working days as per the normal business hours (0700hrs –1900hrs, Monday – Friday). Responses to Impact Assessments will be measured as an KPI.	M	Y
NFR-CEM-007	Change and Evaluation Management		The Service Provider shall provide associated costs for the resources required to implement works if beyond the availabilities of the personnel already assigned to the delivery of Service. Costs for the inclusion of Capital Expenditure required to procure tools/products, must be included. Service Providers are required to complete an options rate card within the Financial Model – Annex 6. This will not form part of the cost evaluation, but may be used to support additional work packages.	M	Y
NFR-CEM-008	Change and Evaluation Management		The Service Provider shall update a CMDB and all relevant documentation in respect of all Print Service Provider Assets and Configuration Items included in a Change as part of the execution of a Change such that the CMDB is at all times an accurate reflection of the physical and logical implementation of the Service	M	Y
	Testing and Validation				
NFR-TAD-001	Testing and Validation		The Service Provider shall provide a Testing and Validation Service that shall: • provide a Model Office that consists of sufficient Devices to support each of the Standard Services and Specialist Services; • provide access to development and test environments; • administer and manage the Model Office environment.	D	Y
NFR-TAD-002	Testing and Validation		The Service Provider shall provide a Model Office to support testing for, without limitation: • new Devices; • Software upgrades, patches and distribution • Interoperability between the Customer infrastructure and enhancements and upgrades.	D	Y
NFR-TAD-003	Testing and Validation		In providing the Testing Service, the Service Provider shall: • provide security testing Devices to ensure compliance with the Customer's policies; • provide the following testing within agreed testing windows: - o control testing; - o vulnerability testing; - o risk identification; • conduct quarterly scheduled or ad-hoc on request vulnerability testing; • conduct tests in accordance with the Customer's policies and report the results to the Customer; • review the results of testing and provide summary information to the Customer on identified vulnerabilities and appropriate corrective actions.	M	Y
NFR-TAD-004	Testing and Validation		The Service Provider shall co-operate with any organisation appointed by the Customer to independently assess its security provisions.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-TAD-005	Testing and Validation		The Service Provider shall provide a Vulnerability Management Service to provide information on vulnerabilities identified and manage these through to remediation.	M	Y
NFR-TAD-006	Testing and Validation		The Service Provider shall ensure the Vulnerability Management Service includes the triage of threat intelligence from software vendors, industry bodies and specialist security organisations, regular testing to identify weaknesses and apply fixes for those weaknesses.	M	Y
NFR-TAD-007	Testing and Validation		The Service Provider shall implement security patches in line with the Release and Deployment Processes and Procedures.	M	Y
	Lifecycle Management				
NFR-LFC-001	Lifecycle Management		The Service Provider shall manage the obsolescence of Print Assets, Hardware and Software in accordance with industry practice, with the Customer's policies and via consultation with the Customer.	M	Y
NFR-LFC-002	Lifecycle Management		The Service Provider shall proactively identify inactive/obsolete Print Assets and coordinate the removal or reallocation of such Assets.	M	Y
NFR-LFC-003	Lifecycle Management		The Service Provider shall recycle or dispose of Print Assets securely at the end of their life	M	Y
NFR-LFC-004	Lifecycle Management		The Service Provider shall provide a Secure Data Disposal and Recycling Service to ensure that all information is securely sanitised/wiped from Print Assets in accordance with HMG requirements: IA/IS5: Secure sanitisation of protectively marked information or sensitive information	M	Y
NFR-LFC-005	Lifecycle Management		In providing the Secure Data Disposal and Recycling Service, the Service Provider shall: • securely sanitise/wipe or destroy all information resident on Device prior to disposal or recycling, track assets and certify the asset disposal or recycling against the asset lists and provide the Customer with the necessary evidence that this has been carried out; • prevent information on any storage media identified for disposal or recycling being recovered or reconstructed through methods such as overwriting, degaussing or physical destruction; • provide a certified service to dispose or recycle assets once information has been securely removed; • certify that an asset has been destroyed or recycled and record this in the CMDB; • provide the Customer or Customer Representative with documented procedures for Secure Data Disposal and Recycling Services ; and • provide reporting of Print Assets wiped and disposed or recycled.	M	Y
	Strategy and Design				

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ID	Heading	Sub Heading	Requirement	P	C
NFR-SAD-001	Strategy and Design		The Service Provider shall: • review the compliance of the Print Services against the Customer's ICT strategy and policies and identify remedial action or where applicable agree exceptions; • design new Services in compliance with the Customer's policies.	M	Y
NFR-SAD-002	Strategy and Design		The Service Provider shall ensure that operational policies, processes and procedures integrate with the Customer's enterprise architecture strategy, standards, reference models, principles and policies.	M	Y
NFR-SAD-003	Strategy and Design		The Service Provider shall make reasonable proactive contribution to the creation of Service Strategy and comply with the Customer's strategy generation and implementation processes as they evolve.	D	Y
NFR-SAD-004	Strategy and Design		The Service Provider shall, provide information, resources and advice to assist the Customer to provide innovative solutions and formulate Service strategy in line with best practice and new techniques.	D	Y
NFR-SAD-005	Strategy and Design		The Service Provider shall perform architectural assessments on the Print Services. This shall include, but not be limited to, undertaking: • Target state definition for the Print Services; • Gap analysis between current and target state; • Option analysis and estimation of work required to achieve the target state for the Print Services; and • Developing and maintaining technical roadmaps for the Print Services.	D	Y
NFR-SAD-006	Strategy and Design		The Service Provider shall continually and proactively suggest solutions which move the Print Services forwards in line with the Government strategy. The adoption of such solutions shall be at the Customer's discretion.	D	Y
NFR-SAD-007	Strategy and Design		The Service Provider shall develop and maintain a service roadmap for the Print Services which will demonstrate how the Print Services will evolve with changing business requirements and Government strategies	D	Y
NFR-SAD-008	Strategy and Design		The Service Provider shall work with the Customer to understand how to leverage the print offerings enshrined in the GovPrint Project Government Digital Service (GDS) and Crown Commercial Service (CCS) which is attempting to identify potential software solutions to deliver a cloud based managed print solution supporting a Software as a Service (SaaS) delivery model to Central Government.	D	Y
NFR-SAD-009	Strategy and Design		The Service Provider shall: • assist in identifying the Projects to be performed and defining high-level schedules and cost benefit analyses to feed into the Customers change portfolio; and • provide reasonable access to specialists within the Supplier's organisation as needed, to assist the Customer to develop and update the Customers ICT Strategy.	D	Y

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NFR-SAD-010	Strategy and Design		The Service Provider shall, as an Additional Service: • participate in (logical and conceptual) architecture design; • produce conceptual designs in support of the Customer's strategy and in accordance with the Standards; • design physical and logical structures to support approved conceptual designs; • establish a proof-of-concept methodology to validate new product selections.	D	Y
	Security Services				

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ID	Heading	Sub Heading	Requirement	P	C
NFR-SEC-001	Security Services		The Service Provider shall be responsible for the security of the Services under the Contract and shall at all times provide a level of security which: is in accordance with Good Industry Practice, Law and this Contract; -complies with the Customer's Security Policies, Service Operations Manual and ICT Standards. -complies with the Security Policy Framework (SPF), and mandatory requirements of the SPF available from the Cabinet Office Security Policy Division. - meets any specific security threats to the Services; - Code of Connection Agreements which may include those relating to the Public Services Network (PSN). - Guidance issued by the National Cyber Security Centre (NCSC). including Cloud Security Principles -UK Government Cyber Essentials Scheme - ISO/IEC27001 (Information technology – Security techniques – information security management systems – Requirements). - ISO/IEC27002 (Information technology – Security techniques – Code of practice for information security management). -Network and Information Systems (NIS) Directive (2016/1148) Links to relevant policy below https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/ https://www.ncsc.gov.uk/guidance/introduction-nis-directive https://www.gov.uk/government/publications/security-policy-framework/hmg-security-policy-framework https://www.ncsc.gov.uk/guidance/cloud-security-collection	M	Q ¹

¹ Xerox comply with all of the listed requirements but at this time have not had sight of the following documents. Full compliance can be confirmed once these have been reviewed by the Xerox Information Security Manager: Customer security policies, Service operations manual, ICT standards

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ID	Heading	Sub Heading	Requirement	P	C
NFR-SEC-002	Security Services		The Service Provider shall comply with the Customer's Cloud Security Assurance process which will focus on an approach that builds security into each individual service rather than the network e.g. enabling encryption services using suitable VPN technology, Microsoft's 'Always-On' for End User Devices, Microsoft Azure Security Centre. The Print Service will be secured through end to end encryption and authentication. Relevant links: https://www.ncsc.gov.uk/guidance/using-ipsec-protect-data	M	Y
NFR-SEC-003	Security Services		The Service Provider shall ensure that all Service Provider Staff and Sub-contractors have security clearance appropriate to their role. At a minimum, all Service Provider Staff and Sub-contractors with access to the Service Provider System, Customer System or Customer Data shall pass the HMG Baseline Personnel Security Standard (BPSS) pre-employment checks. No Service Provider Staff shall have such access until these checks have been completed. Administrators of the System may require higher levels of clearance (e.g. HMG Security Clearance) depending on the nature of the role.	M	Y
NFR-SEC-004	Security Services		The Service Provider will ensure that appropriate measures are in place so that only authorised personnel are able to gain access to the solution and the data	M	Y
NFR-SEC-005	Security Services		The solution must adhere to strict identification and authentication control and processes for access rights to Services.	M	Y
NFR-SEC-006	Security Services		The solution must facilitate access management and control access to the modules, information and actions based on a system of permissions, access rights and user authentication as defined by the solution administrator, and approved by the Customer's Representative;	M	Y
NFR-SEC-007	Security Services		The solution must be adequately defended against electronic attack, including hacking, denial of service attacks, introduction of malicious software (including worms, Trojans and executable files) and privilege escalation (e.g. an authorised user attempting to use their credentials to access other users/organisations data);	M	Y
NFR-SEC-008	Security Services		The solution must check for viruses within the system. Where a virus is detected, the infected file will be quarantined, and relevant parties will be notified	M	Q ²
NFR-SEC-009	Security Services		The protection of information will extend to information stored on the solution, information in transit between the solution and external systems, audit logs and information held in back-ups	M	Y
NFR-SEC-010	Security Services		The Service Provider must provide firewall rules for inbound and outbound traffic based on deny-all rule sets.	M	Y

² Device 3 is compliant with McAfee anti-virus functionality. Additionally, as all devices will sit within the Highways England network initially this Requirement will need further discussion to understand the existing level of AV Highways England have.

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ID	Heading	Sub Heading	Requirement	P	C
NFR-SEC-011	Security Services		The Service Provider shall implement appropriate controls to manage the risks associated with Malicious Software in accordance with ISO27001/2 and shall set these out in a policy document which shall be a Registered Document. The policies shall be approved by the Customer's Representative e.g. anti-virus installed, activated and kept up to date, firewalls installed and operational.	M	Y
NFR-SEC-012	Security Services		The Service Provider must demonstrate the implementation of appropriate cyber security controls adhering to the 'National Cyber Security Council(NCSC)' guidance "Implementing the Cloud Security Principles"	M	Y
NFR-SEC-013	Security Services		To support the Customer's aspiration to move to cloud based services, the Service Provider shall comply with the appropriate cloud based security services such as (Cloud Access Security Broker – CASB) and managed monitoring services. This will allow user access control, data loss prevention, secure web gateways, content inspection, bandwidth control any many more security features. Examples of technology that could be used are ZScaler, mobile device management platform (Intune), Azure Cloud App Security, Cisco Umbrella etc allowing for secure mobile access over without localised internet gateways enabling the cloud first approach.	M	Y
NFR-SEC-014	Security Services		The Service Provider shall ensure that effective backup and restore policies and capabilities are implemented (and regularly tested). The Service Provider shall ensure that configurations of assets are also backed up, as are previous versions of software to allow for a possible rollback	M	Y
NFR-SEC-015	Security Services		The Service Provider shall ensure and implement segregation of duties for all security-related roles of the Service Provider Staff in accordance with ISO27001/2	M	Y
NFR-SEC-016	Security Services		The Service Provider shall propose to the Customer's Representative mechanisms to efficiently manage the granting of authorisation to Users and the management of lists of authorised Users.	M	Y
NFR-SEC-017	Security Services		The Service must utilise Data Centres located in the UK; and the data and supporting services (e.g. database software, OS) should only be accessed from locations within the UK. This service will handle personal information as defined by GDPR, and there are unresolved questions over non-UK handling of personal information. This must be assured by independent validation of assertion.	M	Y
NFR-SEC-018	Security Services		The Service must be approved and/or certified to handle information at HMG OFFICIAL level (includes OFFICIAL SENSITIVE) and information defined as personal under the General Data Protection Regulation (GDPR), and enable the Customer to meet Codes of Connection as dictated by Cabinet Office, NSCS and other accrediting authorities.	M	Y
NFR-SEC-019	Security Services		The Service Provider must support the Customer in achieving accreditation and "Customer To Operate" for its cloud SaaS services, in line with the "Codes of Connection" and NCSC approved controls.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-SEC-020	Security Services		The Service must ensure that Customer data is adequately protected against tampering (integrity) and eavesdropping (confidentiality) through a combination of network protection and encryption. The Service must support the Customer's need to protect its data between end user devices and the Service using TLS 1.2 or above as advised in NCSC's Guidance on "TLS for External Facing Services".	M	Y
NFR-SEC-021	Security Services		The Service Provider's Datacentres should adhere to the EU code of conduct for energy-efficient datacentres.	M	Y
NFR-SEC-022	Security Services		The Service should have the Cloud Security Alliance (CSA) STAR Certification Scheme (Level 1 as a minimum) or have undertaken and shared the CSA STAR CAIQ (Consensus Assessments Initiative Questionnaire) review.	D	Y
NFR-SEC-023	Security Services		The Service must protect all management tooling interfaces, and access points, to ensure there is no potential compromise to those interfaces via unauthorised access or eavesdropping. This must be assured by an independent CHECK penetration test	M	Y
NFR-SEC-024	Security Services		The Service must ensure that it can meet a recovery point objective (RPO) for SaaS services and for data storing/data serving capabilities that meet the business requirements for the capability supported by the Service	M	Y
NFR-SEC-025	Security Services		The Service Provider must utilise industry and security best practice, to ensure the separation between different clients of the Service, in line with the classification of the data, and the obligations under the Customer To Operate (ATO). It must be designed to prevent malicious or compromised 3rd party clients from affecting the Service or data integrity of any Customer capability. This must be assured through an independently reviewed, and well scoped CHECK penetration test	M	Y
NFR-SEC-026	Security Services		The Service Provider shall allow for audit and testing of the security principles by an external party qualified to do so.	M	Y
Records Management					
NFR-REC-001	Records Management		Should the Service Provider's solution generate any documents using Customer data stored in the system, then the document generated should need to be stored on the Customer owned Electronic Document and Records Management system - SHARE and treated as a record in accordance with the Customer's records management policy.	M	Y
NFR-REC-002	Records Management		The Service Provider will: • Maintain Customer data for the duration of the contract (subject to any retention schedule agreed with the Customer); • Ensure that Customer data can be easily transferred to a subsequent service provider	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-REC-003	Records Management		The Service Provider will maintain complete, up-to-date and accurate records of the 'current state' of the Customer's managed print estate. These records will be updated monthly as a minimum and written confirmation will be sent to the Customer. The Service Provider will grant the Customer Representative access to these records within 2 working days of any request. All documentation shall be submitted (up to date and complete) to the Customer at the end of the contract.	M	Y
	Sustainability and Environment				
NFR-DPR-001	Data Protection		The Service must comply with: • Freedom of information Act (FOI) • ISO 270001 Information Management Standard • Requirements enshrined in the General Data Protection Regulations(GDPR) Requirements enshrined in the Data Protection Act 2918	M	Y
NFR-DPR-002	Data Protection		The Service Provider shall describe the process to enable Highways England to take down published content in the event that published content is identified as breaking criminal or civil law.	M	Y
NFR-DPR-003	Data Protection		The Service Provider shall describe their data protection processes to enable Highways England to ensure that its data protection obligations are fulfilled.	M	Y
NFR-DPR-004	Data Protection		All Official Sensitive information shall be held and maintained according to the legal requirements surrounding Official sensitive information.	M	Y
	Service Management - Incident and Problem Management				
NFR-SIP-001	Service Management	Incident and Problem Management	The Service Provider shall provide access to expertise to facilitate incident and problem management for the Managed Print Service software and hardware through the Customer's service management solution (Service Now). They shall be expected to liaise and coordinate responses with the Customer's service management team. For major incidents (level 1 and 2), the Service Provider shall support the Customer's Major Incident Management process(MIM).	M	Y
NFR-SIP-002	Service Management	Incident and Problem Management	The Service Provider will interact with the Customer's Service Desk via ServiceNow as the primary medium. Phone, chat/messenger and email should be used in support of ServiceNow.	M	Y
NFR-SIP-003	Service Management	Incident and Problem Management	The Service Provider shall provide a Service Desk which is based in the UK.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-SIP-005	Service Management	Incident and Problem Management	The Service Provider shall provide a Service Desk and resolution support for incidents Monday to Friday 07:00-19:00 (excluding Bank Holidays & other common holidays). As an optional service the Customer may wish to introduce 24/7 support to the RCCs and NTOC. Refer to Annex 4 - SLA s and Annex 6 - The Financial Model for further information	M	Y
NFR-SIP-004	Service Management	Incident and Problem Management	The Service provider shall ideally use an instance of the Customer owned ServiceNow directly to provide incident and problem resolution, licenses shall be allocated dependant on the size and use of team. The Service Provider shall as a secondary option provide API integration to provide seamless interaction with Service Now. Service Now has many integrations with other toolsets. If an integration were to be considered, the Service Provider shall include design and implementation costs as well as potential upgrade and maintenance of the API. For information, configuration of ServiceNow is OoTB therefore information regarding the version can be located - https://docs.servicenow.com/bundle/london-release-notes	M	Y
NFR-SIP-005	Service Management	Incident and Problem Management	The Service Provider shall allow the Customer to interrogate Devices on the network via discovery tools to support the CMDB and live operational dashboards.	M	Y
NFR-SIP-006	Service Management	Incident and Problem Management	The Service Provider shall support and maintain all Print Services across all offices, installations and homeworkers. The service Provider should attend to a device within 2 days of a fault report. The Service Provider should be able to supply back up devices within a day of fault detection	M	Y
NFR-SIP-007	Service Management	Incident and Problem Management	The Service Provider must accept and progress any remedial actions issued to them during hours of Service.	M	Y
Service Management - License Management					
NFR-LIC-001	Service Management	License Management	Should licenses be required, the Service Provider shall provide the optimal license model to ensure the most cost-effective use of services across all requirements. The Service Provider shall provide a cost model and options based on an annual renewal model.	M	Y
NFR-LIC-002	Service Management	License Management	The Service Provider shall provide Software usage reporting to enable the Customer to understand application usage by Users in order to be able to (amongst other things) rationalise usage.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
Service Management - Financial Management					
NFR-FIN-001	Service Management	Financial Management	The Service Provider shall provide service financial data to the Customer in accordance with the Financial Management Policies, Processes and Procedures. This will be produced monthly unless otherwise stated and the Service Provider will invoice for Services monthly in arrears.	M	Y
NFR-FIN-002	Service Management	Financial Management	The Service Provider shall maintain the financial model and update it with details contained in any related change notices and publish it to the Customer.	M	Y
NFR-FIN-003	Service Management	Financial Management	Service Provider invoices must clearly show costs broken down by colour and mono printing, location, individual Device and by User, as determined by the Customer.	M	Y
Service Management - Demand Management					
NFR-DMD-001	Service Management	Demand Management	The Service Provider shall optimise Demand Management for the Print Services, including without limitation: 1) Developing Print Service demand models and demand forecasts based on Patterns of Business Activity; 2) Making recommendations to reduce demands on Print Services; 3) Making recommendations on how Capacity Plans are/shall be affected by demand projections including the steps needed to meet demand projections; 4) Support the Customer in making available to the Customer's business units the mechanisms in place to control demand for Print Services; and 5) Making recommendations to the Customer for improvements of the mechanisms to control and meet current and forecast demand for Print Services.	M	Y
NFR-DMD-002	Service Management	Demand Management	The Service Provider shall report on demand trends for print Services and related consumables with the purpose of identifying and reporting risks inherent in demand forecasts and capability to meet and optimise demand.	M	Y
Service Management - Catalogue Management					
NFR-CAT-001	Service Management	Catalogue Management	The Service Provider shall make available to the Customer the Service Catalogue to ensure that the Customer understands the current offerings and software available.	M	Y
Service Management Asset and Configuration Management					
NFR-ASS-001	Service Management	Asset Management	The Service Provider shall ensure that a Configuration Management Data Base (CMDB) provides a single view of all Print Service Assets and Configuration Items. The Service Provider shall make this available to the Customer.	M	Y
NFR-ASS-002	Service Management	Asset Management	The Service Provider shall manage the identification, recording and maintenance of attributes of and relationships between Configuration Items (CIs) under the management of the Service Provider including relationships to Configuration Items that are managed by the Customer.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-ASS-003	Service Management	Asset Management	The Service Provider shall address all CI Exceptions regarding Print Service Configuration Items and ensure that remedial actions are implemented following any CI Exception.	M	Y
NFR-ASS-004	Service Management	Asset Management	The Service Provider shall provide status accounting and reporting for assets, configuration items and their attributes.	M	Y
NFR-ASS-005	Service Management	Asset Management	Should the Service Provider identify inactive Print Service Assets in accordance with the Customer's Asset Management Policy. The Service Provider shall coordinate the removal or reallocation of such Print Service Assets.	M	Y
	Service Management - Risk Management				
NFR-RSM-001	Service Management	Risk Management	The Service Provider shall identify and mitigate any emergent risk to the provision of Print Services.	M	Y
NFR-RSM-002	Service Management	Risk Management	The Service Provider shall advise the Customer or Customer Representative of any emerging risks and shall provide a proposal of how such emerging risks should be addressed in accordance with the current ITSCM (IT Service Continuity Management) Plan, the Information Security Management Plan and ITSCM Policies and Procedures	M	Y
NFR-RSM-003	Service Management	Risk Management	The Service Provider shall implement any measure identified to address any emerging risk which has been approved by the Customer or Customer Representative. Such measures shall be implemented in accordance with the Service Request Process.	M	Y
	Service Management - Knowledge Management				
NFR-KNO-001	Service Management	Knowledge Management	The Service Provider shall maintain and publish an active database of knowledge management articles to support resolution of issues related to the Customer's use of the Service.	M	Y
NFR-KNO-002	Service Management	Knowledge Management	The Service should enable the Customer to easily import and export Customer data through secured interfaces.	M	Y
NFR-KNO-003	Service Management	Knowledge Management	The Service should ensure that data quality and accuracy will be managed during any transition of Service, and throughout the lifecycle of the Service.	M	Y
NFR-KNO-004	Service Management	Knowledge Management	Access to the Service capabilities and management interfaces for the Customer should supported modern web browsers including Internet Explorer 11+, Firefox, Microsoft Edge	M	Y
	Sustainability and Environment				
NFR-REP-001	Service Management	Reporting	The Service Provider shall maintain and publish Service Management reports to the Customer during the agreed service reporting period. On a template to be determined by the Customer and agreed with the Service Provider.	M	Y
NFR-REP-002	Service Management	Reporting	The Service Provider shall measure, manage and report on the performance of the Services in accordance with the defined template and the defined Service Levels. Any Service Credits shall be described separately.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-REP-003	Service Management	Reporting	The Service Provider shall ensure performance information provided shall contain, but is not limited to, details of: 1) performance over the agreed Service Reporting Period; 2) year to date; and 3) show an aggregate of performance month on month over a 18 month period.	M	Y
NFR-REP-004	Service Management	Reporting	The Service Provider shall supply further information on any figures or statements made in the report on request from the Customer.	M	Y
NFR-REP-005	Service Management	Reporting	The Service Provider shall provide electronic usage reporting in line with dash board reporting detailing usage: 1) By department; 2) By location; 3) By document type; 4) By colour or mono; 5) By day, month and year; 6) By individual; 7) By Device; 8) Highlighting peak flows over days, months and years. 9) Highlighting peak costs and savings over various time periods.	M	Y
NFR-REP-006	Service Management	Reporting	The Service Provider shall ensure the quality of source information for performance is complete, accurate and timely.	M	Y
Onboarding of Services					
NFR-ONB-001	Onboarding of Services	Due Diligence	The Service Provider shall undertake a due diligence exercise prior to design and transition, confirming the details below.	M	Y
NFR-ONB-002	Onboarding of Services	Due Diligence	The Service Provider shall include the number of printers, plotters, multi-function devices(MFD) s and the number of pages each of the Devices produces each day and month.	M	Y
NFR-ONB-003	Onboarding of Services	Due Diligence	The Service Provider shall create a full asset register of all print hardware and software at all Customer locations. This shall be linked to the CMDB and accessible from Service Now.	M	Y
NFR-ONB-004	Onboarding of Services	Due Diligence	The Service Provider shall produce an analysis of devices including the details of Users and by floors	M	Y
NFR-ONB-005	Onboarding of Services	Due Diligence	The Service Provider shall include the average toner and consumable costs	M	Y
NFR-ONB-006	Onboarding of Services	Due Diligence	The Service Provider shall produce feedback on document processes	M	Y
NFR-ONB-007	Onboarding of Services	Due Diligence	The Service Provider shall include details of mono and colour printing	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-ONB-008	Onboarding of Services	Service Design	The Service Provider shall produce a high-level and detailed service design, which will be approved by the Customer's Service Design team.	M	Y
NFR-ONB-009	Onboarding of Services	Service Design	The Service Provider shall produce a service design, which will produce a value for money outcome, introducing economies where possible, whilst maintaining a robust and efficient service which meets the business requirements.	M	Y
NFR-ONB-010	Onboarding of Services	Service Design	The Service Provider shall produce a service design which is based on best practice and new technologies, whilst taking into consideration the Customer's infrastructure and technical estate.	M	Y
NFR-ONB-011	Onboarding of Services	Service Design	The Service Provider shall produce a proposal outlining how to streamline document processes to deliver efficiencies and reduce/control costs within the Customer environment	M	Y
NFR-ONB-012	Onboarding of Services	Service Design	The Service Provider shall include details of hardware and software required to deliver the desired outcomes of improved efficiency in the production of printed matter.	M	Y
NFR-ONB-013	Onboarding of Services	Service Design	The Service Provider shall include a list of dependencies on other Contracted Service Providers and Customer staff.	M	Y
NFR-ONB-014	Onboarding of Services	Service Design	The Service Provider shall high-light key assumptions, benefits and risks within the proposal.	M	Y
NFR-ONB-015	Onboarding of Services	Service Design	The Service Provider shall include a list of all hardware, software, processes and consumables required to deliver efficiencies and introduce service improvements.	M	Y
NFR-ONB-016	Onboarding of Services	Implementation Plan	The Service Provider shall work with the Customer to produce an implementation plan to enable transition to the new solution and which takes into consideration the Customer's governance processes, including but not limited to the Service Readiness Review(SRR) process.	M	Y

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ID	Heading	Sub Heading	Requirement	P	C
NFR-ONB-017	Onboarding of Services	Implementation Plan	The implementation plan shall include : • Identification and mitigation of key risks; • Timescales; • Order of transfer; • Resource requirements; • Enabling activity to be completed by Customer resources; • Enabling activity to be completed by incumbent Service supplier's resources; • Enabling activity to be completed by the Customers Service suppliers; • Breakdown of the plan for each location; • Details of processes and procedures required • Details of software implementation • Details of hardware implementation • Setting up of security policies and procedures • Management of transition phases • Technical Specifications for hardware with details of system compatibility • Technical Specifications for software including installation procedures, impact on networks, compatibility • Details of prerequisites and dependencies required to achieve delivery of the service	M	Y
NFR-ONB-018	Onboarding of Services	Implementation Plan	The Service Provider should support the on-boarding of the Service through the provision of a range of knowledge articles, training materials, additional consulting support, online help and context sensitive help guides. All materials must be in English.	M	Y
NFR-ONB-019	Onboarding of Services	Implementation Plan	On request, the Service Provider should make available to the Customer all information relevant to the operation of the Service, including but not limited to user support history, known bugs, and any workarounds necessary for users to utilise the Service as specified.	M	Y
NFR-ONB-020	Onboarding of Services	Implementation Plan	The Service Provider must provide all documentation required for the Customer or any part of its Service structure to fully support the Customer users and business operations.	M	Y
	Offboarding of Services				
NFR-OFF-001	Offboarding of Services		Upon cessation of a Service, all Customer data should be preserved and made accessible for a period of time, of at least 30 days, to allow data migration to other Services.	M	Y
NFR-OFF-002	Offboarding of Services		Upon cessation of a Cloud Service all data should be returned in a non-proprietary open format agreed with the Customer	M	Y
NFR-OFF-003	Offboarding of Services		The Service Provider shall demonstrate that its decommissioning process meets the appropriate requirements for secure sanitisation as set out in HMG IA/IS5: Secure sanitisation of protectively marked information or sensitive information.	M	Y
NFR-OFF-004	Offboarding of Services		The Service Provider should cooperate fully and provide support for the Customer and the new Service Provider in ensuring a smooth transition to a new Managed Print Service.	M	Y

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ANNEX 2: THE GOODS

APPENDIX 1 – HARDWARE REQUIREMENT SUMMARY

Device 2 - Desktop A4 MFD Device

Device 2	Minimum Requirements
Device 2 - Mandatory Requirements	1. 25 pages per minute colour device (defaulted to mono) 2. On-line double siding 3. 1 x 250 sheet paper trays and bypass 4. A4 and A3 paper capacity 5. Automatic Document Feeder 6. Follow Me Print Compatible 7. Scan to E-mail
Device 2 - Desirable Requirements	Optional System Stand Optional Additional Paper Feed (confirm capacity)

Device 3 - Floor Standing A4 & A3 MFD Device

Device 3 - Floor Standing A4/A3 MFD Device	Minimum Requirements
Device 3 - Mandatory Requirements	1. 45 pages per minute colour device (defaulted to mono) 2. Reversing Automatic Document Feeder 3. On-line double siding 4. Electronic Sorting 5. 2 x 500 + 1 Large Capacity Paper Deck 6. System Stand 7. A4 & A3 Paper Capacity 8. Follow Me Print Compatible 9. Scan to E-mail
Device 3 - Desirable Requirements	Optional Additional Paper Feed (confirm capacity) Optional System Stand

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	Staple Finisher
	Hole-Punch Unit
	Saddle Kit / Booklet Maker

Device 4 - Floor Standing HE Media Services Specialist Device

Device 4 - Floor Standing A4/A3/SRA3 MFD Device	Requirements
Device 4 - Mandatory Requirements	1. 65 pages per minute colour device
	2. Reversing Automatic Document Feeder
	3. On-line double siding
	4. Electronic Sorting
	5. 2 x 500 + 1 Large Capacity Paper Deck
	6. Interposer / finisher tray
	7. System Stand
	8. A4, A3, SRA3 Paper Capacity
	9. Ability to take coated and uncoated paper up to 300gsm (labels etc)
	10. Folder (half, z-fold and half z-fold)
	11. Scan to E-mail
Device 4 - Desirable Requirements	Optional Additional Paper Feed (confirm capacity)
	Optional System Stand
	Staple Finisher
	Saddle Kit / Booklet Maker
	Ability to print on envelopes

Device 5 - Wide Format

Device 5 - Wide Format	Requirements
Device 5 - Mandatory Specification	Plotters to produce POP display, canvases, rollup banners and largescale maps. Media handling: Sheet feed, roll feed, media bin, automatic cutter

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The 25 devices listed in the table below “Retained Devices” are devices known as “device type 3” contracted under Schedule 4A Call Off Agreement for the Provision of Multifunctional Devices and Services, Managed Print Services and Print Audit Services, under RM1599 between Highways England and Xerox (UK) Limited signed 28th November 2014.

Both parties have agreed that from the Commencement Date the forementioned 25 devices shall be retained as operational in the Highways England estate under this Call Off Contract and not to be replaced as part of the transition exercise for this Call Off Contract. The corresponding 25 devices that would have been deployed as part of the transition exercise for this Call Off Contract, will be held back and used for new requirements during the lifetime of this Call Off Contract.

The Call Off Charges for the devices listed below will be from the Billing Start Date and will be subject to the payment terms of this Call Off Contract.

Retained Devices

Serial Number	Model Name	Mono Impression Charge	Colour Impression Charge
3712419333	AltaLink C8055		
3712418817	AltaLink C8055		
3712331592	AltaLink C8055		
3712331606	AltaLink C8055		
3712331614	AltaLink C8055		
3712331541	AltaLink C8055		
3712331550	AltaLink C8055		
3712331274	AltaLink C8055		
3712331533	AltaLink C8055		
3712330898	AltaLink C8055		
3712331215	AltaLink C8055		
3712331681	AltaLink C8055		
3712331479	AltaLink C8055		
3712330952	AltaLink C8055		
3712331517	AltaLink C8055		
3712331134	AltaLink C8055		
3712331029	AltaLink C8055		
3712331126	AltaLink C8055		

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3712331703	AltaLink C8055	
3712331142	AltaLink C8055	
3712315791	AltaLink C8055	
3712037139	AltaLink C8055	
3712038399	AltaLink C8055	
3712019726	AltaLink C8055	
3712020759	AltaLink C8055	

The Supplier will provide to the Customer the following quantities of the above Device types -

Device Type	Quantity
2	92
3	148
4	8
5	14
TOTAL	262

Where availability of any Devices detailed above herewith of this Schedule 2, Annex 2: Goods ceases, Xerox shall provide an alternative model with an equivalent or higher specification at the same charges as detailed in Schedule 3, Call Off Contract Charges. Any such replacement models shall form part of the Call Off Contract agreement and will be subject to the terms and conditions of this Call Off Contract agreement.

The Supplier will proactively monitor the utilisation levels of the Devices listed in the tables above and will swap or replace any of the forementioned Devices where levels of poor or over utilisation are identified, with no financial penalty to the Customer.

Other Services to Note

- PrintReleaf
- Web2Print / Xerox Digital Hub
- Print Awareness Tool
- User Analytics
- Xerox Workplace Suite
- Xerox ConnectKey Apps
- Xerox Workplace Cloud

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APPENDIX 1 –

Xerox Print Services Sign Off for In Scope Devices on Reactive Service

Thank you for your recent order for In Scope Devices for use under the Call Off Contract between the Customer and the Supplier dated [INSERT DATE].

In Scope Device Model	Serial Number	Site location

Customer Sign Off

I understand that the Supplier Equipment/ Device(s) detailed above will receive a Reactive Service instead of the Proactive Service that was originally documented in the Call Off Contract, which will mean it (they) will not be visible on Xerox Device Manager.

	Print Name	Signature	Date
Customer contact			

Should you experience any problems with devices not working following sign off of this document then a call should be logged with the Service Desk.

CALL OFF SCHEDULE 3: CALL OFF CONTRACT CHARGES, PAYMENT AND INVOICING

1. DEFINITIONS

1.1 The following terms used in this Call Off Schedule 3 shall have the following meaning:

"Indexation"	means the adjustment of an amount or sum in accordance with paragraph 11 of this Call Off Schedule 3;
"Indexation Adjustment Date"	has the meaning given to it in paragraph 11.1.1(a) of this Call Off Schedule 3;
"Reimbursable Expenses"	means the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Customer's expenses policy current from time to time, but not including: a) travel expenses incurred as a result of Supplier Personnel travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Customer otherwise agrees in advance in writing; and b) subsistence expenses incurred by Supplier Personnel whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Review Adjustment Date"	has the meaning given to it in paragraph 10.1.2 of this Call Off Schedule 3;
"CPI"	means the Consumer Prices Index as published by the Office of National Statistics https://www.ons.gov.uk/economy/inflationandpriceindices ; and
"Supporting Documentation"	means sufficient information in writing to enable the Customer to reasonably to assess whether the Call Off Contract Charges, Reimbursable Expenses and other sums due from the Customer under this Call Off Contract detailed in the information are properly payable.

2. GENERAL PROVISIONS

2.1 This Call Off Schedule 3 details:

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- 2.1.1 the Call Off Contract Charges for the Goods and/or the Services under this Call Off Contract; and
- 2.1.2 the payment terms/profile for the Call Off Contract Charges;
- 2.1.3 the invoicing procedure; and
- 2.1.4 the procedure applicable to any adjustments of the Call Off Contract Charges.

3. CALL OFF CONTRACT CHARGES

- 3.1 The Call Off Contract Charges which are applicable to this Call Off Contract are set out in Annex 1 of this Call Off Schedule 3.
- 3.2 The Supplier acknowledges and agrees that:
 - 3.2.1 in accordance with paragraph 2 (General Provisions) of Framework Schedule 3 (Framework Prices and Charging Structure), the Call Off Contract Charges can in no event exceed the Framework Prices set out in Annex 3 to Framework Schedule 3 (Framework Prices and Charging Structure); and
 - 3.2.2 subject to paragraph 8 of this Call Off Schedule 3 (Adjustment of Call Off Contract Charges), the Call Off Contract Charges cannot be increased during the Call Off Contract Period.

4. COSTS AND EXPENSES

- 4.1 Except as expressly set out in paragraph 5 of this Call Off Schedule 3 (Reimbursable Expenses), the Call Off Contract Charges include all costs and expenses relating to the Goods and/or Services and/or the Supplier's performance of its obligations under this Call Off Contract and no further amounts shall be payable by the Customer to the Supplier in respect of such performance, including in respect of matters such as:
 - 4.1.1 any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs required by the Supplier Personnel, network or data interchange costs or other telecommunications charges; or
 - 4.1.2 any amount for any services provided or costs incurred by the Supplier prior to the Call Off Commencement Date.

5. REIMBURSEABLE EXPENSES

- 5.1 If the Customer has so specified in the Call Off Order Form, the Supplier shall be entitled to be reimbursed by the Customer for Reimbursable Expenses (in addition to being paid the relevant Call Off Contract Charges under this Call Off Contract), provided that such Reimbursable Expenses are supported by Supporting Documentation. The Customer shall provide a copy of their current expenses policy to the Supplier upon request.

6. PAYMENT TERMS/PAYMENT PROFILE

- 6.1 The payment terms/profile which are applicable to this Call Off Contract are set out in Annex 2 of this Call Off Schedule 3.

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7. INVOICING PROCEDURE

- 7.1 The Customer shall pay all sums properly due and payable to the Supplier in cleared funds within thirty (30) days of receipt of a Valid Invoice, submitted to the address specified by the Customer in paragraph 7.6 of this Call Off Schedule 3 and in accordance with the provisions of this Call Off Contract.
- 7.2 The Supplier shall ensure that each invoice (whether submitted electronically through a purchase-to-pay (P2P) automated system (or similar) or in a paper form, as the Customer may specify (but, in respect of paper form, subject to paragraph 7.3)):
- 7.2.1 contains:
 - (a) all appropriate references, including the unique order reference number set out in the Call Off Order Form; and
 - (b) a detailed breakdown of the Delivered Goods and/or Services, including the Milestone(s) (if any) and Deliverable(s) within this Call Off Contract to which the Delivered Goods and/or Services relate, against the applicable due and payable Call Off Contract Charges; and
 - 7.2.2 shows separately:
 - (a) any Service Credits due to the Customer; and
 - (b) the VAT added to the due and payable Call Off Contract Charges in accordance with Clause 23.2.1 of this Call Off Contract (VAT) and the tax point date relating to the rate of VAT shown; and
 - 7.2.3 is exclusive of any Management Charge (and the Supplier shall not attempt to increase the Call Off Contract Charges or otherwise recover from the Customer as a surcharge the Management Charge levied on it by the Authority); and
 - 7.2.4 it is supported by any other documentation reasonably required by the Customer to substantiate that the invoice is a Valid Invoice.
- 7.3 If the Customer is a Central Government Body, the Customer's right to request paper form invoicing shall be subject to procurement policy note 11/15 (available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437471/PPN_e-invoicing.pdf), which sets out the policy in respect of unstructured electronic invoices submitted by the Supplier to the Customer (as may be amended from time to time).
- 7.4 The Supplier shall accept the Government Procurement Card as a means of payment for the Goods and/or Services where such card is agreed with the Customer to be a suitable means of payment. The Supplier shall be solely liable to pay any merchant fee levied for using the Government Procurement Card and shall not be entitled to recover this charge from the Customer.
- 7.5 All payments due by one Party to the other shall be made within thirty (30) days of receipt of a Valid Invoice unless otherwise specified in this Call Off

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Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

- 7.6 The Supplier shall submit invoices directly to the Customer's billing address set out in the Call Off Order Form.

