



Department
for Environment
Food & Rural Affairs

Animal Plant and Health Modelling Services Framework Agreement

Reference: C23884

March 2024

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SECTION 1

FORM OF AGREEMENT

THIS AGREEMENT is made on 01 April 2024

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS** of Seacole Building, 2 Marsham Street, London, SW1P 4DF, United Kingdom (the “**Authority**”);

AND

- (2) **The University of Newcastle upon Tyne** (registered in England and Wales under number 03068111) whose registered office is King's Gate, Newcastle Upon Tyne, NE1 7RU (the “**Framework Provider**”)

WHEREAS:

- (A) The Authority placed contract notice 2023/S 000-036084 on 07 December 2023 on the Find a Tender Service seeking Tenders from potential service providers to establish a multiple source framework for the supply of Animal and Plant Health Modelling Services (divided into Lots) to itself and any Contracting Body identified in the contract notice.
- (B) Following the issue of an Invitation to Tender, the Framework Provider submitted a tender on 29 January 2024 for the provision of the Services.
- (C) On the basis of the Framework Provider's tender, the Authority selected the Framework Provider to enter into a Framework Agreement to provide Services to the Authority and any Contracting Body on a Call-Off basis in respect of the Framework Provider's lot(s) in accordance with this Framework Agreement.
- (D) This Framework Agreement sets out the terms and conditions on which the Framework Provider will supply the Services to the Authority and any Contracting Body and the procedure that the Authority and any Contracting Body will use to order Services from the Framework Provider.
- (E) There is no obligation for the Authority and/or any Contracting Body to place orders with the Framework Provider under this Framework Agreement.

NOW IT IS HEREBY AGREED as follows:

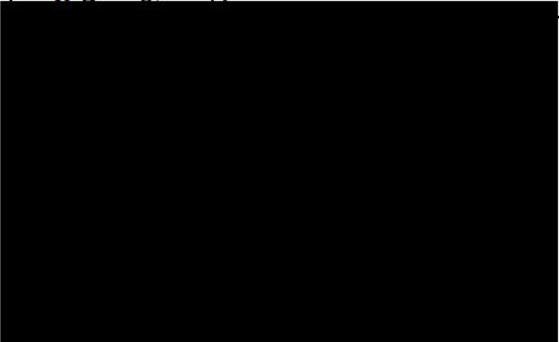
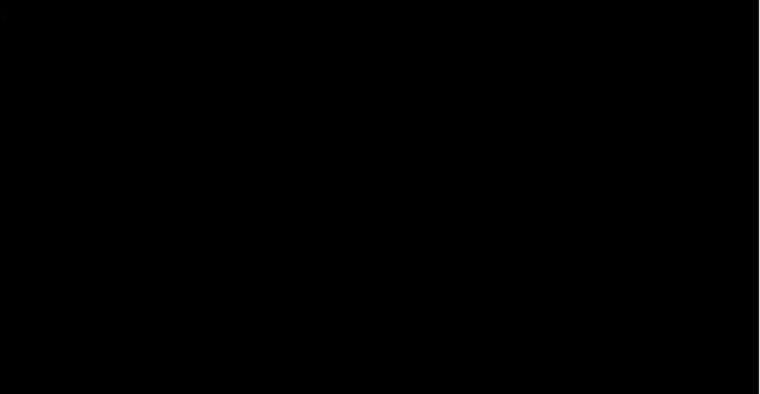
TERMS OF THIS FRAMEWORK AGREEMENT

1. The Authority appoints the Framework Provider as a potential provider of Services in accordance with the terms and conditions of this Framework Agreement which comprises all the documents set out below and incorporates all the Standard Terms and Conditions set out in Section 2 and the Schedules and Appendices below.
2. **This Framework Agreement comprises the following:**

Section 1 Parties, Recitals, Terms, Signatures

Section 2	Standard Terms and Conditions of Framework Agreement
Schedule 1	Definitions
Schedule 2	Specification
Schedule 3	Pricing Matrix
Schedule 4	Call Off Procedure
Schedule 5	Call Off Terms and Conditions
Schedule 6	Call Off Order Form
Schedule 7	Data Processing Schedule
Schedule 8	Business Continuity and Disaster Recovery
Schedule 9	Change Control Notice
Schedule 10	Non-disclosure Agreement
Schedule 11	Commercially Sensitive Information
Schedule 12	Framework Provider and Third Party Software
Schedule 13	Framework Providers Tender Response
Schedule 14	Security Requirements

3. The Contract is formed on the date on which both Parties validly execute the Contract and communicate acceptance of its terms on the Authority’s electronic contract management system (“Atamis”).

Framework Provider Signature:	Authority Signature:
	

SECTION 2

STANDARD TERMS AND CONDITIONS OF FRAMEWORK AGREEMENT

1 DEFINITIONS AND INTERPRETATION

In this Framework Agreement, the interpretation and construction of the Contract shall be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (e) references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (f) the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- (g) headings are included in the Framework Agreement for ease of reference only and shall not affect the interpretation or construction of the Framework Agreement;
- (h) the Schedules and Annexes form part of the Framework Agreement and shall have effect as if set out in full in the body of the Framework Agreement and any reference to the Framework Agreement shall include the Schedules and Annexes;
- (i) references in the Framework Agreement to any clause or sub-clause or Schedule or Annex without further designation shall be construed as a reference to the clause or sub-clause or Schedule or Annex to the Framework Agreement so numbered; and
- (j) references in the Framework Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule or Annex to the Framework Agreement so numbered.
- (k) any reference in this Framework Agreement which immediately before the IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):

- i. any EU regulation, EU decision, EU tertiary legislation or provision of the European Economic Area (“**EEA**”) agreement (“EU References”) which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - ii. any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.
- (l) capitalised expressions shall have the meanings set out in Schedule 1 to this Framework Agreement or the relevant Framework Agreement schedule in which that capitalised expression appears.
 - (m) if a capitalised expression does not have an interpretation in Schedule 1 to this Framework Agreement or the relevant Framework Agreement schedule, it shall have the meaning given to it in this Framework Agreement. If no meaning is given to it in this 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

1.2 Subject to clause 1.3, in the event and to the extent only of a conflict between any of the provisions of this Framework Agreement, the conflict shall be resolved, in accordance with the following descending order for precedence:

- 1.2.1 Section 1: Parties, Recitals, Terms, Signatures and Section 2: Standard Terms and Conditions of Framework Agreement and Framework Agreement Schedule 1 Definitions; and
- 1.2.2 Framework Agreement Schedules 2-14 inclusive.

1.3 If there is any conflict between the provisions of this Framework Agreement and provisions of any Call-Off Contract, the provisions of the Framework Agreement shall prevail over those of the Call-Off Contract save that:

- 1.3.1 any special conditions or variations set out in the Order Form (provided that such conditions or such variations do not amount to a material change of this Framework Agreement within the meaning of the Public Contracts Regulations) forming part of the Call-Off Contract shall prevail over the Framework Agreement and the Call-Off Terms and Conditions set out in Schedule 5.

2 TERM OF FRAMEWORK AGREEMENT

- 2.1 This Framework Agreement commences on the date set out at the top of section 1 (the “**Framework Commencement Date**”) and shall expire at the end of the third (3rd) Contract Year, unless it is terminated earlier in accordance with the terms of this Framework Agreement or otherwise by operation of Law.
- 2.2 The Authority may extend the term of the Agreement by up to a maximum of 12 months (“**Extension**”). The terms of the Agreement will apply throughout the period of any Extension.