8. ADJUSTMENT OF CALL OFF CONTRACT CHARGES

- 8.1 The Call Off Contract Charges shall only be varied:

- 8.1.1 due to a Specific Change in Law in relation to which the Parties agree that a change is required to all or part of the Call Off Contract Charges in accordance with Clause 22.2 of this Call Off Contract (Legislative Change);
- 8.1.2 in accordance with Clause 23.1.4 of this Call Off Contract (Call Off Contract Charges and Payment) where all or part of the Call Off Contract Charges are reduced as a result of a reduction in the Framework Prices;
- 8.1.3 where all or part of the Call Off Contract Charges are reduced as a result of a review of the Call Off Contract Charges in accordance with Clause 18 of this Call Off Contract (Continuous Improvement);
- 8.1.4 where all or part of the Call Off Contract Charges are reduced as a result of a review of Call Off Contract Charges in accordance with Clause 25 of this Call Off Contract (Benchmarking);
- 8.1.5 where all or part of the Call Off Contract Charges are reviewed and reduced in accordance with paragraph 9 of this Call Off Schedule 3;
- 8.1.6 where a review and increase of Call Off Contract Charges is requested by the Supplier and Approved, in accordance with the provisions of paragraph 10 of this Call Off Schedule 3; or
- 8.1.7 where Call Off Contract Charges or any component amounts or sums thereof are expressed in this Call Off Schedule 3 as "subject to increase by way of Indexation", in accordance with the provisions in paragraph 11 of this Call Off Schedule 3.

- 8.2 Subject to paragraphs 8.1.1 to 8.1.5 of this Call Off Schedule 3, the Call Off Contract Charges will remain fixed for the number of Contract Years specified in the Call Off Order Form.

9. SUPPLIER PERIODIC ASSESSMENT OF CALL OFF CONTRACT CHARGES

- 9.1 Every six (6) Months during the Call Off Contract Period, the Supplier shall assess the level of the Call Off Contract Charges to consider whether it is able to reduce them.
- 9.2 Such assessments by the Supplier under paragraph 9 of this Call Off Schedule 3 shall be carried out on the dates specified in the Call Off Order Form in each Contract Year (or in the event that such dates do not, in any Contract Year, fall on a Working Day, on the next Working Day following such dates). To the extent that the Supplier is able to decrease all or part of the Call Off Contract Charges it shall promptly notify the Customer in writing and such reduction shall be

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implemented in accordance with paragraph 12.1.5 of this Call Off Schedule 3 below.

10. SUPPLIER REQUEST FOR INCREASE OF THE CALL OFF CONTRACT CHARGES

10.1 If the Customer has so specified in the Call Off Order Form, the Supplier may request an increase in all or part of the Call Off Contract Charges in accordance with the remaining provisions of this paragraph 10 subject always to:

- 10.1.1 paragraph 3.2 of this Call Off Schedule 3;
- 10.1.2 the Supplier's request being submitted in writing at least three (3) Months before the effective date for the proposed increase in the relevant Call Off Contract Charges ("**Review Adjustment Date**") which shall be subject to paragraph 10.2 of this Call Off Schedule 3; and
- 10.1.3 the Approval of the Customer which shall be granted in the Customer's sole discretion.

10.2 The earliest Review Adjustment Date will be the first (1st) Working Day following the anniversary of the Call Off Commencement Date after the expiry of the period specified in paragraph 8.2 of this Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 10 is permitted). Thereafter any subsequent increase to any of the Call Off Contract Charges in accordance with this paragraph 10 of this Call Off Schedule 3 shall not occur before the anniversary of the previous Review Adjustment Date during the Call Off Contract Period.

10.3 To make a request for an increase of some or all of the Call Off Contract Charges in accordance with this paragraph 10, the Supplier shall provide the Customer with:

- 10.3.1 a list of the Call Off Contract Charges it wishes to review;
- 10.3.2 for each of the Call Off Contract Charges under review, written evidence of the justification for the requested increase including:
 - (a) a breakdown of the profit and cost components that comprise the relevant Call Off Contract Charge;
 - (b) details of the movement in the different identified cost components of the relevant Call Off Contract Charge;
 - (c) reasons for the movement in the different identified cost components of the relevant Call Off Contract Charge;
 - (d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
 - (e) evidence that the Supplier's profit component of the relevant Call Off Contract Charge is no greater than that applying to Call Off Contract Charges using the same pricing mechanism as at the Call Off Commencement Date.

11. INDEXATION

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11.1 Where the Call Off Contract Charges or any component amounts or sums thereof are expressed in this Call Off Schedule 3 as “subject to increase by way of Indexation” the following provisions shall apply:

11.1.1 the relevant adjustment shall:

- (a) be applied on the effective date of the increase in the relevant Call Off Contract Charges by way of Indexation (“**Indexation Adjustment Date**”) which shall be subject to paragraph 11.1.2 of this Call Off Schedule 3;
- (b) be determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index published for the twelve (12) Months ended on the 31st of January immediately preceding the relevant Indexation Adjustment Date;
- (c) where the published CPI figure at the relevant Indexation Adjustment Date is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately confirmed or amended unless the Customer and the Supplier shall agree otherwise;
- (d) if the CPI is no longer published, the Customer and the Supplier shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified in this Call Off Schedule 3.

11.1.2 The earliest Indexation Adjustment Date will be the (1st) Working Day following the expiry of the period specified in paragraph 8.2 of this Call Off Schedule 3 during which the Contract Charges shall remain fixed (and no review under this paragraph 11 is permitted Call Off Commencement Date. Thereafter any subsequent increase by way of Indexation shall not occur before the anniversary of the previous Indexation Adjustment Date during the Call Off Contract Period;

11.1.3 Except as set out in this paragraph 11 of this Call Off Schedule 3, neither the Call Off Contract Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-Contractors of the performance of their obligations under this Call Off Contract.

12.IMPLEMENTATION OF ADJUSTED CALL OFF CONTRACT CHARGES

12.1 Variations in accordance with the provisions of this Call Off Schedule 3 to all or part the Call Off Contract Charges (as the case may be) shall be made by the Customer to take effect:

12.1.1 in accordance with Clause 22.2 of this Call Off Contract (Legislative Change) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.1 of this Call Off Schedule 3;

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- 12.1.2 in accordance with Clause 23.1.4 of this Call Off Contract (Call Off Contract Charges and Payment) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.2 of this Call Off Schedule 3;
- 12.1.3 in accordance with Clause 18 of this Call Off Contract (Continuous Improvement) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.3 of this Call Off Schedule 3;
- 12.1.4 in accordance with Clause 25 of this Call Off Contract (Benchmarking) where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.4 of this Call Off Schedule 3;
- 12.1.5 on the dates specified in the Call Off Order Form where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.5 of this Call Off Schedule 3;
- 12.1.6 on the Review Adjustment Date where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.6 of this Call Off Schedule 3;
- 12.1.7 on the Indexation Adjustment Date where an adjustment to the Call Off Contract Charges is made in accordance with paragraph 8.1.7 of this Call Off Schedule 3;

and the Parties shall amend the Call Off Contract Charges shown in Annex 1 to this Call Off Schedule 3 to reflect such variations.

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ANNEX 1: CALL OFF CONTRACT CHARGES

FINANCIAL MODEL

(I) SERVICE DESIGN AND TRANSITION

Audit	Month 1 Costs	Month 2 Costs	Month 3 Costs	?	?	?	Total
Future State Design for HE							
Milestone/task 2							
Milestone/task 3							
Milestone/task 4							
Milestone/task 5							
Milestone/task 6							
Milestone/task 7							
Total							

New Service Design	Month 1 Costs	Month 2 Costs	Month 3 Costs	?	?	?	Total
Service management processess update in line with new contract							
Operational readiness review pass							
Milestone/task 10							
Milestone/task 11							
Milestone/task 12							
etc							
Total							

Transition Programme	Month 1 Costs	Month 2 Costs	Month 3 Costs	Month 4 Costs	Month 5 Costs	Month 6 Costs	Total
Project initiation document approved							
Project Plan Approved							
Proof of Concept Approved							
50% devices installed							
95% devices installed							
Milestone/task 18							
etc							
Total							

TOTAL	Month 1 Costs	Month 2 Costs	Month 3 Costs	?	?	?	Total

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(II) DEVICE SPECIFICATIONS AND COSTS

DEVICE 2 -

Device 2 – desktop a4 mfd device	Minimum requirements	Item make / model / description	Mono fixed cost per a4 page	Colour fixed cost per a4 page	Options for enhanced 24x7 support - % of the fixed cost per page
Device 2 – mandatory requirements	• 25 pages per minute colour device (defaulted to mono) • On-line double siding • 1 x 250 sheet paper trays and bypass • A4 paper capacity • Automatic Document Feeder • Follow Me Print Compatible • Scan to E-mail	VersaLink C405/DNM A4 35/35ppm Colour MFP			
Device 2 – desirable requirements	• Optional Stand System • Optional additional Paper Feed (confirm capacity)	Available - Not included in the CPP			

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DEVICE 3 –

Device 3 – Floor standing A4/A3 MFD Device	Minimum Requirements	Item make / model / description	Mono fixed cost per a4 page	Colour fixed cost per a4 page	Mono fixed cost per a3 page	Colour fixed cost per a3 page	Options for enhanced 24x7 support - % of the fixed cost per page
Device 3 – mandatory requirements	• 45 pages per minute colour device (defaulted to mono) • Reversing Automatic Document Feeder • On-line double siding • Electronic Sorting • 2 x 500 + 1 Large Capacity Paper Deck • System Stand • Mobile Printing • Scan, email to print, copying • A4 & A3 Paper Capacity • Follow Me Print Compatible	C8045 45PPM A4/A3 Colour MFD	£0.009	£0.035	£0.009	£0.035	300%
Device 3 – desirable requirements	• Optional Additional Paper Feed (confirm capacity) • Optional System Stand	Included					
	• Light production capability such as folding capabilities • Staple Finisher • Hole-Punch Unit • Saddle Kit / Booklet Maker	Available - Not included in the CPP					

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DEVICE 4 –

Device 4 – Floor standing A4/A3/S RA3 MFD Device	Requirements	Item make / model / descript ion	Mono fixed cost per A4 page	Colour fixed cost per A4 page	Mono fixed cost per A3 page	Colour fixed cost per A3 page	Options for enhanced 24x7 support - % of the fixed cost per page
Device 4 – mandato ry requirem ents	• Colour printers with 100+ pages per minute output - production press to print between 150,000 and 250,000 impressions per month • High capacity stacker and feeder trays (approx. 2,000 sheets), plus an inserter tray • High quality with consistently good colour accuracy. • Digital front-end controllers, ideally powered by external Fiery (up-to-date Command Workstation) • Auto duplex • Sheet sizes ranging from A4 to SRA3 (greater range preferred to accept larger and smaller stock) • Ability to accept a mixture of media - coated and uncoated stocks, polyester, plus labels. • 90gsm – 350gsm weights. • Mixed stock jobs accepted. • At least one printer requires photocopying and scanning capability. • At least one printer needs to be able to 2 and 4-hole punch, plus single and double staple (50+ sheets). • Both printers need similar inline booklet making facilities - with 'square back' finish, accepting up to 50 sheets of paper (weights between 90 and 250gsm). Crease and full trim (top, bottom and creep sides). • Multiple finishing sizes – generally between A5 and A4, but greater size range preferred (e.g. occasional A6 booklets).	XEROX VERSA NT 3100 PRESS /XEROX VERSA NT 180 PRESS					

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	- Ability for the operator to be able to adjust/minimise skew. - Ability to hand-feed. - Scan to Email						

		Item Make / model / description	Indicative Price per feature per device, as appropriate.
Device 4 – desirable requirements			
	Electronic comb binding and wire binding machines.	Magna Pro with TL600 wireCloser	Circa £7,470 inc 5 years maintenance
	Digital, suction fed folding machine with at least 2 plates to enable folding A4 to DL, and folding A3 to A4 (single fold or half z-fold).	TBC	Circa £12,100 inc 5 Years maintenance
	Health and Safety checks to be provided every 6 months.	Included	£0.00
	Additional folding capabilities i.e. cross fold	Available	Circa £26,000
	Envelop Processing capabilities	NeoPost	Price will be confirmed once exact requirements are defined
	Production job routing and rules based workflow.	Xmpie and Freeflow Workflow	Circa £60,000

DEVICE 4 – ADDITIONAL AND DESIRABLE REQUIREMENTS – SUBJECT TO PRICING AGREED AT THE TIME OF REQUEST.

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WIDE FORMAT CONSUMABLES

HP DesignJet Z6200

Part Name / Type	Cost
No. 771 Z6200 Ink Cartridge 775ml – Matte Black	
No. 771 Z6200 Ink Cartridge 775ml – Chromatic Red	
No. 771 Z6200 Ink Cartridge 775ml – Magenta	
No. 771 Z6200 Ink Cartridge 775ml – Yellow	
No. 771 Z6200 Ink Cartridge 775ml – Light Magenta	
No. 771 Z6200 Ink Cartridge 775ml – Light Cyan	
No. 771 Z6200 Ink Cartridge 775ml – Photo Black	
No. 771 Z6200 Ink Cartridge 775ml – Light Grey	
No. 771 Ink Printhead – Magenta & Yellow	
No. 771 Ink Printhead – Light Magenta & Light Cyan	
No. 771 Ink Printhead – Matte Black & Chromatic Red	
No. 771 Ink Printhead – Photo Black & Light Grey	
Maintenance Cartridge	

Epson SureColour T5200

Part Name / Type	Cost
C13T694100 - Singlepack UltraChrome XD Photo BlackT694100(700ml)	
C13T694200 - Singlepack UltraChrome XD CyanT694200(700ml)	
C13T694300 - Singlepack UltraChrome XD MagentaT694300(700ml)	
C13T694400 - Singlepack UltraChrome XD YellowT694400(700ml)	
C13T694500 - Singlepack UltraChrome XD Matte BlackT694500(700ml)	
Maintenance Cartridge	

THE WIDE FORMAT CONSUMABLES AND ESTIMATED PRICING LISTED ABOVE WILL BE SUBJECT TO PRICING AGREED AT THE TIME OF REQUEST.

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RATE CARD

Job Title	SFIA skills and skill level	Daily Rate (£)
Programme Manager	5 - Programme Management PGMG	
Project Manager	4 - Project Management PRMG	
Project Lead	5 - Programme Management PGMG	
Contract Administrator / Commercial	1 - Sales Support SSUP	
Xerox Security Consultant	4 - Information security SCTY	
Senior Technical Architect	5 - Solution architecture ARCH	
Test Technician / Technical Architect	4 - Solution architecture ARCH	
Xerox Integration Architect	4 - Solution architecture ARCH	
Technical Consultancy	5 - Consultancy CNSL	
Technical Template Developer	5 - Methods and Tools METL	
Technical Analyst	2 - Data Management DATM	
Service Delivery Director	7 - IT Management ITMG	
Service Delivery Manager	5 - IT Management ITMG	
Commercial Manager	5 - Financial management for IT FMIT	
Technical Manager	4: Data management DATM	
Service Desk Team Leader	3 - Service desk and incident management USUP	
Problem Manager	4 - Problem management PBMG	
Associate Service Delivery Manager	4 - IT Management ITMG	
Business Performance Analyst	3 - Business analysis BUAN	
Test Manager	4 - Testing TEST	
Docuware (Onsite enhanced Support)	1 - IT operations ITOP	

Catalogue Service	Description	Charge (£)
Secure Device Removal	Removal and disposal of 1 MFP/Printer device in accordance with Agency Disposal Policy	
Device Move	within a single location	
Device Move	within a single location requiring 2 man lift	
Device Move	to a different location	
Device Move	to a different location requiring 2 man lift	
Device move (in/out) Abort	48 hours notice needed. Less than 48 hours incurs charge	
Device Storage	Per Print Device, per Service Reporting Period	
Audit Project Management	per day	
Onsite Asset Audits	per day	

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Asset Data cleansing	per day
Audit Future Solution design	per day
Floor Map creation	Creation of the new Floor Map by Xerox
Floor Map update	Update of the additional/existing Floor Map by Xerox
Customer Training (MFDs)	0.5 days - max 4 delegates
Customer Training (Phaser)	0.5 day - max 2 delegates
Customer Training (Customised Training)	2 day - max 2 delegates

Ad-Hoc Support Assumptions & Notes

Description
Based on standard core hours of 9am – 5.30pm Mon – Fri. Uplift applied for out of hours, weekends and Public hols
Evening Rates apply between 5.30pm and 12.00 on week days (1.5 x prevailing Day Rate). Night, Weekend and Bank Holiday Rates apply between 12.00 and 09.00 on week days and all Weekend and Bank Holidays (2 x prevailing Day Rate).
Reasonable notice (Minimum 48 hours) is required for work outside the normal professional working day.
Overtime Rates (Evening and Weekend, Night and Bank Holiday) apply to all grades of personnel.

ADDITIONAL INNOVATION

PRINTRELEAF- PRICING TO BE CONFIRMED
XEROX CONNECTKEY APPS – PRICING TO BE CONFIRMED

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ANNEX 2: PAYMENT TERMS/PROFILE

As per Call-off Order Form clause 6.1.

**CALL OFF SCHEDULE 4: IMPLEMENTATION PLAN, CUSTOMER
RESPONSIBILITIES AND KEY PERSONNEL**

1. INTRODUCTION

- 1.1 This Call Off Schedule 4 specifies the Implementation Plan in accordance with which the Supplier shall provide the Goods and/or Services.

2. IMPLEMENTATION PLAN

- 2.1 The Implementation Plan is set out below.
- 2.2 The Milestones to be Achieved are Identified below:

Milestone	Deliverables	Duration	Milestone Date	Customer Responsibilities	Milestone Payments	Delay Payments
[..]	[..]	[..]	[..]	[..]	[..]	[..]

The Milestones will be Achieved in accordance with Call Off Schedule 5 (Testing).

For the purposes of Clause 6.4.1(b)(ii) the number of days shall be [insert number of days] days ('the Delay Period Limit').

CALL OFF SCHEDULE 5: TESTING

1. DEFINITIONS

1.1 In this Call Off Schedule 5, the following definitions shall apply:

"Component"	means any constituent parts of the Goods and/or Services, bespoke or COTS, hardware or software;
"COTS"	means commercially available off the shelf software, being software that is commonly used and is provided in a standard form and on standard licence terms which are not typically negotiated by the licensor;
"Material Test Issue"	means a Test Issue of Severity Level 1 or Severity Level 2;
"Severity Level"	means the level of severity of a Test Issue, the criteria for which are described in Annex 1;
"Test Certificate"	means a certificate materially in the form of the document contained in Annex 2 issued by the Customer when a Deliverable has satisfied its relevant Test Success Criteria;
"Test Issue Management Log"	means a log for the recording of Test Issues as described further in paragraph 10.1 of this Call Off Schedule 5;
"Test Issue Threshold"	means, in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
"Test Reports"	means the reports to be produced by the Supplier setting out the results of Tests;
"Test Specification"	means the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in paragraph 7 of this Call Off Schedule 5;
"Test Strategy"	means a strategy for the conduct of Testing as described further in paragraph 5 of this Call Off Schedule;
"Test Success Criteria"	means, in relation to a Test, the test success criteria for that Test as referred to in paragraph 7 of this Call Off Schedule;
"Test Witness"	means any person appointed by the Customer pursuant to paragraph 11 of this Call Off Schedule; and
"Testing Procedures"	means the applicable testing procedures and Test Success Criteria set out in this Schedule .

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2. INTRODUCTION

- 2.1 This Call Off Schedule 5 (Testing) sets out the approach to Testing and the different Testing activities to be undertaken, including the preparation and agreement of the Test Strategy and Test Plan.

3. RISK

- 3.1 The issue of a Test Certificate, a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:
- 3.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Customer's requirements for that Deliverable or Milestone; or
 - 3.1.2 affect the Customer's right subsequently to reject:
 - (a) all or any element of the Deliverables to which a Test Certificate relates; or
 - (b) any Milestone to which the Satisfaction Certificate relates.
- 3.2 Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that:
- 3.2.1 the Goods and/or Services are implemented in accordance with this Call Off Contract; and
 - 3.2.2 each Service Level is met.

4. TESTING OVERVIEW

- 4.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 4.2 The Supplier shall not submit any Deliverable for Testing:
- 4.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
 - 4.2.2 until the Customer has issued a Test Certificate in respect of any prior, dependant Deliverable(s); and
 - 4.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 4.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 4.4 Prior to the issue of a Test Certificate, the Customer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.
- 4.5 Any Disputes between the Supplier and the Customer regarding this Testing shall be referred to the Dispute Resolution Procedure.

5. TEST STRATEGY

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- 5.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Call Off Commencement Date but in any case no later than twenty (20) Working Days (or such other period as the Parties may agree) after the Call Off Commencement Date.
- 5.2 The final Test Strategy shall include:
- 5.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
 - 5.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 5.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
 - 5.2.4 the procedure to be followed to sign off each Test;
 - 5.2.5 the process for the production and maintenance of Test Reports, including templates for the Test Reports and the Test Issue Management Log, and a sample plan for the resolution of Test Issues
 - 5.2.6 the names and contact details of the Customer's and the Supplier's Test representatives;
 - 5.2.7 a high level identification of the resources required for Testing, including facilities, infrastructure, personnel and reports relating to such personnel, and Customer and/or third party involvement in the conduct of the Tests;
 - 5.2.8 the technical environments required to support the Tests; and
 - 5.2.9 the procedure for managing the configuration of the Test environments.

6. TEST PLANS

- 6.1 The Supplier shall develop Test Plans and submit these for Approval as soon as practicable but in any case no later than twenty (20) Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise) prior to the start date for the relevant Testing as specified in the Implementation Plan.
- 6.2 Each Test Plan shall include as a minimum:
- 6.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied;
 - 6.2.2 a detailed procedure for the Tests to be carried out, including:
 - (a) the relevant Test Issue Thresholds;
 - (b) the timetable for the Tests including start and end dates;
 - (c) the Testing mechanism;
 - (d) dates and methods by which the Customer can inspect Test results or witness the Tests in order to establish that the Test Success Criteria have been met;

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- (e) the mechanism for ensuring the quality, completeness and relevance of the Tests;
- (f) the format and an example of Test progress reports and the process with which the Customer accesses daily Test schedules;
- (g) the process which the Customer will use to review Test Issues and the Supplier's progress in resolving these on a timely basis; and
- (h) the re-Test procedure, the timetable and the resources which would be required for re-Testing; and
- (i) the process for escalating Test Issues from a re-test situation to the taking of specific remedial action to resolve the Test Issue.

6.3 The Customer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Customer in the Test Plan.

7. TEST SUCCESS CRITERIA

7.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to paragraph 6 of this Call Off Schedule 5.

8. TEST SPECIFICATION

8.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days (or such other period as the Parties may agree in the Test Strategy or otherwise agree in writing) prior to the start of the relevant Testing (as specified in the Implementation Plan).

8.2 Each Test Specification shall include as a minimum:

- 8.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Customer and the extent to which it is equivalent to live operational data;
- 8.2.2 a plan to make the resources available for Testing;
- 8.2.3 Test scripts;
- 8.2.4 Test pre-requisites and the mechanism for measuring them; and
- 8.2.5 expected Test results, including:
 - (a) a mechanism to be used to capture and record Test results; and
 - (b) a method to process the Test results to establish their content.

9. TESTING

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- 9.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 9.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with paragraph 11 of this Call Off Schedule.
- 9.3 The Supplier shall notify the Customer at least 10 Working Days (or such other period as the Parties may agree in writing) in advance of the date, time and location of the relevant Tests and the Customer shall ensure that the Test Witnesses attend the Tests, except where the Customer has specified in writing that such attendance is not necessary.
- 9.4 The Customer may raise and close Test Issues during the Test witnessing process.
- 9.5 The Supplier shall provide to the Customer in relation to each Test:
 - 9.5.1 a draft Test Report not less than 2 Working Days (or such other period as the Parties may agree in writing) prior to the date on which the Test is planned to end; and
 - 9.5.2 the final Test Report within 5 Working Days (or such other period as the Parties may agree in writing) of completion of Testing.
- 9.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
 - 9.6.1 an overview of the Testing conducted;
 - 9.6.2 identification of the relevant Test Success Criteria that have been satisfied;
 - 9.6.3 identification of the relevant Test Success Criteria that have not been satisfied together with the Supplier's explanation of why those criteria have not been met;
 - 9.6.4 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
 - 9.6.5 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with paragraph 10.1 of this Call Off Schedule; and
 - 9.6.6 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 9.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 9.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Customer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.

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- 9.9 If the Supplier successfully completes the requisite Tests, the Customer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Goods and/or Services are implemented in accordance with this Call Off Contract.

10. TEST ISSUES

- 10.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 10.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Customer upon request.
- 10.3 The Customer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

11. TEST WITNESSING

- 11.1 The Customer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Customer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 11.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 11.3 The Test Witnesses:
- 11.3.1 shall actively review the Test documentation;
 - 11.3.2 will attend and engage in the performance of the Tests on behalf of the Customer so as to enable the Customer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
 - 11.3.3 shall not be involved in the execution of any Test;
 - 11.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
 - 11.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Customer to assess whether the Tests have been Achieved;
 - 11.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and

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- 11.4 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

12. TEST QUALITY AUDIT

- 12.1 Without prejudice to its rights pursuant to Clause 21 (Records, Audit Access and Open Book Data), the Customer or an agent or contractor appointed by the Customer may perform on-going quality audits in respect of any part of the Testing (each a “**Testing Quality Audit**”) subject to the provisions set out in the agreed Quality Plan.
- 12.2 The focus of the Testing Quality Audits shall be on:
- 12.2.1 adherence to an agreed methodology;
 - 12.2.2 adherence to the agreed Testing process;
 - 12.2.3 adherence to the Quality Plan;
 - 12.2.4 review of status and key development issues; and
 - 12.2.5 identification of key risk areas.
- 12.3 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 12.4 The Customer will give the Supplier at least 5 Working Days' written notice of the Customer's intention to undertake a Testing Quality Audit and the Supplier may request, following receipt of that notice, that any Testing Quality Audit be delayed by a reasonable time period if in the Supplier's reasonable opinion, the carrying out of a Testing Quality Audit at the time specified by the Customer will materially and adversely impact the Implementation Plan.
- 12.5 A Testing Quality Audit may involve document reviews, interviews with the Supplier Personnel involved in or monitoring the activities being undertaken pursuant to this Schedule, the Customer witnessing Tests and demonstrations of the Deliverables to the Customer. Any Testing Quality Audit shall be limited in duration to a maximum time to be agreed between the Supplier and the Customer on a case by case basis (such agreement not to be unreasonably withheld or delayed). The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Customer to enable it to carry out the Testing Quality Audit.
- 12.6 If the Testing Quality Audit gives the Customer concern in respect of the Testing Procedures or any Test, the Customer shall:
- 12.6.1 discuss the outcome of the Testing Quality Audit with the Supplier, giving the Supplier the opportunity to provide feedback in relation to specific activities; and
 - 12.6.2 subsequently prepare a written report for the Supplier detailing its concerns,
- and the Supplier shall, within a reasonable timeframe, respond in writing to the Customer's report.
- 12.7 In the event of an inadequate response to the written report from the Supplier, the Customer (acting reasonably) may withhold a Test Certificate (and

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consequently delay the grant of a Satisfaction Certificate) until the issues in the report have been addressed to the reasonable satisfaction of the Customer.

13.OUTCOME OF TESTING

13.1 The Customer will issue a Test Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.

13.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Customer shall notify the Supplier and:

13.2.1 the Customer may issue a Test Certificate conditional upon the remediation of the Test Issues;

13.2.2 where the Parties agree that there is sufficient time prior to the relevant Milestone Date, the Customer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or

13.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Customer's other rights and remedies, such failure shall constitute a material Default.

13.3 The Customer shall be entitled, without prejudice to any other rights and remedies that it has under this Call Off Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.

13.4 The Customer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:

13.4.1 the issuing by the Customer of Test Certificates and/or conditional Test Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and

13.4.2 performance by the Supplier to the reasonable satisfaction of the Customer of any other tasks identified in the Implementation Plan as associated with that Milestone (which may include the submission of a Deliverable that is not due to be Tested, such as the production of Documentation).

13.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Schedule 3 (Call Off Contract Charging, Payment and Invoicing).

13.6 If a Milestone is not Achieved, the Customer shall promptly issue a report to the Supplier setting out:

13.6.1 the applicable Test Issues; and

13.6.2 any other reasons for the relevant Milestone not being Achieved.

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- 13.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Customer shall issue a Satisfaction Certificate.
- 13.8 If there is one or more Material Test Issue(s), the Customer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Customer's other rights and remedies, such failure shall constitute a material Default.
- 13.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Customer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
 - 13.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Customer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Customer within 10 Working Days of receipt of the Customer's report pursuant to paragraph 13.3 of this Call Off Schedule); and
 - 13.9.2 where the Customer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

ANNEX 1: TEST ISSUES – SEVERITY LEVELS

1. SEVERITY 1 ERROR

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component, a Component crashes, there is database or file corruption, or data loss.

2. SEVERITY 2 ERROR

- 2.1 This is an error for which, as reasonably determined by the Customer, there is no practicable workaround available, and which:
- 2.1.1 causes a Component to become unusable;
 - 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
 - 2.1.3 has an adverse impact on any other Component(s) or any other area of the Goods and/or Services;

3. SEVERITY 3 ERROR

- 3.1 This is an error which:
- 3.1.1 causes a Component to become unusable;
 - 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
 - 3.1.3 has an impact on any other Component(s) or any other area of the Goods and/or Services;

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

4. SEVERITY 4 ERROR

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Goods and/or Services; and

5. SEVERITY 5 ERROR

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Goods and/or Services.

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ANNEX 2: TEST CERTIFICATE

To: [insert name of Supplier]
FROM: [insert name of Customer]
[insert Date: dd/mm/yyyy]

Dear Sirs,

TEST CERTIFICATE

Deliverable(s): *[Insert relevant description of the agreed Deliverables/Milestones]*
We refer to the agreement ("**Call Off Contract**") [insert Call Off Contract reference number] relating to the provision of the [insert description of the Goods and/or Services] between the *[insert Customer name]* ("**Customer**") and *[insert Supplier name]* ("**Supplier**") dated *[insert Call Off Commencement Date dd/mm/yyyy]*.
The definitions for any capitalised terms in this certificate are as set out in the Call Off Contract.

[We confirm that all of the Deliverables listed above have been tested successfully in accordance with the Test Plan relevant to those Deliverables.]

[OR]

[This Test Certificate is issued pursuant to paragraph 13.1 of Call Off Schedule 5 (Testing) of this Call Off Contract on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Customer]

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ANNEX 3: SATISFACTION CERTIFICATE

To: [insert name of Supplier]
From: [insert name of Customer]
[insert Date dd/mm/yyyy]

Dear Sirs,

SATISFACTION CERTIFICATE

Milestone(s): [Insert relevant description of the agreed Milestones].
We refer to the agreement ("**Call Off Contract**") [insert Call Off Contract reference number] relating to the provision of the [insert description of the Goods and/or Services] between the [*insert Customer name*] ("**Customer**") and [*insert Supplier name*] ("**Supplier**") dated [*insert Call Off Commencement Date dd/mm/yyyy*].
The definitions for any capitalised terms in this certificate are as set out in the Call Off Contract.

[We confirm that all the Deliverables relating to [insert relevant description of agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Test Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted pursuant to paragraph 13.1 of Call Off Schedule 5 (Testing) of this Call Off Contract on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with the provisions of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)].

Yours faithfully
[insert Name]
[insert Position]
acting on behalf of [insert name of Customer]

**CALL OFF SCHEDULE 6: SERVICE LEVELS, SERVICE CREDITS AND
PERFORMANCE MONITORING**

1. SCOPE

- 1.1 This Call Off Schedule 6 (Service Levels, Service Credits and Performance Monitoring) sets out the Service Levels which the Supplier is required to achieve when providing the Goods and/or Services, the mechanism by which Service Level Failures and Critical Service Level Failures will be managed and the method by which the Supplier's performance in the provision by it of the Goods and/or Services will be monitored.
- 1.2 This Call Off Schedule 6 comprises:
 - 1.2.1 Part A: Service Levels and Service Credits;
 - 1.2.2 Annex 1 to Part A - Service Levels and Service Credits Table;
 - 1.2.3 Annex 1 to Part B: Performance Monitoring; and
 - 1.2.4 Annex 2 to Part B: Additional Performance Monitoring Requirements.

PART A: SERVICE LEVELS AND SERVICE CREDITS

1. GENERAL PROVISIONS

- 1.1 The Supplier shall provide a suitably qualified nominated Call Off Contract manager, as well as a suitably qualified deputy to act in their absence, who will take over all responsibility for delivering the Goods and/ or Services required within this Call Off Contract and ensuring that all Service Levels in this Call Off Contract and Key Performance Indicators in the Framework Agreement are achieved to the highest standard throughout, respectively, the Call Off Contract Period and the Framework Period.
- 1.2 The Supplier shall within five (5) working days of the Call Off Contract Commencement Date send to the Contracting Authorities the name and contact details (including email address and telephone numbers) of the nominated Call Off Contract Manager and Deputy Call Off Contract Manager for this Call Off Contract. The Supplier shall have arrangements in place to deal with annual leave or any other (un)planned absence.
- 1.3 The Supplier shall communicate any change in Call Off Contract Manager to Contracting Authorities, no less than one (1) month in advance of the planned change.
- 1.4 The Supplier shall provide a managed service through the provision of a dedicated Call Off Contract manager where required on matters relating to:
 - 1.4.1 [Supply performance;
 - 1.4.2 Quality of [Goods and/or Services];
 - 1.4.3 Customer support;
 - 1.4.4 Complaints handling; and
 - 1.4.5 Accurate and timely invoices.]
- 1.5 The Supplier accepts and acknowledges that failure to meet the Service Level Performance Measures set out in the table in Annex 1 to this Part A of this Call Off Schedule 6 will result in Service Credits being issued to Customers.

2. PRINCIPAL POINTS

- 2.1 The objectives of the Service Levels and Service Credits are to:
 - 2.1.1 ensure that the Goods and/or Services are of a consistently high quality and meet the requirements of the Customer;
 - 2.1.2 provide a mechanism whereby the Customer can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted to deliver; and
 - 2.1.3 incentivise the Supplier to comply with and to expeditiously remedy any failure to comply with the Service Levels.

3. SERVICE LEVELS

- 3.1 Annex 1 to this Part A of this Call Off Schedule 6 sets out the Service Levels the performance of which the Parties have agreed to measure.

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- 3.2 The Supplier shall monitor its performance of this Call Off Contract by reference to the relevant performance criteria for achieving the Service Levels shown in Annex 1 to this Part A of this Call Off Schedule 6 (the “**Service Level Performance Criteria**”) and shall send the Customer a Performance Monitoring Report detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Call Off Schedule 6.
- 3.3 The Supplier shall, at all times, provide the Goods and/or Services in such a manner that the Service Levels Performance Measures are achieved.
- 3.4 If the level of performance of the Supplier of any element of the provision by it of the Goods and/or Services during the Call Off Contract Period:
- 3.4.1 is likely to or fails to meet any Service Level Performance Measure or
 - 3.4.2 is likely to cause or causes a Critical Service Failure to occur,
 - 3.4.3 the Supplier shall immediately notify the Customer in writing and the Customer, in its absolute discretion and without prejudice to any other of its rights howsoever arising including under Clause 13 of this Call Off Contract (Service Levels and Service Credits), may:
 - (a) require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Customer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring; and
 - (b) if the action taken under paragraph (a) above has not already prevented or remedied the Service Level Failure or Critical Service Level Failure, the Customer shall be entitled to instruct the Supplier to comply with the Rectification Plan Process; or
 - (c) if a Service Level Failure has occurred, deduct from the Call Off Contract Charges the applicable Service Level Credits payable by the Supplier to the Customer in accordance with the calculation formula set out in Annex 1 of this Part A of this Call Off Schedule 6; or
 - (d) if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure in accordance with Clause 14 of this Call Off Contract (Critical Service Level Failure) (including subject, for the avoidance of doubt, the proviso in Clause 14.2.2 of this Call Off Contract in relation to Material Breach).
- 3.5 Approval and implementation by the Customer of any Rectification Plan shall not relieve the Supplier of any continuing responsibility to achieve the Service Levels, or remedy any failure to do so, and no estoppels or waiver shall arise from any such Approval and/or implementation by the Customer.

4. SERVICE CREDITS

- 4.1 Annex 1 to this Part A of this Call Off Schedule 6 sets out the formula used to calculate a Service Credit payable to the Customer as a result of a Service Level

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Failure in a given service period which, for the purpose of this Call Off Schedule 6, shall be a recurrent period of one Month during the Call Off Contract Period (the “**Service Period**”).

- 4.2 Annex 1 to this Part A of this Call Off Schedule 6 includes details of each Service Credit available to each Service Level Performance Criterion if the applicable Service Level Performance Measure is not met by the Supplier.
- 4.3 The Customer shall use the Performance Monitoring Reports supplied by the Supplier under Part B (Performance Monitoring) of this Call Off Schedule 6 to verify the calculation and accuracy of the Service Credits, if any, applicable to each relevant Service Period.
- 4.4 Service Credits are a reduction of the amounts payable in respect of the Goods and/or Services 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 1 of Part A of this Call Off Schedule 6.

5. NATURE OF SERVICE CREDITS

- 5.1 The Supplier confirms that it has modelled the Service Credits and has taken them into account in setting the level of the Call Off Contract Charges. Both Parties agree that the Service Credits are a reasonable method of price adjustment to reflect poor performance.

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**ANNEX 1 TO PART A: SERVICE LEVELS AND SERVICE CREDITS TABLE
APPLICABLE FOR LOT 3, LOT 4, LOT 5, LOT 6 AND LOT 7**

Service Levels				Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Service Level Threshold	
Xerox Service Desk – Critical Incident Response	Initial Acknowledgment	100% within 4 Business Hours	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Xerox Service Desk – Major Incident Response	Initial Acknowledgment	100% within 1 Business Day	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Xerox Service Desk – Minor Incident Response	Initial Acknowledgment	100% within 2 Business Days	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Highways England Escalation Response - Critical	Response	100% within 1 Business Day	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Highways England Escalation Response - Major	Response	100% within 5 Business Days	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%

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Service Levels				Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Service Level Threshold	
Highways England Escalation Response - Minor	Response	100% within 10 Business Days	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Site Visit Response – Critical	Response	100% within 4 Business Hours	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Site Visit Response - Major	Response	100% within 1 Business Day	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Site Visit Response - Minor	Response	100% within 2 Business Days	80.00%	1% of revenue where performance is less than 95% An additional 1% of revenue where performance is less than 90%
Priority 1 Incident Resolution	Incident Resolution	100% within 2 Business Hours	80.00%	1% of revenue where less than 90%
Priority 2 Incident Resolution	Incident Resolution	100% within 4 Business Hours	80.00%	1% of revenue where less than 90%
Priority 3 Resolution	Incident Resolution	100% within 1 Business Day	80.00%	N/A
Priority 4 Incident Resolution	Incident Resolution	100% within 2 Business Days	80.00%	N/A

Service Level monitoring entails continual measurement of mutually agreed upon Service Level Thresholds and the initiation of corrective actions if the Service Level Thresholds

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are breached. A Service improvement plan will be created to manage the improvement of the Service Level Performance Measure in the table above and will allow for complete measurement throughout the lifecycle.

The Service Credits shall be calculated on the basis of the following formula:

Example:		
Formula: x% (Service Level Performance Measure) - x% (actual Service Level performance)	=	x% of the Call Off Contract Charges payable to the Customer as Service Credits to be deducted from the next Valid Invoice payable by the Customer
Worked example: 98% (e.g. Service Level Performance Measure requirement for Service Level Performance Criterion of accurate and timely billing to Customer) - 75% (e.g. actual performance achieved against this Service Level Performance Criterion in a Service Period)	=	23% of the Call Off Contract Charges payable to the Customer as Service Credits to be deducted from the next Valid Invoice payable by the Customer

SCHEDULE 6 - ANNEX 4 – EXAMPLES OF SPECIFIC SERVICE LEVELS

SUPPORT HOURS – NORMAL

Normal hours for telephone/email support as follows:

Monday to Friday 07:00 to 19:00 excluding public holidays in England and Wales.

Normal hours for on-site visits by supplier staff are as follows:

Monday to Friday 09:00 to 17:30 excluding public holidays.

It may be necessary to arrange for 'out of hours' on-site support (e.g. evening or weekend etc) and may attract additional charges. All out-of-hours work must be agreed by appropriate supplier and agency staff in advance.

SUPPORT HOURS – ENHANCED (24 X7 OPTION)

Highways England may wish to enhance the Support Hours for some sites or devices, for example at Operational Sites (RCCs, NTOC etc. See Annex 2 for details of these sites). If this option is selected, the support hours for the enhanced sites will be;

Enhanced hours for telephone/email support are as follows:

24 hours by 365 days per year

Enhanced hours for on-site visits by supplier staff are as follows:

24 hours by 365 days per year

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SERVICE LEVELS

Initial Acknowledgement

From telephone: From voicemail:	Critical	High	Medium	Low
2nd Line Support (2) – Xerox Service Desk	4 hours	1 day	2 days	n/a
3rd Line Support (3) – Xerox Technical	Dependent upon relevance and/or availability but will be as soon as practicably possible			n/a

(2) Telephone/remote support/site visit

(3) Telephone/remote/site visit

Escalation to Supplier HQ - Target Response Times

Escalation to Supplier HQ - Target Response Times Severity	Critical	High	Medium	Low
Initial workaround (4)	1 day	5 days	10 days	Next Release

(4) Final, permanent, resolution may take further time, supplier to advice as appropriate

Site Visit Target Response Times

Site Visit Target Response Times Severity	Critical	High	Medium	Low
2nd Line Support – Xerox Service Desk	4 hours	1 day	2 days	n/a
3rd Line Support -Xerox Technical	Dependent upon relevance and/or availability but will be as soon as practicably possible			n/a

Software Updates and Upgrades

Software Updates: All updates (patches, bug fixes, etc) for existing versions will be provided as and when required. But must be maintained at supportable levels
Software Upgrades: All upgrades will be subject to change processes and must be maintained at supportable levels

ANNEX 4 – PRIORITY MATRIX

Table 1 - Priority Matrix below shows the priority matrix which drives the priority of reported incidents, where the criteria has been agreed by both the Customer and the Supplier. There are four levels of impact and three levels of urgency.

TABLE 1 – PRIORITY MATRIX

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		IMPACT			
		CRITICAL	HIGH	MEDIUM	LOW
URGENCY	HIGH	Priority 1	Priority 1	Priority 2	Priority 3
	MEDIUM	Priority 1	Priority 2	Priority 3	Priority 4
	LOW	Priority 2	Priority 3	Priority 4	Priority 4

TABLE 2 – DESCRIPTION OF CRITICAL, HIGH, MEDIUM AND LOW OF IMPACT

Impact	Description	Urgency	Description
Critical Impact	Complete loss of Tier 1 Service - At multiple sites - For multiple users (>10) Complete loss of access to a Tier 1 Service Degradation of multiple Tier 1 Services Complete loss of multiple Tier 2 Services across multiple sites Complete loss of resilience of Tier 1 Service Backup failure – 3rd occurrence Security Incident affecting more than 1 user >10% users offline	Critical Urgency	Response requires an immediate and sustained effort using any and/or all available resources as required until the Incident is resolved Hierarchical escalation is invoked, on-call procedures are activated, and vendor support invoked Generally, customers are unable to work and no work around is available
High Impact	Complete loss of Tier 2 Service - At multiple sites - For multiple users (>10) Degradation of a Tier 1 Service Degradation of multiple Tier 2 Services Complete loss of access to a Tier 2 Service Complete loss of multiple Tier 3 & 4 Services across multiple sites	High Urgency	Assigned support team responds immediately, assesses the current situation and may interrupt other staff working lower priority Incidents / Service Requests to assist in timely restoration of services Users require expedited restoration of service, but can bear minimal delays Users may or may not have a work around available, or

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	Complete loss of resilience of Tier 2 Service Backup failure – 2nd occurrence Security Incident affecting 1 user but potential to lead to disruption <10% users offline		workaround may only provide partial relief
Medium Impact	Complete loss of Tier 3 / 4 Service • At multiple sites • For multiple users (>10) Degradation of a Tier 2 Service Degradation of multiple Tier 3 / 4 Services Complete loss of access to a Tier 3 / 4 Service Complete loss of resilience for a Tier 3 / 4 Service Backup failure – 1st occurrence Security Incident affecting 1 user – contained (inc password forgotten)	Medium Urgency	Assigned support team are able to respond using standard procedures and operating within normal supervisory management structures. Users may or may not have a work around available or workaround may only provide partial relief
Low Impact	Single user unable to use a Service End user feature not working Warning with no impact to Service	Low Urgency	Users may be inconvenienced, but a suitable workaround is available to allow the customer to continue working, or a delay in resolution is considered acceptable

TABLE 3 - IMPACT AND URGENCY

An indicative (non-exhaustive) view of Impact and Urgency definitions are included in the table below:

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IMPACT "Measure of the effect of an Incident, Problem, or Change on Business Processes. Impact and Urgency are used to assign Priority."	URGENCY "Measure of how long it will be until an Incident, Problem or Change has a significant Impact on the Business. Impact and Urgency are used to assign Priority Levels."
CRITICAL A Critical Service is currently defined by Customer as: Any Service/system Fundamental to Business Operations, operating at a Global Level deemed to be essential to Customer e.g.: Service is required to effectively manage customers, deliver products, promotions, services and to generate revenue. A Critical impact is indicated by the following (non-exhaustive) scenarios: • Likely to require immediate and sustained effort using all available resources until resolved. • Has the potential to require a Major Incident Response • Has the potential to require invocation of disaster/business recovery • Has a Global/High Visibility (including VIP, Senior Executive) impact • Loss of business-critical facilities • Core Business Service impacted – an activity that has a direct financial, brand or security impact on Customer organization • Actual extensive and visible service impact to Customer Clients/Customers • Production Service (e.g. not Pre-Production, Test, Development or sandpit) • Incident may trigger an external event e.g. reportable incident to external authorities or negative impact on Customer share price	HIGH Non-exhaustive indicators of High Urgency are as follows: • A critical business activity (e.g. Operating Results, Finance Period Ends) is already underway, cannot be stopped and immediate action may resolve the issue • Immediate action is required to restore service(s) or prevent failure of a service • No viable Workaround is in place • Resilient infrastructure severely compromised and unable to support further failure • Issue is impacting a high-profile service, Customer, Client, User etc... • Customer Service Levels expected to be breached • Responsibility and approach to remediation unclear • High Recovery Time Objective (RTO) e.g. is <1 Hour.
HIGH A High Impact Service is currently defined within Customer as: Any Service/System deemed to be essential to Customer. e.g.: Service is required to manage business processes, collect, protect and enhance revenue A High impact is indicated by the following (non-exhaustive) scenarios: • Likely to interrupt Support staff and divert them from their medium priority routine activities • Has a Regional impact • Data Integrity / Functionality compromised in a Business Critical System • Operation/functionality of an essential Business Service impacted • High potential to impact to Customer Clients/Customers • Production Service (e.g. not Pre-Production, Test, Development or sandpit)	MEDIUM Non-exhaustive indicators of Medium Urgency are as follows: • Business activity (e.g. Operating Results, Finance Period Ends) scheduled to occur but enough time remains to respond without impacting productivity • A Workaround is in place but service/functionality is degraded or is not cost effective • Resilience is compromised but may sustain further failure(s) • Customer Service Levels may be breached • Responsibility and approach to remediation understood • Medium Recovery Time Objective (RTO) e.g. is <4 Hours
MEDIUM A Medium Impact Service is currently defined within Customer as: Any service/system operating at a regional level and deemed to be essential to Customer in carrying out its major value-adding activities. Loss of these systems, whilst not resulting in immediate loss of cash or having immediate customer impact, could quickly lead to indirect impact or significant additional cost burden A Medium impact is indicated by the following (non-exhaustive) scenarios: • Likely to respond using standard procedures and operating within normal supervisory management structures • Production, Application Development or Test Server impacting end users • Has a reduced impact at a Regional level • Has a Localised/Functional impact • Data Integrity / Functionality Issue of Non-Business Critical System • Operations/functionality acceptable with some restrictions • Low potential to directly impact Customer Clients/Customers.	LOW Non-exhaustive indicators of Low Urgency are as follows: • Business activity (e.g. Operating Results, Finance Period Ends) may be postponed or is far enough away in time to allow response without loss of productivity • Component or Service remains fully functional despite the incident • A Workaround is in place which provides full functionality of service and may be sustained cost effectively • Able to meet Service Levels • Low Recovery Time Objective (RTO) e.g. is <24 Hour
LOW A Low Impact Service is currently defined within Customer as: All other systems/services used (i.e. those not classed as Critical, High or Medium) A Low impact is indicated (non-exhaustive) by the following scenarios: • Service Request • Respond using standard operating procedures and as time allows • No business impact • Has an isolated or individual impact • System/operations are expected to remain stable • Operations/functionality acceptable with no restrictions • Will not directly impact Customer Clients/Customers • Production and all non-production services (e.g. Pre-Production, Test, Development and Sandpit) • Minimal revenue loss from downtime	URGENCY "Measure of how long it will be until an Incident, Problem or Change has a significant Impact on the Business. Impact and Urgency are used to assign Priority Levels."

ANNEX 1 TO PART B: PERFORMANCE MONITORING

1. PRINCIPAL POINTS

- 1.1 Part B to this Call Off Schedule 6 provides the methodology for monitoring the provision of the Goods and/or Services:
 - 1.1.1 to ensure that the Supplier is complying with the Service Levels; and
 - 1.1.2 for identifying any failures to achieve Service Levels in the performance of the Supplier and/or provision of the Goods and/or Services ("**Performance Monitoring System**").
- 1.2 Within twenty (20) Working Days of the Call Off Commencement Date the Supplier shall provide the Customer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

2. REPORTING OF SERVICE FAILURES

- 2.1 The Supplier shall report all failures to achieve Service Levels and any Critical Service Level Failure to the Customer in accordance with the processes agreed in paragraph 1.2 of Part B of this Call Off Schedule 6 above.

3. PERFORMANCE MONITORING AND PERFORMANCE REVIEW

- 3.1 The Supplier shall provide the Customer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 1.2 of Part B of this Call Off Schedule 6 above which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 3.1.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 3.1.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 3.1.3 any Critical Service Level Failures and details in relation thereto;
 - 3.1.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 3.1.5 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
 - 3.1.6 such other details as the Customer may reasonably require from time to time.
- 3.2 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a monthly basis (unless otherwise agreed). The Performance Review Meetings will be the forum for the review by the

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Supplier and the Customer of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):

- 3.2.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier;
 - 3.2.2 take place at such location and time (within normal business hours) as the Customer shall reasonably require unless otherwise agreed in advance;
 - 3.2.3 be attended by the Supplier's Representative and the Customer's Representative; and
 - 3.2.4 be fully minuted by the Supplier. The prepared minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Customer's Representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Customer's Representative at each meeting.
- 3.3 The Customer shall be entitled to raise any additional questions and/or request any further information regarding any failure to achieve Service Levels.
- 3.4 The Supplier shall provide to the Customer such supporting documentation as the Customer 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.
- 3.5 The Supplier shall manage the Call Off Contract for Lots 2, 3, 4, 5 and 6 by utilising the Contracting Authorities tiered Supplier Relationship Management (SRM) approach as set out in clause 3.6, which provides escalation routes and enables development of the key strategies at senior levels.
- 3.6 The Supplier shall agree the level of engagement and frequency with Contracting Authorities within one (1) month of the Call Off Contract Commencement Date, but as a minimum this shall include the following for Lots 2, 3, 4, 5 and 6:

Frequency	Status	Format	Attendees	Information Required
Monthly	Operational	Meeting or telephone conference	To be agreed at Implementation	Monthly MI Highlight Report
Quarterly	Operational	Meeting	To be agreed at Implementation	Highlight Report Dashboard Continuous Improvement Plan
Bi-annually	Operational / Strategic and Technical Board	Meeting	To be agreed at Implementation	Dashboard, Mid-Year Review and Forecast Report
Annually	Strategic	Meeting	To be agreed at Implementation	Dashboard, End of Year Review and Forecast Report

- 3.7 The Supplier's Call Off Contract Manager shall ensure where Service Levels are not being met, that appropriate extra resources are committed promptly and

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action is taken to resolve any issues to the satisfaction of Contracting Authorities which may include a Performance Improvement Plan (PIP).

4. SATISFACTION SURVEYS

- 4.1 In order to assess the level of performance of the Supplier, the Customer may undertake satisfaction surveys in respect of the Supplier's provision of the Goods and/or Services.
- 4.2 The Customer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Goods and/or Services which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Call Off Contract.
- 4.3 All other suggestions for improvements to the provision of Goods and/or Services shall be dealt with as part of the continuous improvement programme pursuant to Clause 18 of this Call Off Contract (Continuous Improvement).

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ANNEX 2 TO PART B: ADDITIONAL PERFORMANCE MONITORING REQUIREMENTS

In this Annex 2 to Part B of Call Off Schedule 6, the following definitions shall apply, if selected by the Customer in the Call Off Order Form:

"Project Manager" means the manager described in paragraph 2. of this Annex;

"Technical Board" means the board described in paragraph 2. of this Annex;

1. MANAGEMENT OF THE GOODS AND/OR SERVICES

- 1.1 The Supplier and the Customer shall each appoint a Project Manager for the purposes of this Call Off Contract through whom the provision of the Goods and/or Services shall be managed at a day-to-day.
- 1.2 Both parties shall ensure that appropriate resource is made available on a regular basis including, for example, a Technical Board such that the aims, objectives and specific provisions of this Call Off Contract can be fully realised.

2. TECHNICAL BOARD

- 2.1 The Technical Board shall be established by the Customer for the purposes of this Call Off Contract on which the Supplier and the Customer shall be represented.
- 2.2 The Technical Board members, frequency and location of board meetings and planned start date by which the board shall be established shall be set out in the Implementation Plan once provided by the Supplier.
- 2.3 In the event that either Party wishes to replace any of its appointed board members, that party shall notify the other in writing of the proposed change for agreement by the other Party (such agreement not to be unreasonably withheld or delayed). Notwithstanding the foregoing it is intended that each Customer board member has at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 2.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Technical Board meeting in his/her place (wherever possible) is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 2.5 The Technical Board shall be accountable to the Project Managers for oversight of the technology used by the Supplier and ensuring that technological choices are made to maximise the long term value of the Goods and/or Services.
- 2.6 The Technical Board shall:
 - 2.6.1 assure compliance with the overall technical architecture of the Customer and with Government IT Strategy (as defined at

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85968/uk-government-government-ict-strategy_0.pdf);

- 2.6.2 grant dispensations for variations from such compliance where appropriate;
- 2.6.3 assure the coherence and consistency of the systems architecture for the provision of the Goods and/or Services;
- 2.6.4 monitor developments in new technology and reporting on their potential benefit to the provision of the Goods and/or Services;
- 2.6.5 provide advice, guidance and information on technical issues; and
- 2.6.6 assure that the technical architecture for the provision of the Goods and/or Services is aligned to the requirements specified in Call Off Schedule 2 (Goods and Services) and has sufficient flexibility to cope with future requirements of the Customer.

CALL OFF SCHEDULE 7: SECURITY

1. 0.DEFINITIONS

0.1 In this Call Off Schedule 7, the following definitions shall apply:

"Breach of Security"	means the occurrence of: a) any unauthorised access to or use of the Goods and/or Goods and/or Services, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Customer Data) used by the Customer and/or the Supplier in connection with this Call Off Contract; and/or b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Customer Data), including any copies of such information or data, used by the Customer and/or the Supplier in connection with this Call Off Contract, in either case as more particularly set out in the security requirements in the Security Policy;
"ISMS"	the information security management system and process developed by the Supplier in accordance with paragraph 2 (ISMS) as updated from time to time in accordance with this Schedule 7; and
"Security Tests"	tests to validate the ISMS and security of all relevant processes, systems, incident response plans, patches to vulnerabilities and mitigations to Breaches of Security.

1. INTRODUCTION

- 1.1 The Parties acknowledge that the purpose of the ISMS and Security Management Plan are to ensure a good organisational approach to security under which the specific requirements of this Call Off Contract will be met.
- 1.2 The Parties shall each appoint a security representative to be responsible for Security. The initial security representatives of the Parties are:
 - 1.2.1 Harry Payne, Cyber Security Lead
 - 1.2.2 Rob Baynton, UK Information Security Manager
- 1.3 If the persons named in paragraphs 1.2.1 and 1.2.2 are included as Key Personnel, Clause 26 (Key Personnel) shall apply in relation to such persons.
- 1.4 The Customer shall clearly articulate its high level security requirements so that the Supplier can ensure that the ISMS, security related activities and any mitigations are driven by these fundamental needs.
- 1.5 Both Parties shall provide a reasonable level of access to any members of their personnel for the purposes of designing, implementing and managing security.
- 1.6 The Supplier shall use as a minimum Good Industry Practice in the day to day operation of any system holding, transferring or processing Customer Data and any system that could directly or indirectly have an impact on that information,

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and shall ensure that Customer Data remains under the effective control of the Supplier at all times.

- 1.7 The Supplier shall ensure the up-to-date maintenance of a security policy relating to the operation of its own organisation and systems and on request shall supply this document as soon as practicable to the Customer.
- 1.8 The Customer and the Supplier acknowledge that information security risks are shared between the Parties and that a compromise of either the Supplier or the Customer's security provisions represents an unacceptable risk to the Customer requiring immediate communication and co-operation between the Parties.

2. ISMS

- 2.1 The Supplier shall develop and submit to the Customer for the Customer's Approval, within twenty (20) working days after the Call Off Commencement Date or such other date as agreed between the Parties, an information security management system for the purposes of this Call Off Contract, which shall have been tested in accordance with Call Off Schedule 5 (Testing) and shall comply with the requirements of paragraphs 2.3 to 2.5 of this Call Off Schedule 7 (Security).
- 2.2 The Supplier acknowledges that the Customer places great emphasis on the reliability of the performance of the Goods and/or Services, confidentiality, integrity and availability of information and consequently on the security provided by the ISMS and that the Supplier shall be responsible for the effective performance of the ISMS.
- 2.3 The ISMS shall:
 - 2.3.1 unless otherwise specified by the Customer in writing, be developed to protect all aspects of the Goods and/or Services and all processes associated with the provision of the Goods and/or Services, including the Customer Premises, the Sites, the Supplier System, the Customer System (to the extent that it is under the control of the Supplier) and any ICT, information and data (including the Customer's Confidential Information and the Customer Data) to the extent used by the Customer or the Supplier in connection with this Call Off Contract;
 - 2.3.2 meet the relevant standards in ISO/IEC 27001 and ISO/IEC27002 in accordance with Paragraph 6;and
 - 2.3.3 at all times provide a level of security which:
 - (a) is in accordance with the Law and this Call Off Contract;
 - (b) complies with the Baseline Security Requirements;
 - (c) as a minimum demonstrates Good Industry Practice;
 - (d) complies with the Security Policy;
 - (e) complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4)
<https://www.gov.uk/government/uploads/system/upl>

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oads/attachment_data/file/255910/HMG_Security_Policy_Framework_V11.0.pdf ;

- (f) takes account of guidance issued by the Centre for Protection of National Infrastructure on Risk Management
http://www.cpni.gov.uk/Documents/Publications/2005/2005003-Risk_management.pdf
- (g) complies with HMG Information Assurance Maturity Model and Assurance Framework
<http://www.cesg.gov.uk/publications/Documents/iam-m-assessment-framework.pdf>
- (h) meets any specific security threats of immediate relevance to the ISMS, the Goods and/or Services and/or Customer Data;
- (i) addresses issues of incompatibility with the Supplier's own organisational security policies;
- (j) complies with ISO/IEC27001 and ISO/IEC27002 in accordance with paragraph 6; and
- (k) complies with the Customer's ICT policies.

2.3.4 document the security incident management processes and incident response plans;

2.3.5 document the vulnerability management policy including processes for identification of system vulnerabilities and assessment of the potential impact on the Goods and/or Services of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing of security patches, application of security patches, a process for Customer approvals of exceptions, and the reporting and audit mechanism detailing the efficacy of the patching policy; and

2.3.6 be certified by (or by a person with the direct delegated authority of) a Supplier's main board representative, being the "Chief Security Officer", "Chief Information Officer", "Chief Technical Officer" or "Chief Financial Officer" (or equivalent as agreed in writing by the Customer in advance of issue of the relevant Security Management Plan).

2.4 Subject to Clause 34 of this Call Off Contract (Security and Protection of Information) the references to Standards, guidance and policies contained or set out in paragraph 2.3 of this Call Off Schedule 7 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.

2.5 In the event that the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies set out in paragraph 2.3 of this Call Off Schedule 7, the Supplier shall immediately notify the Customer Representative of such inconsistency and the Customer Representative shall, as

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soon as practicable, notify the Supplier as to which provision the Supplier shall comply with.

2.6 If the ISMS submitted to the Customer pursuant to paragraph 2.1 of this Call Off Schedule 7 is Approved by the Customer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Call Off Schedule 7. If the ISMS is not Approved by the Customer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Customer and re-submit it to the Customer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the Parties may agree in writing) from the date of the first submission of the ISMS to the Customer. If the Customer does not Approve the ISMS following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Customer pursuant to this paragraph 2 of this Call Off Schedule 7 may be unreasonably withheld or delayed. However any failure to approve the ISMS on the grounds that it does not comply with any of the requirements set out in paragraphs 2.3 to 2.5 of this Call Off Schedule 7 shall be deemed to be reasonable.

2.7 Approval by the Customer of the ISMS pursuant to paragraph 2.6 of this Call Off Schedule 7 or of any change to the ISMS shall not relieve the Supplier of its obligations under this Call Off Schedule 7.

3. SECURITY MANAGEMENT PLAN

3.1 Within twenty (20) Working Days after the Call Off Commencement Date, the Supplier shall prepare and submit to the Customer for Approval in accordance with paragraph 3 of this Call Off Schedule 7 a fully developed, complete and up-to-date Security Management Plan which shall comply with the requirements of paragraph 3.2 of this Call Off Schedule 7.

3.2 The Security Management Plan shall:

- 3.2.1 be based on the initial Security Management Plan set out in Annex 2 (Security Management Plan);
- 3.2.2 comply with the Baseline Security Requirements and Security Policy;
- 3.2.3 identify the necessary delegated organisational roles defined for those responsible for ensuring this Call Off Schedule 7 is complied with by the Supplier;
- 3.2.4 detail the process for managing any security risks from Sub-Contractors and third parties authorised by the Customer with access to the Goods and/or Services, processes associated with the delivery of the Goods and/or Services, the Customer Premises, the Sites, the Supplier System, the Customer System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) and any system that could directly or indirectly have an impact on that information, data and/or the Goods and/or Services;
- 3.2.5 unless otherwise specified by the Customer in writing, be developed to protect all aspects of the Goods and/or Services and all processes

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associated with the delivery of the Goods and/or Services, including the Customer Premises, the Sites, the Supplier System, the Customer System (to the extent that it is under the control of the Supplier) and any ICT, Information and data (including the Customer's Confidential Information and the Customer Data) to the extent used by the Customer or the Supplier in connection with this Call Off Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Goods and/or Services;

- 3.2.6 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Goods and/or Services and all processes associated with the delivery of the Goods and/or Services and at all times comply with and specify security measures and procedures which are sufficient to ensure that the Goods and/or Services comply with the provisions of this Call Off Schedule 7 (including the requirements set out in paragraph 2.3 of this Call Off Schedule);
 - 3.2.7 demonstrate that the Supplier's approach to delivery of the Goods and/or Services has minimised the Customer and Supplier effort required to comply with this Call Off Schedule through consideration of available, appropriate and practicable pan-government accredited services (for example, 'platform as a service' offering from the G-Cloud catalogue);
 - 3.2.8 set out the plans for transitioning all security arrangements and responsibilities from those in place at the Call Off Commencement Date to those incorporated in the ISMS within the timeframe agreed between the Parties .
 - 3.2.9 set out the scope of the Customer System that is under the control of the Supplier;
 - 3.2.10 be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other Schedules which cover specific areas included within those standards; and
 - 3.2.11 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Customer engaged in the Goods and/or Services and shall reference only documents which are in the possession of the Parties or whose location is otherwise specified in this Call Off Schedule 7 .
- 3.3 If the Security Management Plan submitted to the Customer pursuant to paragraph 3.1 of this Call Off Schedule 7 is Approved by the Customer, it shall be adopted by the Supplier immediately and thereafter operated and maintained in accordance with this Call Off Schedule 7. If the Security Management Plan is not approved by the Customer, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Customer and re-submit it to the Customer for Approval. The Parties shall use all reasonable endeavours to ensure that the Approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the Parties may agree in writing) from the date of the first submission to the Customer of the Security Management Plan. If the Customer does not Approve the Security

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Management Plan following its resubmission, the matter shall be resolved in accordance with the Dispute Resolution Procedure. No Approval to be given by the Customer pursuant to this paragraph may be unreasonably withheld or delayed. However any failure to approve the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 3.2 of this Call Off Schedule 7 shall be deemed to be reasonable.

- 3.4 Approval by the Customer of the Security Management Plan pursuant to paragraph 3.3 of this Call Off Schedule 7 or of any change or amendment to the Security Management Plan shall not relieve the Supplier of its obligations under this Call Off Schedule 7.

4. AMENDMENT AND REVISION OF THE ISMS AND SECURITY MANAGEMENT PLAN

- 4.1 The ISMS and Security Management Plan shall be fully reviewed and updated by the Supplier and at least annually to reflect:

- 4.1.1 emerging changes in Good Industry Practice;
- 4.1.2 any change or proposed change to the Supplier System, the Goods and/or Services and/or associated processes;
 - (a) any new perceived or changed security threats; and
- 4.1.3 any changes to the Security Policy;
- 4.1.4 any new perceived or changed security threats; and
- 4.1.5 any reasonable change in requirement requested by the Customer.

- 4.2 The Supplier shall provide the Customer with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the Customer. The results of the review shall include, without limitation:

- 4.2.1 suggested improvements to the effectiveness of the ISMS;
- 4.2.2 updates to the risk assessments;
- 4.2.3 proposed modifications to the procedures and controls that affect information security to respond to events that may impact on the ISMS; and
- 4.2.4 suggested improvements in measuring the effectiveness of controls.

- 4.3 Subject to paragraph 4.4 of this Call Off Schedule 7, any change which the Supplier proposes to make to the ISMS or Security Management Plan (as a result of a review carried out pursuant to paragraph 4.1 of this Call Off Schedule 7, a Customer request, a change to Annex 1 (Security) or otherwise) shall be subject to the Variation Procedure and shall not be implemented until Approved in writing by the Customer.

- 4.4 The Customer may, where it is reasonable to do so, Approve and require changes or amendments to the ISMS or Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment for the purposes of this Call Off Contract.

5. SECURITY TESTING

- 5.1 The Supplier shall conduct Security Tests from time to time (and at least annually across the scope of the ISMS) and additionally after any change or amendment to the ISMS (including security incident management processes and incident response plans) or the Security Management Plan. Security Tests shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Goods and/or Services and the date, timing, content and conduct of such Security Tests shall be agreed in advance with the Customer. Subject to compliance by the Supplier with the foregoing requirements, if any Security Tests adversely affect the Supplier's ability to deliver the Goods and/or Services so as to meet the Service Level Performance Measures, the Supplier shall be granted relief against any resultant under-performance for the period of the Security Tests.
- 5.2 The Customer shall be entitled to send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Customer with the results of such Security Tests (in a form approved by the Customer in advance) as soon as practicable after completion of each Security Test.
- 5.3 Without prejudice to any other right of audit or access granted to the Customer pursuant to this Call Off Contract, the Customer and/or its authorised representatives shall be entitled, at any time upon giving reasonable notice to the Supplier, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the Supplier's compliance with the ISMS and the Security Management Plan. The Customer may notify the Supplier of the results of such tests after completion of each such test. If any such Customer's test adversely affects the Supplier's ability to deliver the Goods and/or Services so as to meet the Target Performance Levels, the Supplier shall be granted relief against any resultant under-performance for the period of the Customer's test.
- 5.4 Where any Security Test carried out pursuant to paragraphs 5.2 or 5.3 of this Call Off Schedule 7 reveals any actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Customer of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the Supplier proposes to make in order to correct such failure or weakness. Subject to the Customer's prior written Approval, the Supplier shall implement such changes to the ISMS and the Security Management Plan and repeat the relevant Security Tests in accordance with the timetable agreed with the Customer or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the ISMS or Security Management Plan is to address a non-compliance with the Security Policy or security requirements (as set out in Annex 1 (Security) to this Call Off Schedule 7) or the requirements of this Call Off Schedule 7, the change to the ISMS or Security Management Plan shall be at no cost to the Customer.
- 5.5 If any repeat Security Test carried out pursuant to paragraph 5.4 of this Call Off Schedule 7 reveals an actual or potential Breach of Security exploiting the same root cause failure, such circumstance shall constitute a material Default of this Call Off Contract.

6. ISMS COMPLIANCE

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- 6.1 The Customer shall be entitled to carry out such security audits as it may reasonably deem necessary in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001 and/or the Security Policy.
- 6.2 If, on the basis of evidence provided by such security audits, it is the Customer's reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 and/or the Security Policy are not being achieved by the Supplier, then the Customer shall notify the Supplier of the same and give the Supplier a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to implement and remedy. If the Supplier does not become compliant within the required time then the Customer shall have the right to obtain an independent audit against these standards in whole or in part.
- 6.3 If, as a result of any such independent audit as described in paragraph 6.2 of this Call Off Schedule 7 the Supplier is found to be non-compliant with the principles and practices of ISO/IEC 27001 and/or the Security Policy then the Supplier shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Customer in obtaining such audit.

7. BREACH OF SECURITY

- 7.1 Either Party shall notify the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any breach of security or any potential or attempted Breach of Security.
- 7.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 7.1 of this Call Off Schedule 7, the Supplier shall:
- 7.2.1 immediately take all reasonable steps (which shall include any action or changes reasonably required by the Customer) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - (b) remedy such Breach of Security or any potential or attempted Breach of Security in order to protect the integrity of the Customer Property and/or Customer Assets and/or ISMS to the extent that this is within the Supplier's control;
 - (c) apply a tested mitigation against any such Breach of Security or attempted Breach of Security and provided that reasonable testing has been undertaken by the Supplier, if the mitigation adversely affects the Supplier's ability to provide the Goods and/or Services so as to meet the relevant Service Level Performance Measures, the Supplier shall be granted relief against any resultant under-performance for such period as the Customer, acting reasonably, may specify by written notice to the Supplier;

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- (d) prevent a further Breach of Security or any potential or attempted Breach of Security in the future exploiting the same root cause failure; and
- (e) supply any requested data to the Customer (or the Computer Emergency Response Team for UK Government ("GovCertUK")) on the Customer's request within two (2) Working Days and without charge (where such requests are reasonably related to a possible incident or compromise); and
- (f) as soon as reasonably practicable provide to the Customer full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Customer.

7.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the ISMS with the Security Policy or the requirements of this Call Off Schedule 7, then any required change to the ISMS shall be at no cost to the Customer.

8. VULNERABILITES AND CORRECTIVE ACTION

8.1 The Customer and the Supplier acknowledge that from time to time vulnerabilities in the ICT Environment will be discovered which unless mitigated will present an unacceptable risk to the Customer's information.

8.2 The severity of threat vulnerabilities for Supplier COTS Software and Third Party COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the ISMS and using the appropriate vulnerability scoring systems including:

8.2.1 the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST <http://nvd.nist.gov/cvss.cfm>); and

8.2.2 Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.

8.3 The Supplier shall procure the application of security patches to vulnerabilities within a maximum period from the public release of such patches with those vulnerabilities categorised as 'Critical' within 14 days of release, 'Important' within 30 days of release and all 'Other' within 60 Working Days of release, except where:

8.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of any Service (e.g. because it resides in a software component which is not running in the service) provided vulnerabilities which the Supplier asserts cannot be exploited within

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the context of a Service must be remedied by the Supplier within the above timescales if the vulnerability becomes exploitable within the context of the Service;

8.3.2 the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Customer; or

8.3.3 the Customer agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the ISMS.

8.4 The Supplier Solution and Implementation Plan shall include provisions for major version upgrades of all Supplier COTS Software and Third Party COTS Software to be upgraded within 6 months of the release of the latest version, such that it is no more than one major version level below the latest release (normally codified as running software no older than the 'n-1 version') throughout the Term unless:

8.4.1 where upgrading such Supplier COTS Software and Third Party COTS Software reduces the level of mitigations for known threats, vulnerabilities or exploitation techniques, provided always that such upgrade is made within 12 months of release of the latest version ; or

8.4.2 is agreed with the Customer in writing.

8.5 The Supplier shall:

8.5.1 implement a mechanism for receiving, analysing and acting upon threat information supplied by GovCertUK, or any other competent Central Government Body;

8.5.2 ensure that the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;

8.5.3 ensure it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment by actively monitoring the threat landscape during the Call Off Contract Period;

8.5.4 pro-actively scan the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS as developed under Paragraph 2.3.5;

8.5.5 from the date specified in the Security Management Plan provide a report to the Customer within five (5) Working Days of the end of each month detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and any elapsed time between the public release date of patches and either time of application or for outstanding vulnerabilities the time of issue of such report;

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- 8.5.6 propose interim mitigation measures to vulnerabilities in the ICT Environment known to be exploitable where a security patch is not immediately available;
 - 8.5.7 remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment); and
 - 8.5.8 inform the Customer when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the ICT Environment and provide initial indications of possible mitigations.
- 8.6 If the Supplier is unlikely to be able to mitigate the vulnerability within the timescales under this Paragraph 9, the Supplier shall immediately notify the Customer.
- 8.7 A failure to comply with Paragraph 8.3 shall constitute a Notifiable Default, and the Supplier shall comply with the Rectification Plan Process.

ANNEX 1: BASELINE SECURITY REQUIREMENTS

1. HIGHER CLASSIFICATIONS

- 1.1 The Supplier shall not handle Customer information classified SECRET or TOP SECRET except if there is a specific requirement and in this case prior to receipt of such information the Supplier shall seek additional specific guidance from the Customer.

2. END USER DEVICES

- 2.1 When Customer Data resides on a mobile, removable or physically uncontrolled device it must be stored encrypted using a product or system component which meets the requirements as set out in Highways England's Data Security Standard (in accordance with Schedule 7, Annex 2: Security Policy, 005.2. Information Security Data Security)
- 2.2 Devices used to access or manage Customer Data and services must be under the management authority of Customer or Supplier and have a minimum set of security policy configuration enforced. These devices must be placed into a 'known good' state prior to being provisioned into the management authority of the Customer. Unless otherwise agreed with the Customer in writing, all Supplier devices are expected to meet the set of security requirements set out in the (<https://www.cesg.gov.uk/eud-guidance>). NCSC End User Device (EUD) security guidance (<https://www.ncsc.gov.uk/collection/end-user-device-security>). Where the guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Customer and a joint decision shall be taken on whether the residual risks are acceptable. Where the Supplier wishes to deviate from the CESG guidance, then this should be agreed in writing on a case by case basis with the Customer.

3. DATA PROCESSING, STORAGE, MANAGEMENT AND DESTRUCTION

- 3.1 The Supplier and Customer recognise the need for the Customer's information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Supplier must be able to state to the Customer the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Customer Data will be subject to at all times.
- 3.2 The Supplier shall agree any change in location of data storage, processing and administration with the Customer in advance where the proposed location is outside the UK. Such approval shall not be unreasonably withheld or delayed unless specified otherwise in this Agreement and provided that storage, processing and management of any Customer Data is only carried out offshore within:
 - 3.2.1 the European Economic Area (EEA);
 - 3.2.2 in the US if the Supplier and or any relevant Sub-Contractor have signed up to the US-EU Safe Harbour Agreement; or

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- 3.2.3 in another country or territory outside the EEA if that country or territory ensures an adequate level of protection by reason of its domestic law or of the international commitments it has entered into which have been defined as adequate by the EU Commission.

3.3 The Supplier shall:

- 3.3.1 provide the Customer with all Customer Data on demand in an agreed open format;
- 3.3.2 have documented processes to guarantee availability of Customer Data in the event of the Supplier ceasing to trade;
- 3.3.3 securely destroy all media that has held Customer Data at the end of life of that media in line with Good Industry Practice; and
- 3.3.4 securely erase any or all Customer Data held by the Supplier when requested to do so by the Customer.

4. NETWORKING

- 4.1 The Customer requires that any Customer Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted using a product or system component which meets the requirements as set out in Highways England's Data Security Standard.
- 4.2 The Customer requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

5. SECURITY ARCHITECTURES

- 5.1 The Supplier shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of IT systems which will process or store Customer Data.
- 5.2 When designing and configuring the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills for all bespoke or complex components of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier).

6. PERSONNEL SECURITY

- 6.1 Supplier Personnel shall be subject to pre-employment checks that include, as a minimum: identity, unspent criminal convictions and right to work.
- 6.2 The Supplier shall agree on a case by case basis Supplier Personnel roles which require specific government clearances (such as 'Security Clearance') including system administrators with privileged access to IT systems which store or process Customer Data.
- 6.3 The Supplier shall prevent Supplier Personnel who are unable to obtain the required security clearances from accessing systems which store, process, or

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are used to manage Customer Data except where agreed with the Customer in writing.

- 6.4 All Supplier Personnel that have the ability to access Customer Data or systems holding Customer Data shall undergo regular training on secure information management principles. Unless otherwise agreed with the Customer in writing, this training must be undertaken annually.
- 6.5 Where the Supplier or Sub-Contractors grants increased ICT privileges or access rights to Supplier Personnel, those Supplier Personnel shall be granted only those permissions necessary for them to carry out their duties. When staff no longer need elevated privileges or leave the organisation, their access rights shall be revoked within one (1) Working Day.