3 SCOPE OF THE FRAMEWORK AGREEMENT

- 3.1 This Framework Agreement governs the relationship between the Authority and the Framework Provider in respect of the provision of the Services by the Framework Provider to a Contracting Body.
- 3.2 A Contracting Body (subject to the following provisions) may at its absolute discretion and from time to time order Services from the Framework Provider in accordance with the Call-Off Contract award procedure specified in clause 6.
- 3.3 The Framework Provider acknowledges that there is no obligation for the Authority or any Contracting Body to purchase any Services from the Framework Provider during the term of the Framework Agreement.
- 3.4 The Parties agree that the Authority, on its own behalf and as agent for each of the Customers, shall:
 - 3.4.1 have conduct of all claims and disputes against the Framework Provider pursuant to this Framework Agreement (with Customers having the right to conduct enforcement actions pursuant to their individual Call-Off Contracts);
 - 3.4.2 agree any variations to this Framework Agreement on behalf of all Contracting Bodies without their specific consent;
 - 3.4.3 have the right to enforce the terms, conditions, undertakings, representations, warranties and other provisions of this Framework Agreement; and
 - 3.4.4 recover loss suffered by any of the Customers.

4 FRAMEWORK PROVIDER'S APPOINTMENT

- 4.1 The Authority appoints the Framework Provider as a potential provider of the Services referred to in the Framework Provider's Lots and the Framework Provider shall be eligible to be considered for the award of orders for such Services in the Lots which they have been awarded, by a Contracting Body during the term of the Framework Agreement.

5 NON-EXCLUSIVITY

- 5.1 The Framework Provider acknowledges that, in entering into this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Authority and any Contracting Body for Services from the Framework Provider and that the Contracting Bodies are at all times entitled to enter into other contracts and arrangements with other Framework Providers and any other third parties for the provision of any or all Services which are the same as or similar to the Services.

6 CALL-OFF CONTRACT AWARD PROCEDURE

- 6.1 If a Contracting Body has a requirement for any of the Services in respect of any Lot to which the Framework Provider has been appointed, the Contracting Body may award a Call-Off Contract to the Framework Provider in accordance with the terms laid down in Schedule 4 Call-Off Procedure.
- 6.2 Any Contracting Body ordering Services under the Framework Agreement shall:
 - 6.2.1 identify the relevant Lot into which its Services and requirements fall and which Selection Methodology is applicable;

- 6.2.2 determine whether to utilise the Mini-competition approach or whether to apply the direct award procedure;
- 6.2.3 notify the successful Framework Provider(s) of an Order following the process set out in Schedule 4 Call-Off Procedure.

6.3 If the Framework Provider:

- 6.3.1 notifies the Contracting Body that it declines to accept an order for Services; or
- 6.3.2 the applicable time-limit for responding to an order for Services referred to in Schedule 4 has expired;

then the offer from the Contracting Body to the Framework Provider shall lapse and the relevant Contracting Body may offer that order for Services to the next applicable Framework Provider in accordance with the Selection Methodology.

- 6.4 The Framework Provider in agreeing to accept an Order pursuant to the procedure specified in Schedule 4 shall be deemed to have entered into a Call-Off Contract with the relevant Contracting Body for the provision of Services referred to in the Order Form.
- 6.5 Each Call-Off Contract shall have a maximum Contract Period of two years, unless otherwise approved by the Authority.

7 RESPONSIBILITY FOR AWARDS

- 7.1 The Framework Provider acknowledges that each Contracting Body is independently responsible for the conduct of its award of Call-Off Contracts under the Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
 - 7.1.1 the conduct of any Contracting Body (except the Authority) in relation to the Framework Agreement; or
 - 7.1.2 the performance or non-performance of any Call-Off Contracts between the Framework Provider and any Contracting Body (except the Authority) entered into pursuant to the Framework Agreement.

8 WARRANTIES AND REPRESENTATIONS

- 8.1 The Authority and the Framework Provider warrant and represent to each other that:
 - 8.1.1 each party has full capacity and authority to enter into and perform its obligations under this Framework Agreement;
 - 8.1.2 this Framework Agreement is executed by a duly authorised representative of each party;
 - 8.1.3 each party has not committed and will not commit any fraud by entering into this Framework Agreement.
- 8.2 The Framework Provider warrants and represents to the Authority and to each of the other Contracting Bodies that:
 - 8.2.1 all information, statements and representations contained in its response to the Invitation to Tender are true and accurate and not misleading and that information,

statements and representations made in tendering for work under the Call-Off process will be true and accurate;

- 8.2.2 no claim is being asserted and no litigation or similar action or potential litigation is being taken against it that might affect its ability to provide its obligations under this Framework Agreement or any Call-Off Contract;
- 8.2.3 it is not subject to any contractual obligation that is likely to have a detrimental effect on its ability to perform its obligations under this Framework Agreement or any Call-Off Contract;
- 8.2.4 it has not committed or agreed to commit a Prohibited Act and has no knowledge that an agreement has been reached involving the committal by it or any of its Affiliates of a Prohibited Act, save where details of any such arrangement have been disclosed in writing to the Authority before the Framework Commencement Date;
- 8.2.5 it has not 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;
- 8.2.6 it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority or any Contracting Body, or that an agreement has been reached to that effect, in connection with the execution of the Framework Agreement or any Call-Off Contract, excluding any arrangement of which full details have been disclosed in writing to the Authority or relevant Contracting Body before execution of the Framework Agreement or Call-Off Contract.
- 8.2.7 it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Framework Provider's obligations, all licences, authorisations, permits and necessary consents under the Framework Agreement;
- 8.2.8 neither the Framework Provider nor any of its Staff or other persons associated with it:
 - 8.2.8.1 has been convicted of any offence involving slavery and human trafficking; and
 - 8.2.8.2 to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 8.2.9 neither the Framework Provider nor any of its Staff or other persons associated with it is currently nor has previously been subject to either formal criminal investigation or to a prosecution involving any animal health, animal welfare, animal transport or animal by-product related offences, save where full details of any such investigation or prosecution have been disclosed in writing to the Authority or relevant Contracting Body before execution of the Framework Agreement or Call-Off Contract.

- 8.3 Each of the representations and warranties set out in clauses 8.1 and 8.2 shall be construed as a separate warranty and representation and shall not be limited or restricted by reference to or inference from the terms of any other representation, warranty or any other undertaking in this Framework Agreement.

- 8.4 If at any time the Framework Provider becomes aware that a representation or warranty given by it under clauses 8.1 and 8.2 has been breached, is untrue or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.
- 8.5 For the avoidance of doubt, the fact that any provision within this Framework Agreement is expressed as a warranty shall not preclude any right of termination the Authority may have in respect of the breach of that provision by the Framework Provider which constitutes a Default of this Framework Agreement.

9 PERFORMANCE

- 9.1 The Framework Provider shall perform all Call-Off Contracts entered into with a Contracting Body in accordance with the requirements of the Order Form, this Framework Agreement and the Call-Off Contract, including but not limited to the Specification and any protocols, policies or other documents referred to therein.
- 9.2 Wherever reasonably requested to do so by the Authority, the Framework Provider shall cooperate fully with any Contracting Body and its representatives in providing the Services, and with other contractors providing services at the Premises.
- 9.3 The Framework Provider shall provide all equipment, consumables, plant, materials and other such items and resources necessary for the supply of the Services, unless otherwise agreed by a Customer in an Order Form or under a Call-Off Contract.
- 9.4 The Framework Provider shall at all times during the Framework Agreement comply with the Specification set out in Schedule 2 and obligations during the term of the Framework Agreement set out in the remaining Schedules.
- 9.5 The Framework Provider shall:
- 9.5.1 obtain and maintain all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable the provision of any of the Services;
 - 9.5.2 provide the Authority with such assistance as the Authority may reasonably require during the Framework Term in connection with the management and administration of this Framework Agreement; and
 - 9.5.3 promptly notify the Authority in the event that it undergoes a Change of Control.
- 9.6 Where this Framework Agreement places an obligation on the Framework Provider to do, or refrain from doing, any act or thing, this will also mean that the Framework Provider shall use reasonable endeavours to procure that all Sub-Contractors and Staff also do, or refrain from doing, such act or thing.
- 9.7 The Framework Provider shall develop and maintain a disaster recovery plan in accordance with Schedule 8 for use in the case of a disaster or other event (or combination of events) that might result in the loss or partial loss of availability of Services and shall, in the case of a disaster arising, implement that plan in accordance with Schedule 8.

10 PREVENTION OF FRAUD AND BRIBERY

- 10.1 The Framework Provider shall not:

- 10.1.1 commit a Prohibited Act; and/or
- 10.1.2 do or suffer anything to be done which would cause the Authority, any Contracting Body or any of their respective 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.
- 10.2 The Framework Provider shall, during the Term of this Framework Agreement:
 - 10.2.1 establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
 - 10.2.2 keep appropriate records of its compliance with its obligations under clause 10.1.1 and make such records available to the Authority on request.
- 10.3 The Framework Provider shall immediately notify the Authority in writing if it becomes aware of a breach of this clause 10 or has reason to believe that it has or any of the Staff have:
 - 10.3.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 10.3.2 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
 - 10.3.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of Services or otherwise suspects that any person directly or indirectly connected with the performance of Services has committed or attempted to commit a Prohibited Act.
- 10.4 The Framework Provider shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation in connection with any breach, or suspected breach of this clause 10.
- 10.5 If the Framework Provider is in Default under clause 10.1, the Authority may by notice:
 - 10.5.1 require the Framework Provider to remove from performance of Services any Staff whose acts or omissions have caused the Default; or
 - 10.5.2 immediately terminate this Framework Agreement.
- 10.6 Any notice served by the Authority under clause 10.5 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract shall terminate).
- 10.7 Any termination under this clause 10 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

11 DISCRIMINATION

- 11.1 The Framework Provider shall provide the Services and perform its obligations under this Framework Agreement in accordance with:
- 11.1.1 all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
 - 11.1.2 the Authority and/or a Customer's equality and diversity policy as given to the Framework Provider from time to time; and
 - 11.1.3 any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law.
- 11.2 The Framework Provider shall take all necessary steps to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation). The Framework Provider shall inform the Authority on request of the steps taken to comply with this clause.

12 STAFF

- 12.1 The Framework Provider shall:
- 12.1.1 ensure that all Staff:
 - 12.1.1.1 are appropriately qualified, trained and experienced to perform its obligations under this Framework Agreement and to provide the Services under a Call-Off Contract with reasonable skill, care and diligence;
 - 12.1.1.2 in respect of the provision of Services, are lawfully entitled to work in the United Kingdom.
 - 12.1.2 retain overall control of the Staff at all times so that the Staff shall not be deemed to be employees, agents, workers or contractors of the Authority or any Customer;
 - 12.1.3 comply with all applicable Laws relating to its Staff, in particular, the Modern Slavery Act 2015,
 - 12.1.4 be liable at all times for all acts and omissions of Staff, so that any act or omission of Staff which results in a Default under this Framework Agreement or any Call-Off Agreement shall be a Default by the Framework Provider.
- 12.2 This Framework Agreement and all Call-Off Contracts entered into pursuant to its terms shall constitute a contract for the provision of services and not a contract of employment and accordingly, the Framework Provider shall be fully responsible for and shall indemnify the Authority for and in respect of any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Framework Provider or any of its Staff against the Authority arising out of or in connection with the provision of the Services.
- 12.3 If the Authority reasonably believes that any of the Staff are unsuitable to undertake work in respect of this Framework Agreement , it may direct the Framework Provider to end the involvement of the relevant Staff in any work connected to this Framework Agreement and/or

assign an appropriate member of Staff to supervise such work or take over the role of the member of Staff so deemed as unsuitable (at the Framework Provider's expense).

- 12.4 The Framework Provider shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- 12.5 The Framework Provider undertakes not to purchase any materials or services from producers, farmers or manufacturers where it has actual knowledge that those producers, farmers or manufacturers are using forced labour in their operations.
- 12.6 In addition to the record keeping requirements in clause 21 of the Framework Agreement and any specific record-keeping obligations under a Call-Off Contract, the Framework Provider shall:
 - 12.6.1 maintain a complete set of records to trace the supply chain of all Services provided to Customers in connection with this Framework Agreement; and
 - 12.6.2 implement annual supplier and subcontractor audits, either directly or through a third party auditor to monitor compliance with the anti-slavery Laws.
- 12.7 The Framework Provider shall notify the Authority (and any Customers with which it has entered a Call-Off Contract) as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Framework Agreement.

13 PRICES FOR SERVICES

- 13.1 The prices offered by the Framework Provider for Call-Off Contracts to Contracting Bodies for the Services shall be calculated at rates not exceeding those rates listed in the Pricing Matrix (Schedule 3) for the relevant Framework Provider's Lot. Subject to any variations made in accordance with clause 13.2, the prices listed in the Pricing Matrix shall apply throughout the Framework Term.
- 13.2 The Framework Provider is entitled to propose a variation to the rates listed in the Pricing Matrix once per year. Any proposed variation to the rates should be submitted in writing, including appropriate justification to support the proposal, to the Contract Manager at least two (2) calendar months before the variation is proposed to take effect. Justification should include the reasons for requesting the variation, for example detailing any increase in costs for a specific area of Service, including reasons for any rate decrease. The Authority reserves the right to refuse a proposed variation if it considers that appropriate justification for the variation is not provided, or if it exceeds the average rate of inflation as measured by the CPI over each complete month of the current financial year. Any agreed variation shall be recorded in a Change Control Notice and will take effect on the next anniversary of the Framework Commencement Date.
- 13.3 The Authority is entitled to propose a variation to the rates listed in the Pricing Matrix once per year. Any proposed variation to the rates should be submitted in a Change Control Notice as set out in Schedule 9, including appropriate justification to support the proposal, to the Framework Provider at least two (2) calendar months before the variation is proposed to take effect. Any agreed variation will take effect on the next anniversary of the Framework Commencement Date.

14 TAX COMPLIANCE

- 14.1 If, during the term of this Framework Agreement, an Occasion of Tax Non-Compliance occurs, the Framework Provider shall:
- 14.1.1 notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
 - 14.1.2 promptly provide to the Authority:
 - 14.1.2.1 details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - 14.1.2.2 such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- 14.2 If the Framework Provider or any Staff are liable to be taxed in the UK or to pay National Insurance Contributions in respect of consideration received under a Call-Off Contract, the Framework Provider shall:
- 14.2.1 at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all Laws relating to income tax, and the Social Security Contributions and Benefits Act 1992 (including IR35) and all other Laws relating to National Insurance Contributions ("NICs"), in respect of that consideration; and
 - 14.2.2 indemnify the Authority against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Framework Provider or any Staff.

15 OFFICIAL SECRETS ACT, FINANCE ACT

- 15.1 The Framework Provider shall comply with, and shall ensure that its Staff comply with, the provisions of:
- 15.1.1 the Official Secrets Acts 1911 to 1989; and
 - 15.1.2 Section 182 of the Finance Act 1989.
- 15.2 In the event that the Framework Provider or its Staff fail to comply with this clause 15, the Authority reserves the right to terminate or suspend the Framework Agreement by giving notice in writing to the Framework Provider.
- 15.3 A suspension notice given to a Framework Provider pursuant to clause 15.2 must specify the period of suspension.

16 CONFIDENTIAL INFORMATION

- 16.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in any Call-Off Contract, the Framework Provider shall treat all Confidential Information supplied by, concerning, belonging or relating to the Authority as confidential and in accordance with the HMG Security Policy Framework and shall not disclose any such Confidential Information to any other person without the prior written consent of the Authority, except to such persons and to such extent as may be necessary for the performance of the Framework Provider's obligations under the Framework Agreement.