7. IDENTITY, AUTHENTICATION AND ACCESS CONTROL

- 7.1 The Supplier shall operate an access control regime to ensure all users and administrators of the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) are uniquely identified and authenticated when accessing or administering the Services. Applying the 'principle of least privilege', users and administrators shall be allowed access only to those parts of the ICT Environment that they require. The Supplier shall retain an audit record of accesses.

8. AUDIT AND MONITORING

- 8.1 The Supplier shall collect audit records which relate to security events in the systems or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include:
 - 8.1.1 Logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier). To the extent the design of the Goods and/or Services allows such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers.
 - 8.1.2 Security events generated in the ICT Environment (to the extent that the ICT Environment is within the control of the Supplier) and shall include: privileged account logon and logoff events, the start and termination of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.
- 8.2 The Supplier and the Customer shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 8.3 The Supplier shall retain audit records collected in compliance with this Paragraph 8 for a period of at least 6 months.

ANNEX 2: SECURITY POLICY



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ANNEX 3: SECURITY MANAGEMENT PLAN

N/A

CALL OFF SCHEDULE 8: BUSINESS CONTINUITY AND DISASTER RECOVERY

1. DEFINITIONS

1.1 In this Call Off Schedule 8, the following definitions shall apply:

"Business Continuity Plan"	has the meaning given to it in paragraph 2.2.1(b) of this Call Off Schedule 8;
"Disaster Recovery Plan"	has the meaning given to it in 2.2.1(c) of this Call Off Schedule 8;
"Disaster Recovery System"	means the system embodied in the processes and procedures for restoring the provision of Goods and/or Services following the occurrence of a disaster;
"Review Report"	has the meaning given to it in paragraph 6.2 of this Call Off Schedule 8;
"Supplier's Proposals"	has the meaning given to it in paragraph 6.2.3 of this Call Off Schedule 8;

2. BCDR PLAN

2.1 Within ninety [90] Working Days from the Call Off Commencement Date the Supplier shall prepare and deliver to the Customer for the Customer's written approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Goods and/or Services; and
- 2.1.2 the recovery of the Goods and/or Services in the event of a Disaster.

2.2 The BCDR Plan shall:

2.2.1 be divided into three parts:

- (a) Part A which shall set out general principles applicable to the BCDR Plan;
- (b) Part B which shall relate to business continuity (the **"Business Continuity Plan"**); and
- (c) Part C which shall relate to disaster recovery (the **"Disaster Recovery Plan"**); and

2.2.2 unless otherwise required by the Customer in writing, be based upon and be consistent with the provisions of paragraphs 3, 4 and 5.

2.3 Following receipt of the draft BCDR Plan from the Supplier, the Customer shall:

- 2.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and

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- 2.3.2 notify the Supplier in writing that it approves or rejects the draft BCDR Plan no later than twenty (20) Working Days after the date on which the draft BCDR Plan is first delivered to the Customer.
- 2.4 If the Customer rejects the draft BCDR Plan:
 - 2.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and
 - 2.4.2 the Supplier shall then revise the draft BCDR Plan (taking reasonable account of the Customer's comments) and shall re-submit a revised draft BCDR Plan to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 2.3 and 2.4 of this Call Off Schedule 8 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3. PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

- 3.1 Part A of the BCDR Plan shall:
 - 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the provision of the Goods and/or Services and any goods and/or services provided to the Customer by a Related Supplier;
 - 3.1.3 contain an obligation upon the Supplier to liaise with the Customer and (at the Customer's request) any Related Suppliers with respect to issues concerning business continuity and disaster recovery where applicable;
 - 3.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Customer and any of its other Related Supplier in each case as notified to the Supplier by the Customer from time to time;
 - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Customer;
 - 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Goods and/or Services and processes for managing the risks arising therefrom;

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- (c) identification of risks arising from the interaction of the provision of Goods and/or Services and with the goods and/or services provided by a Related Supplier; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-Contractors) and for the Customer;
- 3.1.9 identify the procedures for reverting to “normal service”;
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
- 3.1.11 identify the responsibilities (if any) that the Customer has agreed it will assume in the event of the invocation of the BCDR Plan; and
- 3.1.12 provide for the provision of technical advice and assistance to key contacts at the Customer as notified by the Customer from time to time to inform decisions in support of the Customer’s business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1 the Goods and/or Services are provided in accordance with this Call Off Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Customer is minimal as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of [ISO/IEC 27002] and all other industry standards from time to time in force; and
 - 3.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Goods and/or Services or to the business processes facilitated by and the business operations supported by the provision of Goods and/or Services.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Call Off Contract.

4. BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the provision of Goods and/or Services remain supported and to ensure continuity

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of the business operations supported by the Services including, unless the Customer expressly states otherwise in writing:

- 4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Goods and/or Services; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Goods and/or Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
- 4.2.1 address the various possible levels of failures of or disruptions to the provision of Goods and/or Services;
 - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Goods and/or Services (such goods and/or services and steps, the **"Business Continuity Goods and/or Services"**);
 - 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Goods and/or Services during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5. DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Customer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
- 5.3.1 the technical design and build specification of the Disaster Recovery System;
 - 5.3.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
 - (a) data centre and disaster recovery site audits;
 - (b) backup methodology and details of the Supplier's approach to data back-up and data verification;
 - (c) identification of all potential disaster scenarios;

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- (d) risk analysis;
 - (e) documentation of processes and procedures;
 - (f) hardware configuration details;
 - (g) network planning including details of all relevant data networks and communication links;
 - (h) invocation rules;
 - (i) Service recovery procedures; and
 - (j) steps to be taken upon resumption of the provision of Goods and/or Services to address any prevailing effect of the failure or disruption of the provision of Goods and/or Services;]
- 5.3.3 any applicable Service Levels with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Goods and/or Services during any period of invocation of the Disaster Recovery Plan;
- 5.3.4 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.3.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule 8; and
- 5.3.6 testing and management arrangements.

6. REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1 The Supplier shall review the BCDR Plan (and the risk analysis on which it is based):
- 6.1.1 on a regular basis and as a minimum once every six (6) months;
 - 6.1.2 within three calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
 - 6.1.3 where the Customer requests any additional reviews (over and above those provided for in paragraphs 6.1.1 and 6.1.2 of this Call Off Schedule 8) by notifying the Supplier to such effect in writing, whereupon the Supplier shall conduct such reviews in accordance with the Customer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Customer for the Customer's approval. The costs of both Parties of any such additional reviews shall be met by the Customer except that the Supplier shall not be entitled to charge the Customer for any costs that it may incur above any estimate without the Customer's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to paragraph 6.1 of this Call off Schedule 8 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Goods and/or Services or any underlying business processes and operations

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facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within the period required by the BCDR Plan or, if no such period is required, within such period as the Customer shall reasonably require. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Customer a report (a **"Review Report"**) setting out:

- 6.2.1 the findings of the review;
 - 6.2.2 any changes in the risk profile associated with the provision of Goods and/or Services; and
 - 6.2.3 the Supplier's proposals (the **"Supplier's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Supplier can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any goods, services or systems provided by a third party.
- 6.3 Following receipt of the Review Report and the Supplier's Proposals, the Customer shall:
- 6.3.1 review and comment on the Review Report and the Supplier's Proposals as soon as reasonably practicable; and
 - 6.3.2 notify the Supplier in writing that it approves or rejects the Review Report and the Supplier's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Customer.
- 6.4 If the Customer rejects the Review Report and/or the Supplier's Proposals:
- 6.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection; and
 - 6.4.2 the Supplier shall then revise the Review Report and/or the Supplier's Proposals as the case may be (taking reasonable account of the Customer's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Supplier's Proposals to the Customer for the Customer's approval within twenty (20) Working Days of the date of the Customer's notice of rejection. The provisions of paragraphs 6.3 and 6.4 of this Call Off Schedule 8 shall apply again to any resubmitted Review Report and Supplier's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the Customer's approval of the Supplier's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be

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reasonably shown that the changes are required because of a material change to the risk profile of the Goods and/or Services.

7. TESTING OF THE BCDR PLAN

- 7.1 The Supplier shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 7.2 of this Call Off Schedule 8, the Customer may require the Supplier to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Customer considers it necessary, including where there has been any change to the Goods and/or Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 7.2 If the Customer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Customer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Customer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with the Customer and shall liaise with the Customer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Customer in this regard. Each test shall be carried out under the supervision of the Customer or its nominee.
- 7.4 The Supplier shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with the Customer. Copies of live test data used in any such testing shall be (if so required by the Customer) destroyed or returned to the Customer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Customer a report setting out:
- 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Customer, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Customer, by the date reasonably required by the Customer and set out in such notice.
- 7.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Supplier of any of its obligations under this Call Off Contract.
- 7.8 The Supplier shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Goods and/or Services or as otherwise reasonably requested by the Customer.

8. INVOCATION OF THE BCDR PLAN

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- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Customer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Customer.

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CALL OFF SCHEDULE 9: EXIT MANAGEMENT

1. DEFINITIONS

1.1 In this Call Off Schedule 9, the following definitions shall apply:

"Exclusive Assets"	means those Supplier Assets used by the Supplier or a Key Sub-Contractor which are used exclusively in the provision of the Goods and/or Services;
"Exit Information"	has the meaning given to it in paragraph 4.1 of this Call Off Schedule 9;
"Exit Manager"	means the person appointed by each Party pursuant to paragraph 3.4 of this Call Off Schedule 9 for managing the Parties' respective obligations under this Call Off Schedule 9;
"Net Book Value"	means the net book value of the relevant Supplier Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Customer of even date with this Call Off Contract;
"Non-Exclusive Assets"	means those Supplier Assets (if any) which are used by the Supplier or a Key Sub-Contractor in connection with the Goods and/or Services but which are also used by the Supplier or Key Sub-Contractor for other purposes;
"Registers"	means the register and configuration database referred to in paragraphs 3.1.1 and 3.1.2 of this Call Off Schedule 9;
"Termination Assistance"	means the activities to be performed by the Supplier pursuant to the Exit Plan, and any other assistance required by the Customer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in paragraph 6.1 of this Call Off Schedule 9;
"Termination Assistance Period"	means in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to paragraph 6.2 of this Call Off Schedule 9;

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"Transferable Assets"	means those of the Exclusive Assets which are capable of legal transfer to the Customer;
"Transferable Contracts"	means the Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Customer or any Replacement Supplier to provide the Goods and/or Services or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in paragraph 9.2.1 of this Call Off Schedule 9;
"Transferring Contracts"	has the meaning given to it in paragraph 9.2.3 of this Call Off Schedule 9.

2. INTRODUCTION

- 2.1 This Call Off Schedule 9 describes provisions that should be included in the Exit Plan, the duties and responsibilities of the Supplier to the Customer leading up to and covering the Call Off Expiry Date and the transfer of service provision to the Customer and/or a Replacement Supplier.
- 2.2 The objectives of the exit planning and service transfer arrangements are to ensure a smooth transition of the availability of the Goods and/or Services from the Supplier to the Customer and/or a Replacement Supplier at the Call Off Expiry Date.

3. OBLIGATIONS DURING THE CALL OFF CONTRACT PERIOD TO FACILITATE EXIT

- 3.1 During the Call Off Contract Period, the Supplier shall:
- 3.1.1 create and maintain a Register of all:
- (a) Supplier Assets, detailing their:
 - (i) make, model and asset number;
 - (ii) ownership and status as either Exclusive Assets or Non-Exclusive Assets;
 - (iii) Net Book Value;
 - (iv) condition and physical location; and
 - (v) use (including technical specifications); and
 - (b) Sub-Contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Goods and/or Services;

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- 3.1.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Goods and/or Services, which shall contain sufficient detail to permit the Customer and/or Replacement Supplier to understand how the Supplier provides the Goods and/or Services and to enable the smooth transition of the Goods and/or Services with the minimum of disruption;
 - 3.1.3 agree the format of the Registers with the Customer as part of the process of agreeing the Exit Plan; and
 - 3.1.4 at all times keep the Registers up to date, in particular in the event that Assets, Sub-Contracts or other relevant agreements are added to or removed from the Goods and/or Services.
- 3.2 The Supplier shall:
- 3.2.1 procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Goods and/or Services under this Call Off Contract; and
 - 3.2.2 (unless otherwise agreed by the Customer in writing) procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation at the request of the Customer to the Customer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Goods and/or Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by the Customer.
- 3.3 Where the Supplier is unable to procure that any Sub-Contract or other agreement referred to in paragraph 3.2.2 of this Call Off Schedule 9 which the Supplier proposes to enter into after the Call Off Commencement Date is assignable and/or capable of novation to the Customer (and/or its nominee) and/or any Replacement Supplier without restriction or payment, the Supplier shall promptly notify the Customer of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the Customer so directs, may include the Supplier seeking an alternative Sub-Contractor or provider of goods and/or services to which the relevant agreement relates.
- 3.4 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Call Off Schedule 9 and provide written notification of such appointment to the other Party within three (3) months of the Call Off Commencement Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-Contractors comply with this Call Off Schedule 9. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Call Off Schedule 9. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Call Off Contract and all matters connected with this Call Off Schedule 9 and each Party's compliance with it.

4. OBLIGATIONS TO ASSIST ON RE-TENDERING OF GOODS AND/OR SERVICES

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- 4.1 On reasonable notice at any point during the Call Off Contract Period, the Supplier shall provide to the Customer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Customer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
- 4.1.1 details of the Service(s);
 - 4.1.2 a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;
 - 4.1.3 an inventory of Customer Data in the Supplier's possession or control;
 - 4.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
 - 4.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Goods and/or Services;
 - 4.1.6 all information relating to Transferring Supplier Employees required to be provided by the Supplier under this Call Off Contract; and
 - 4.1.7 such other material and information as the Customer shall reasonably require,
- (together, the “**Exit Information**”).
- 4.2 The Supplier acknowledges that the Customer may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Customer is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Customer may not under this paragraph 4.2 of this Call Off Schedule 9 disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-Contractors' prices or costs).
- 4.3 The Supplier shall:
- 4.3.1 notify the Customer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Goods and/or Services and shall consult with the Customer regarding such proposed material changes; and
 - 4.3.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Customer.
- 4.4 The Supplier may charge the Customer for its reasonable additional costs to the extent the Customer requests more than four (4) updates in any six (6) month period.
- 4.5 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:
- 4.5.1 prepare an informed offer for those Goods and/or Services; and

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- 4.5.2 not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).

5. EXIT PLAN

- 5.1 The Supplier shall, within three (3) months after the Call Off Commencement Date, deliver to the Customer an Exit Plan which:

- 5.1.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the Goods and/or Services from the Supplier to the Customer and/or its Replacement Supplier on the expiry or termination of this Call Off Contract;
- 5.1.2 complies with the requirements set out in paragraph 5.3 of this Call Off Schedule 9;
- 5.1.3 is otherwise reasonably satisfactory to the Customer.

- 5.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 5.3 Unless otherwise specified by the Customer or Approved, the Exit Plan shall set out, as a minimum:

- 5.3.1 how the Exit Information is obtained;
- 5.3.2 the management structure to be employed during both transfer and cessation of the Goods and/or Services;
- 5.3.3 the management structure to be employed during the Termination Assistance Period;
- 5.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
- 5.3.5 how the Goods and/or Services will transfer to the Replacement Supplier and/or the Customer, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Customer's technology components from any technology components operated by the Supplier or its Sub-Contractors (where applicable);
- 5.3.6 details of contracts (if any) which will be available for transfer to the Customer and/or the Replacement Supplier upon the Call Off Expiry Date together with any reasonable costs required to effect such transfer (and the Supplier agrees that all assets and contracts used by the Supplier in connection with the provision of the Goods and/or Services will be available for such transfer);
- 5.3.7 proposals for the training of key members of the Replacement Supplier's personnel in connection with the continuation of the provision of the Goods and/or Services following the Call Off Expiry Date charged at rates agreed between the Parties at that time;
- 5.3.8 proposals for providing the Customer or a Replacement Supplier copies of all documentation:

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- (a) used in the provision of the Goods and/or Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Supplier; and
 - (b) relating to the use and operation of the Goods and/or Services;
- 5.3.9 proposals for the assignment or novation of the provision of all services, leases, maintenance agreements and support agreements utilised by the Supplier in connection with the performance of the supply of the Goods and/or Services;
- 5.3.10 proposals for the identification and return of all Customer Property in the possession of and/or control of the Supplier or any third party (including any Sub-Contractor);
- 5.3.11 proposals for the disposal of any redundant Goods and/or Services and materials;
- 5.3.12 procedures to deal with requests made by the Customer and/or a Replacement Supplier for Staffing Information pursuant to Call Off Schedule 10 (Staff Transfer);
- 5.3.13 how each of the issues set out in this Call Off Schedule 9 will be addressed to facilitate the transition of the Goods and/or Services from the Supplier to the Replacement Supplier and/or the Customer with the aim of ensuring that there is no disruption to or degradation of the Goods and/or Services during the Termination Assistance Period; and
- 5.3.14 proposals for the supply of any other information or assistance reasonably required by the Customer or a Replacement Supplier in order to effect an orderly handover of the provision of the Goods and/or Services.

6. TERMINATION ASSISTANCE

- 6.1 The Customer shall be entitled to require the provision of Termination Assistance at any time during the Call Off Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) months prior to the Call Off Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- 6.1.1 the date from which Termination Assistance is required;
 - 6.1.2 the nature of the Termination Assistance required; and
 - 6.1.3 the period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) months after the date that the Supplier ceases to provide the Goods and/or Services.
- 6.2 The Customer shall have an option to extend the Termination Assistance Period beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than six (6) months after

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the date the Supplier ceases to provide the Goods and/or Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Customer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier to such effect.

7. TERMINATION ASSISTANCE PERIOD

7.1 Throughout the Termination Assistance Period, or such shorter period as the Customer may require, the Supplier shall:

- 7.1.1 continue to provide the Goods and/or Services (as applicable) and, if required by the Customer pursuant to paragraph 6.1 of this Call Off Schedule 9, provide the Termination Assistance;
- 7.1.2 in addition to providing the Goods and/or Services and the Termination Assistance, provide to the Customer any reasonable assistance requested by the Customer to allow the Goods and/or Services to continue without interruption following the termination or expiry of this Call Off Contract and to facilitate the orderly transfer of responsibility for and conduct of the Goods and/or Services to the Customer and/or its Replacement Supplier;
- 7.1.3 use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call Off Schedule 9 without additional costs to the Customer;
- 7.1.4 provide the Goods and/or Services and the Termination Assistance at no detriment to the Service Level Performance Measures, save to the extent that the Parties agree otherwise in accordance with paragraph 7.3; and
- 7.1.5 at the Customer's request and on reasonable notice, deliver up-to-date Registers to the Customer.

7.2 Without prejudice to the Supplier's obligations under paragraph 7.1.3 of this Call Off Schedule 9, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in paragraph 7.1.2 of this Call Off Schedule 9 without additional costs to the Customer, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Assistance or the Exit Plan shall be subject to the Variation Procedure.

7.3 If the Supplier demonstrates to the Customer's reasonable satisfaction that transition of the Goods and/or Services and provision of the Termination Assist during the Termination Assistance Period will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Level Performance Measure(s), the Parties shall vary the relevant Service Level Performance Measure(s) and/or the applicable Service Credits to take account of such adverse effect.

8. TERMINATION OBLIGATIONS

8.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

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- 8.2 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Goods and/or Services and the Termination Assistance and its compliance with the other provisions of this Call Off Schedule 9), the Supplier shall:
- 8.2.1 cease to use the Customer Data;
 - 8.2.2 provide the Customer and/or the Replacement Supplier with a complete and uncorrupted version of the Customer Data in electronic form (or such other format as reasonably required by the Customer);
 - 8.2.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Customer Data and promptly certify to the Customer that it has completed such deletion;
 - 8.2.4 return to the Customer such of the following as is in the Supplier's possession or control:
 - (a) all copies of the Customer Software and any other software licensed by the Customer to the Supplier under this Call Off Contract;
 - (b) all materials created by the Supplier under this Call Off Contract in which the IPRs are owned by the Customer;
 - (c) any parts of the ICT Environment and any other equipment which belongs to the Customer;
 - (d) any items that have been on-charged to the Customer, such as consumables; and
 - (e) all Customer Property issued to the Supplier under Clause 31 of this Call Off Contract (Customer Property). Such Customer Property shall be handed back to the Customer in good working order (allowance shall be made only for reasonable wear and tear);
 - (f) any sums prepaid by the Customer in respect of Goods and/or Services not Delivered by the Call Off Expiry Date;
 - 8.2.5 vacate any Customer Premises;
 - 8.2.6 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Goods and/or Services and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier and/or any Supplier Personnel;
 - 8.2.7 provide access during normal working hours to the Customer and/or the Replacement Supplier for up to twelve (12) months after expiry or termination to:

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- (a) such information relating to the Goods and/or Services as remains in the possession or control of the Supplier; and
- (b) such members of the Supplier Personnel as have been involved in the design, development and provision of the Goods and/or Services and who are still employed by the Supplier, provided that the Customer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this paragraph.

8.3 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Goods and/or Services and the Termination Assistance and its compliance with the other provisions of this Call Off Schedule 9), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Goods and/or Services or termination services or for statutory compliance purposes.

8.4 Except where this Call Off Contract provides otherwise, all licences, leases and authorisations granted by the Customer to the Supplier in relation to the Goods and/or Services shall be terminated with effect from the end of the Termination Assistance Period.

9. ASSETS, SUB-CONTRACTS AND SOFTWARE

9.1 Following notice of termination of this Call Off Contract and during the Termination Assistance Period, the Supplier shall not, without the Customer's prior written consent:

- 9.1.1 terminate, enter into or vary any Sub-Contract;
- 9.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets; or
- 9.1.3 terminate, enter into or vary any licence for software in connection with the provision of Goods and/or Services.

9.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to paragraph 7.1.5 of this Call Off Schedule 9, the Customer shall provide written notice to the Supplier setting out:

- 9.2.1 which, if any, of the Transferable Assets the Customer requires to be transferred to the Customer and/or the Replacement Supplier ("**Transferring Assets**");
- 9.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets,

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

- 9.2.3 which, if any, of Transferable Contracts the Customer requires to be assigned or novated to the Customer and/or the Replacement Supplier (the **“Transferring Contracts”**),

in order for the Customer and/or its Replacement Supplier to provide the Goods and/or Services from the expiry of the Termination Assistance Period. Where requested by the Customer and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Customer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Customer and/or its Replacement Supplier requires to provide the Goods and/or Services or the Replacement Goods and/or Replacement Services.

- 9.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Customer and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where the cost of the Transferring Asset has been partially or fully paid for through the Call Off Contract Charges at the Call Off expiry Date, in which case the Customer shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Call Off Contract Charges.
- 9.4 Risk in the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) on payment for the same.
- 9.5 Where the Supplier is notified in accordance with paragraph 9.2.2 of this Call Off Schedule 9 that the Customer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 9.5.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Customer) for the Customer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 9.5.2 procure a suitable alternative to such assets and the Customer or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.
- 9.6 The Supplier shall as soon as reasonably practicable assign or procure the novation to the Customer and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Customer reasonably requires to effect this novation or assignment.
- 9.7 The Customer shall:
- 9.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 9.7.2 once a Transferring Contract is novated or assigned to the Customer and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that

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Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

- 9.8 The Supplier shall hold any Transferring Contracts on trust for the Customer until such time as the transfer of the relevant Transferring Contract to the Customer and/or the Replacement Supplier has been effected.
- 9.9 The Supplier shall indemnify the Customer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Customer (and/or Replacement Supplier) pursuant to paragraph 9.6 of this Call Off Schedule 9 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract.

10.SUPPLIER PERSONNEL

- 10.1 The Customer and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Goods and/or Services or part of them for any reason, Call Off Schedule 10 (Staff Transfer) shall apply.
- 10.2 The Supplier shall not take any step (expressly or implicitly and directly or indirectly by itself or through any other person) to dissuade or discourage any employees engaged in the provision of the Goods and/or Services from transferring their employment to the Customer and/or the Replacement Supplier.
- 10.3 During the Termination Assistance Period, the Supplier shall give the Customer and/or the Replacement Supplier reasonable access to the Supplier's personnel to present the case for transferring their employment to the Customer and/or the Replacement Supplier.
- 10.4 The Supplier shall immediately notify the Customer or, at the direction of the Customer, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
- 10.5 The Supplier shall not for a period of twelve (12) months from the date of transfer re-employ or re-engage or entice any employees, suppliers or Sub-Contractors whose employment or engagement is transferred to the Customer and/or the Replacement Supplier, unless approval has been obtained from the Customer which shall not be unreasonably withheld.

11.CHARGES

- 11.1 Except as otherwise expressly specified in this Call Off Contract, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Customer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Call Off Schedule 9 including the preparation and implementation of the Exit Plan, the Termination Assistance and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

12.APPORTIONMENTS

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- 12.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Customer and the Supplier and/or the Replacement Supplier and the Supplier (as applicable) as follows:
- 12.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
 - 12.1.2 the Customer shall be responsible for (or shall procure that the Replacement Supplier shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
 - 12.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 12.2 Each Party shall pay (and/or the Customer shall procure that the Replacement Supplier shall pay) any monies due under paragraph 12.1 of this Call Off Schedule 9 as soon as reasonably practicable.

CALL OFF SCHEDULE 10: STAFF TRANSFER

THE FOLLOWING PART A & B OF SCHEDULE 10: STAFF TRANSFER HAVE BEEN REMOVED AS PER THIS CALL OFF ORDER FORM, SECTION B, ITEM 10.11 –

PART A

TRANSFERRING CUSTOMER EMPLOYEES AT COMMENCEMENT OF SERVICES

PART B

TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

THE FOLLOWING PART C , D AND ANNEX TO SCHEDULE 10: LIST OF NOTIFIED SUB-CONTRACTORS OF SCHEDULE 10: STAFF TRANSFER HAVE BEEN RETAINED AS PER THIS CALL OFF ORDER FORM, SECTION B, ITEM 10.11 –

PART C

NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1. PROCEDURE IN THE EVENT OF TRANSFER

- 1.1 The Customer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Customer and/or any Former Supplier.
- 1.2 If any employee of the Customer and/or a Former Supplier claims, or it is determined in relation to any employee of the Customer and/or a Former Supplier, that his/her contract of employment has been transferred from the Customer and/or the Former Supplier to the Supplier and/or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 1.2.1 the Supplier shall, and shall procure that the relevant Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Customer and, where required by the Customer, give notice to the Former Supplier; and
 - 1.2.2 the Customer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier or the Sub-Contractor (as appropriate) or take such other reasonable steps as the Customer or Former Supplier (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Customer and/or the Former Supplier), the Supplier shall, or shall procure that the Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.

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1.4 If by the end of the fifteen (15) Working Day period specified in Paragraph 1.2.2:

- 1.4.1 no such offer of employment has been made;
- 1.4.2 such offer has been made but not accepted; or
- 1.4.3 the situation has not otherwise been resolved,

the Supplier and/or the Sub-Contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2. INDEMNITIES

2.1 Subject to the Supplier and/or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Customer shall:

- 2.1.1 indemnify the Supplier and/or the relevant Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Customer referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities; and
- 2.1.2 subject to paragraph 3, procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.2 If any such person as is described in Paragraph 1.2 is neither re employed by the Customer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Sub-Contractor within the fifteen (15) Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Sub-Contractor (as appropriate) and the Supplier shall, or shall procure that the Sub-Contractor shall, comply with such obligations as may be imposed upon it under Law.

2.3 Where any person remains employed by the Supplier and/or any Sub-Contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-Contractor and the Supplier shall indemnify the Customer and any Former Supplier, and shall procure that the Sub-Contractor shall indemnify the Customer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-Contractor.

2.4 The indemnities in Paragraph 2.1:

- 2.4.1 shall not apply to:
 - (a) any claim for:

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- (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-Contractor neglected to follow a fair dismissal procedure; and

2.4.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Sub-Contractor to the Customer and, if applicable, Former Supplier within 6 months of the Call Off Commencement Date.

3. PROCUREMENT OBLIGATIONS

Where in this Part C the Customer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Customer's contract with the Former Supplier contains a contractual right in that regard which the Customer may enforce, or otherwise so that it requires only that the Customer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

**PART D
EMPLOYMENT EXIT PROVISIONS**

1. PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Customer of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Call Off Contract;
 - 1.1.3 the date which is twelve (12) months before the end of the Term; and
 - 1.1.4 receipt of a written request of the Customer at any time (provided that the Customer shall only be entitled to make one such request in any six (6) month period),
- it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Customer.
- 1.2 At least thirty (30) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Customer or at the direction of the Customer to any Replacement Supplier and/or any Replacement Sub-Contractor:
- 1.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
 - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 The Customer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-Contractor.
- 1.4 The Supplier warrants, for the benefit of the Customer, any Replacement Supplier, and any Replacement Sub-Contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1, the Supplier agrees, that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Customer (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;

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- 1.5.2 make, promise, propose or permit any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);
 - 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
 - 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
 - 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
 - 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,
- and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Customer or, at the direction of the Customer, any Replacement Supplier and any Replacement Sub-Contractor of any notice to terminate employment given by the Supplier or relevant Sub-Contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.
- 1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer any information the Customer may reasonably require relating to the manner in which the Services are organised, which shall include:
- 1.6.1 the numbers of employees engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each employee engaged in providing the Services; and
 - 1.6.3 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Customer, any Replacement Supplier and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Customer or, at the direction of the Customer, to any Replacement Supplier and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
- 1.7.1 the most recent month's copy pay slip data;

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- 1.7.2 details of cumulative pay for tax and pension purposes;
- 1.7.3 details of cumulative tax paid;
- 1.7.4 tax code;
- 1.7.5 details of any voluntary deductions from pay; and
- 1.7.6 bank/building society account details for payroll purposes.

2. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1 The Customer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Call Off Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-Contractor. Such change in the identity of the Supplier of such Services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Customer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but not including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-Contractor.
- 2.3 Subject to Paragraph 2.4, where a Relevant Transfer occurs the Supplier shall indemnify the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor against any Employee Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 2.3.1 any act or omission of the Supplier or any Sub-Contractor whether occurring before, on or after the Service Transfer Date;

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- 2.3.2 the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
 - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Customer and/or Replacement Supplier and/or any Replacement Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- 2.3.5 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee for whom it is alleged the Customer and/or the Replacement Supplier and/or any Replacement Sub-Contractor may be liable by virtue of this Call Off Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment

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Regulations, except to the extent that the liability arises from the failure by the Customer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-Contractor to occur in the period on or after the Service Transfer Date; or
 - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-Contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not a Transferring Supplier Employee claims, or it is determined in relation to any person who is not a Transferring Supplier Employee, that his/her contract of employment has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier and/or Replacement Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1 the Customer shall procure that the Replacement Supplier shall, or any Replacement Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
 - 2.5.2 the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-Contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-Contractor, the Customer shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7 If after the fifteen (15) Working Day period specified in Paragraph 2.5.2 has elapsed:
- 2.7.1 no such offer of employment has been made;
 - 2.7.2 such offer has been made but not accepted; or
 - 2.7.3 the situation has not otherwise been resolved
- the Customer shall advise the Replacement Supplier and/or Replacement Sub-Contractor, as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

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2.8 Subject to the Replacement Supplier and/or Replacement Sub-Contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

2.9.1 shall not apply to:

- (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-Contractor; or
- (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure; and

2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-Contractor to the Supplier within six (6) months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-Contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee and the Replacement Supplier and/or Replacement Sub-Contractor shall comply with such obligations as may be imposed upon it under applicable Law.

2.11 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Supplier Employees before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

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- 2.11.1 the Supplier and/or any Sub-Contractor; and
 - 2.11.2 the Replacement Supplier and/or the Replacement Sub-Contractor.
- 2.12 The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Customer and any Replacement Supplier and/or Replacement Sub-Contractor, in writing such information as is necessary to enable the Customer, the Replacement Supplier and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Customer shall procure that the Replacement Supplier and/or Replacement Sub-Contractor shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.13 Subject to Paragraph 2.14, where a Relevant Transfer occurs the Customer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Supplier Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee) arising from or as a result of:
- 2.13.1 any act or omission of the Replacement Supplier and/or Replacement Sub-Contractor;
 - 2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-Contractor on or after the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
 - (b) any custom or practice in respect of any Transferring Supplier Employees which the Replacement Supplier and/or Replacement Sub-Contractor is contractually bound to honour;
 - 2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 2.13.4 any proposal by the Replacement Supplier and/or Replacement Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees on or after their transfer to the Replacement Supplier or Replacement Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

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- 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-Contractor to, or in respect of, any Transferring Supplier Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
 - 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-Contractor, to the Replacement Supplier or Replacement Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
 - 2.13.7 a failure of the Replacement Supplier or Replacement Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period from (and including) the Service Transfer Date; and
 - 2.13.8 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.
- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

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ANNEX TO SCHEDULE 10: LIST OF NOTIFIED SUB-CONTRACTORS

CEVA
PO BOX 8663, CEVA HOUSE
EXCELSIOR ROAD
ASHBY DE LA ZOUCH
LEICESTERSHIRE
LE65 9BA
COMPANY NO. 01291251

CALL OFF SCHEDULE 11: DISPUTE RESOLUTION PROCEDURE

1. DEFINITIONS

1.1 In this Call Off Schedule 11, the following definitions shall apply:

"CEDR"	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
"Counter Notice"	has the meaning given to it in paragraph 6.2 of this Call Off Schedule 11;
"Exception"	a deviation of project tolerances in accordance with PRINCE2 methodology in respect of this Call Off Contract or in the supply of the Goods and/or Services;
"Expert"	the person appointed by the Parties in accordance with paragraph 5.2 of this Call Off Schedule 11; and
"Mediation Notice"	has the meaning given to it in paragraph 3.2 of this Call Off Schedule 11;
"Mediator"	the independent third party appointed in accordance with paragraph 4.2 of this Call Off Schedule 11.

2. INTRODUCTION

2.1 If a Dispute arises then:

- 2.1.1 the representative of the Customer and the Supplier Representative shall attempt in good faith to resolve the Dispute; and
- 2.1.2 if such attempts are not successful within a reasonable time either Party may give to the other a Dispute Notice.

2.2 The Dispute Notice shall set out:

- 2.2.1 the material particulars of the Dispute;
- 2.2.2 the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
- 2.2.3 if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable as set out in paragraph 2.6 of this Call Off Schedule 11, the reason why.

2.3 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Call Off Contract regardless of the nature of the Dispute and notwithstanding the referral of the Dispute to the Dispute Resolution Procedure.

2.4 Subject to paragraph 3.2 of this Call Off Schedule 11, the Parties shall seek to resolve Disputes:

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- 2.4.1 first by commercial negotiation (as prescribed in paragraph 3 of this Call Off Schedule 11);
 - 2.4.2 then by mediation (as prescribed in paragraph 4 of this Call Off Schedule 11); and
 - 2.4.3 lastly by recourse to arbitration (as prescribed in paragraph 6 of this Call Off Schedule 11) or litigation (in accordance with Clause 57 of this Call Off Contract (Governing Law and Jurisdiction)).
- 2.5 Specific issues shall be referred to Expert Determination (as prescribed in paragraph 5 of this Call Off Schedule 11) where specified under the provisions of this Call Off Contract and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 5 of this Call Off Schedule 11.
- 2.6 In exceptional circumstances where the use of the times in this Call Off Schedule 11 would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use of the Expedited Dispute Timetable within five (5) Working Days of the issue of the Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Customer.
- 2.7 If the use of the Expedited Dispute Timetable is determined in accordance with paragraph 2.5 or is otherwise specified under the provisions of this Call Off Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs:
 - 2.7.1 in paragraph 3.2.3, ten (10) Working Days;
 - 2.7.2 in paragraph 4.2, ten (10) Working Days;
 - 2.7.3 in paragraph 5.2, five (5) Working Days; and
 - 2.7.4 in paragraph 6.2, ten (10) Working Days.
- 2.8 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension.

3. COMMERCIAL NEGOTIATIONS

- 3.1 Following the service of a Dispute Notice, the Customer and the Supplier shall use reasonable endeavours to resolve the Dispute as soon as possible, by discussion between the Customer Representative and the Supplier Representative.
- 3.2 If:
 - 3.2.1 either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiations, will not result in an appropriate solution;
 - 3.2.2 the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the

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conduct of commercial negotiations in accordance with this paragraph 3 of this Call Off Schedule 11; or

- 3.2.3 the Parties have not settled the Dispute in accordance with paragraph 3.1 of this Call Off Schedule 11 within thirty (30) Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation (a “**Mediation Notice**”) in accordance with paragraph 4 of this Call Off Schedule 11.

4. MEDIATION

- 4.1 If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with CEDR's Model Mediation Agreement which shall be deemed to be incorporated by reference into this Call Off Contract.
- 4.2 If the Parties are unable to agree on the joint appointment of a Mediator within thirty (30) Working Days from service of the Mediation Notice then either Party may apply to CEDR to nominate the Mediator.
- 4.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if the Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 4.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Variation Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

5. EXPERT DETERMINATION

- 5.1 If a Dispute relates to any aspect of the technology underlying the provision of the Goods and/or Services or otherwise relates to an ICT technical, a financial technical or other aspect of a technical nature (as the Parties may agree) and the Dispute has not been resolved by discussion or mediation, then either Party may request (which request will not be unreasonably withheld or delayed) by written notice to the other that the Dispute is referred to an Expert for determination.
- 5.2 The Expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days, or if the person appointed is unable or unwilling to act, the Expert shall be appointed on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society).
- 5.3 The Expert shall act on the following basis:
- 5.3.1 he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
- 5.3.2 the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;

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- 5.3.3 the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
- 5.3.4 any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
- 5.3.5 the process shall be conducted in private and shall be confidential; and
- 5.3.6 the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

6. ARBITRATION

- 6.1 The Customer may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of paragraph 6.4 of this Call Off Schedule 11.
- 6.2 Before the Supplier commences court proceedings or arbitration, it shall serve written notice on the Customer of its intentions and the Customer shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a "**Counter Notice**") on the Supplier requiring the Dispute to be referred to and resolved by arbitration in accordance with paragraph 6.4 of this Call Off Schedule 11 or be subject to the jurisdiction of the courts in accordance with Clause 57 of this Call Off Contract (Governing Law and Jurisdiction). The Supplier shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.
- 6.3 If:
 - 6.3.1 the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 6.4 of this Call Off Schedule 11 shall apply;
 - 6.3.2 the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts in accordance with Clause 61 of this Call Off Contract (Governing Law and Jurisdiction), the Dispute shall be so referred to the courts and the Supplier shall not commence arbitration proceedings;
 - 6.3.3 the Customer does not serve a Counter Notice within the fifteen (15) Working Days period referred to in paragraph 6.2 of this Call Off Schedule 11, the Supplier may either commence arbitration proceedings in accordance with paragraph 6.4 of this Call Off Schedule 11 or commence court proceedings in the courts in accordance with Clause 57 of this Call Off Contract (Governing Law and Jurisdiction) which shall (in those circumstances) have exclusive jurisdiction.
- 6.4 In the event that any arbitration proceedings are commenced pursuant to paragraphs 6.1 to 6.3 of this Call Off Schedule 11, the Parties hereby confirm that:
 - 6.4.1 all disputes, issues or claims arising out of or in connection with this Call Off Contract (including as to its existence, validity or

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performance) shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“LCIA”) (subject to paragraphs 6.4.5 to 6.4.7 of this Call Off Schedule 11);

- 6.4.2 the arbitration shall be administered by the LCIA;
- 6.4.3 the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Call Off Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- 6.4.4 if the Parties fail to agree the appointment of the arbitrator within ten (10) days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- 6.4.5 the chair of the arbitral tribunal shall be British;
- 6.4.6 the arbitration proceedings shall take place in London and in the English language; and
- 6.4.7 the seat of the arbitration shall be London.