- 16.2 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in the Framework Agreement or any Call-Off Contract, the Authority shall treat all Confidential Information of the Framework Provider as confidential and shall not disclose any such Confidential Information to the Framework Provider to any other person without the prior written consent of the Framework Provider, except to such persons and to such extent as may be necessary for the performance of the Authority's obligations under the Framework Agreement.
- 16.3 Where required by the Authority and/or a Customer, the Framework Provider shall ensure that Staff, Sub-Contractors, professional advisors and consultants sign a non-disclosure agreement in substantially the form attached in Schedule 10 of the Framework Agreement prior to commencing any work in connection with the Framework Agreement. The Framework Provider shall maintain a list of the non-disclosure agreements completed in accordance with this clause 16.3. Where requested by the Authority, the Framework Provider shall provide the Authority with a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Framework Provider shall ensure that its Staff, Sub-Contractors, professional advisors and consultants are aware of the Framework Provider's confidentiality obligations under the Framework Agreement.
- 16.4 The Framework Provider may only disclose the Authority's Confidential Information to the Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality, including but not limited to the HMG Security Policy Framework.
- 16.5 The Framework Provider shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of the Framework Agreement.
- 16.6 Clause 16.1 and 16.2 shall not apply to the extent that:
- 16.6.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations;
 - 16.6.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 16.6.3 such information was obtained from a third party without obligation of confidentiality;
 - 16.6.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Framework Agreement or Call-Off Contract;
 - 16.6.5 it is independently developed without access to the other party's Confidential Information; or
 - 16.6.6 to enable a determination to be made under clause 39.
- 16.7 Nothing in clauses 16.1 and 16.2 shall prevent the Authority disclosing any Confidential Information obtained from the Framework Provider:
- 16.7.1 for the purpose of the examination and certification of the Authority's accounts; or

- 16.7.2 for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or
 - 16.7.3 to any government department, Crown Body or any Contracting Body and the Framework Provider hereby acknowledges that all government departments, Crown Body or Contracting Bodies receiving such Confidential Information may further disclose the Confidential Information to other government departments, Crown Bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department, Crown Body or any Contracting Body; or
 - 16.7.4 to any consultant, contractor or other person engaged by the Authority, provided that in disclosing information under sub-clauses 16.7.3 and 16.7.4 the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- 16.8 Nothing in clauses 16.1 to 16.2 shall prevent the Authority or the Framework Provider from using any techniques, ideas or Know-How gained during the performance of its obligations under the Framework Agreement in the course of its normal business, to the extent that this does not result in a disclosure of the other party's Confidential Information or an infringement of the other party's Intellectual Property Rights.
- 16.9 The Authority shall use all reasonable endeavours to ensure that any government department, Crown Body, Contracting Body, employee, third party or Sub-Contractor to whom the Framework Provider's Confidential Information is disclosed pursuant to this clause 16 is made aware of the Authority's obligations of confidentiality.
- 16.10 The Authority reserves the right to terminate or suspend the Framework Agreement in the event that the Framework Provider or its Staff fail to comply with this clause 16. A suspension notice given to a Framework Provider pursuant to this clause must specify the period of suspension.
- 16.11 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services under the Call-Off Contract, the Framework Provider undertakes to maintain adequate and proportionate security arrangements that meet the requirements of professional standards and best practice and requirements of the HMG Security Policy Framework.
- 16.12 The Framework Provider will immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services under a Call-Off Contract and will keep a record of such breaches. The Framework Provider will use its best endeavours to recover such Confidential Information or data however it may be recorded. This obligation is in addition to the Framework Provider's obligations under clauses 16.1 to 16.5. The Framework Provider will co-operate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.
- 16.13 The Framework Provider shall, at its own expense, alter any security systems at any time for the duration of the Framework Agreement at the Authority's request if the Authority reasonably believes the Framework Provider has failed to comply with clause 16.11.
- 16.14 All Confidential Information in tangible form received hereunder together with all copies thereof shall be destroyed or returned immediately to the Authority and notified to the Authority, upon

request or upon completion of the task for the purposes of which such Confidential Information was released.

- 16.15 In the event that the Framework Provider fails to comply with any of the provisions in clause 16, the Framework Provider agrees that monetary damages would not be a sufficient remedy for breach and that the Authority shall be entitled, without prejudice to any other rights or remedies that may be available, to seek injunctive relief without proof of special damages, or any other equitable relief or remedy for any threatened or actual breach of the obligations in clause 16.
- 16.16 The Framework Provider hereby gives its consent for the Authority to publish the whole of this Framework Agreement (subject to the application of any redactions which the Authority considers appropriate applying the principles for withholding disclosure set out in clause 17.3 below) including from time to time agreed changes to the Framework Agreement, to the general public.

17 FREEDOM OF INFORMATION

- 17.1 The Framework Provider acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Authority to enable the Authority to comply with its Information disclosure obligations.
- 17.2 The Framework Provider shall and shall procure that any Sub-Contractor shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information:
 - 17.2.1 provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority's request; and
 - 17.2.2 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA and/or regulation 5 of the Environmental Information Regulations.
- 17.3 The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Framework Agreement or any Call-Off Contract or any other agreement whether any Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA and/or the Environmental Information Regulations.
- 17.4 In no event shall the Framework Provider respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 17.5 The Framework Provider acknowledges that (notwithstanding the provisions of clause 16 (Confidential Information)) the Authority may be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Framework Provider or the Services in certain circumstances:
 - 17.5.1 without consulting the Framework Provider; or
 - 17.5.2 following consultation with the Framework Provider and having taken its views into account;

provided always that the Authority shall, in accordance with any recommendations of the Codes of Practice under the FOIA or the Environmental Information Regulations, take reasonable steps, where appropriate, to give the Framework Provider advance notice, or failing that, to draw the disclosure to the Framework Provider's attention after any such disclosure.

- 17.6 The Framework Provider shall ensure that all Information is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
- 17.7 The Framework Provider acknowledges that identifying Information as being Commercially Sensitive Information is of indicative value only and that the Authority may be obliged to disclose it in accordance with this clause 17.
- 17.8 The Authority shall not be liable for any loss, damage, harm or other detriment suffered by the Framework Provider arising from the disclosure of any Information falling within the scope of the FOIA and/or the Environmental Information Regulations (including Commercially Sensitive Information).

18 DATA PROTECTION

- 18.1 The Parties acknowledge that for the purposes of the Data Protection Legislation:
 - 18.1.1 the Customer is the Controller and the Framework Provider is the Processor of the Personal Data specified in Schedule 7; and
 - 18.1.2 the parties may provide each other with Personal Data relating to persons employed by them and their agents, suppliers and Sub-Contractors for purposes of administering the Framework Agreement and each Party will be an independent Controller of such Personal Data (because the Parties each, independently of each other, determine the means and purposes of processing such Personal Data).
- 18.2 Both parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with the Framework Agreement.
- 18.3 The Framework Provider shall take all reasonable measures relating to the security of processing which are required pursuant to Article 32 of the UK GDPR including, without limitation, those security measures specified in this clause 18.
- 18.4 The only processing of Personal Data specified in clause 18.1.1 that the Framework Provider is authorised to do is listed in Schedule 7 by the Authority and may not be determined by the Framework Provider. The Framework Provider shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 18.5 The only processing of Personal Data specified in clause 18.1.2 that the parties are authorised to do is processing for purposes of administration of the Framework Agreement.
- 18.6 The Framework Provider 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:
 - 18.6.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 18.6.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

- 18.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 18.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 18.7 The Framework Provider shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement:
- 18.7.1 process that Personal Data only in accordance with Schedule 7 unless the Framework Provider is required to do otherwise by Law. If it is so required the Framework Provider shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
 - 18.7.2 ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the Protective Measures), 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;
 - 18.7.3 ensure that:
 - (i) the Staff do not process Personal Data except in accordance with this Framework Agreement (and in particular Schedule 7);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Framework Provider's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Framework Provider 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 Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - 18.7.4 not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Authority or the Framework Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with the UK GDPR Article 46 or section 73 of DPA as determined by the Authority;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Framework Provider 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 Framework Provider complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;

18.7.5 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 Framework Provider is required by Law to retain the Personal Data.

18.8 Subject to clause 18.9 the Framework Provider shall notify the Authority immediately if, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement, it:

18.8.1 receives a Data Subject Request (or purported Data Subject Request);

18.8.2 receives a request to rectify, block or erase any Personal Data;

18.8.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

18.8.4 receives any communication from the Information Commissioner or any other regulatory authority;

18.8.5 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

18.8.6 becomes aware of a Data Loss Event.

18.9 The Framework Provider's obligation to notify under clause 18.8 shall include the provision of further information to the Authority in phases, as details become available.

18.10 Taking into account the nature of the processing, the Framework Provider shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Contract and any complaint, communication or request made under Clause 18.8 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

18.10.1 the Authority with full details and copies of the complaint, communication or request;

18.10.2 such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

18.10.3 the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;

18.10.4 assistance as requested by the Authority following any Data Loss Event;

18.10.5 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.

- 18.11 The Framework Provider shall maintain complete and accurate records and information to demonstrate its compliance with this clause 18. This requirement does not apply where the Framework Provider employs fewer than 250 staff, unless:
- 18.11.1 the Authority determines that the processing is not occasional;
 - 18.11.2 the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - 18.11.3 the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 18.12 The Framework Provider shall allow for audits of its Personal Data processing activity by the Authority or the Authority's designated auditor.
- 18.13 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 18.14 Before allowing any Sub-processor to process any Personal Data related to this Framework Agreement, the Framework Provider must:
- 18.14.1 notify the Authority in writing of the intended Sub-processor and processing;
 - 18.14.2 obtain the written consent of the Authority;
 - 18.14.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 18 such that they apply to the Sub-processor; and
 - 18.14.4 provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- 18.15 The Framework Provider shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 18.16 The Authority may, at any time on not less than 30 Working Days' notice, revise this clause 18 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).
- 18.17 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Framework Provider amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- 18.18 This clause 18 shall apply during the Contract Period and indefinitely after its expiry.

19 PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

- 19.1 The Framework Provider shall not and shall procure that the Staff shall not wilfully and in breach of any obligation under this Framework Agreement, do anything which may damage the reputation of the Authority in any way or bring the Authority into disrepute. In particular, the Framework Provider acknowledges the sensitivity of certain aspects of the Services and shall comply with the Authority (and a Customer's) instructions regarding any restrictions on communications in connection with Services provided under this Framework Agreement.

- 19.2 The Framework Provider shall not and shall procure that the Staff shall not without the prior Approval of the Customer, which Approval shall not be unreasonably withheld or delayed:
- 19.2.1 publish or broadcast, including through interviews with the media, use of social media and other communications with third parties, any details of Services provided pursuant to this Framework Agreement;
 - 19.2.2 use the Authority's name or brand in any promotion or marketing, including on its own website, or announcement of orders, without the prior written consent of the Authority; or
 - 19.2.3 make any press announcements or publicise this Framework Agreement or its contents in any way without the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.
- 19.3 The Framework Provider agrees and acknowledges that nothing in this Framework Agreement either expressly or by implication constitutes an endorsement of any products or services of the Framework Provider and the Framework Provider shall not (and shall procure that the Staff do not) conduct itself in such a way as to imply or express any such approval or endorsement.
- 19.4 The Framework Provider agrees that monetary damages would not be a sufficient remedy for breach of clauses 19.1 to 19.3 and that the Authority shall be entitled, without prejudice to any other rights or remedies that may be available, to seek injunctive relief without proof of special damages, or any other equitable relief or remedy for any threatened or actual breach of such clauses.
- 19.5 The Framework Provider shall at all times during the Framework Agreement on written demand indemnify the Authority and keep the Authority fully indemnified against all losses, incurred by, awarded against or agreed to be paid by the Framework Provider arising out of any claim or infringement or alleged infringement resulting from the Framework Provider's unauthorised use of the Authority's logo.

20 INTELLECTUAL PROPERTY RIGHTS

- 20.1 All Intellectual Property Rights in any Authority Materials shall, as between the Parties, belong to the Authority (or the Crown with respect to any copyright) and the Framework Provider shall not, and shall ensure that the Staff shall not, use or disclose any Authority Materials without prior Approval save to the extent necessary for performance by the Framework Provider of its obligations under the Framework Agreement or any Call-Off Contract.
- 20.2 The Framework Provider shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform obligations under the Framework Agreement or any Call-Off Contract grants to the Authority and the Customers a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority and Customers an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same manner. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority and Customers to sub-license, transfer, novate or assign to other Contracting Bodies, a Replacement Framework Provider or to any other third party supplying services to the Authority.
- 20.3 The Framework Provider shall not infringe any Intellectual Property Rights of any third party in performing its obligations under this Framework Agreement or a Call-Off Contract and the Framework Provider shall, during and after the term of the Framework Agreement, indemnify and keep indemnified and hold the Authority and the Crown harmless from and against any and all losses, charges, damages, costs and expenses and other liabilities which the Authority

or the Crown may suffer or incur as a result of a Third Party IP Claim or in connection with any breach of this clause 20.3, except to the extent that any such claim results directly from:

- 20.3.1 items or materials based upon designs supplied by the Authority; or
 - 20.3.2 the use of data supplied by the Authority which is not required to be verified by the Framework Provider under any provision of the Framework Agreement or any Call-Off Contract.
- 20.4 The Authority shall notify the Framework Provider in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Framework Provider to the Authority.
- 20.5 The Framework Provider shall at its own expense conduct all negotiations and any litigation arising in connection with any Third Party IP Claim, provided that the Framework Provider shall at all times:
- 20.5.1 consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
 - 20.5.2 take due and proper account of the interests of the Authority; and
 - 20.5.3 not settle or compromise any claim without prior Approval (not to be unreasonably withheld or delayed).
- 20.6 The Authority shall at the request of the Framework Provider afford to the Framework Provider all reasonable assistance for the purpose of contesting any Third Party IP Claim and the Framework Provider shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Framework Provider shall not be required to indemnify the Authority under this clause 20.6 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clause 20.3.1 or 20.3.2.
- 20.7 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any Third Party IP Claim.
- 20.8 If any Third Party IP Claim is made or in the reasonable opinion of the Framework Provider is likely to be made, the Framework Provider shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clause 20.2 use its best endeavours to:
- 20.8.1 modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
 - 20.8.2 procure a licence to use the Intellectual Property Right(s) and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority, and, as appropriate, a Customer under a Call-Off Contract affected by the alleged infringement,

and in the event that the Framework Provider is unable to comply with clauses 20.8.1 or 20.8.2 within twenty (20) Working Days of receipt by the Authority of the Framework Provider's notification the Authority may terminate the Framework Agreement with immediate effect by notice in writing.

- 20.9 The Framework Provider grants to the Authority a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Framework Provider owned or developed prior to the Framework Commencement Date and which the Authority reasonably requires in order to exercise its rights under the Framework Agreement.

21 RECORD KEEPING AND AUDIT

- 21.1 In addition to any specific record-keeping obligations under a Call-Off Contract or set out in the Specification, the Framework Provider shall keep and maintain until six (6) years after the end of the term of the Framework Agreement, or such other period as may be agreed between the parties, full and accurate records of its Call-Off Contracts including the Services supplied under it, all expenditure reimbursed by the Authority and any Customer, and all payments made by the Authority and any Customer. The Framework Provider shall on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Framework Agreement and any Call-Off Contracts.
- 21.2 The Framework Provider agrees to make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Framework Provider in relation to the Services.
- 21.3 The Framework Provider shall permit duly authorised representatives of the Authority and/or the National Audit Office to examine the Framework Provider's records and documents relating to the Services and to provide such copies and oral or written explanations as may reasonably be required.
- 21.4 The Framework Provider (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Framework Provider shall provide such explanations as are reasonably required for these purposes.