7. URGENT RELIEF

- 7.1 Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:
 - 7.1.1 for interim or interlocutory remedies in relation to this Call Off Contract or infringement by the other Party of that Party’s Intellectual Property Rights; and/or
 - 7.1.2 where compliance with paragraph 2.1 of this Call Off Schedule 11 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

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CALL OFF SCHEDULE 12: VARIATION FORM

No of Call Off Order Form being varied:

.....

Variation Form No:

.....

BETWEEN:

[insert name of Customer] ("**the Customer**")

and

[insert name of Supplier] ("**the Supplier**")

1. This Call Off Contract is varied as follows and shall take effect on the date signed by both Parties:

[Insert details of the Variation]

2. Words and expressions in this Variation shall have the meanings given to them in this Call Off Contract.
3. This Call Off Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Customer

Signature

.....

Date

.....

Name (in Capitals)

.....

Address

.....

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

.....

Date

.....

Name (in Capitals)

.....

Address

.....

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CALL OFF SCHEDULE 13: TRANSPARENCY REPORTS

- 1.1 Within three (3) months from the Call Off Commencement Date or the date so specified by the Customer in the Call Off Order Form the Supplier shall provide to the Customer for Approval (the Customer's decision to approve or not shall not be unreasonably withheld or delayed) draft Transparency Reports consistent with the content and format requirements in Annex 1 below.
- 1.2 If the Customer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for Approval by the Customer within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Customer. This process shall be repeated until the Parties have agreed versions of each Transparency Report.
- 1.3 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Customer at the frequency referred to in Annex 1 of this Call Off Schedule 13 below.
- 1.4 Any Dispute in connection with the preparation and/or approval of Transparency Reports shall be resolved in accordance with the Dispute Resolution Procedure.
- 1.5 The requirements in this Schedule 13 are in addition to any other reporting requirements in this Call Off Contract.

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ANNEX 1: LIST OF TRANSPARENCY REPORTS

Title of Report	Content	Format	Frequency
Monthly Service Report	Financial Information Device Usage and Trending Incident Management Problem Management Change Management Service Level Management SOFT Report Incident Trending	Powerpoint	Monthly
Monthly Billing MI Report	Financial Information Device Usage Site Usage Site Charges	Excel	Monthly
Quarterly Business Review Report	Financial Information Device Usage and Trending Incident Management Service Level Management Innovation / CSI Account Roadmap	Powerpoint	Quarterly

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CALL OFF SCHEDULE 14: ALTERNATIVE AND/OR ADDITIONAL CLAUSES

1. INTRODUCTION

- 1.1 This Call Off Schedule 14 specifies the range of Alternative Clauses and Additional Clauses that may be requested in the Call Off Order Form and, if requested in the Call Off Order Form, shall apply to this Call Off Contract.

2. CLAUSES SELECTED

- 2.1 The Customer may, in the Call Off Order Form, request the following Alternative Clauses:
- 2.1.1 Scots Law (see paragraph 4.1 of this Call Off Schedule 14);
 - 2.1.2 Northern Ireland Law (see paragraph 4.2 of this Call Off Schedule 14);
 - 2.1.3 Non-Crown Bodies (see paragraph 4.3 of this Call Off Schedule 14);
 - 2.1.4 Non-FOIA Public Bodies (see paragraph 4.4 of this Call Off Schedule 14);
 - 2.1.5 Financial Limits (see paragraph 4.5 of this Call Off Schedule 14).
- 2.2 The Customer may, in the Call Off Order Form, request the following Additional Clauses should apply:
- 2.2.1 Security Measures (see paragraph 5.1 of this Call Off Schedule 14);
 - 2.2.2 NHS Additional Clauses (see paragraph 6. of this Call Off Schedule 14)
 - 2.2.3 MOD ("Ministry of Defence") Additional or Alternative Clauses (see paragraph 7 of this Call Off Schedule 14)

3. IMPLEMENTATION

- 3.1 The appropriate changes have been made in this Call Off Contract to implement the Alternative and/or Additional Clauses specified in paragraph 2.1 of this Call Off Schedule 14 and the Additional Clauses specified in paragraphs 2.2 and 2.2.1 of this Call Off Schedule 14 shall be deemed to be incorporated into this Call Off Contract.

4. ALTERNATIVE CLAUSES

4.1 SCOTS LAW

- 4.1.1 Law and Jurisdiction (Clause 57)
- (a) References to "England and Wales" in the original Clause 57 of this Call Off Contract (Law and Jurisdiction) shall be replaced with "Scotland".
 - (b) Where legislation is expressly mentioned in this Call Off Contract the adoption of Clause 4.1.1 (a) shall have the effect of substituting the equivalent Scots legislation.

4.2 NORTHERN IRELAND LAW

- 4.2.1 Law and Jurisdiction (Clause 57)

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- (a) References to "England and Wales" in the original Clause 57 of this Call Off Contract (Law and Jurisdiction) shall be replaced with "Northern Ireland".
- (b) Where legislation is expressly mentioned in this Call Off Contract the adoption of Clause 4.1.1(a) shall have the effect of substituting the equivalent Northern Ireland legislation.

4.2.2 Insolvency Event

In Call Off Schedule 1 (Definitions), reference to "section 123 of the Insolvency Act 1986" in limb f) of the definition of Insolvency Event shall be replaced with "Article 103 of the Insolvency (NI) Order 1989".

4.3 NON-CROWN BODIES

Clause 46.3.1(a) of this Call Off Contract (Official Secrets Act and Finance Act) shall be deleted.

4.4 NON-FOIA PUBLIC BODIES

Replace Clause 34.6 of this Call Off Contract (Freedom of Information) with "The Customer has notified the Supplier that the Customer is exempt from the provisions of FOIA and EIR."

4.5 FINANCIAL LIMITS

In Clause 36.2.1(b)(i) remove the monetary amount and the percentage stated therein and replace respectively with:

[enter monetary amount in words] [£ X]

[enter percentage in words] [£ X]

In Clause 36.2.1(b)(ii) remove the monetary amount and the percentage stated therein and replace respectively with:

[enter monetary amount in words] [£ X]

[enter percentage in words] [£ X]

In Clause 36.2.1(b)(iii) remove the monetary amount and the percentage stated therein and replace respectively with:

[enter monetary amount in words] [£ X]

[enter percentage in words] [£ X]

5. ADDITIONAL CLAUSES: GENERAL

5.1 SECURITY MEASURES

- 5.1.1** The following definitions to be added to Call Off Schedule 1 (Definitions) to the Call Off Order Form and the Call Off Terms:

"Document" includes specifications, plans, drawings, photographs and books;

"Secret Matter" means any matter connected with or arising out of the performance of this Call Off Contract which has been, or may

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hereafter be, by a notice in writing given by the Customer to the Supplier be designated 'top secret', 'secret', or 'confidential';

"**Servant**" where the Supplier is a body corporate shall include a director of that body and any person occupying in relation to that body the position of director by whatever name called.

5.1.2 The following new Clause [58] shall apply:

58. [SECURITY MEASURES]

58.1. The Supplier shall not, either before or after the completion or termination of this Call Off Contract, do or permit to be done anything which it knows or ought reasonably to know may result in information about a secret matter being:

58.1.1. without the prior consent in writing of the Customer, disclosed to or acquired by a person who is an alien or who is a British subject by virtue only of a certificate of naturalisation in which his name was included;

58.1.2. disclosed to or acquired by a person as respects whom the Customer has given to the Supplier a notice in writing which has not been cancelled stating that the Customer requires that secret matters shall not be disclosed to that person;

58.1.3. without the prior consent in writing of the Customer, disclosed to or acquired by any person who is not a servant of the Supplier; or

58.1.4. disclosed to or acquired by a person who is an employee of the Supplier except in a case where it is necessary for the proper performance of this Call Off Contract that such person shall have the information.

58.2. Without prejudice to the provisions of Clause 58.1, the Supplier shall, both before and after the completion or termination of this Call Off Contract, take all reasonable steps to ensure:

58.2.1. no such person as is mentioned in Clauses 58.1, 58.1.1 or 58.1.2 hereof shall have access to any item or document under the control of the Supplier containing information about a secret matter except with the prior consent in writing of the Customer;

58.2.2. that no visitor to any premises in which there is any item to be supplied under this Call Off Contract or where Goods and/or Services are being supplied shall see or discuss with the Supplier or any person employed by him any secret matter unless the visitor is authorised in writing by the Customer so to do;

58.2.3. that no photograph of any item to be supplied under this Call Off Contract or any portions of the Goods and/or Services shall be taken except insofar as may be necessary for the proper performance of this Call Off Contract or with the prior consent in writing of the Customer, and that no such photograph shall, without such consent, be published or otherwise circulated;

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- 58.2.4. that all information about any secret matter and every document model or other item which contains or may reveal any such information is at all times strictly safeguarded, and that, except insofar as may be necessary for the proper performance of this Call Off Contract or with the prior consent in writing of the Customer, no copies of or extracts from any such document, model or item shall be made or used and no designation of description which may reveal information about the nature or contents of any such document, model or item shall be placed thereon; and
- 58.2.5. that if the Customer gives notice in writing to the Supplier at any time requiring the delivery to the Customer of any such document, model or item as is mentioned in Clause 58.2.3, that document, model or item (including all copies of or extracts therefrom) shall forthwith be delivered to the Customer who shall be deemed to be the owner thereof and accordingly entitled to retain the same.
- 58.3. The decision of the Customer on the question whether the Supplier has taken or is taking all reasonable steps as required by the foregoing provisions of Clause 58 shall be final and conclusive.
- 58.4. If and when directed by the Customer, the Supplier shall furnish full particulars of all people who are at any time concerned with any secret matter.
- 58.5. If and when directed by the Customer, the Supplier shall secure that any person employed by it who is specified in the direction, or is one of a class of people who may be so specified, shall sign a statement that he understands that the Official Secrets Act, 1911 to 1989 and, where applicable, the Atomic Energy Act 1946, apply to the person signing the statement both during the carrying out and after expiry or termination of a Call Off Contract.
- 58.6. If, at any time either before or after the expiry or termination of this Call Off Contract, it comes to the notice of the Supplier that any person acting without lawful authority is seeking or has sought to obtain information concerning this Call Off Contract or anything done or to be done in pursuance thereof, the matter shall be forthwith reported by the Supplier to the Customer and the report shall, in each case, be accompanied by a statement of the facts, including, if possible, the name, address and occupation of that person, and the Supplier shall be responsible for making all such arrangements as it may consider appropriate to ensure that if any such occurrence comes to the knowledge of any person employed by it, that person shall forthwith report the matter to the Supplier with a statement of the facts as aforesaid.
- 58.7. The Supplier shall place every person employed by it, other than a Sub-Contractor, who in its opinion has or will have such

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knowledge of any secret matter as to appreciate its significance, under a duty to the Supplier to observe the same obligations in relation to that matter as are imposed on the Supplier by Clauses 58.1 and 58.2 and shall, if directed by the Customer, place every person who is specified in the direction or is one of a class of people so specified, under the like duty in relation to any secret matter which may be specified in the direction, and shall at all times use its best endeavours to ensure that every person upon whom obligations are imposed by virtue of Clause 58 observes the said obligations, and the Supplier shall give such instructions and information to every such person as may be necessary for that purpose, and shall, immediately upon becoming aware of any act or omission which is or would be a breach of the said obligations, report the facts to the Supplier with all necessary particulars.

- 58.8. The Supplier shall, if directed by the Customer, include in the Sub-Contract provisions in such terms as the Customer may consider appropriate for placing the Sub-Contractor under obligations in relation to secrecy and security corresponding to those placed on the Supplier by Clause 58, but with such variations (if any) as the Customer may consider necessary.

Further the Supplier shall:

- 58.8.1. give such notices, directions, requirements and decisions to its Sub-Contractors as may be necessary to bring the provisions relating to secrecy and security which are included in Sub-Contracts under Clause 58 into operation in such cases and to such extent as the Customer may direct;
- 58.8.2. if there comes to its notice any breach by the Sub-Contractor of the obligations of secrecy and security included in their Sub-Contracts in pursuance of Clause 58, notify such breach forthwith to the Customer; and
- 58.8.3. if and when so required by the Customer, exercise its power to determine the Sub-Contract under the provision in that Sub-Contract which corresponds to Clause 58.11.

- 58.9. The Supplier shall give the Customer such information and particulars as the Customer may from time to time require for the purposes of satisfying the Customer that the obligations imposed by or under the foregoing provisions of Clause 58 have been and are being observed and as to what the Supplier has done or is doing or proposes to do to secure the observance of those obligations and to prevent any breach thereof, and the Supplier shall secure that a representative of the Customer duly authorised in writing shall be entitled at reasonable times to enter and inspect any premises in which anything is being done or is to be done under this Call Off Contract or in which there is or will be any item to be supplied under this Call Off Contract, and also to inspect any document or item in any such premises or which is being made or used for the purposes of this Call Off

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Contract and that any such representative shall be given all such information as he may require on the occasion of, or arising out of, any such inspection.

58.10. Nothing in Clause 58 shall prevent any person from giving any information or doing anything on any occasion when it is, by virtue of any enactment, the duty of that person to give that information or do that thing.

58.11. If the Customer shall consider that any of the following events has occurred:

58.11.1. that the Supplier has committed a breach of, or failed to comply with any of, the foregoing provisions of Clause 58; or

58.11.2. that the Supplier has committed a breach of any obligations in relation to secrecy or security imposed upon it by any other contract with the Customer, or with any department or person acting on behalf of the Crown; or

58.11.3. that by reason of an act or omission on the part of the Supplier, or of a person employed by the Supplier, which does not constitute such a breach or failure as is mentioned in 58.11.2, information about a secret matter has been or is likely to be acquired by a person who, in the opinion of the Customer, ought not to have such information;

and shall also decide that the interests of the State require the termination of this Call Off Contract, the Customer may by notice in writing terminate this Call Off Contract forthwith.

58.12. A decision of the Customer to terminate this Call Off Contract in accordance with the provisions of Clause 58.11 shall be final and conclusive and it shall not be necessary for any notice of such termination to specify or refer in any way to the event or considerations upon which the Customer's decision is based.

58.13. Supplier's notice

58.13.1. The Supplier may within five (5) Working Days of the termination of this Call Off Contract in accordance with the provisions of Clause 58.11, give the Customer notice in writing requesting the Customer to state whether the event upon which the Customer's decision to terminate was based is an event mentioned in Clauses 58.11, 58.11.1 or 58.11.2 and to give particulars of that event; and

58.13.2. the Customer shall within ten (10) Working Days of the receipt of such a request give notice in writing to the Supplier containing such a statement and particulars as are required by the request.

58.14. Matters pursuant to termination

58.14.1. The termination of this Call Off Contract pursuant to Clause 58.11 shall be without prejudice to any rights of either party which shall have accrued before the date of such termination;

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- 58.14.2. The Supplier shall be entitled to be paid for any work or thing done under this Call Off Contract and accepted but not paid for by the Customer at the date of such termination either at the price which would have been payable under this Call Off Contract if this Call Off Contract had not been terminated, or at a reasonable price;
- 58.14.3. The Customer may take over any work or thing done or made under this Call Off Contract (whether completed or not) and not accepted at the date of such termination which the Customer may by notice in writing to the Supplier given within thirty (30) Working Days from the time when the provisions of Clause 58 shall have effect, elect to take over, and the Supplier shall be entitled to be paid for any work or thing so taken over a price which, having regard to the stage which that work or thing has reached and its condition at the time it is taken over, is reasonable. The Supplier shall in accordance with directions given by the Customer, deliver any work or thing taken over under this Clause, and take all such other steps as may be reasonably necessary to enable the Customer to have the full benefit of any work or thing taken over under this Clause; and
- 58.14.4. Save as aforesaid, the Supplier shall not be entitled to any payment from the Customer after the termination of this Call Off Contract
- 58.15. If, after notice of termination of this Call Off Contract pursuant to the provisions of 58.11:
 - 58.15.1. the Customer shall not within ten (10) Working Days of the receipt of a request from the Supplier, furnish such a statement and particulars as are detailed in Clause 58.13.1; or
 - 58.15.2. the Customer shall state in the statement and particulars detailed in Clause 58.13.2. that the event upon which the Customer's decision to terminate this Call Off Contract was based is an event mentioned in Clause 58.11.3, the respective rights and obligations of the Supplier and the Customer shall be terminated in accordance with the following provisions:
 - 58.15.3. the Customer shall take over from the Supplier at a fair and reasonable price all unused and undamaged materials, bought-out parts and components and articles in course of manufacture in the possession of the Supplier upon the termination of this Call Off Contract under the provisions of Clause 58.11 and properly provided by or supplied to the Supplier for the performance of this Call Off Contract, except such materials, bought-out parts and components and articles in course of manufacture as the Supplier shall, with the concurrence of the Customer, elect to retain;

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- 58.15.4. the Supplier shall prepare and deliver to the Customer within an agreed period or in default of agreement within such period as the Customer may specify, a list of all such unused and undamaged materials, bought-out parts and components and articles in course of manufacture liable to be taken over by or previously belonging to the Customer and shall deliver such materials and items in accordance with the directions of the Customer who shall pay to the Supplier fair and reasonable handling and delivery charges incurred in complying with such directions;
- 58.15.5. the Customer shall indemnify the Supplier against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the Supplier in connection with this Call Off Contract to the extent to which the said commitments, liabilities or expenditure would otherwise represent an unavoidable loss by the Supplier by reason of the termination of this Call Off Contract;
- 58.15.6. if hardship to the Supplier should arise from the operation of Clause 58.15 it shall be open to the Supplier to refer the circumstances to the Customer who, on being satisfied that such hardship exists shall make such allowance, if any, as in its opinion is reasonable and the decision of the Customer on any matter arising out of this Clause 58.15 shall be final and conclusive; and subject to the operation of Clauses 58.15.3, 58.15.4, 58.15.5 and 58.15.6 termination of this Call Off Contract shall be without prejudice to any rights of either party that may have accrued before the date of such termination.

- 6. **NHS ADDITIONAL CLAUSES – NOT APPLICABLE. REMOVED AS PER THIS CALL OFF ORDER AGREEMENT, SECTION B, ITEM 10.11**
- 7. **MOD ADDITIONAL CLAUSES - NOT APPLICABLE. REMOVED AS PER THIS CALL OFF ORDER AGREEMENT, SECTION B, ITEM 10.11**



Highways England IT Contract Replacement (ITCR) Programme

Response to Managed Print Service (MPS) Invitation to Tender

14th June 2019

xeroxTM

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1. Xerox Contact Information

Primary Contact

Name: [REDACTED]
Position: Client Manager
Telephone: [REDACTED]
Email: [REDACTED]

Alternative Contact

Name: [REDACTED]
Position: General Manager, Public Sector
Telephone: [REDACTED]
Email: [REDACTED]

Registered Name and Address

Xerox (UK) Limited
Riverview,
Oxford Road,
Uxbridge.
UB8 1HS
Website: www.xerox.co.uk

Confidentiality

The contents of this proposal and any post tender correspondence and considered to be Xerox private data and are provided for the exclusive use of Highways England. The contents herein may not be reproduced or transmitted to a third party without the specific written permission of Xerox. Any pricing information contained within this response, and any information pertaining to Xerox Software Tools is commercially sensitive. The release of such information will be prejudicial to the commercial interests of Xerox and therefore should not be disclosed as a response to a Request for Information under the Freedom of Information Act.

Terms and Conditions

This document is for informational purposes only and does not constitute a contract or an offer to contract. Xerox will not be bound by any obligations until an Agreement has been executed by authorised officers of both parties. This quote shall remain valid and open for acceptance for a period of 90 days from the date of submission and is subject to any assumptions detailed in this response and pricing schedule. CCS RM3781 Framework Lot 3 Terms and Conditions apply to the exclusion of all others.

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2. Section 7: Evaluation Questions, Scoring and Response Template.

This section will provide guidance and a template for the Supplier's quality submission and an explanation of how the quality submission will be evaluated and scored.

The quality submission will comprise of responses to the questions below, 7 of which will be scored. **Table 1** provides an explanation of the marks available for each question.

Table 1 – Scoring Guidance

QUESTION NUMBER	QUESTION	TOTAL SCORE AVAILABLE
[1]	Company Information	Information Only
[2]	Potential Provider Contact	Information Only
[3]	Mandatory Questions	Pass / Fail
[4]	Quality Question 1 - Overall Approach and design of Managed Print Services.	10
[5]	Quality Question 2 – Implementation	10
[6]	Quality Question 3 – Experience / Track Record, management of change	10
[7]	Quality Question 4 – Cost Management and User Tools	10
[8]	Quality Question 5 – Print Production Unit in Bedford.	10
[9]	Quality Question 6– Innovation / Continuous Improvement	10
[10]	Quality Question 7 – Requirements Compliance Score – Annex 1	10
Quality Total		70

The Customer will evaluate questions 1 – 6 using the marking scheme outlined in the table below – **Table 2**. Question 7 will be calculated from the responses in Annex 1 as described in quality question 7.

Table 2 – Marking Scheme

Marking Scheme:	
1 – 4	Weak response. The quality question response has not considered fully the requirements of the Authority and fails to address adequately the main management, technical risks.
5	Acceptable response. The quality question response demonstrates an adequate understanding of the requirements and covers the main management and technical risks to an acceptable standard. The programme and proposed resources are just sufficient for the methodology described.

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6 - 7	Good. The quality question response demonstrates a good understanding of the requirements. It deals fully with the main management and technical risks. The programme and resources proposed are balanced against the resources and approach proposed to mitigate risks.
8 - 9	Very good. The quality question response demonstrates a very good understanding of the requirements which give a high degree of confidence that the potential provider can demonstrate ability to complete within the time and budget constraints and will mitigate risks. Optimal levels of resource have been allocated to the programme.
10	Excellent response. The quality question response has been tailored specifically to suit the requirements and uses innovative approaches to deal comprehensively with the main management and technical risks, and is highly likely to maximise performance against key performance indicators and deliver continual improvement.

Document Completion

Table 3 below contains templates for the Supplier's quality submission.

Potential Providers **must** provide a response to every question in the blue shaded boxes. All responses must be in Arial font, no less than size 11.

Potential Providers **must not** alter / amend the document in any way.

Potential Providers **must not** submit any additional information with your Tender other than that specifically requested in this document.

Any additional documents (PDF) explicitly requested in the Quality Questions will be permitted, i.e. technical diagrams, High-Level Plan (excluded from word count).

Table 3 - Response Templates

[1] COMPANY INFORMATION		
[1.1]	Please state your full company name	Xerox (UK) Limited

[2] POTENTIAL PROVIDER CONTACT		
[2.1]	Please state the contact's name	
[2.2]	Please state the contact's telephone number	
[2.3]	Please state the contact's e-mail address	

[3] PASS/FAIL QUESTIONS		Pass/Fail	
Please Note: The following question[s] is a <i>[Pass / Fail]</i> question, therefore if a Potential Provider cannot or is unwilling to answer ‘Yes’, their Tender will be deemed non-compliant and they will be unable to be considered for this requirement. The Potential Provider should confirm by deleting the inappropriate answer.			
[3.1]	Is the Potential Provider able and willing to use the instance of the IT Service Management toolset supplied by Highways England (ServiceNow) either by logging on to the instance or interfacing via an API?	Yes	

4	Quality Question 1 – Overall Approach to Managed Print Service	Maximum Score 10
Guidance:		

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It is important to confirm that the Potential Providers fully understand the requirements, this section will enable Highways England to ensure that our requirements have been correctly interpreted.

Question:

Please describe your approach to delivering the Managed Print service to the requirements of Highways England including your high-level technical design for the Customer infrastructure and security constraints.

Please frame your response with reference and compliance to the **Annex 1** – ITCR Managed Print Service Requirements document and associated Annexes

In the UK, Xerox have experience in delivering often complex and bespoke solutions to the Government who require UK based secure solutions. We do this today for: DWP, MOJ, Home Office, Highways England, Department for Education, Crown Prosecution Service, Defra. Xerox will provide a solution to all sites that meets Highways England (HE) requirements including future deployments to Homeworkers, RCC, Outstation or Main Office. These Sites will be setup to support the relevant User Groups throughout HE. All Devices as part of the Xerox Service will be kept operational via the supply of Consumables; Networked Devices will be proactively supported via the Xerox Automated Consumable Process. Consumable ordering will cover both general office and creative service specialist print units.

Designated Homeworkers will be managed through a Reactive Service and communication process, this will be in place to determine and agree a timetable for installation, consumable delivery and break fix fault resolution.

The Xerox MPS will work effectively across HE's current and future infrastructure. It will be compliant with SLA's, be secure and fulfil HE's requirements, it will also be compatible with both Wi-Fi / wired based infrastructure.

2.1. PROPOSED OFFICE FLEET DEVICES

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Technical Specifications of Proposed Xerox Models		
Device Category	Device 2	Device 3
Product Type	MFP Colour A4	Colour MFD A3
Manufacturer	Xerox	Xerox
Model	C405	C8045
Product Image		
Engine Speed	Up to 35 ppm	Colour: up to 45 ppm Black: up to 45ppm
Desktop / Floor Standing	Desktop	Floor Standing
Functions	Copy, Email, Print, Scan Fax (Optional)	Copy, Email, Print, Scan Fax (Optional)
Paper Size	Up to A4	Up to A3
Print Resolution	600 x 600 dpi	1200 x 2400 dpi
Duplex Printing	Yes	Yes
Networked Printing	Yes	Yes
Optional Finisher	No	Yes

These devices secured BLI Awards for bringing outstanding usability and reliability to workgroups of any size. *“The devices provide user-friendly experience thanks to a tablet-style interface with slide/swipe navigation, not to mention access to ConnectKey apps from the Xerox App Gallery to speed up and simplify everyday tasks ... excellent reliability, easy-to-replace supplies, and outstanding feedback”* George Mikolay, Buyers Lab

2.2. ACCESSIBILITY

Xerox are committed to making our products accessible to everyone. As a manufacturer and supplier to organisations who provide services to the public, Xerox recognises the importance of user accessibility of its products. This means keeping up with developments in legislation, such as the UK Disability Discrimination Act. Xerox Devices have tilting touch screens - a familiar tablet experience for users to navigate and provide guidance and ease accessibility for wheelchair users. All our Office MFPs are checked for compliance against the US Section 508 and ‘Xerox Accessibility Section 508 Conformance Reports’ are available for all proposed devices from www.xerox.com.

2.3. SOFTWARE SOLUTION, PROVISION AND MANAGEMENT

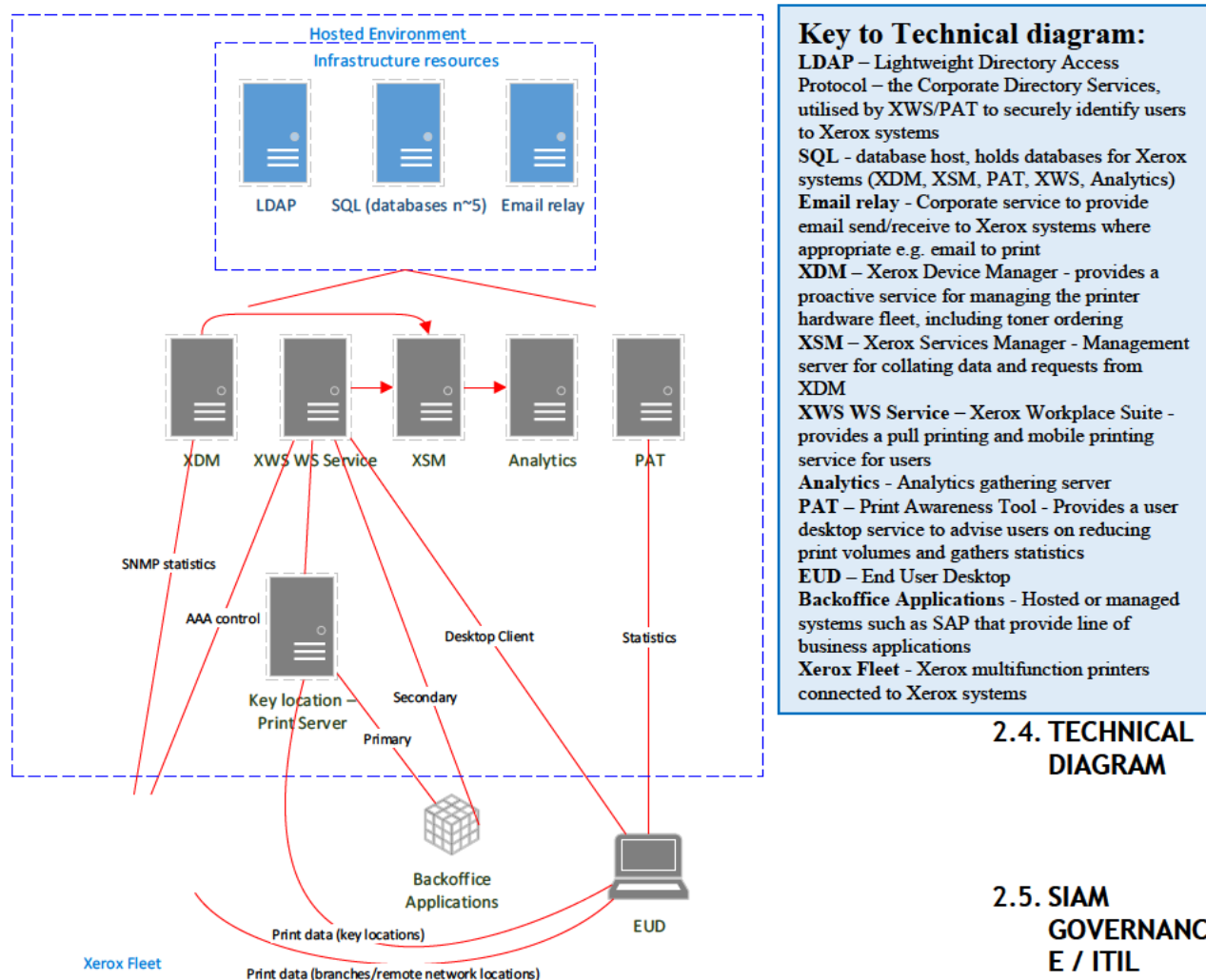
The Xerox proposed solution is fully compliant with all technical design requirements as well as the proposed changes within the HE network infrastructure. The Xerox solution is a hybrid design that initially utilises the existing PSN based WAN (to preserve current user experience) but increasingly utilises the HE controlled Public Internet as the HE network implementation occurs. This will ensure that all service levels will be met and customer requirements achieved. Xerox will also ensure that control around End User access is maintained through the use of authentication and authorisation services.

Xerox are committed to working with HE and Service Providers to facilitate these changes, especially where storage/backup/firewalls are managed by other IT providers. The network diagram below shows the new cloud-based server architecture (SQL Servers, XWS Servers, XDM and PAT), the "Key location" setup shows the initial utilisation of the existing branch server infrastructure. Over time, these will be removed and print functionality will be pulled down from

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the central XWS Servers. This solution is fully tested in the Xerox Model Office using Windows Server 2016 and Active Directory, the next release of XWS will be compatible with Windows Server 2019.

All Xerox Multi-Function Devices (MFDs) that are included in this proposal are capable of connecting via a wire or wirelessly as required. Currently a wired connection is used, but in future, connection can be made wirelessly by adding a small plug-and-play wireless adaptor to the back of the MFD.



Our Global Service Delivery Model, founded on ITIL principles, will underpin the transition and delivery of the new service ensuring effective levels of customer service are provided.

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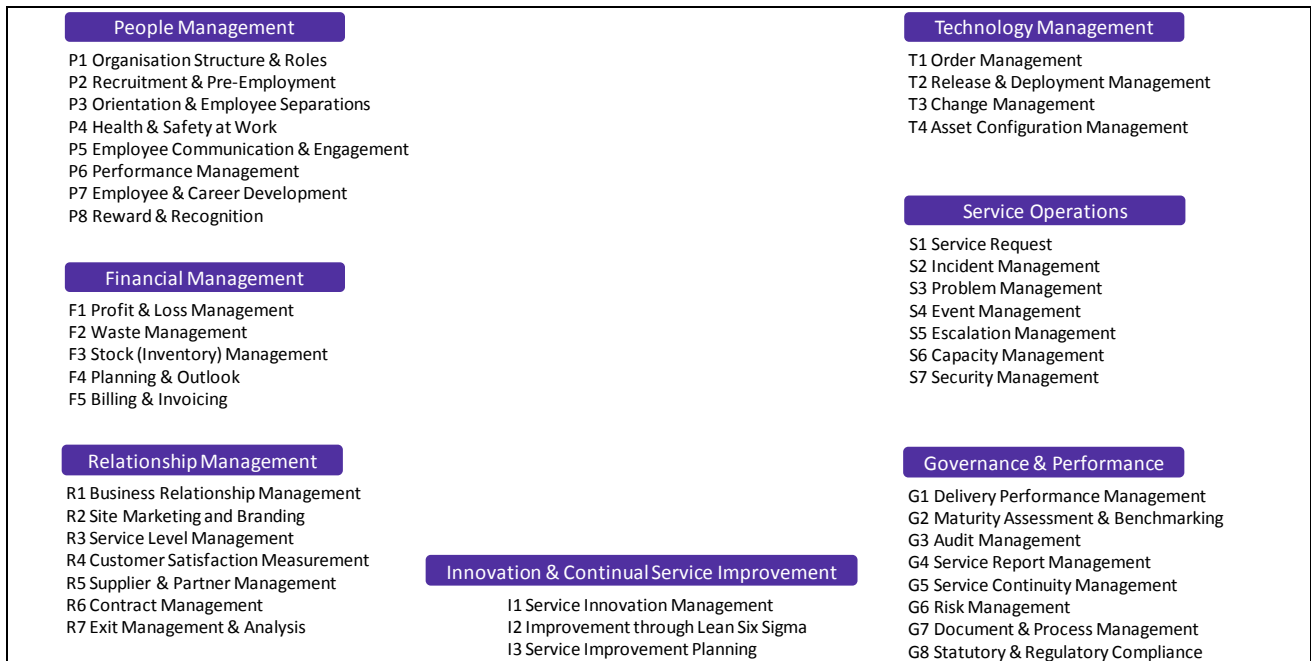


Figure: Global Service Delivery Model

During service set-up, a Client Account Procedure Manual (CAPM) will be created - bringing processes and procedures together to ensure operational excellence. Our experienced delivery and transition teams will utilise their existing knowledge and skills, gained from working on the current Xerox/HE contract.

As part of designing the proposed solution Xerox reviewed the HE ITIL based service management capabilities and have aligned to HE's business strategies. Xerox will continue to make a proactive contribution to the creation of Service Strategy and comply with HE's strategy generation and implementation processes as they evolve providing information, resources and advice to assist HE to provide innovative solutions and formulate Service strategy in line with best practice and new techniques.

2.6. SAAS (GDS AND CCS)

Xerox are compliant with all requirements for the HE Infrastructure and will be flexible in relation to the Solution implementation and SaaS delivery model.

2.7. INCIDENT AND PROBLEM MANAGEMENT

The Xerox Service Desk, based in the UK, will continue to utilise our experienced HE service desk agents. These have a wealth of experience and knowledge and help to guarantee a seamless transition to the new solution. Agent all have a minimum of BPSS clearance. Third-party providers will also have the required clearance to meet security requirements.

Xerox will manage all Incidents as per Annex 1 requirements, however as we will not be managing the Incidents via a separate toolset an API integration is not required. We can work with HE for any future enhancements to the coverage model (e.g. 24x7 service support. Our dedicated Technical Architects, who understand the HE architecture, are an escalation point for the Service Desk. Where contact to the HE Service Desk is required, we will do so via ServiceNow, or alternative methods such as Phone, chat/messenger or Email.

Xerox will support all User Groups in accordance with their support needs as specified within Annex 1. All Xerox attendance to Customer Sites will comply with the PEW and PtA Processes, as well as complying with Office Security and Physical Access Requirements (for example, Homeworker locations).

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All Device support and maintenance shall utilise manufacturer warranties where available, this will include the repair and maintenance of all devices and other associated peripherals and components linked to the Devices (faulty parts included) and will complete preventative maintenance outside of business hours as agreed with HE. Software will be installed on the Devices, by our Technical Team, to facilitate the resolution of incidents.

Xerox will provide access to expertise to facilitate incident and problem management for the MPS software and hardware through ServiceNow, these responses will be coordinated by Xerox to the HE Service Management Team. Xerox are compliant with the Major Incident Management Process. Problem Management forms an integral part of our Service Management processes; The Xerox approach is to carry out ongoing analysis on all incidents to identify trends and implement actions to improve. All problems will be managed within ServiceNow, and we will support and maintain all Print Services across all offices, installations and homeworkers during hours of service as per Annex 1 requirements.

All catalogue requests will be managed within ServiceNow. The Xerox catalogue will be provided to HE to upload into ServiceNow.

To ensure Xerox achieve the SLA's we will manage any iMACDs as per the requirements in Annex 1. Support HE through the expanding estate we will provide a flexible, agile and scalable installation service. Xerox will be in regular contact with HE and any other iMACD linked suppliers to manage the process. Over the last 3 years, Xerox has worked closely with HE to maximise the potential of the fleet - any iMACD request that contains 5 or less Devices will be considered as normal business operation, greater than 5 will be regarded as a Project.

Xerox will comply with all categories of Change Management (Operational, Standard and Emergency), scheduling, planning, assessing and implementing changes in accordance with HE policies and processes as well as participating in the CAB, OCAB, SRR and PIR meetings. All Changes will be managed within ServiceNow and follow the policies and processes specified, which includes (but not limited to) an implementation plan, PIR, acceptance criteria, back out plans and handover support details. All software patch/upgrades will be provided as and when required. All upgrades shall be provided within a day of availability and will comply with the Change Management Process and security patches managed in line with the Release and Deployment Processes and Procedures.

Any Impact Assessments submitted to Xerox will be completed and returned within 5 working days, and measured as a KPI.

Xerox will provide associated costs for the resources required to implement works relating to Change Management (if beyond availability of Xerox); to calculate these costs a Rate Card will be mutually agreed and contracted.

All Assets and CI's will be maintained within a CMDB and will be an accurate reflection of the implementation of the Service. All relevant documentation will be utilised for Change Management. Our Asset Register, created within ServiceNow and linked to the CMDB, for all Hardware and Software across HE, will be updated monthly with confirmation sent to HE via email. HE can request access to these records which Xerox will provide within 2 days of the request being received. Xerox will also ensure that all Asset documentation is submitted to HE at the end of the Contract.

Our Xerox Device Manager (XDM) software interrogates Devices on the network to support the CMDB and live operational dashboards. This allows Xerox to provide status accounting, attribute layout and reporting for assets and CI's.

Xerox will manage the obsolescence of Assets, Hardware and Software in accordance with industry practice, HE policies and via consultation with HE. Capacity Management will allow Xerox to proactively identify inactive and obsolete Devices, Xerox will then liaise with HE to agree outcome inline with HE's Asset Management Policy. Any Device that is to be recycled or disposed of will be done so securely to ensure security compliance, and a certificate provided.

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Our Service Delivery Management will support HE with:

- MPS demand forecasts based on patterns of activity
- Recommendations to reduce demands on print services
- Recommendations on how capacity plans are/shall be affected by demand projections including the steps needed to meet demand
- Making available to HE's business units the mechanisms in place to control demand for Print Services
- Making recommendations to HE for improvements of the mechanisms to control and meet current and forecast demand for Print Services.

In accordance with HE Policies, Processes and Procedures, Xerox monthly financial detail will be broken down as determined by HE (e.g. by Individual Device).

Xerox will resolve escalations in a timely and constructive manner and work with HE to agree an appropriate escalation process and include within the contract documentation.