22 TERMINATION ON INSOLVENCY AND CHANGE OF CONTROL

- 22.1 Without affecting any other right or remedy available to it,

Without affecting any other right or remedy available to it the Authority or Contracting Body may terminate this Contract with immediate effect by giving written notice to the Framework Provider if:

- (a) the Framework Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing apply;
- (b) the Framework Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a

company) for the sole purpose of a scheme for a solvent amalgamation of Framework Provider with one or more other companies or the solvent reconstruction of the Framework Provider;

- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Framework Provider (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Framework Provider with one or more other companies or the solvent reconstruction of the Framework Provider;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Framework Provider (being a company);
- (e) the holder of a qualifying floating charge over the assets of the Framework Provider (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the assets of the Framework Provider or a receiver is appointed over the assets of the Framework Provider;
- (g) the Framework Provider (being an individual) is the subject of a bankruptcy petition or order;
- (h) a creditor or encumbrancer of the Framework Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Framework Provider's assets and such attachment or process is not discharged within 14 days;
- (i) any event occurs, or proceeding is taken, with respect to the Framework Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 22.1(a) to clause 22.1(h) (inclusive); or
- (j) the Framework Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

22.2 Not Used

22.3 Not Used

22.4 The Framework Provider shall notify the Authority immediately in writing of any proposal or negotiations which will or may result in a Change of Control. The Authority may terminate the Framework Agreement with immediate effect by notice in writing and without compensation to the Framework Provider within six (6) Months of:

22.4.1 being notified that a Change of Control has occurred; or

22.4.2 where no notification has been made, the date that the Authority becomes aware of the Change of Control,

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

23 LIABILITY, INDEMNITY AND INSURANCE

- 23.1 Neither Party excludes or limits liability to the other Party for:
- 23.1.1 death or personal injury caused by its negligence; or
 - 23.1.2 fraud or fraudulent misrepresentation;
 - 23.1.3 any breach of any obligations implied by section 2 of the Supply of Goods and Services Act 1982;
 - 23.1.4 any breach of clauses 10, 16 and 18; or
 - 23.1.5 any liability to the extent it cannot be limited or excluded by Law.
- 23.2 Subject to clauses 23.3 and 23.4, the Framework Provider shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or the late or purported supply, of the Services or the performance or non-performance by the Framework Provider of its obligations under this Framework Agreement or the presence of the Framework Provider or any Staff or Sub-Contractors on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Framework Provider, or any other loss which is caused directly or indirectly by any act or omission of the Framework Provider, its Staff and Sub-Contractors.
- 23.3 Subject to clause 23.1 the aggregate liability of either party in respect of the Framework Agreement shall not exceed £1 million. The Framework Provider shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Framework Agreement.
- 23.4 The Authority may recover from the Framework Provider the following losses incurred by the Authority to the extent they arise as a result of a Default by the Framework Provider:
- 23.4.1 any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
 - 23.4.2 any wasted expenditure or charges;
 - 23.4.3 the additional costs of procuring a Replacement Framework Provider for the remainder of the Contract Period and or replacement deliverables which shall include any incremental costs associated with the Replacement Framework Provider and/or replacement deliverables above those which would have been payable under the Framework Agreement;
 - 23.4.4 any compensation or interest paid to a third party by the Authority; and
 - 23.4.5 any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.
- 23.5 Subject always to clause 23.1 and 23.5, in no event shall either Party be liable to the other for any:
- 23.5.1 loss of profit, turnover, business opportunity, revenue or damage to goodwill (in each case whether direct or indirect); or

23.5.2 loss of savings (whether anticipated or otherwise); and/or

23.5.3 indirect, special or consequential loss or damage.

- 23.6 Unless otherwise specified by the Authority, the Framework Provider shall, with effect from the Commencement Date for such period as necessary to enable the Framework Provider to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Framework Provider, arising out of the Framework Provider's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Framework Provider. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 6 years following the end of the Contract.
- 23.7 The Framework Provider shall hold employer's liability insurance in respect of Staff and such insurance shall be in accordance with any legal requirement from time to time in force.
- 23.8 The Framework Provider shall give the Authority, on request, copies of all insurance policies referred to in this clause 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.
- 23.9 If the Framework Provider does not give effect to and maintain the insurances required by the provisions of the Framework Agreement the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Framework Provider.
- 23.10 The provisions of any insurance or the amount of cover shall not relieve the Framework Provider of any liabilities under the Framework Agreement.
- 23.11 The Framework Provider shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Framework Provider, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Framework Provider is an insured, a co-insured or additional insured person.

24 TERMINATION ON DEFAULT

- 24.1 The Authority may terminate the Framework Agreement by written notice to the Framework Provider with immediate effect if:
- 24.1.1 the Framework Provider commits a Default which is a material breach of the Framework Agreement and:
- 24.1.1.1 the Framework Provider has not remedied the Default to the satisfaction of the Authority within twenty-five (25) Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or
- 24.1.1.2 the Default is a material breach and is not, in the opinion of the Authority, capable of remedy;
- 24.1.2 the Framework Provider commits a Default (other than a material breach) and has not remedied the Default to the satisfaction of the Authority within thirty-five (35)

Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or

- 24.1.3 the Framework Provider repeatedly breaches any of the terms of this Framework Agreement and/or of Call-Off Contracts in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Framework Agreement and/or any Call-Off Contract placed under it;
- 24.1.4 there is a material detrimental change in the financial standing and/or credit rating of the Framework Provider which adversely impacts on the Framework Provider's ability to supply Services under the Framework Agreement; or
- 24.1.5 a Call-Off Contract has been terminated for Default under clause H2 of a Call-Off Contract.

24.2 For the purposes of clause 24.1 a "material breach" means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- 24.2.1 a substantial portion of the Framework Agreement or Call-Off Contract; or
- 24.2.2 any of the obligations set out in clauses 10, 14, 15, 16, 18 or 20.

25 TERMINATION UNDER THE PUBLIC CONTRACTS REGULATIONS

- 25.1 The Authority may terminate the Framework Agreement on written notice with immediate effect to the Framework Provider if:
 - 25.1.1 the Framework Agreement has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Public Contracts Regulations;
 - 25.1.2 the Framework Provider was, at the time the Framework Agreement was awarded, in one of the situations specified in regulation 57(1) of the Public Contracts Regulations, including as a result of the application of regulation 57(2) thereof, and should therefore have been excluded from the procurement procedure which resulted in its award of the Framework Agreement.

26 TERMINATION BY THE AUTHORITY

- 26.1 In addition to any other rights to terminate under this Framework Agreement the Authority has the right to terminate this Framework Agreement at any time without cause by giving three (3) months written notice to the Framework Provider.

27 SUSPENSION

- 27.1 Where pursuant to clause 24 the Authority has notified the Framework Provider of a Default and requested for it to be remedied, the Authority may suspend the Framework Provider's appointment to supply Services to Contracting Bodies in any or all of the Framework Provider's Lots by giving notice in writing to the Framework Provider, such suspension to last until the Framework Provider has remedied the Default to the satisfaction of the Authority.
- 27.2 Without prejudice to the right of the Authority to terminate the Framework Agreement pursuant to clause 24, where such a right of termination has arisen, the Authority may instead suspend

the Framework Provider's appointment to supply Services to Contracting Bodies in any or all of the Framework Provider's Lots by giving notice in writing to the Framework Provider.

- 27.3 A notice given to a Framework Provider pursuant to clause 27.2 must specify the period of suspension.

28 CONSEQUENCES OF TERMINATION

- 28.1 Call-Off Contracts do not expire automatically on the termination or expiry of this Framework Agreement and will continue in force unless and until they are terminated or expire in accordance with the Call-Off Contract.
- 28.2 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either party accrued under this Framework Agreement prior to termination or expiry.
- 28.3 Termination or expiry of the Framework Agreement shall not affect the continuing rights, remedies or obligations of the Authority or the Framework Provider under clauses 7, 10, 12.2, 14, 16, 17, 18, 20, 21, 23, 28, 29, 30, 31, 38, 42 or any other obligations which are either expressed to or by implication, are intended to survive termination or expiry.

29 RECOVERY UPON TERMINATION

- 29.1 On the termination of the Framework Agreement for any reason, the Framework Provider shall at its cost:
- 29.1.1 immediately return to the Authority or destroy, upon the Authority's written instruction, all Confidential Information, Personal Data and Authority Materials in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of this Framework Agreement and/or providing the Services;
 - 29.1.2 immediately deliver to the Authority all Authority Property (including materials, documents, information and access keys) provided to the Framework Provider. Such Property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
 - 29.1.3 assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to a Replacement Framework Provider and/or the completion of any work in progress; and
 - 29.1.4 promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Authority and/or a Replacement Framework Provider to conduct due diligence.
- 29.2 If the Framework Provider fails to comply with this clause 29, the Authority may recover possession thereof and the Framework Provider grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Framework Provider or its permitted suppliers or Sub-Contractors where any such items may be held.