2.8. KNOWLEDGE MANAGEMENT

- Xerox will create Knowledge Articles for inclusion in ServiceNow to support resolution of issues, and the desire for increased self-help and self-service. Our process will identify, review and continually improve KA's
- Xerox are committed to providing developments in best practice, research findings, and user guidance, as well as supporting the management of 'H&S at Work' regulations as soon as any changes have been identified .
- Xerox will assist HE with any customer-wide communications, offering support and guidance in relation to the Print Service.
- Device functionality demonstration will be delivered to the End Users within two weeks following the Deployment of the first Device.
- Xerox Devices have built-in Apps and help facilities which can be utilised when a fault appears, this provides a step by step tutorial on how to successfully resolve a fault.

Xerox will work with HE during the Proof of Concept to see which Apps would be of benefit and then agree the UI look and feel. This would then become the default for the roll out plan. As part of the CCS RM3781 framework, the following device training is available free of charge.



Training & Education Services

Device Overview

Course Information

The aim of the course is to enable operators to utilise the appropriate features to produce successful print jobs and to carry out basic maintenance tasks.

The course duration is a maximum 1.5 hours and is run at the customer site. All courses are instructor led by Xerox trainers.

There is a maximum of four delegates per course to ensure sufficient time can be allocated to individual requirements. It is essential that at least one operator is nominated as the main contact for Xerox Service and has responsibility for ordering and replacing consumables.

Course Content

Note: Content will vary dependant on the type of device installed and the length of time allocated for training.

Overview

- Device Overview
- Device Control Panel / User interface
- Supported Stock Sizes & Paper Weights
- Load Paper & Media

Printer Care

- Locating the Serial Number
- Jam Clearance
- Ordering & Replacing Customer Replaceable Units



Basic Copy & Scanning Functions

- Basic copy settings
- 2-Sided Copying
- Image Quality features
- Colour Options
- Reduce & Enlarge
- Paper Supply



Printing

- Printing from a Client PC

Options (if applicable)

- Scan To Email, Folder, Sharepoint ...
- Log on, Authentication and Follow Me Print
- Sending a Fax with Network Fax or Server Fax
- Printing from a Mobile Device

Course Details

Part Number	CCS RM3781
Course Duration	Maximum 1.5 Hours
No of Delegates	Maximum Four
Training Site	Customer Site
Pre-requisites	None
Cost	Not applicable

Advanced Copy & Scanning Functions

- Book copying/Booklet creation
- N-up Printing
- Output options
- Building & combining jobs
- Scanning & retrieving scans

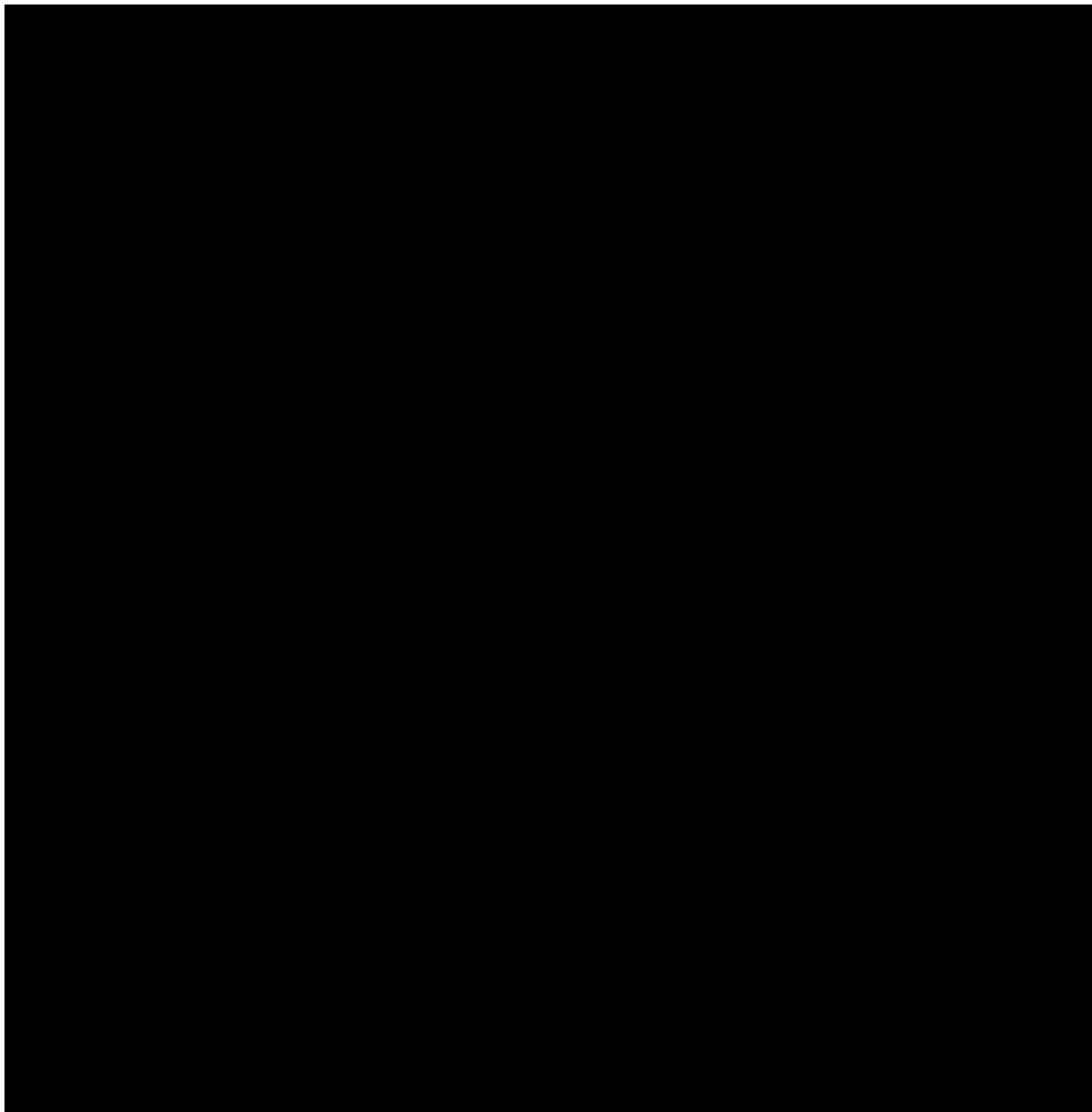
Contact Us:

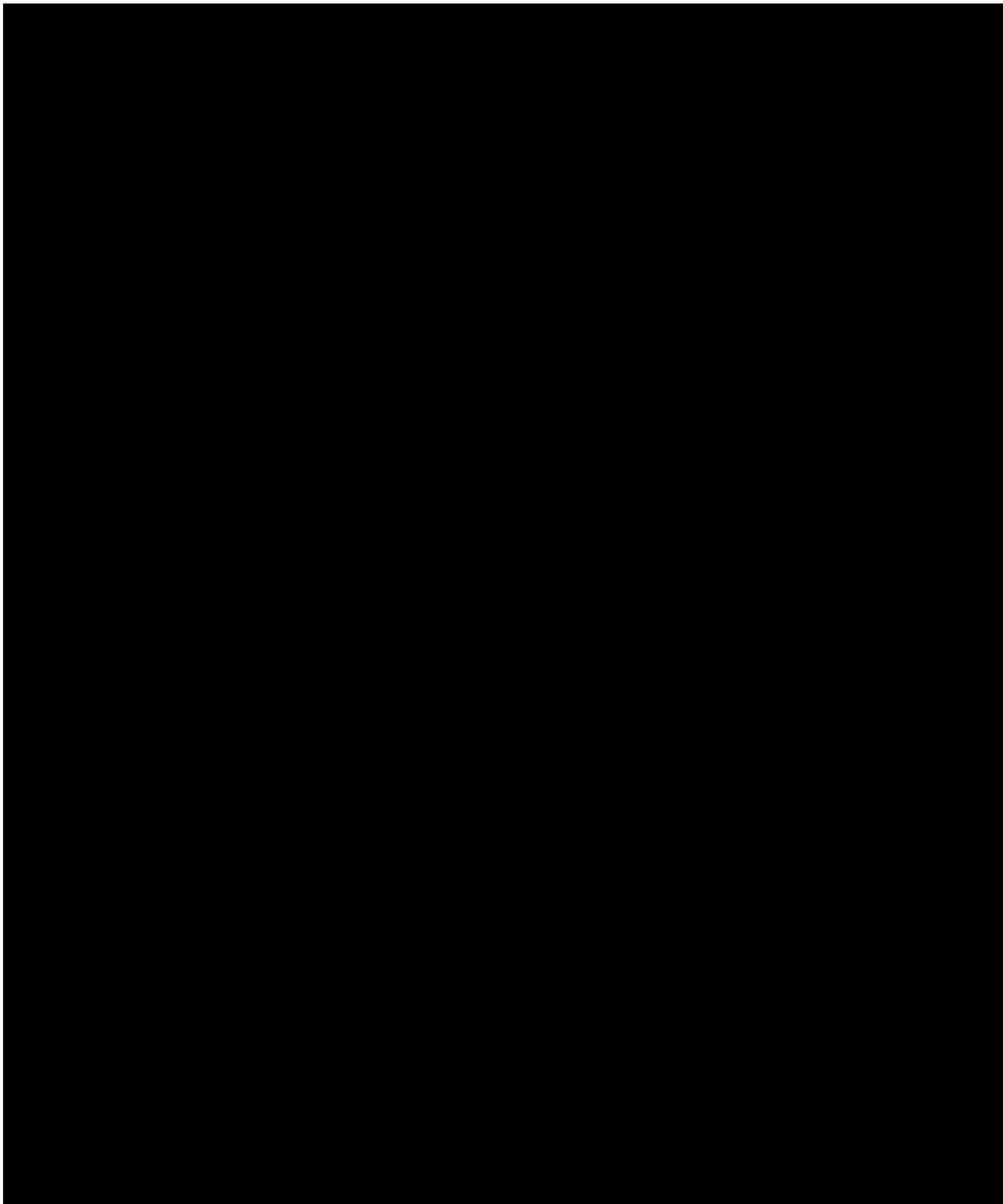
For pricing information and to book please contact our dedicated team of Xerox Training co-ordinators who will be happy to schedule your training.

customer.training@xerox.com

02380 683393 or 02380 621946

2.9. SERVICE LEVEL MANAGEMENT





5

Quality Question 2 – Implementation

Maximum Score 10

Guidance:

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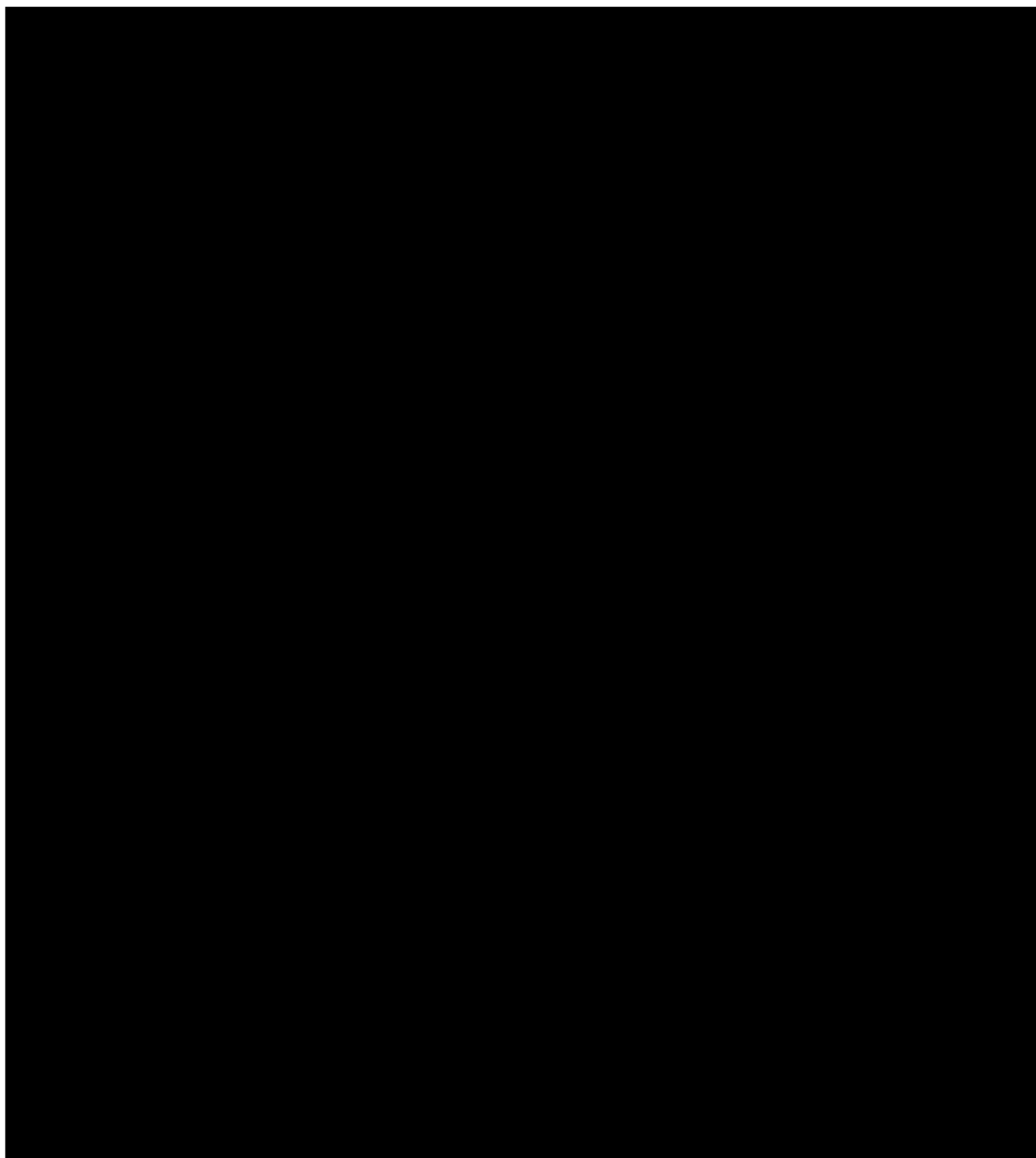
We are keen to understand a robust methodology in the event of service transition. The new Managed Print service must be in place and fully functional by 00:00 on the 1 May 2020.

Question:

Describe how you would manage the implementation and transition of this service. Provide relevant examples. Provide a high-level plan for how the new service will be delivered starting at 00:00 on the 1 May 2020 including an overview of key people involved.

Please frame your response with reference and compliance to the Managed Print Service Requirements document and associated Annexes

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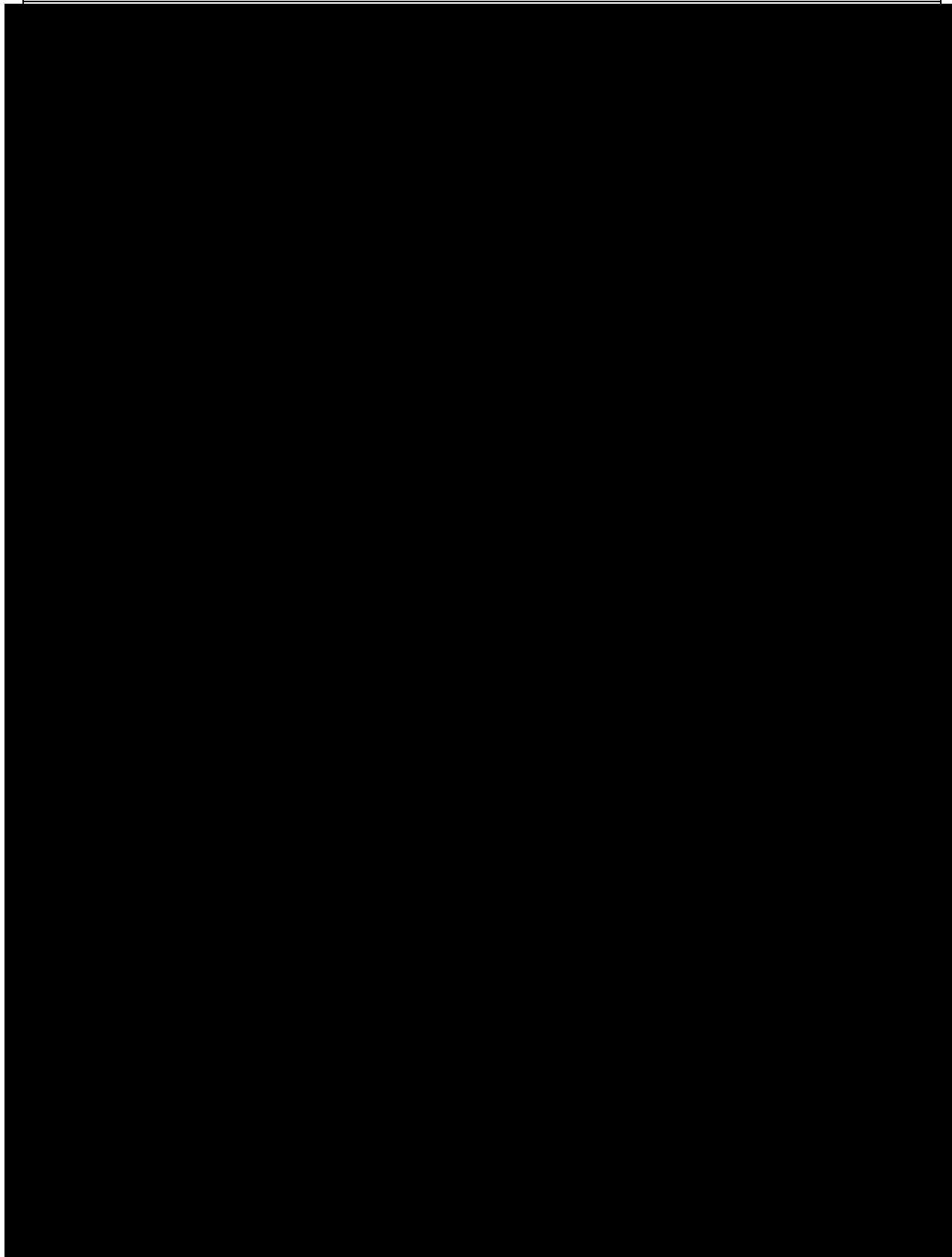


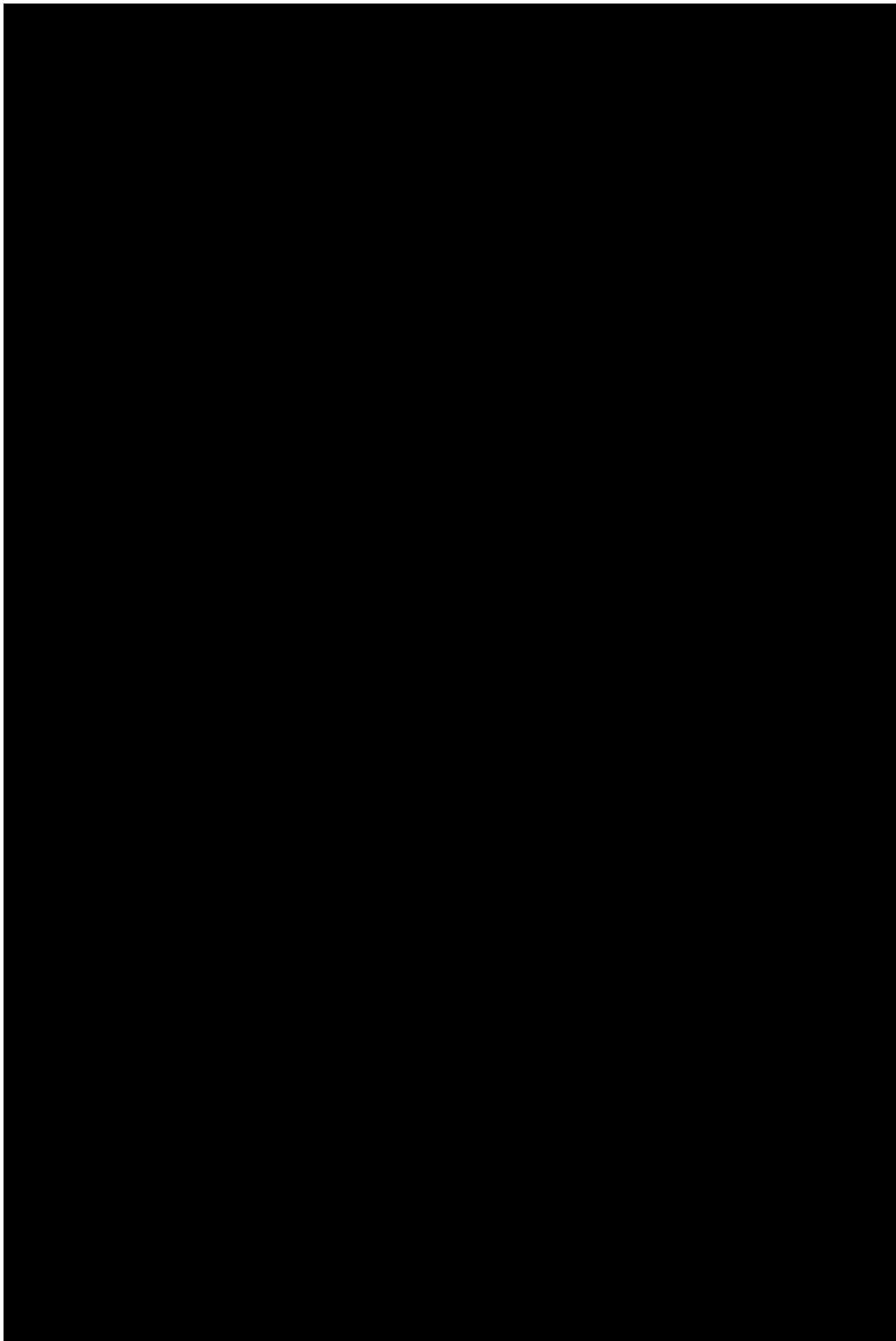
Maximum 1,000 words
Total Score

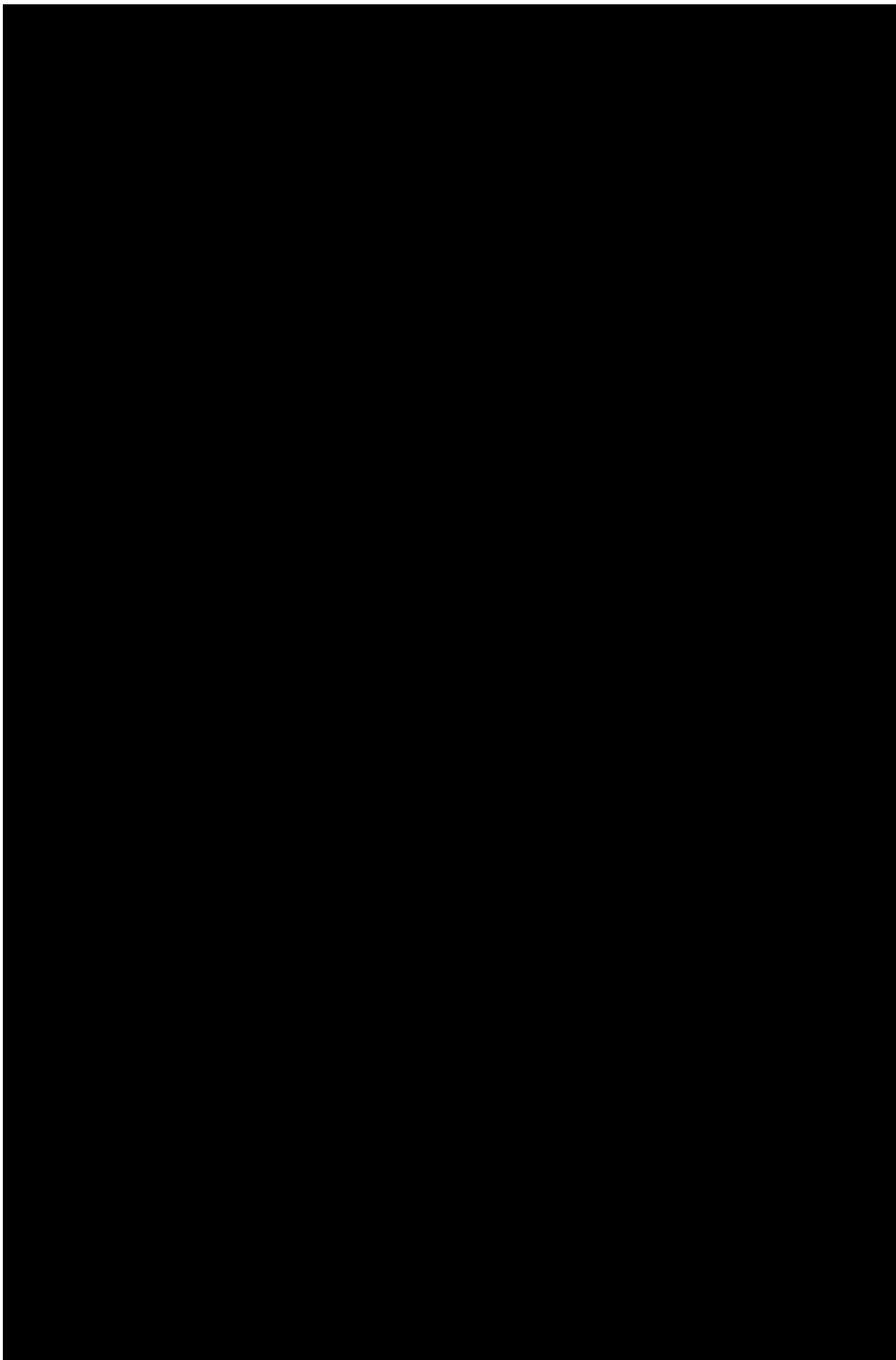
6	Quality Question 3 – Experience / track record & management of change.	Maximum Score 10
Guidance:		
Having the experience of delivering Managed Print Services is a critical requirement.		
Question:		

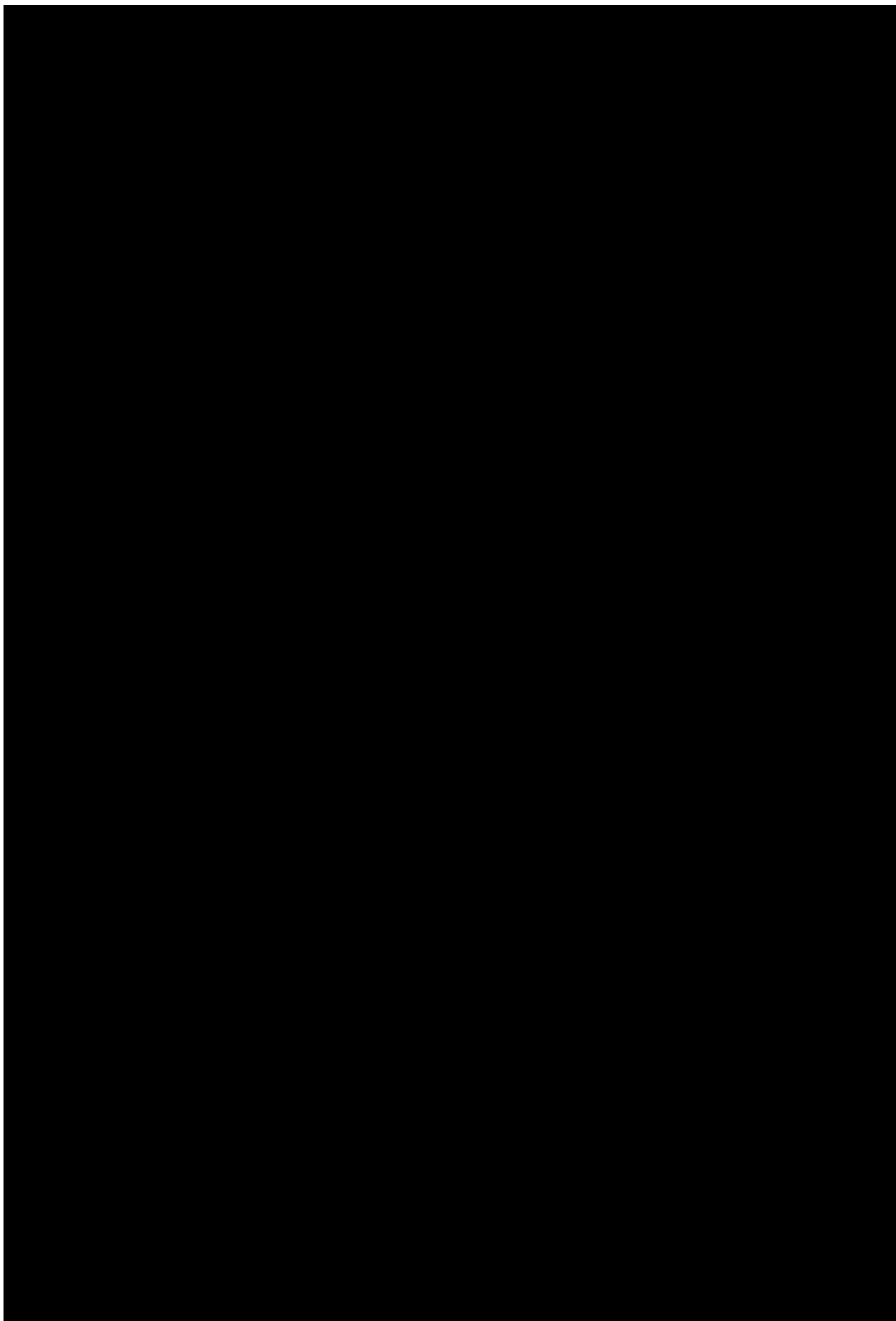
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Provide an overview of similar Managed Print Services that you are currently providing or have provided in the past 2 years, include relevant examples to support your response. Specifically include in your response how you would handle changes to the estate during the lifetime of the contract, i.e. site opening/closure, increased capacity and changing requirements within locations.

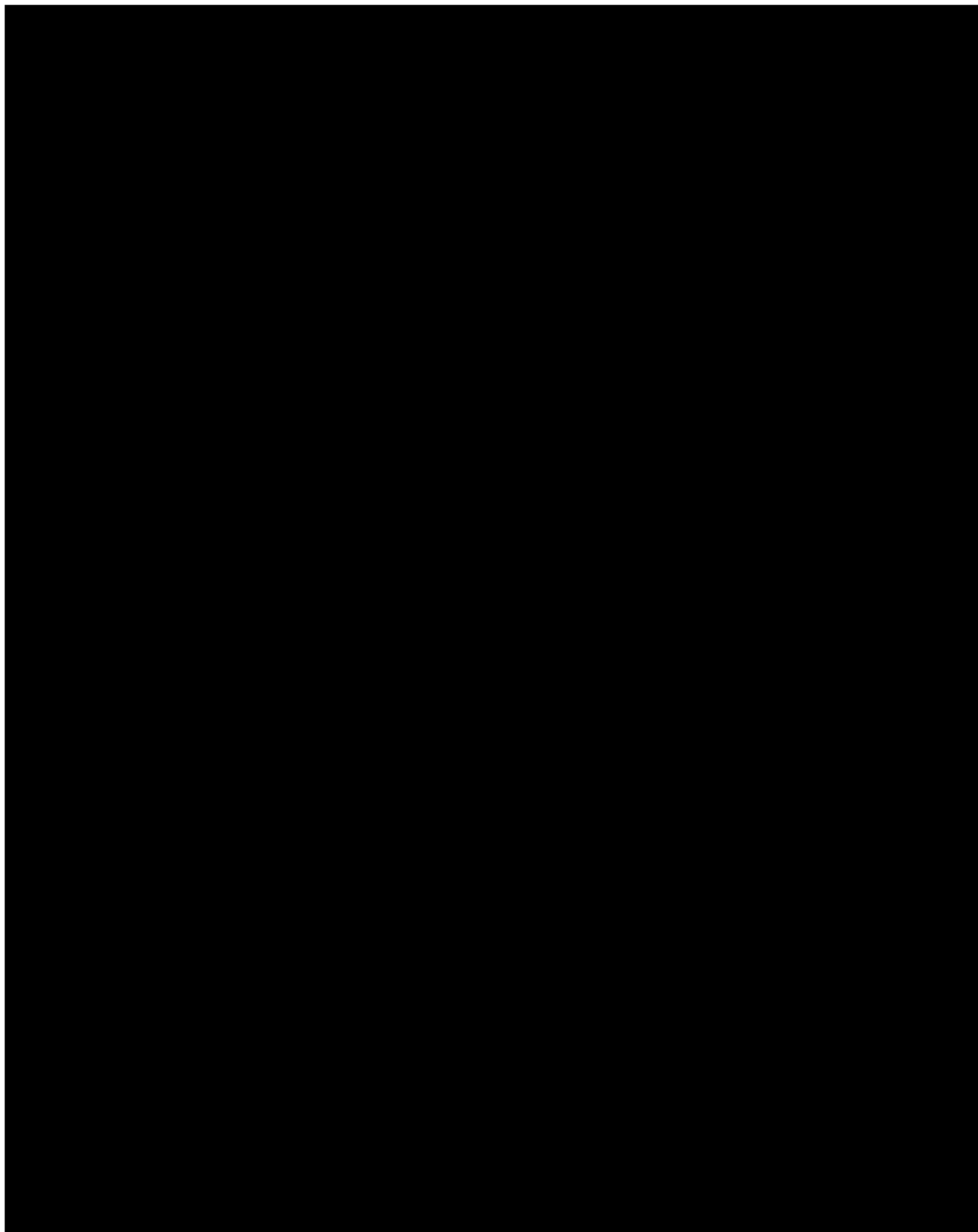








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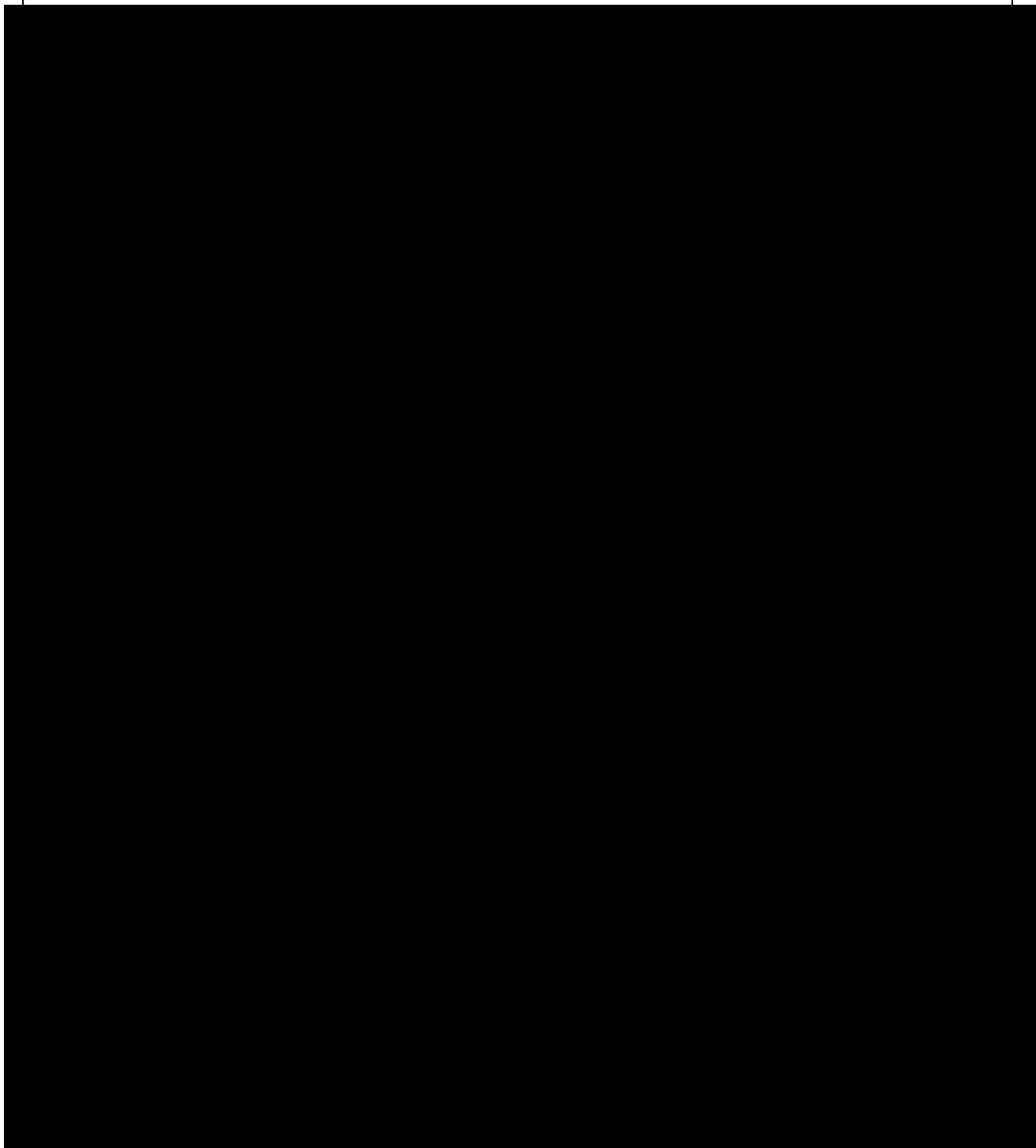
Maximum 2,000 words

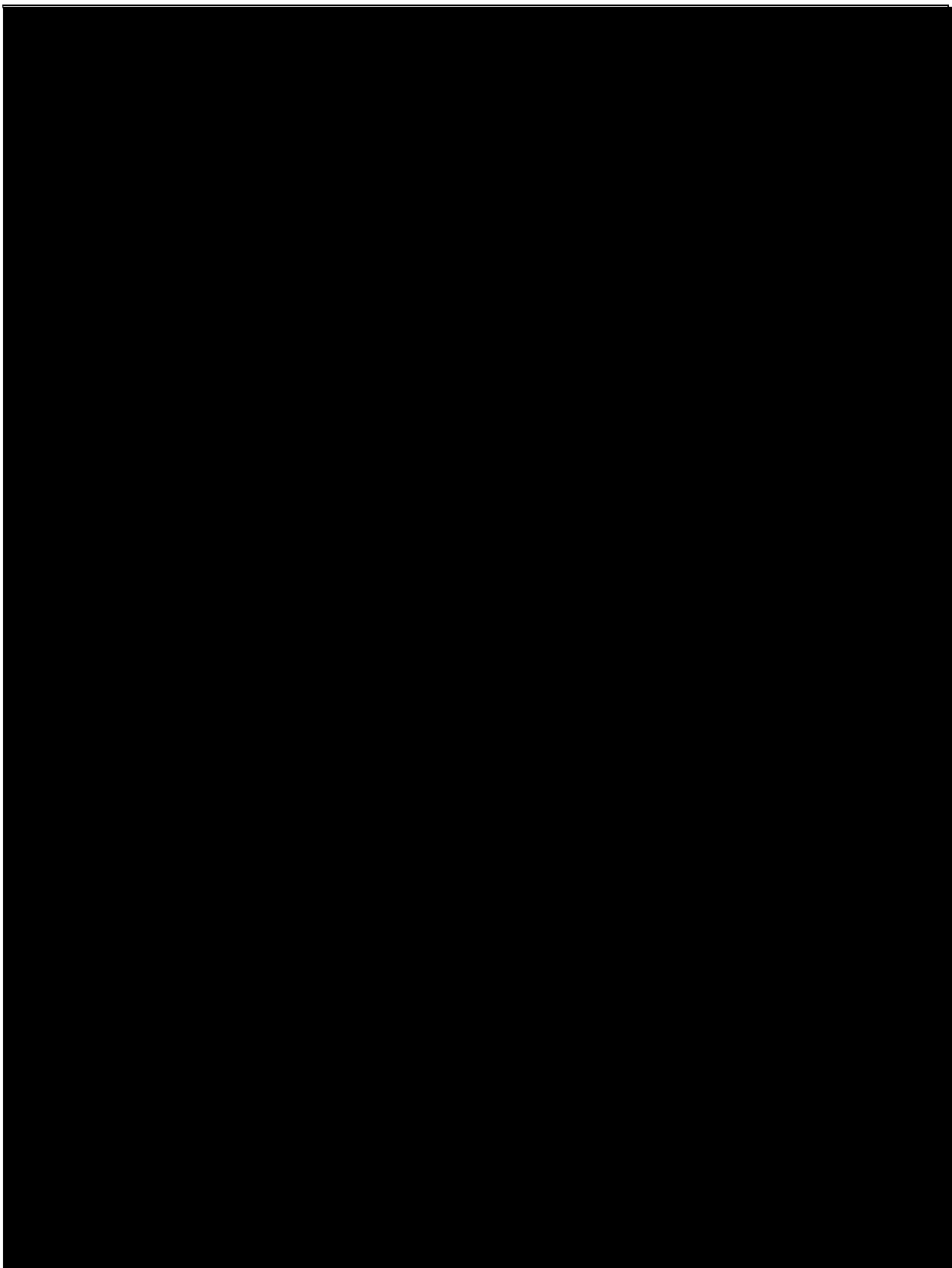
Total Score:

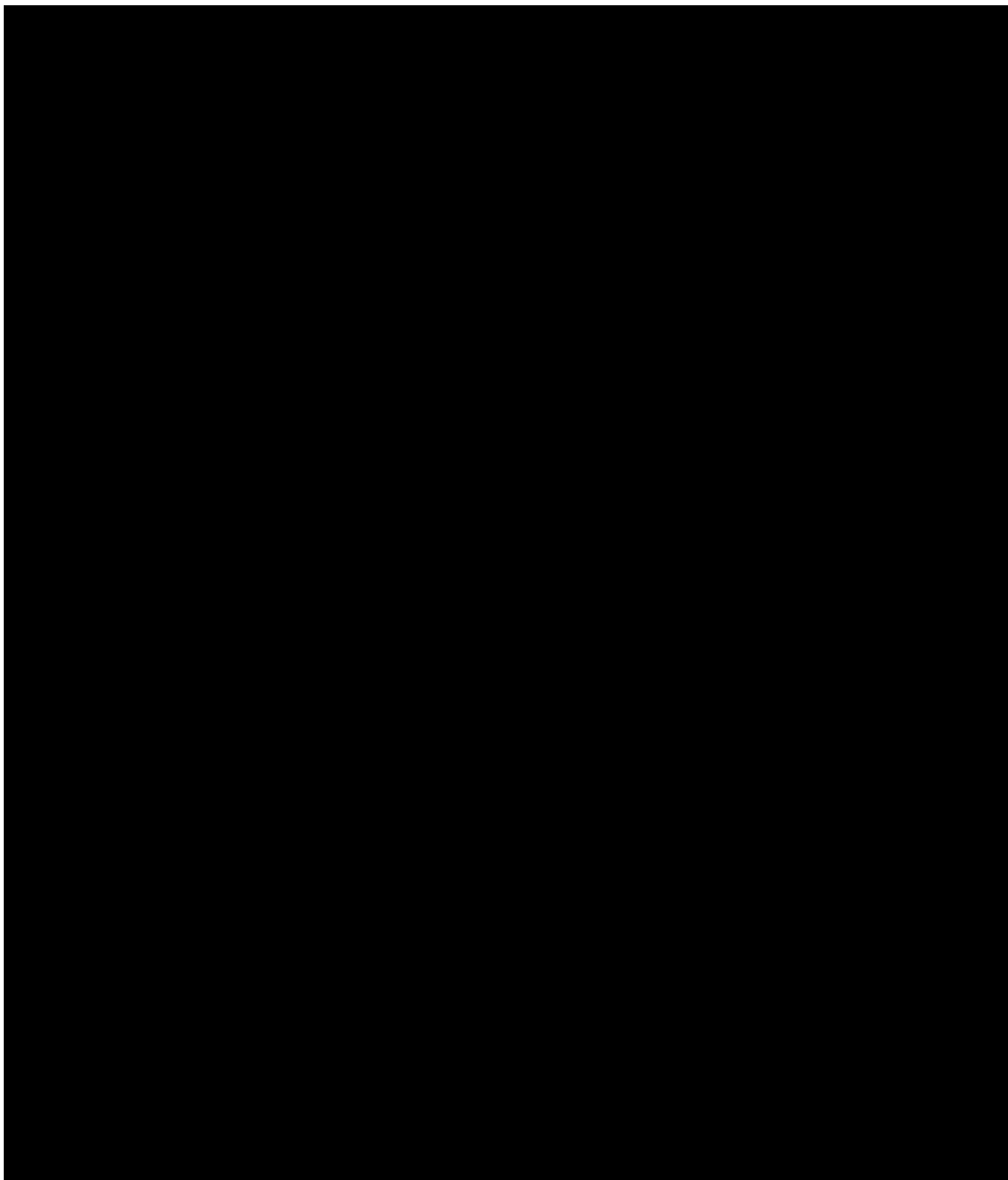
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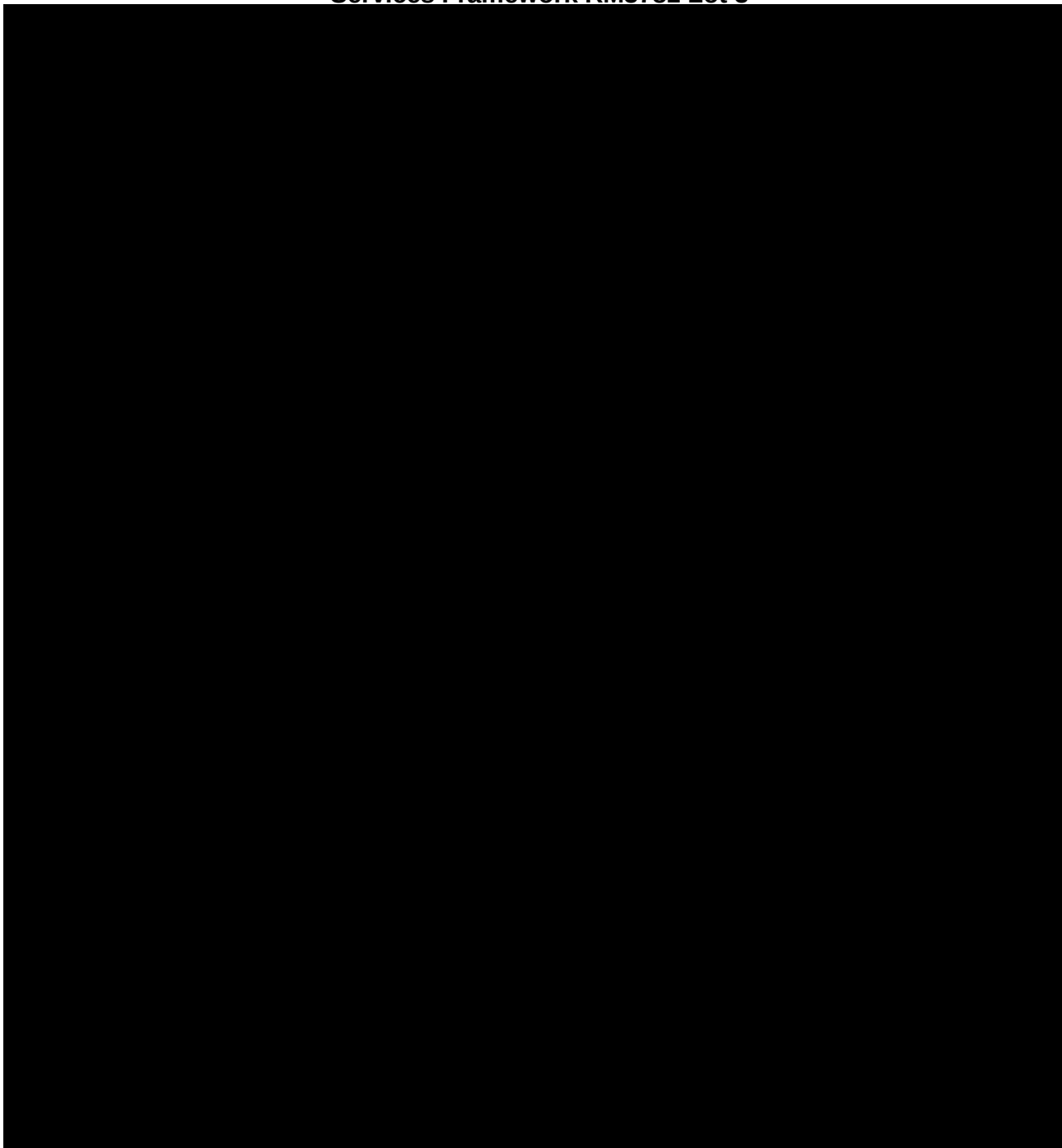
7	Quality Question 4 – Cost Management & User Tools	Maximum Score 10
Guidance:		
Driving down the volumes and cost of print is critical to Highways England. Ensuring that the Managed Print Service is providing the right management data and enabling Users to understand the impact to the organisation and environment of their decisions to print are important to Highways England in their desire to reduce the cost of print and the impact to the environment.		
Question:		
Provide an overview of the real-time management tools that will be provided and available to Highways England as part of the Managed Print Service. Please include any User tools that will be deployed to help direct and educate the users. Please frame your response with reference and compliance to the Managed Print Service Requirements document and associated Annexes.		

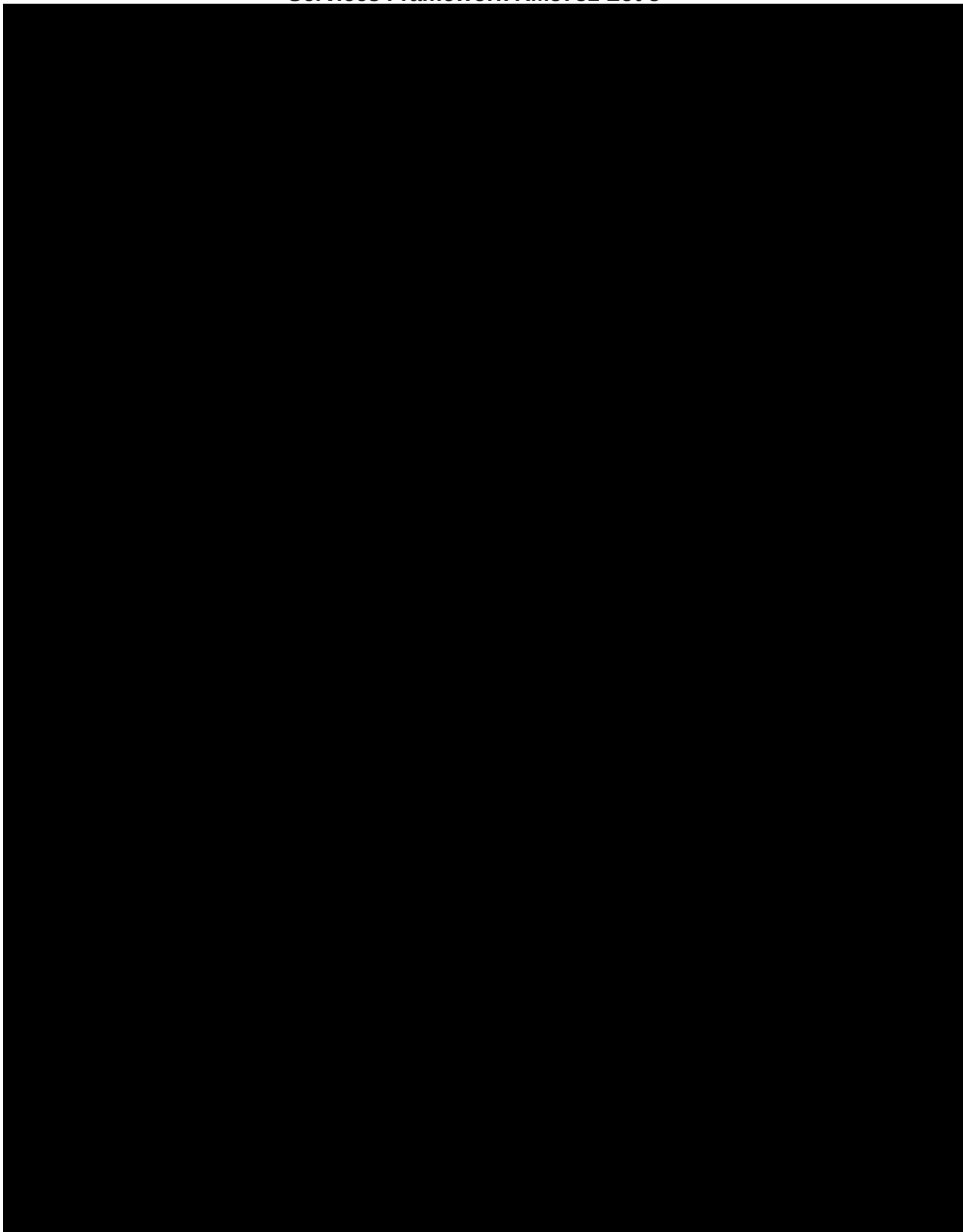
2.18. REPORTS AND MANAGEMENT INFORMATION

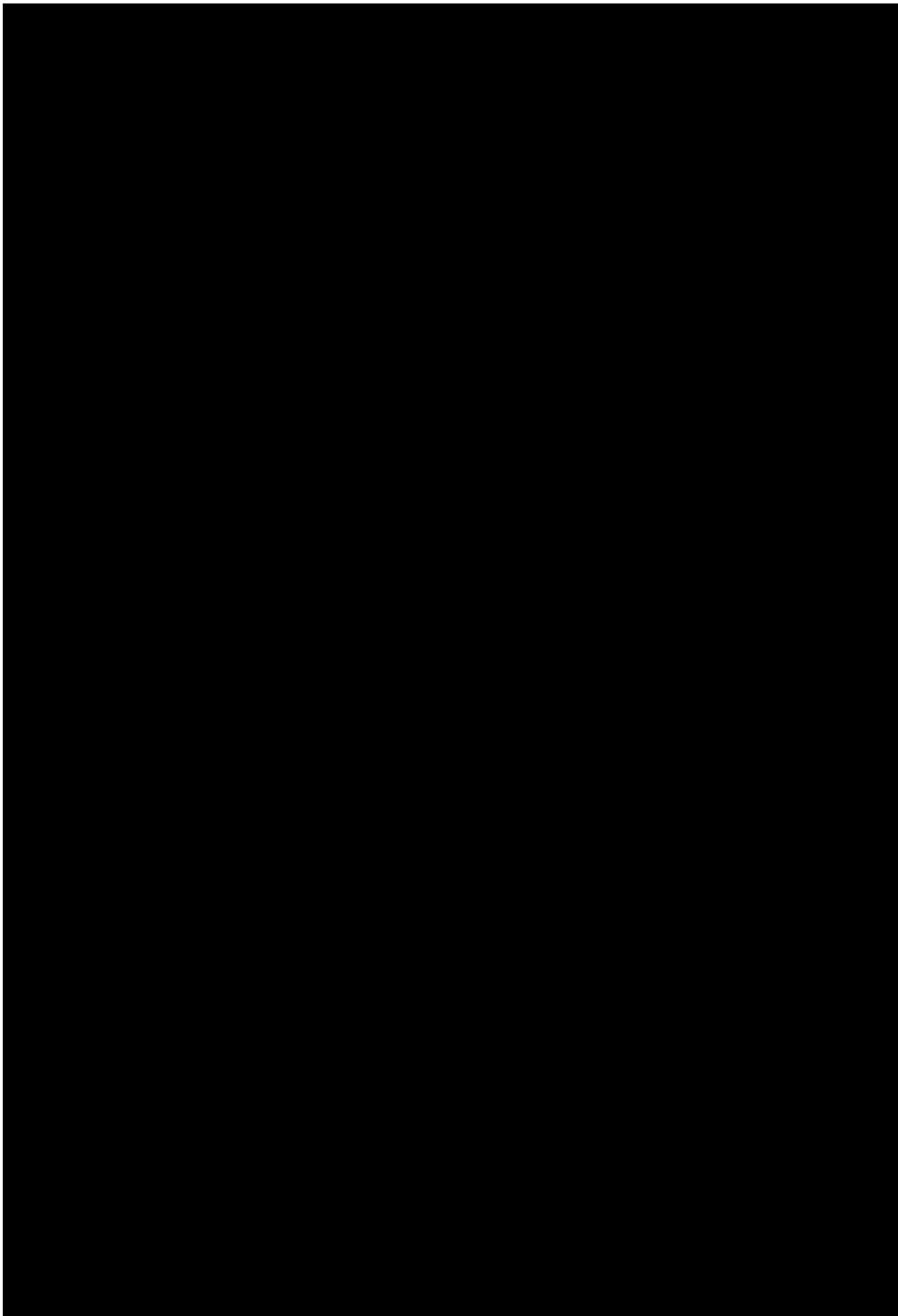












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Maximum 1,000 words

Total Score:

8

Quality Question 5 – Approach to delivering the specialist print service for the Print Production unit in Bedford

Maximum Score 10

Guidance:

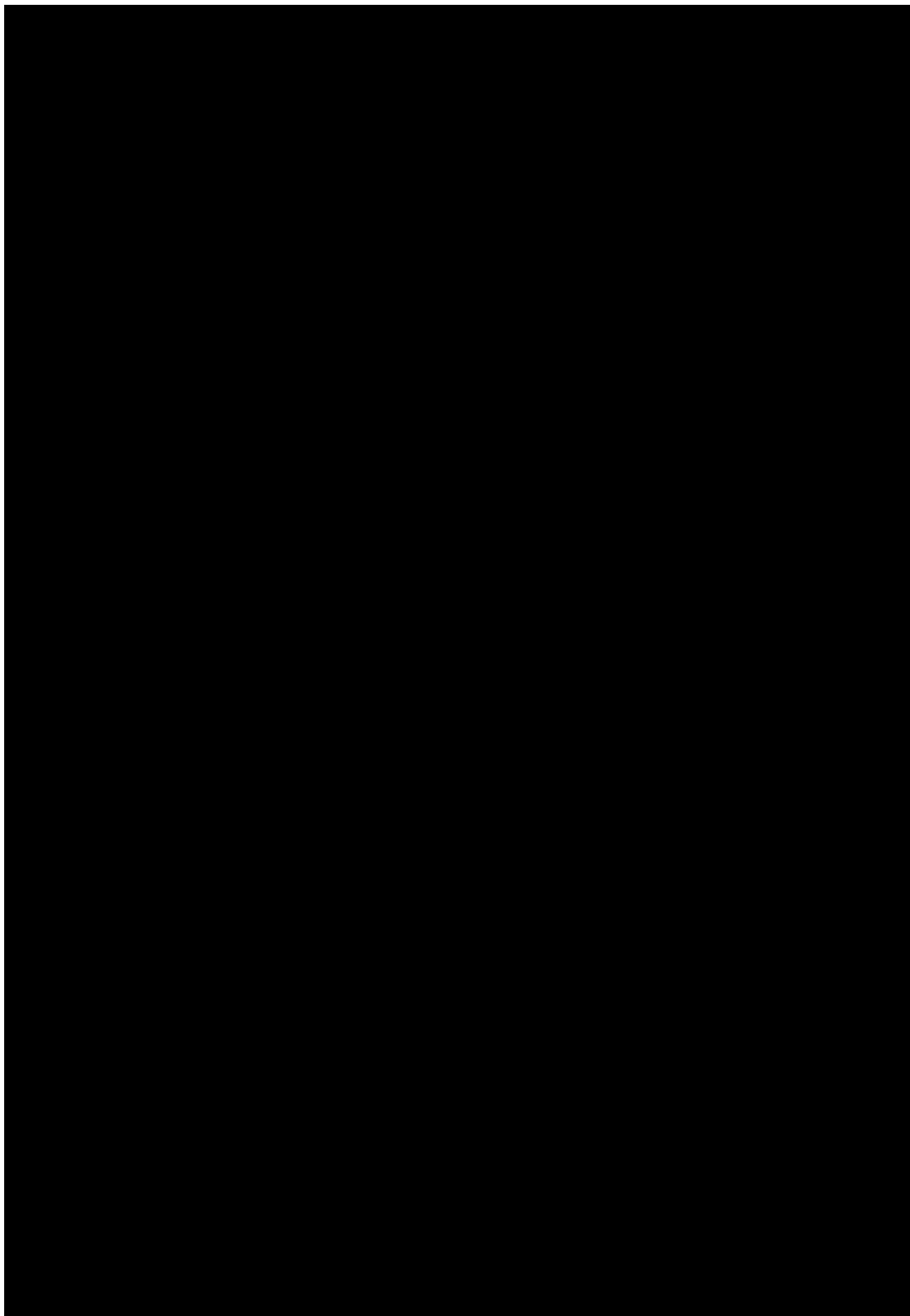
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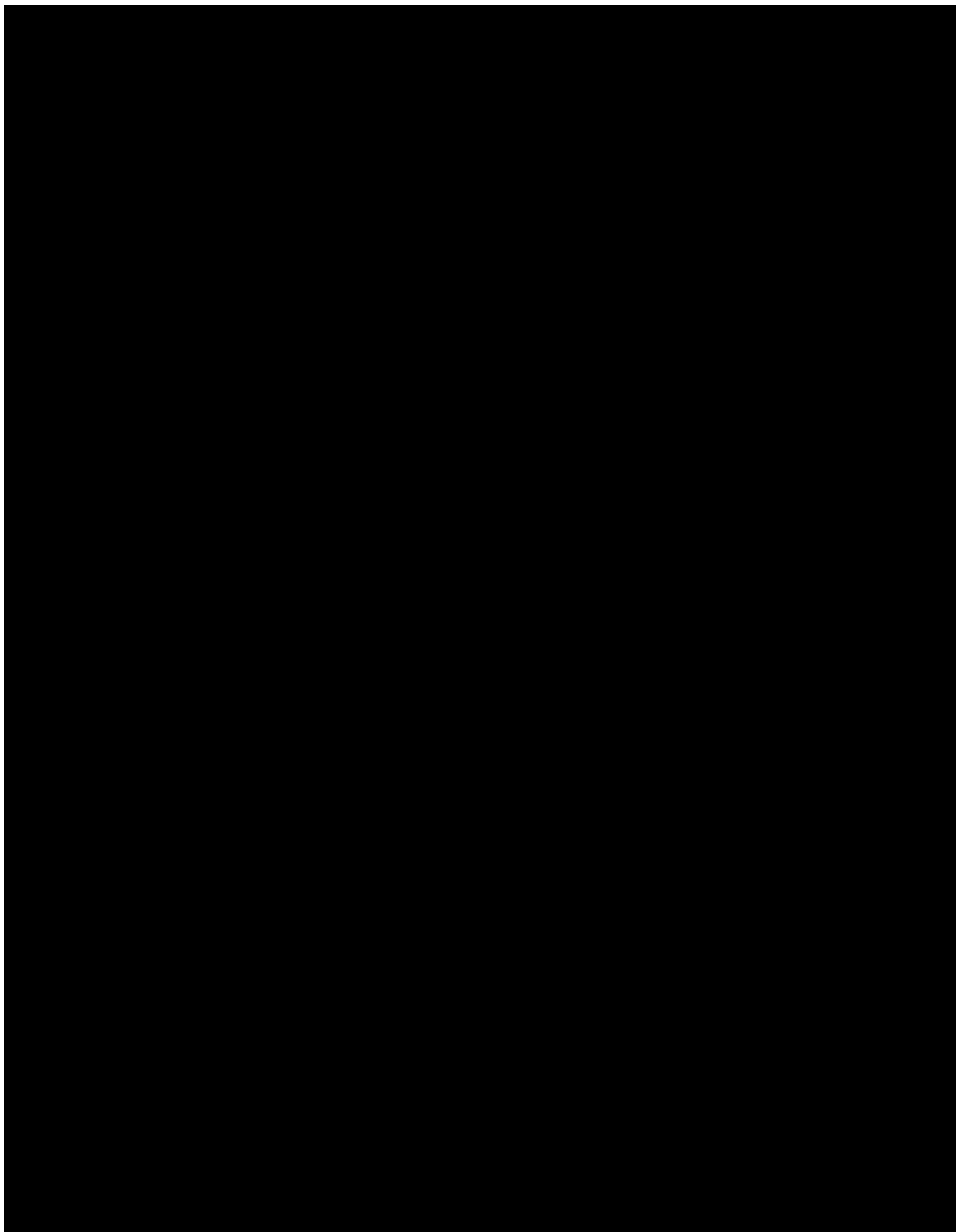
It is important that the Production Print Unit delivers an efficient and cost-effective Service to its customers, allowing for both high customer satisfaction and rapid turnaround, but also delivering cost savings to Highways England and ensuring that the service is used appropriately.

Question:

Please describe your approach to delivering the Managed Print service to the requirements of the Production Print Unit in Bedford, including innovative methods to ensure effective job fulfilment and ensuring that a quality service is delivered, high-lighting any process improvements, whilst still delivering cost efficiencies.

Please frame your response with reference to the **Annex 1** – ITCR Managed Print Service Requirements document.





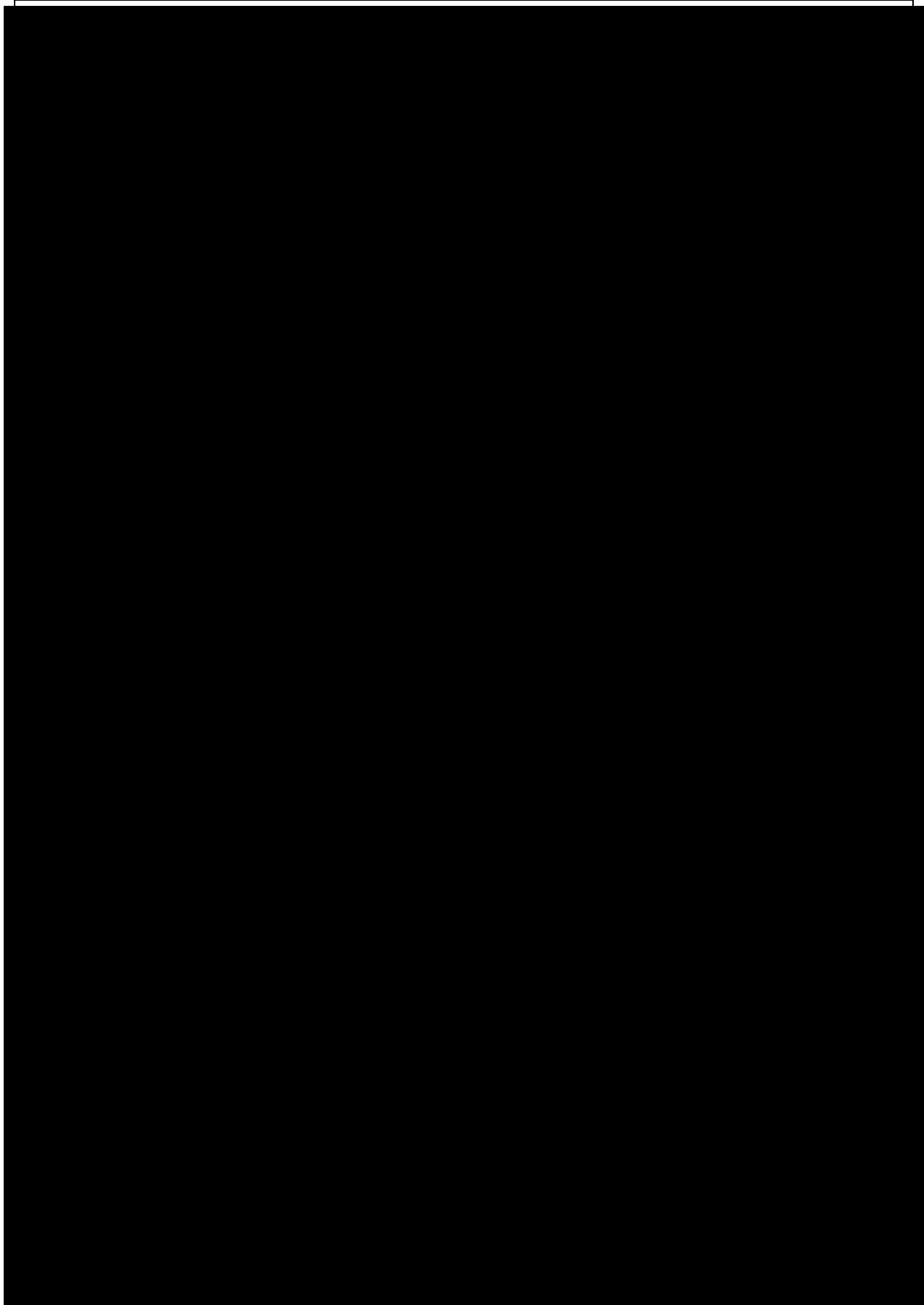


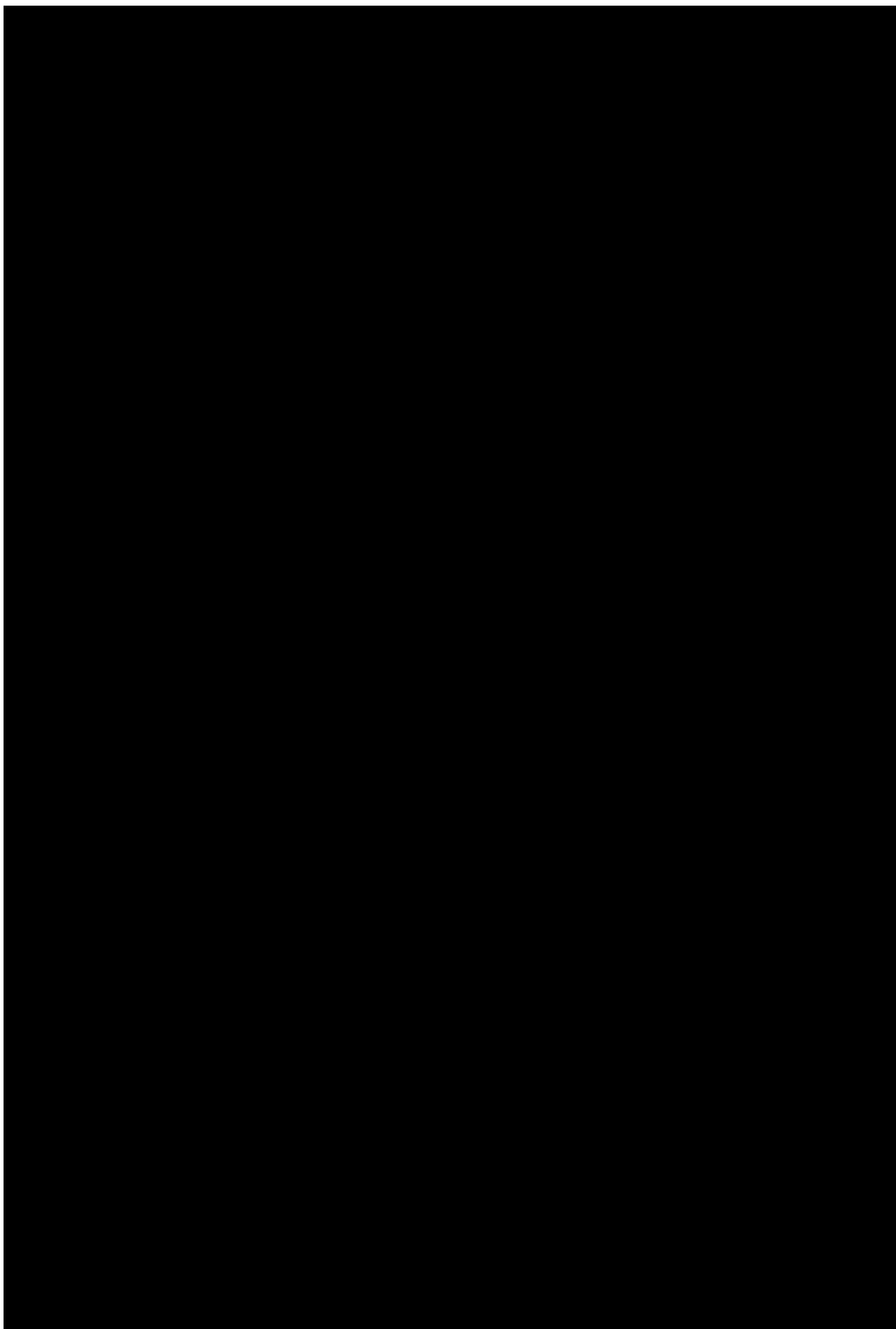
Total Score:

9	Quality Question 6 – Innovation / Continuous improvement	Maximum Score 10
Guidance:		
It is important that Highways England works with its suppliers to implement continuous improvement and innovation within a Value Proposition.		
Question:		
Describe your approach to continuous improvement / innovation and how you would ensure the Highways England benefit from such improvements. Provide two examples of where such an improved service was proposed and implemented, within the last two years, detailing the benefits derived, specifically the reduction in the ratio of colour to mono, reduction in		

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overall print volumes and percentage cost reduction achieved.
Please frame your response with reference and compliance to the Managed Print Services Requirement.





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Maximum 1,000 words

Total Score:

10 Quality Question 7 – Requirements Compliance Maximum Score 10
Score

Guidance:

Total Score:

CALL OFF SCHEDULE 16: SUPPLIER SOFTWARE, CUSTOMER SOFTWARE AND THIRD PARTY SOFTWARE

XEROX END USER LICENCES –

ANNEX 1 – XEROX DEVICE MANAGER (XDM) AND XEROX SERVICE MANAGER (XSM)

1.0 Xerox Tools and Xerox Client Tools End User License Agreement

1.1 The Customer agrees that it shall have no rights to use, access or operate Xerox Tools. Xerox Tools will be installed and operated only by the Supplier. The Customer will have access via a web portal to data and reports generated by Xerox Tools (which data and reports shall be Customer's property) and stored in a provided database to the extent set forth in this Call-Off Agreement. All Xerox Tools and Xerox Client Tools may be removed by Xerox at the expiration or termination of the Goods and/or Services pursuant to which they were used. The Customer acknowledges that the Supplier does not license Xerox Tools or Xerox Client Tools independently or in connection with the provision of the Goods and/or the Services.

1.2 Xerox Client Tools will be provided to the Customer for use solely under the Services as described under this Call-Off Agreement, and such installation, use and access by the Customer of the Xerox Client Tools is governed by an accompanying click wrap end user license agreement.

1.3 Notwithstanding anything to the contrary herein or elsewhere, Xerox Tools and Xerox Client Tools are the Supplier's Confidential information, and (a) shall not be subject to any limitation of any term of confidentiality imposed herein, (b) any Limitations of Liability contained herein shall not apply where either Party has (i) exceeded their rights to the other Party's intellectual property granted under this provision or (ii) misappropriated or infringed the other Party's intellectual property under this provision. In the event of a conflict with Customer policies or procedures, the terms of this clause 4 shall take precedence."

ANNEX 2 – XEROX CONNECTKEY APPS

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6. **Cloud-based Apps.** The terms of this Section 6 apply to your use of Cloud-based Apps.
 - a. Cloud-based Apps provide access to, or are designed to work with, cloud-based products and services and hosted software as a service solutions offered by Xerox or third parties ("Hosted Services") and may require registration and acceptance of additional terms and conditions associated with such Hosted Services. You are responsible for acquiring access to such Hosted Services, and the

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terms and conditions governing the access and use of the Hosted Services are solely between you and the provider of the Hosted Services. Communication between the Cloud-based Apps and the Hosted Services is managed by middleware controlled and maintained by Xerox. The App Identifier for the Software and the serial number and IP address of the Equipment on which the Software is installed are stored by the Xerox middleware on installation of Cloud-based Apps and used to authenticate and validate access to and use of the middleware by the Equipment.

- b. When using the Software to access Hosted Services, the Software may access and use account information such as user name, email address, access permissions, folder and file names for such Hosted Services ("Account Information") for the purposes of establishing a session with the Hosted Services, processing commands, and performing operations at your direction. You acknowledge that your Account Information and any data, document or other materials ("Content") that you send to, retrieve from, or otherwise processes using the Hosted Services will be transmitted to and temporarily stored on the Xerox middleware during your session with the Hosted Services.
- c. You shall be solely responsible for any and all data, data files, documents, graphics, messages, photographs, images, text, and/or other information or materials ("Content") that you submit to or generate in connection with your use of the Cloud-based Apps. You authorise Xerox to use, process and transmit Content in the manner contemplated by the Documentation for the Cloud-based Apps. By using the Cloud-based Apps you acknowledge and agree that: (i) the Content is received at and processed by the Xerox middleware and returned to you under your control, and (ii) Xerox is processing such Content as you direct.
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11. Severability. If any provision of this Agreement is held invalid by any law, rule, order or regulation of any government, or by the final determination of any state or federal court, such invalidity will not affect the enforceability of any other provisions not held to be invalid. In the event any provision hereof is declared by competent authority to be invalid, illegal or unenforceable under any applicable law, to the extent permissible under applicable law, any such invalid, illegal or unenforceable provision shall be deemed amended lawfully to conform to the intent of the Parties.
12. No Waiver. Any delay or omission by either party to exercise any right or remedy under this Agreement will not be construed to be a waiver of any such right or remedy or any other right or remedy. All of the rights of either party under this Agreement will be cumulative and may be exercised separately or concurrently.
13. Governing Law. This Agreement shall be construed in accordance with the laws of the State of New York, without regard to its choice of laws provisions, and disputes shall be adjudicated or otherwise decided in the forums therefor located in the State of New York. The United Nation Convention on Contracts for International Sales of Goods shall not apply to

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this Agreement. Local law may require that certain laws of your country of residence apply to some sections of this Agreement, including but not limited to, requiring this Agreement to be governed by the laws of your country of residence.

14. Export. You will not export or re-export the Software without appropriate United States or foreign government licenses or for any purpose prohibited by any applicable export control laws.
15. Data Collection. "Data" shall mean information which may be stored by you or Xerox in the memory of the equipment on which the Software is installed which is related to the provision of service or support for the equipment or to your use of the equipment and/or Software, including, without limitation, machine configuration data and settings, product registration, meter read, supply level, software versions, problem/fault code data, and printing job characteristics. All such data shall be transmitted in a secure manner specified by Xerox. The automatic data transmission capability will not allow Xerox to read, view or download the content of any of your documents residing on or passing through the equipment or your information management systems. Your information may be transmitted, stored and processed in the United States or any other country in which Xerox or its designated servicers or subcontractors maintain facilities.
16. Entire Agreement. This Agreement constitutes the entire agreement between the parties in connection with the subject matter hereof, and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, between the parties. No amendment to or modification of this Agreement will be binding unless it is in writing and signed by a duly authorised representative of each of the parties.

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Services Framework RM3781 Lot 3**

ANNEX 3 - XEROX FREEFLOW

DocuSP / Freeflow licence terms

The parties agree to the following terms for embedded software known as DocuSP®/FreeFlow Print Server™ ("Software") and/or the Application Software identified as FreeFlow® software (including, but not limited to, FreeFlow Makeready®, FreeFlow Process Manager™, FreeFlow Output Manager™, FreeFlow Web Services™, FreeFlow Document Library™, FreeFlow Prepress Suite®, Print Shop PDF Conversion Tool, Stand Alone Quick Print, Print Manager, and Digipath® to FreeFlow Software Upgrade) ("Application Software") and shall be additive to and supplement those found elsewhere in the Agreement.

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 - b. In the event such Application Software is subject to a lending or leasing arrangement entered into with a party other than Xerox, then, for the shorter of ten (10) years from the date of the loan or the specified term of the loan, the party that provides the financing terms to you shall not be prevented from enforcing a valid security interest by the nontransferable nature of the license granted to you in accordance with the Agreement, provided that the rights acquired by such party shall otherwise be restricted in accordance with the terms set forth in this Agreement governing such Application Software.
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ANNEX 4 – XEROX USER ANALYTICS

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DATA COMMUNICATOR

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ANNEX 5 – PRINT AWARENESS TOOL (PAT)

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10. **Controlling Law:** This Agreement shall be interpreted and governed according to the laws of the State of New York without reference to the conflict of laws provisions thereof. You agree to resolve any disputes arising from or relating to this Agreement in a court of competent jurisdiction located in the State of New York, Monroe County, and agree to submit yourself to the personal jurisdiction of such courts.

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ANNEX 6 – XMPie (Web2Print)

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This Agreement is comprised of the following Sections:

- A. Software License Terms and Conditions
- B. XMPie Software and Hosted Solutions – Additional Provisions
- C. XMPie E-mail Service (XES)
- D. Payment Terms
- E. Confidentiality; Data Security
- F. Third Party Software Licenses

XMPie and Licensee have executed this Agreement, each by its duly-authorized representative, as of the last date set forth below (the “Effective Date”).

XMPIE	LICENSEE
XMPie Inc.	[_____]
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: 485 Lexington Avenue 25th Floor New York, NY 10017	Address: _____
Phone: _____	Phone: _____
E-mail: _____	E-mail: _____
Date: _____	Date: _____

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A. SOFTWARE LICENSE TERMS AND CONDITIONS

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1.11.1 Licensee commissions, authorizes and requests that XMPie perform and provide Licensee the Software or Services, which involves Processing Personal Data.

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1.11.2 XMPie will Process the Personal Data on Licensee's behalf and for as long as Licensee instructs XMPie to do so.

1.11.3 The subject matter and purposes of the Processing activities are: administration of marketing communications (e.g., email campaigns) with consumers throughout the marketing chain; transmission of messages and analytical tracking of information related to the same; The Personal Data Processed are: the content and metadata of the communications (e.g., recipient information); data which Licensee authorized users import or export from or to Licensee systems (e.g., CRM systems); and the contact details of Licensee authorized users.

1.11.4 The 'Data Subjects' (as this term is defined and used in Data Protection Law) about whom Personal Data is Processed are individuals throughout the marketing chain (including consumers and recipients) and Licensee authorized users.

1.11.5 As between Licensee and XMPie, Licensee are and will remain at all times the 'Data Controller' for the purposes of the Software or Services, and XMPie is and will remain at all times the 'Data Processor' (as these capitalized terms are defined and used in Data Protection Law). As a Data Processor, XMPie will Process the Personal Data only as set forth in this section 1.11. Licensee and XMPie are each responsible for complying with the Data Protection Law applicable to them in their roles as Data Controller and Data Processor.

1.11.6. As a Data Controller, Licensee is responsible, among other things, to provide Data Subjects proper notices and disclosures about the Processing activities Licensee and XMPie perform, and to properly obtain Data Subjects' consent to these Processing activities – all as required by applicable law. In addition, Licensee is responsible for taking the necessary measures to ensure that the manner in which it uses the Software or Services complies with Data Protection Law. To that end, XMPie encourages Licensee to review and consider XMPie's GDPR guidance available at http://help.xmpie.com/KBA/0086/0086_GDPR_Guidelines.htm (it being acknowledged by the Licensee that such guidelines are for informative purposes and are not to be taken as legal Licensee advice). Additionally, Licensee as a 'Data Controller' is responsible to: (a) assess and determine, in its sole discretion, the desirability and necessity of security measures relating to the Software and Services pursuant to Licensee's technical, organizational, business and legal considerations, and (b) choose the appropriate security measures relating to the Software and Services.

1.11.7 XMPie will Process the Personal Data only on instructions from Licensee documented in this Agreement or otherwise provided, and which are capable of being carried out in the Software or Services. Licensee may provide XMPie Processing instructions beyond those specified in this Agreement and XMPie will use commercial efforts to perform those instructions. Licensee instructions must be compliant with Data Protection Law. If the instructions Licensee provide involve material costs and expenses to XMPie, or significant operational difficulties, then Licensee and XMPie will engage in good-faith discussions regarding additional fees XMPie will charge Licensee to cover such costs and expenses or regarding such difficulties. The foregoing provisions on XMPie following Licensee instructions apply unless XMPie is otherwise required to do so by law to which it is subject (and in such a case, XMPie shall inform Licensee of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest). XMPie shall immediately inform Licensee if, in XMPie's opinion, an instruction is in violation of Data Protection Law. XMPie will make available to Licensee all information in its disposal reasonably necessary to demonstrate compliance with the obligations under Data Protection Law. XMPie will assist Licensee with the eventual preparation of data privacy impact assessments and prior consultation as appropriate, provided, however, that if such assistance entails material costs or expenses to XMPie, the parties shall first come to agreement on Licensee reimbursing XMPie for such costs and expenses.

1.11.8 XMPie will follow Licensee instructions to accommodate Data Subjects' requests to exercise their rights in relation to their Personal Data, including accessing their data, correcting it or deleting it. If the instructions Licensee provide involve material costs and expenses to XMPie, then Licensee and XMPie will engage in good-faith discussions regarding additional fees XMPie will charge Licensee to cover such costs and expenses. XMPie will pass on to Licensee requests that it receives from Licensee Data Subjects regarding their Personal Data Processed by XMPie. XMPie will pass on to Licensee requests that it receives from Data Subjects regarding their Personal Data Processed by

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XMPie. Any request from Data Subjects arising out of the processing of Personal Data by XMPie, including but not limited to rectification, erasure, and blocking of Personal Data, portability requests and objection, has to be asserted to Licensee. Licensee is solely liable for responding to Data Subjects on such requests.

1.11.9 Licensee acknowledges and agrees that XMPie uses the following sub-processor to Process Personal Data: Amazon Web Services, Inc. (Corporate address: 410 Terry Avenue North, Seattle, Washington 98109-5210, United States), in its data center located in the Republic of Ireland; apilayer GmbH (address: Hörlgasse 12/4, 1090 Vienna Austria); Snowflake Computing, Inc. (address: 100 South Ellsworth Avenue, #100, San Mateo, CA 94401). XMPie will procure that the sub-processor Processes the Personal Data in a manner consistent with XMPie's obligations under this Agreement. Licensee authorizes XMPie to engage with additional or replacement sub-processors, provided that XMPie does so in compliance with Data Protection Law, informs Licensee of any intended changes concerning the additional or replacement sub-processors, and gives Licensee the opportunity to object to such changes. If Licensee so objects, XMPie may terminate the Agreement upon written notice to Licensee. If XMPie terminates the Agreement pursuant to this Subsection, XMPie will only provide a pro-rata refund to Licensee of prepaid Services covering the period following the date of termination. Licensee will not be entitled to any refund of fees for Software or the service period preceding the date of termination.

1.11.10 XMPie and its sub-processors will only Process the Personal Data in member states of the European Economic Area and in territories recognized by an adequacy decision of the European Commission, as providing an adequate level of protection for Personal Data pursuant to Data Protection Law, or using adequate safeguards as required under Data Protection Law governing cross-border data transfers (e.g., Model Clauses). Notwithstanding the foregoing, during transmission of messages, XMPie and its sub-processors may Process the Personal Data in any number of territories that do not provide an adequate level of protection for Personal Data, or for which the European Commission has not adopted an adequacy decision.

1.11.11 In Processing Personal Data XMPie will implement appropriate technical and organizational measures to protect the Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and will provide Licensee means to control various security safeguards in respect of Licensee Personal Data. XMPie will ensure that its staff authorized to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

1.11.12 XMPie will inform Licensee of any Personal Data Breach promptly when it becomes aware of such Breach. Licensee is responsible for determining whether notification to other third parties is necessary or appropriate, and for carrying out such notifications to the extent required or desirable. XMPie will use commercial efforts to mitigate the breach and prevent its reoccurrence. Licensee and XMPie will cooperate in good-faith on issuing any statements or notices regarding such breaches, to authorities, Data Subjects, or the public at large.

1.11.13 Unless precluded by law, XMPie will provide Licensee prompt notice of any request it receives from authorities to produce or disclose Personal Data it has Processed on Licensee behalf under this Agreement, so that Licensee may contest or attempt to limit the scope of production or disclosure request.

1.11.14 Upon Licensee request (and unless otherwise required by law or necessary for evidentiary records), XMPie will delete the Personal Data it has Processed on Licensee behalf under this Agreement from its own and its sub-processor's systems, or, at Licensee's choice, return such Personal Data and delete existing copies, and upon Licensee's request.

1.11.15 The duration of Processing that XMPie performs on Licensee Personal Data is for the period set out in section A.8 above.

1.12 Communication

- a. To perform its obligations under this Agreement, XMPie will communicate with Licensee via the email address and other contact information Licensee

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shall have supplied. It will contact users in Licensee's Account that are assigned Account Administrator roles

- b. Should Licensee choose to opt out, XMPie will be free of its obligations to contact or notify Licensee.
- c. For the purpose of this Agreement, XMPie may deliver notices by email (or other means of written communication). XMPie will not be held accountable if the communication does not reach its destination, for whatever reason (soft bounce, hard bounce, opt-out, spam filters, black lists, etc).
- d. Licensee and users will be notified from time to time of improvements to the Software or Services, and other news, products and services from XMPie that relate directly or indirectly to the Software or Services.
- e. If Licensee's edition of the Software or Services includes advertising, such advertising may not be turned off.

1.13 Licensee represents that Licensee have all rights to make the data available to XMPie. Licensee has received all permits required to maintain and process the data by XMPie under the terms herein. If XMPie maintains personal information for Licensee that is related to persons in a jurisdiction that regulates the transfer of personal information outside that jurisdiction, Licensee represents that Licensee holds the necessary permits, permission and consents to transfer personal information outside such jurisdiction for the purposes described herein.

1.14 XMPie may collect, compile, analyze, use and share statistical, aggregated and de-identified information (together: "Anonymized Data"), including Anonymized Data that XMPie generates from Licensee's interactions with the Software or Services and Licensee data. XMPie will use and share Anonymized Data with the express provision that XMPie will not knowingly or intentionally share information that can be reasonably used to reveal the identity of individuals, or compromise XMPie confidentiality undertakings under this Agreement. XMPie may process and use Anonymized Data to properly operate the Software or Services and to develop and improve its quality and functionality, to enhance Licensee experience with the Software or Services and with other XMPie products and services, to create, offer and present new features and added values services, including customized services and to change or cancel existing features and services. XMPie may share, publish, post, disseminate, transmit, allow access or otherwise communicate and make available Anonymized Data to its Affiliates, suppliers, business partners, sponsors, developers and any other third party, at XMPie's sole discretion.

1.15 XMPie does not store any recipient database information to the Software or Services cloud. Exceptions are the recipient IDs, tracking events stripped of PII data, and recipients that are defined by the Licensee as being Sample Recipients (used for preview purposes).

2. Information Security.

2.1 Licensee shall ensure that each user who accesses the Software or Services through Licensee has a unique user identification in the system, a unique password, does not share the password, and takes proper measures to secure the password. XMPie will have no further obligation with respect to security if such obligation is breached.

2.2 XMPie takes measures to protect Licensee's data using advanced technology for Internet Security -- technologies such as SSL, certificates, password hashing, multi-tenant filter layer, multi-layer network architecture and firewalls.

2.3 The measures described in this Section 12 reduce the risk of security breaches, but they do not provide absolute security. Therefore, XMPie cannot guarantee that its services will be immune from any wrongdoings, malfunctions, unlawful interceptions or unauthorized access to the stored information. From time to time, XMPie may modify the security measures that it uses.

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2.4 XMPie acknowledges the valuable role that independent security researchers play in Internet security. Keeping XMPie's users' data secure is a priority, and we encourage responsible reporting of any vulnerabilities that may be found in our site or application

2.5 XMPie does not provide compensation for reporting a security vulnerability, and any requests for such compensation will be considered a violation of the conditions above. In such an event, XMPie reserves all of its legal rights.

2.6 XMPie grants access to stored personal information to XMPie employees, contractors, vendors and agents on a need-to-know basis. These vendors are obligated to keep the personal information confidential. They may be subject to penalties, termination of relations and criminal prosecution, for failing to comply with their confidentiality obligations. Subject to Section D 1.11.9, XMPie may change its third party vendors from time to time without Licensee's consent.

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ANNEX 7 – XEROX WORKPLACE SUITE

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You may not assign this Agreement or any rights and obligations to any third party without the express written permission of Xerox

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 - pool connections, or
 - reduce the number of devices or users that directly access or use the software(sometimes referred to as “multiplexing” or “pooling”), does not reduce the number of licenses you need.
 - E. **TRIAL AND CONVERSION.** SOME OR ALL OF THE SOFTWARE MAY BE LICENSED ON A TRIAL BASIS. YOUR RIGHTS TO USE TRIAL SOFTWARE ARE LIMITED TO THE TRIAL PERIOD. THE TRIAL SOFTWARE AND LENGTH OF THE TRIAL PERIOD ARE SET FORTH DURING THE ACTIVATION PROCESS. YOU MAY HAVE THE OPTION TO CONVERT YOUR TRIAL RIGHTS TO SUBSCRIPTION OR PERPETUAL RIGHTS. CONVERSION OPTIONS WILL BE PRESENTED TO YOU AT THE EXPIRATION OF YOUR TRIAL PERIOD. AFTER THE EXPIRATION OF ANY TRIAL PERIOD WITHOUT CONVERSION, MOST FEATURES OF THE TRIAL SOFTWARE WILL STOP RUNNING. AT THAT TIME YOU CAN CONTINUE TO OPEN, VIEW AND PRINT ANY DOCUMENTS YOU CREATED WITH THE TRIAL SOFTWARE.
 - F. **SUBSCRIPTION SOFTWARE.** IF YOU LICENSED THE SOFTWARE ON A SUBSCRIPTION BASIS, YOUR RIGHTS TO USE THE SOFTWARE ARE LIMITED TO THE SUBSCRIPTION PERIOD. YOU MAY HAVE THE OPTION TO EXTEND YOUR SUBSCRIPTION OR CONVERT TO A PERPETUAL LICENSE. IF YOU EXTEND YOUR SUBSCRIPTION, YOU MAY CONTINUE USING THE SOFTWARE UNTIL THE END OF YOUR EXTENDED SUBSCRIPTION PERIOD.

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SEE THE SOFTWARE ACTIVATION SCREENS OR OTHER ACCOMPANYING MATERIALS FOR SUBSCRIPTION DETAILS. AFTER THE EXPIRATION OF YOUR SUBSCRIPTION, MOST FEATURES OF THE SOFTWARE WILL STOP RUNNING. AT THAT TIME YOU CAN CONTINUE TO OPEN, VIEW AND PRINT ANY DOCUMENTS YOU CREATED WITH THE SOFTWARE.

- G. **PRE-ACTIVATION.** IF YOU ACQUIRED AN EDITION OTHER THAN MICROSOFT OFFICE ULTIMATE 2007, SOME FUNCTIONALITY IS LICENSED FOR YOUR USE ONLY UNTIL YOU ACTIVATE THE SOFTWARE OR THE END OF THE TIME RECOMMENDED FOR ACTIVATION, WHICHEVER COMES FIRST.
 - H. **HOME USE RIGHTS EDITION.** IF YOU LICENSED A HOME USE RIGHTS EDITION, THE LICENSED DEVICE MUST BE USED PRIMARILY WITHIN YOUR HOME.
 - I. **DEVELOPMENT TOOLS.** THE SOFTWARE MAY CONTAIN MICROSOFT VISUAL STUDIO TOOLS FOR APPLICATIONS OR OTHER DEVELOPMENT TOOLS. YOU MAY USE ANY DEVELOPMENT TOOLS INCLUDED IN THE SOFTWARE ONLY TO DESIGN, DEVELOP, TEST, USE AND DEMONSTRATE YOUR PROGRAMS WITH THE SOFTWARE.
3. **MANDATORY ACTIVATION.** Activation associates the use of the software with a specific device. During activation, the software will send information about the software and the device to Microsoft. This information includes the version, the license version, language and the product ID of the software, Internet protocol address of the device and information derived from the hardware configuration. For more information, see www.microsoft.com/piracy/activation.msp. BY USING THE SOFTWARE, YOU CONSENT TO THE TRANSMISSION OF THIS INFORMATION. After the time recommended for activation expires, your rights to use the software will be limited until the software is activated. This is to prevent its unlicensed use. You can activate the software by Internet or telephone; Internet and telephone service charges may apply. Some changes to your computer components or the software may require you to reactivate the software. THE SOFTWARE WILL REMIND YOU TO ACTIVATE UNTIL YOU DO.
4. **VALIDATION.**
- A. THE SOFTWARE WILL FROM TIME TO TIME UPDATE OR REQUIRE DOWNLOAD OF THE VALIDATION FEATURE OF THE SOFTWARE. VALIDATION VERIFIES THAT THE SOFTWARE HAS BEEN ACTIVATED AND IS PROPERLY LICENSED. VALIDATION ALSO PERMITS YOU TO USE CERTAIN FEATURES OF THE SOFTWARE OR TO OBTAIN ADDITIONAL BENEFITS. FOR MORE INFORMATION, SEE WWW.MICROSOFT.COM/GENUINE/OFFICE/WHYVALIDATE.ASPX.
 - B. DURING A VALIDATION CHECK, THE SOFTWARE WILL SEND INFORMATION ABOUT THE SOFTWARE TO MICROSOFT. THIS INFORMATION INCLUDES THE VERSION OF THE SOFTWARE AND THE PRODUCT KEY. MICROSOFT DOES NOT USE THE INFORMATION TO IDENTIFY OR CONTACT YOU. BY USING THE SOFTWARE, YOU CONSENT TO THE TRANSMISSION OF THIS INFORMATION. FOR MORE INFORMATION, SEE WWW.MICROSOFT.COM/GENUINE/OFFICE/PRIVACYINFO.ASPX.
 - C. IF THE SOFTWARE IS NOT PROPERLY LICENSED, THE FUNCTIONALITY OF THE SOFTWARE MAY BE AFFECTED. FOR EXAMPLE, YOU MAY NEED TO REACTIVATE THE SOFTWARE, OR RECEIVE REMINDERS TO OBTAIN A PROPERLY LICENSED COPY OF THE SOFTWARE, OR NOT OBTAIN CERTAIN UPDATES, UPGRADES OR SERVICES FROM MICROSOFT.
 - D. YOU MAY ONLY OBTAIN UPDATES OR UPGRADES FOR THE SOFTWARE FROM MICROSOFT OR AUTHORIZED SOURCES. FOR MORE INFORMATION ON OBTAINING UPDATES FROM AUTHORIZED SOURCES, SEE WWW.MICROSOFT.COM/GENUINE/DOWNLOADS/FAQ.ASPX.

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5. INTERNET-BASED SERVICES. Microsoft provides Internet-based services with the software. Except as otherwise noted in materials accompanying a service, it may change or cancel them at any time.

A. CONSENT FOR INTERNET-BASED SERVICES. THE SOFTWARE FEATURES DESCRIBED BELOW CONNECT TO MICROSOFT OR SERVICE PROVIDER COMPUTER SYSTEMS OVER THE INTERNET. IN SOME CASES, YOU WILL NOT RECEIVE A SEPARATE NOTICE WHEN THEY CONNECT. UNLESS OTHERWISE NOTED, YOU MAY SWITCH OFF THESE FEATURES OR NOT USE THEM. FOR MORE INFORMATION ABOUT THESE FEATURES, SEE WWW.OFFICE.MICROSOFT.COM/EN-US/FX010986541033.ASPX. BY USING THESE FEATURES, YOU CONSENT TO THE TRANSMISSION OF THIS INFORMATION. MICROSOFT DOES NOT USE THE INFORMATION TO IDENTIFY OR CONTACT YOU.

Computer Information. The following features use Internet protocols, which send to the appropriate systems computer information, such as your Internet protocol address, the type of operating system, browser and name and version of the software you are using, and the language code of the device where you installed the software. Microsoft uses this information to make the Internet-based services available to you.

- Web Content Features. Features in the software can retrieve related content from Microsoft and provide it to you. Examples of these features are clip art, templates, online training, online assistance and Appshelp. You may choose not to use these web content features.
- Digital Certificates. The software uses digital certificates. These digital certificates confirm the identity of Internet users sending X.509 standard encrypted information. They also can be used to digitally sign files and macros to verify the integrity and origin of the file contents. The software retrieves certificates and updates certificate revocation lists using the Internet, when available.
- Information Rights Management. The software contains a feature that allows you to create content that cannot be printed, copied or sent to others without your permission. You may need to connect to Microsoft to use this feature for the first time. Once a year, you may need to re-connect to Microsoft to update it. For more information, go to www.office.microsoft.com/en-us/assistance/HA010397891033.aspx. You may choose not to use this feature.

B. MISUSE OF INTERNET-BASED SERVICES. YOU MAY NOT USE THESE SERVICES IN ANY WAY THAT COULD HARM THEM OR IMPAIR ANYONE ELSE'S USE OF THEM. YOU MAY NOT USE THE SERVICES TO TRY TO GAIN UNAUTHORIZED ACCESS TO ANY SERVICE, DATA, ACCOUNT OR NETWORK BY ANY MEANS.

6. SCOPE OF LICENSE. The software is licensed, not sold. This agreement only gives you some rights to use the software. Licensor and Microsoft reserve all other rights. Unless applicable law gives you more rights despite this limitation, you may use the software only as expressly permitted in this agreement. In doing so, you must comply with any technical limitations in the software that only allow you to use it in certain ways. For more information, see www.microsoft.com/licensing/userights. You may not:

- work around any technical limitations in the software;
- reverse engineer, decompile or disassemble the software, except and only to the extent that applicable law expressly permits, despite this limitation;
- make more copies of the software than specified in this agreement or allowed by applicable law, despite this limitation;
- publish the software for others to copy;
- use the software in any way that is against the law;
- rent, lease or lend the software; or
- use the software for commercial software hosting services.

7. BACKUP COPY. You may make one backup copy of the media. You may use it only to reinstall the software.

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- 8. DOCUMENTATION.** Any person that has valid access to your computer or internal network may copy and use the documentation for your internal, reference purposes.
- 9. NOT FOR RESALE SOFTWARE.** You may not sell software marked as “NFR” or “Not for Resale.”
- 10. ACADEMIC EDITION SOFTWARE.** You must be a “Qualified Educational User” to use software marked as “Academic Edition” or “AE.” If you do not know whether you are a Qualified Educational User, visit www.microsoft.com/education or contact the Microsoft affiliate serving your country.
- 11. HOME USE RIGHTS SOFTWARE.** You must be a “Home Use Rights User” to use software marked as “Home Use Rights Edition.” To be a Home Use Rights User, you must be both:
 - an employee of an organization that has a Microsoft Volume License agreement with Software Assurance, and
 - the user of a licensed copy of the software, or a product that includes the software, with active Software Assurance.
- 12. UPGRADE OR CONVERSION.** To upgrade or convert software, you must first be licensed for the software that is eligible for the upgrade or conversion. Upon upgrade or conversion, this agreement takes the place of the agreement for the software you upgraded or converted from. After you upgrade or convert, you may no longer use the earlier version of the software you upgraded or converted from.
- 13. REASSIGN TO ANOTHER DEVICE.** You may reassign the license to a different device any number of times, but not more than one time every 90 days. If you reassign, that other device becomes the “licensed device.” If you retire the licensed device due to hardware failure, you may reassign the license sooner.
- 14. TRANSFER TO A THIRD PARTY.** The first user of the software may make a one-time transfer of the software, and this agreement, directly to another end user as part of a transfer of the integrated software turnkey application or suite of applications (the “Unified Solution”) delivered to you by or on behalf of the Licensor solely as part of the Unified Solution. The first user must uninstall the software before transferring it separately from the device. The first user may not retain any copies. Before any permitted transfer, the end user must agree that this agreement applies to the transfer and use of the software.
- 15. EXPORT RESTRICTIONS.** The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see www.microsoft.com/exporting.
- 16. ENTIRE AGREEMENT.** This agreement, any addendum or amendment included with the software, and the terms for supplements, updates and Internet-based services that you use, are the entire agreement for the software.
- 17. LEGAL EFFECT.** This agreement describes certain legal rights. You may have other rights under the laws of your state or country. You may also have rights with respect to the Licensor from whom you acquired the software. This agreement does not change your rights under the laws of your state or country if the laws of your state or country do not permit it to do so.
- 18. NOT FAULT TOLERANT. THE SOFTWARE IS NOT FAULT TOLERANT. LICENSOR HAS INDEPENDENTLY DETERMINED HOW TO USE THE SOFTWARE IN THE INTEGRATED SOFTWARE APPLICATION OR SUITE OF APPLICATIONS THAT IT IS LICENSING TO YOU, AND MICROSOFT HAS**

**RELIED ON LICENSOR TO CONDUCT SUFFICIENT TESTING TO
DETERMINE THAT THE SOFTWARE IS SUITABLE FOR SUCH USE.**

- 19. NO WARRANTIES BY MICROSOFT. YOU AGREE THAT IF YOU HAVE
RECEIVED ANY WARRANTIES WITH REGARD TO EITHER (A) THE
SOFTWARE, OR (B) THE SOFTWARE APPLICATION OR SUITE OF
APPLICATIONS WITH WHICH YOU ACQUIRED THE SOFTWARE, THEN
THOSE WARRANTIES ARE PROVIDED SOLELY BY THE LICENSOR AND DO
NOT ORIGINATE FROM, AND ARE NOT BINDING ON, MICROSOFT.**
- 20. NO LIABILITY OF MICROSOFT FOR CERTAIN DAMAGES. TO THE
MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MICROSOFT
SHALL HAVE NO LIABILITY FOR ANY INDIRECT, SPECIAL,
CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING FROM OR IN
CONNECTION WITH THE USE OR PERFORMANCE OF THE SOFTWARE OR
THE SOFTWARE APPLICATION OR SUITE OF APPLICATIONS WITH WHICH
YOU ACQUIRED THE SOFTWARE, INCLUDING WITHOUT LIMITATION,
PENALTIES IMPOSED BY GOVERNMENT. THIS LIMITATION WILL APPLY
EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. IN NO EVENT
SHALL MICROSOFT BE LIABLE FOR ANY AMOUNT IN EXCESS OF TWO
HUNDRED FIFTY U.S. DOLLARS (US\$250.00).**

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**CALL OFF SCHEDULE 17: GDPR (VARIATION OF MULTIFUNCTIONAL DEVICES, MANAGED
PRINT AND CONTENT SERVICES AND RECORDS INFORMATION MANAGEMENT
(RM3781))**

27th April 2018

**(1) THE MINISTER FOR THE CABINET OFFICE ("CABINET OFFICE") AS
REPRESENTED BY CROWN COMMERCIAL SERVICE
(2) XEROX (UK) LTD**

**VARIATION OF MULTIFUNCTIONAL DEVICES, MANAGED PRINT AND CONTENT
SERVICES AND RECORDS INFORMATION MANAGEMENT (RM3781)**

SEQUENTIAL NUMBER: ICM/3781/GDPR/022

THIS VARIATION is made on 27th April 2018 **BETWEEN -**

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THE MINISTER FOR THE CABINET OFFICE ("Cabinet Office") as represented by Crown Commercial Service, a trading fund of the Cabinet Office, whose offices are located at 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP ("**Authority**") and **XEROX (UK) LTD** which is a company registered in England and Wales under company number 330754 and whose registered office is at **Waterside**, Oxford Road, Uxbridge, Middlesex UB8 1HS ("**Supplier**")

WHEREAS

- (1) The Parties hereto entered into an agreement dated 28th November 2016 (Lot 2), 26th October 2016 (Lot 3) and 12th December 2016 (Lot 5) for provision of Multifunctional Devices, Managed Print and Content Services and Records Information Management (the "Framework Agreement").
- (2) The Parties wish to vary the terms of the Framework Agreement in order to reflect agreed changes.
- (3) This Variation legally implements these agreed changes.

IT IS NOW AGREED

The Framework Agreement is varied as follows:

[Framework Schedule 1 and] Call-Off Schedule 1 Definitions

The following definitions shall be deleted:

"Processing"

The following definitions shall be revised as follows:

"Data Protection Legislation" means:

- i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time;*
- ii) the DPA to the extent that it relates to processing of personal data and privacy;*
- iii) all applicable Law about the processing of personal data and privacy;*

"Data Subject" has the meaning given in the GDPR;

"Personal data" has the meaning given in the GDPR;

"Staffing Information" the reference to "DPA" shall be replaced with "Data Protection Legislation"

The following new definitions shall be introduced:

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“Controller” has the meaning given in the GDPR;

“Data Protection Officer” has the meaning given in the GDPR;

“Data Subject Access Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

“DPA” means the Data Protection Act 2018 as amended from time to time;

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679)

“LED” means the Law Enforcement Directive (Directive (EU) 2016/680)

“Protective Measures” appropriate technical and organisational measures which may include: pseudonymising 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 the such measures adopted by it;

“Processor” has the meaning given in the GDPR;

“Personal Data Breach” has the meaning given in the GDPR;

“Sub-processor” any third party appointed to process Personal Data on behalf of the Supplier related to this agreement;

Changes to Framework Clauses

This Framework Agreement is varied as follows:

The whole of Framework Clause 27.5 Data Protection shall be deleted and replaced by the following provision

27.5.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Schedule 23 (Authorised Processing Template) by the Authority and may not be determined by the Supplier.

27.5.2 The Supplier shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

27.5.3 The Supplier shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

27.5.4 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement:

(a) process that Personal Data only in accordance with Schedule 23 (Authorised Processing Template), unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:

(i) nature of the data to be protected;

(ii) harm that might result from a Data Loss Event;

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- (iii) *state of technological development; and*
 - (iv) *cost of implementing any measures;*
 - (c) *ensure that :*
 - (i) *the Supplier Personnel do not process Personal Data except in accordance with this Framework Agreement (and in particular Schedule 23 ((Authorised Processing Template));*
 - (ii) *it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:*
 - (A) *are aware of and comply with the Supplier's duties under this Clause;*
 - (B) *are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;*
 - (C) *are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by this Framework Agreement; and*
 - (D) *have undergone adequate training in the use, care, protection and handling of Personal Data;*
 - (d) *not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:*
 - (i) *the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;*
 - (ii) *the Data Subject has enforceable rights and effective legal remedies;*
 - (iii) *the Supplier 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 the Authority in meeting its obligations); and*
 - (iv) *the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;*
 - (e) *at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Framework Agreement unless the Supplier is required by Law to retain the Personal Data.*

27.5.5 *Subject to Clause 27.5.7, the Supplier shall notify the Authority immediately if it:*

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);*
- (b) receives a request to rectify, block or erase any Personal Data;*
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;*
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Framework Agreement;*
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or*
- (f) becomes aware of a Data Loss Event.*

27.5.6 *The Supplier's obligation to notify under Clause 27.5.5 shall include the provision of further information to the Authority in phases, as details become available.*

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27.5.7 Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 27.5.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Authority following any Data Loss Event;
- (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

27.5.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:

- (a) the Authority determines that the processing is not occasional;
- (b) the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

27.5.9 The Supplier shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.

27.5.10 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.

27.5.11 Before allowing any Sub-processor to process any Personal Data related to this Framework Agreement, the Supplier must:

- (a) notify the Authority in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Authority;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 27.5.11 such that they apply to the Sub-processor; and
- (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.

27.5.12 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.

27.5.13 The Supplier may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Framework Agreement).

27.5.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Supplier amend this Framework Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

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A New Schedule Framework shall be added in the form set out in the document titled Schedule 23 (*Authorised Processing Template*) for Framework Agreement.

Framework Schedule 4b: Call Off Terms (Lot 2, 3 and 5) and Framework Schedule 4c: Lease Agreement (Lot 2) is varied as follows:

Clause 34.7 Protection of Personal Data shall be replaced with the following provisions:

34.7.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Schedule 16 (Authorised Processing Template) by the Customer and may not be determined by the Supplier.

34.7.2 The Supplier shall notify the Customer immediately if it considers that any of the Customer instructions infringe the Data Protection Legislation.

34.7.3 The Supplier shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;*
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;*
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and*
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.*

34.7.4 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Call Off Contract:

- (a) process that Personal Data only in accordance with Schedule 16 (Authorised Processing Template), unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;*
- (b) ensure that it has in place Protective Measures which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:*
 - (i) nature of the data to be protected;*
 - (ii) harm that might result from a Data Loss Event;*
 - (iii) state of technological development; and*
 - (iv) cost of implementing any measures;*
- (c) ensure that :*
 - (i) the Supplier Personnel do not process Personal Data except in accordance with this Call Off Contract (and in particular Schedule 16 (Authorised Processing Template));*
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:*
 - (A) are aware of and comply with the Supplier's duties under this Clause;*
 - (B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;*

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(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Call Off Contract; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data;

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Supplier 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 the Customer in meeting its obligations); and

(iv) the Supplier complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

(e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Call Off Contract unless the Supplier is required by Law to retain the Personal Data.

34.7.5 *Subject to Clause 34.7.7, the Supplier shall notify the Customer immediately if it:*

(f) receives a Data Subject Access Request (or purported Data Subject Access Request);

(g) receives a request to rectify, block or erase any Personal Data;

(h) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(i) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Call Off Contract;

(j) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

(k) becomes aware of a Data Loss Event.

34.7.6 *The Supplier's obligation to notify under Clause 34.7.5 shall include the provision of further information to the Customer in phases, as details become available.*

34.7.7 *Taking into account the nature of the processing, the Supplier shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 34.7.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:*

(a) the Customer with full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

(c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the Customer following any Data Loss Event;

(e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.

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34.7.8 *The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:*

- (a) the Customer determines that the processing is not occasional;*
- (b) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and*
- (c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.*

34.7.9 *The Supplier shall allow for audits of its Data Processing activity by the Customer or the Customer designated auditor.*

34.7.10 *The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.*

34.7.11 *Before allowing any Sub-processor to process any Personal Data related to this Call Off Contract, the Supplier must:*

- (a) notify the Customer in writing of the intended Sub-processor and processing;*
- (b) obtain the written consent of the Customer;*
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 34.7.11 such that they apply to the Sub-processor; and*
- (d) provide the with such information regarding the Sub-processor as the Customer may reasonably require.*

34.7.12 *The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.*

34.7.13 *The Supplier may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Call Off Contract).*

34.7.14 *The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Supplier amend this Call Off Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.*

In Call-Off and Lease Agreement Schedule 10 – Staff Transfer Part D (Employment Exit Provisions) Paragraph 1 the reference to “DPA” shall be replaced with “Data Protection Legislation”

A new Schedule shall be added in the form set out in the document titled Schedule 16 (*Authorised Processing Template*) for Call Off Contract and Lease Agreement.

Signed for and on behalf of XEROX (UK) LTD (THE SUPPLIER)

By:

Name:

**ITT4546 - Highways England Managed Print Service Competition - Managed Print
Services Framework RM3781 Lot 3**

Title:
Date:

Signed for and on behalf of the AUTHORITY
By:
Name:
Title:
Date:

**ITT4546 - Highways England Managed Print Service Competition - Managed Print
Services Framework RM3781 Lot 3**

FRAMEWORK AGREEMENT

Schedule 23 Authorised Processing Template

1. The contact details of the Authority Data Protection Officer is:

██████████
Data Protection Officer
Piccadilly Gate
Store Street
Manchester
M1 2WD
DataProtectionAdvice@highwaysengland.co.uk

2. The contact details of the Manager for Supplier Personal Data queries is:

██████████
UK Information Security Manager
Xerox (UK) Limited
Building 04
Uxbridge Business Park
Sanderson Road
Uxbridge
Middlesex
UB8 1DH
Rob.Baynton@xerox.com

3. The Processor shall comply with any further written instructions with respect to processing by the Controller.

4. Any such further instructions shall be incorporated into this Schedule.

Contract Reference:	RM3781
Description Of Authorised Processing	Details
Identity of the Controller and Processor Customer as Controller The data managed by the Customer and made available to the Supplier is contained within the Customers Active Directory/ServiceNow repositories & Systems. Data also resides in the Xerox Service Management (XSM) system which is hosted by the Customer. The Customer is responsible for providing and informing the Supplier regarding starter and leaver information.	For the purposes of the service the Customer will be the Controller. Xerox will have access to some personal data for the purposes of delivering the service but his will be accessed directly for the Customer systems. The Xerox Print tools used for the delivery of the service are managed by the Customer with Authorised Xerox staff having access through an agreed method. The Parties acknowledge that for the purposes of the Data Protection Legislation: (a) the Customer is the Controller and the Supplier is the Processor for the following Personal Data under this Contract: (i) Names and Addresses of Highways England home workers. After initial rollout it is envisaged that this access will be infrequent.
Subject matter of the processing	Xerox will require the names and addresses of Highways England home workers for the

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	delivery of devices and support requests.
Duration of the processing	Life of the contract
Nature and purposes of the processing	The name and address of the Highways England home workers. This information is on the Customer system and will be accessed at rollout of the service and on an ad-hoc basis for support requests.
Type of Personal Data	Name, Address
Categories of Data Subject	Highways England home workers
	Xerox will only hold the data for the duration required and it will be removed once the required task has been completed. Once an Incident ticket or Service Request is closed on ServiceNow, the name and address information is deleted by Xerox and their deliver partner.

CALL OFF CONTRACT (Lot 2, 3 and 5) AND LEASE AGREEMENT (Lot 2)

Schedule 16 Authorised Processing Template

1. The contact details of the Customer Data Protection Officer is:


 Data Protection Officer
 Piccadilly Gate
 Store Street
 Manchester
 M1 2WD
DataProtectionAdvice@highwaysengland.co.uk

2. The contact details of the Manager for Supplier Personal Data queries is:


 UK Information Security Manager
 Xerox (UK) Limited
 Building 04
 Uxbridge Business Park
 Sanderson Road
 Uxbridge
 Middlesex
 UB8 1DH


3. The Processor shall comply with any further written instructions with respect to processing by the Controller.

4. Any such further instructions shall be incorporated into this Schedule.

Contract Reference:	RM3781
Description Of Authorised Processing	Details

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Identity of the Controller and Processor Customer as Controller The data managed by the Customer and made available to the Supplier is contained within the Customers Active Directory/ServiceNow repositories & Systems. Data also resides in the Xerox Service Management (XSM) system which is hosted by the Customer. The Customer is responsible for providing and informing the Supplier regarding starter and leaver information.	For the purposes of the service the Customer will be the Controller. Xerox will have access to some personal data for the purposes of delivering the service but this will be accessed directly for the Customer systems. The Xerox Print tools used for the delivery of the service are managed by the Customer with Authorised Xerox staff having access through an agreed method. The Parties acknowledge that for the purposes of the Data Protection Legislation: (a) the Customer is the Controller and the Supplier is the Processor for the following Personal Data under this Contract: (i) Names and Addresses of Highways England home workers. After initial rollout it is envisaged that this access will be infrequent.
Subject matter of the processing	Xerox will require the names and addresses of Highways England home workers for the delivery of devices and support requests.
Duration of the processing	Life of the contract
Nature and purposes of the processing	The name and address of the Highways England home workers. This information is on the Customer system and will be accessed at rollout of the service and on an ad-hoc basis for support requests.
Type of Personal Data	Name, Address
Categories of Data Subject	Highways England home workers
	Xerox will only hold the data for the duration required and it will be removed once the required task has been completed. Once an Incident ticket or Service Request is closed on ServiceNow, the name and address information is deleted by Xerox and their deliver partner.

Annex A – Data Sharing Agreement

[Guidance: insert only where Option D applies in Schedule 22 (Authorised Processing Template) Schedule 16 (Authorised Processing Template)]

Template available on request.

To be populated in collaboration with the Parties respective Data Protection Officers.