30 RETENDERING AND HANDOVER

- 30.1 Within twenty-one (21) Working Days of being so requested by the Authority, the Framework Provider shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future provision of the Services.
- 30.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause 30.1 is given only to potential Framework Providers who have qualified to tender for the future provision of the Services.
- 30.3 The Authority shall require that all potential Framework Providers treat the information referred to in clause 30.1 in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority, and that they shall not use it for any other purpose.
- 30.4 The Framework Provider shall indemnify the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Framework Provider is required to provide under clause 30.1.
- 30.5 The Framework Provider shall co-operate fully with the Authority during the handover arising from the completion or earlier termination of the Framework Agreement. This co-operation, during the period of the new Framework Provider setting up operations, shall extend to allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- 30.6 Within ten (10) Working Days of being so requested by the Authority, the Framework Provider shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

31 EXIT MANAGEMENT

- 31.1 Upon termination the Framework Provider shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Framework Provider of the provision of Services.
- 31.2 Where the Authority requires continued provision of all or any of the Services on expiry or termination of this Framework Agreement, either by performing them itself or by engaging a third party to perform them, the Framework Provider shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the provision of Services without disruption to routine operational requirements.

32 KNOWLEDGE RETENTION

- 32.1 The Framework Provider shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Framework Provider to the Authority on the completion or earlier termination of the Framework Agreement and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Framework Provider shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the

Authority. The Framework Provider shall comply with the Authority's request for information no later than fifteen (15) Working Days from the date that that request was made.

33 COLLABORATION

- 33.1 In providing Services pursuant to this Framework Agreement and the Call-Off Contracts, the Framework Provider shall co-operate with all other organisations present on the Premises in accordance with security requirements in clause E3 of the Call-Off Contract and in accordance with all instructions given to the Framework Provider by the Authority or Customer's representative in charge of the Premises.

34 STATUS OF THE PARTIES

- 34.1 Except as expressly provided in this Framework Agreement, nothing in this Framework Agreement, nor any actions taken by the Authority and the Framework Provider pursuant to this Framework Agreement, 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.
- 34.2 The Framework Provider shall not (and shall ensure that any other person engaged in relation to the provision of Services under this Framework Agreement shall not) say or do anything that might lead any other person to believe that the Framework Provider is acting as the agent or employee of the Authority or a Customer.
- 34.3 Where the Framework Provider is an individual:
- 34.3.1 the Framework Provider warrants and represents that he is providing Services as an independent contractor and nothing shall render him an employee, worker, agent or partner of the Authority or a Customer and the Framework Provider shall not hold himself out as such; and
- 34.3.2 the Framework Provider agrees that this Framework Agreement and any Call-Off Contract together constitute contracts for the provision of services and not a contract of employment and accordingly, the Framework Provider shall be fully responsible for and shall indemnify the Authority for and in respect of any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where the recovery is not prohibited by Law. The Framework Provider shall further indemnify the Authority against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Authority in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Authority's negligence or wilful default.

35 TRANSFER AND SUB-CONTRACTING

- 35.1 The Framework Agreement is personal to the Framework Provider and the Framework Provider shall not
- 35.1.1 assign, novate or otherwise dispose of the Framework Agreement in whole or in part without the prior Approval of the Authority;
- 35.1.2 sub-contract any of its rights or obligations under the Framework Agreement without the prior Approval of the Authority.

35.2 The Authority is entitled to:

- 35.2.1 assign, novate or otherwise dispose of its right and obligations under the Framework Agreement or any part thereof to any Contracting Body; or
- 35.2.2 novate the Framework Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority

provided that such assignment, novation or disposal does not unreasonably increase the burden of the Framework Provider's obligations under the Framework Agreement.

35.3 Where the Authority has consented to the placing of Sub-Contracts, the Framework Provider shall notify the Authority the name(s), contact details and legal representatives of the Sub-Contractor(s) and copies of each Sub-Contract shall, at the request of the Authority, be sent by the Framework Provider to the Authority promptly on request.

35.4 If the Authority believes there are:

- 35.4.1 compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Public Contracts Regulations, the Framework Provider shall replace or not appoint the Sub-Contractor; or
- 35.4.2 non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Public Contracts Regulations, the Authority may require the Framework Provider to replace or not appoint the Sub-Contractor and the Framework Provider shall promptly comply with such requirement.

36 VARIATIONS TO THE FRAMEWORK AGREEMENT

36.1 Subject to the provisions of this clause 36, the Authority may request a Variation to this Framework Agreement provided that such Variation does not amount to a substantial change of this Framework Agreement within the meaning of the Public Contracts Regulations and the law.

36.2 The Authority may, at its own instance, or where in its sole and absolute discretion it decides to having been requested to do so by the Framework Provider, request a Variation by completing and sending the Change Control Notice as set out in Schedule 9 to the Framework Provider, giving sufficient information for the Framework Provider to assess the extent of the proposed Variation and any additional cost that may be incurred.

36.3 In the event that the Framework Provider is unable to agree to or provide the Variation, the Authority may:

- 36.3.1 agree to continue to perform its obligations under this Framework Agreement without the Variation; or
- 36.3.2 terminate this Framework Agreement with immediate effect.

36.4 The Variations shall cover:

- 36.4.1 operational changes, which may require a variation to the way in which Services are provided, but do not require a Variation to this Framework Agreement;
- 36.4.2 agreement changes, which may require a Variation to the Framework Agreement.

37 RIGHTS OF THIRD PARTIES

- 37.1 Subject to clause 37.2, a person who is not a party to the Framework Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both parties to this Framework Agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.
- 37.2 Each Contracting Body may, with the Authority's prior written consent, enforce any provisions of this Framework Agreement which is for the benefit of the Contracting Body as a third party beneficiary in accordance with the Contracts (Rights of Third Parties) Act 1999.
- 37.3 Amendments to this Framework Agreement may be made by the parties without the consent of any Contracting Body.

38 ENTIRE AGREEMENT

- 38.1 This Framework Agreement constitutes the entire agreement and understanding between the parties to this Framework Agreement in respect of the matters dealt with in this Framework Agreement. This Framework Agreement supersedes all prior negotiations between the Authority and the Framework Provider and all representations and undertakings made by one party to the other, whether written or oral, except that this clause does not exclude liability in respect of any fraud or fraudulent misrepresentation.

39 DISPUTE RESOLUTION

- 39.1 The Framework Provider and the Authority shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Framework Agreement within twenty (20) Working Days of either party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director (or equivalent senior employee) of the Framework Provider and the Authority's commercial director.
- 39.2 Nothing in this dispute resolution procedure shall prevent the Authority from seeking from any court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.
- 39.3 If the dispute cannot be resolved by the Framework Provider and the Authority pursuant to clause 39.1 either party may refer it to mediation pursuant to the procedure set out in clause 39.5 in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure
- 39.4 The obligations of the parties under the Framework Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Framework Provider and the Staff shall comply fully with the requirements of the Framework Agreement at all times.
- 39.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- 39.5.1 Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 20 days after the date of the ADR notice.

39.5.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the dispute under clause 42 which clause shall apply at all times.

39.5.3 If the dispute is not resolved within 90 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 90 days, or the mediation terminates before the expiration of the said period of 90 days, the dispute shall be finally resolved by the courts of England and Wales arbitration proceedings in accordance with clause 42 in this Contract

39.6 Subject to clause 39.2, the parties to this Framework Agreement shall not institute court proceedings until the procedures set out in clauses 39.1 and 39.3 have been completed save that:

39.6.1 the Authority may at any time before court proceedings are commenced, serve a notice on the Framework Provider requiring the dispute to be referred to and resolved by arbitration in accordance with clause 39.7.

39.6.2 If the Framework Provider intends to commence court proceedings, it shall serve written notice on the Authority of its intentions and the Authority shall have twenty-one (21) days following receipt of such notice to serve a reply on the Framework Provider requiring the dispute to be referred to and resolved by arbitration in accordance with clause 39.7.

39.6.3 The Framework Provider may request by notice in writing to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 39.7, to which the Authority may consent as it sees fit.

39.7 In the event that any arbitration proceedings are commenced pursuant to clause 39.6:

39.7.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996;

39.7.2 the Authority shall give a written notice of arbitration to the Framework Provider (the "**Arbitration Notice**") stating:

39.7.2.1 that the dispute is referred to arbitration; and

39.7.2.2 providing details of the issues to be resolved;

39.7.3 the London Court of International Arbitration ("**LCIA**") procedural rules in force at the date that the dispute was referred to arbitration in accordance with 39.7.2 shall be applied and are deemed to be incorporated by reference to the Framework Agreement and the decision of the arbitrator shall be binding on the parties in the absence of any material failure to comply with such rules;

39.7.4 the tribunal shall consist of a sole arbitrator to be agreed by the parties;

39.7.5 if the parties fail to agree the appointment of the arbitrator within ten (10) days of the Arbitration Notice being issued by the Authority under clause 39.7.2 or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;

39.7.6 the arbitration proceedings shall take place in London and in the English language; and

39.7.7 the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

40 NOTICES

40.1 Subject to clause 40.3, where the Framework Agreement states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, registered post or by the recorded delivery service) or by email (confirmed by letter) or by communication via Atamis.

40.2 If it is not returned as undelivered a notice served:

40.2.1 in a letter is deemed to have been received 2 Working Days after the day it was sent; and

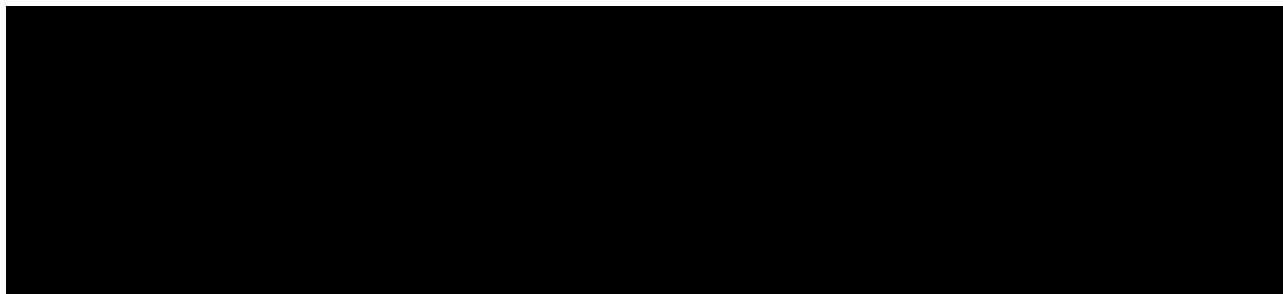
40.2.2 in an email or via Atamis is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day

or when the other Party acknowledges receipt, whichever is the earlier.

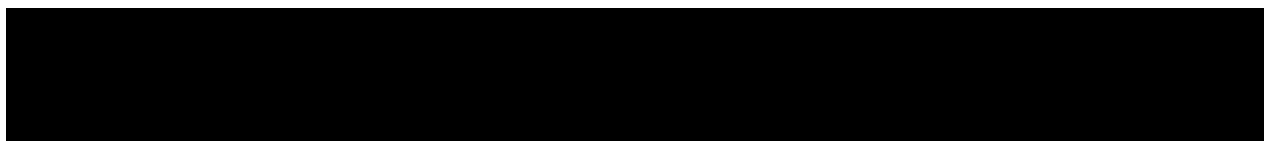
40.3 Notices pursuant to clause 39 (Dispute Resolution) or to terminate the Framework Agreement are valid only if served in a letter by hand, registered post or by the recorded delivery service.

40.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Framework Agreement:

For the Authority:



For the Framework Provider:



41 KEY PERSONNEL

41.1 On the Framework Commencement Date, the Framework Provider shall provide the Authority with the contact details of its nominated representative who is to receive an order for Services (together with details of an alternative in case that representative is unavailable) and details of Key Personnel identified as part of its Tender. It is the responsibility of the Framework Provider to ensure that the Authority is notified of any changes to its nominated representative.

41.2 The Framework Provider acknowledges that the Key Personnel are essential to the proper provision of the Services to the Authority and other Contracting Bodies.

- 41.3 The Key Personnel shall not be released from supplying the Services without Approval of the Authority, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances or to comply with the request of a Customer under clause B6.5 of the Call-Off Terms and Conditions.
- 41.4 Any replacements to the Key Personnel shall be subject to the Approval of the Authority and any Customer where provision of Services under a Call-Off Contract will be affected by such replacements. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- 41.5 The Authority shall not unreasonably withhold its Approval under clauses 41.3 or 41.4. Such Approval shall be conditional on appropriate arrangements being made by the Framework Provider to minimise any adverse impact on any Call-Off Contract which could be caused by a change in Key Personnel.
- 41.6 The Authority may, by written notice to the Framework Provider, ask the Framework Provider to remove any Key Personnel whose continued presence would, in the reasonable opinion of the Authority, be undesirable. The Framework Provider shall promptly comply with any such request.

42 GOVERNING LAW

- 42.1 The Framework Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales and shall be subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Authority to take proceedings against the Framework Provider in any other court of competent jurisdiction, nor shall the taking of proceedings in any other court of competent jurisdiction preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

FRAMEWORK AGREEMENT SCHEDULE 1

DEFINITIONS

1. In this Framework Agreement and the Call-Off Contract, unless the context requires otherwise, the following words and phrases shall have the following meanings:

“Affected Party”	means the Party seeking to claim relief in respect of a Force Majeure Event.
“Affiliate”	means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.
“AP”	means ‘affected premises’ which are subject to a notice of the Secretary of State/Scottish Ministers/Welsh Ministers declaring it to be either infected with a disease (Infected Premises) or where there is a strong suspicion that an Exotic Notifiable Disease may be present. Entry and exit restrictions are likely to apply.
“APHA”	means the Animal and Plant Health Agency, an Executive Agency of the Authority.
“Approval” and “Approved”	means the written consent of the Authority or any Customer (as the context requires).
“Atamis”	has the meaning given in paragraph 3 of the Form of Agreement.
“Authority”	means the Secretary of State for Environment, Food and Rural Affairs.
“Authority’s Authorised Representative”	means an authorised representative nominated by the Authority or Contracting Body.
“Authority Materials”	means all guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs, images, videos or other material which is furnished to or made available to the Framework Provider by or on behalf of the Authority and/or any Personal Data for which the Authority is Data Controller.
“Authority Software”	means software which is owned by or licensed to the Authority or any Customer, including software which is or will be used by the Framework Provider for the purposes of providing the Services but excluding the Framework Provider Software.

“Authority System”	means the Authority or Customers’ computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority, any Customer or the Framework Provider in connection with the Framework Agreement or any Call-Off Contract which is owned by or licensed to the Authority or any Customer by a third party and which interfaces with the Framework Provider System or which is necessary for any Customer to receive the Services.
“BPSS”	means the HMG Baseline Personnel Security Standard for Government employees.
“Call-Off Contract”	means the agreement between a Customer and the Framework Provider consisting of the Order Form, the Call-Off Terms and Conditions, together with any schedules annexes and appendices referred to therein. In the event of any conflict between any of these documents, they shall be given precedence in the order listed.
“Call-Off Procedure”	means the process by which the Authority will award Call-Off Contracts to Framework Providers as set out in the Framework Agreement.
“Call-Off Terms and Conditions”	means the standard terms and conditions of the Call-Off Contract as set out in Schedule 5.
“Change Control Notice”/“CCN”	means the Change Control Notice set out in Schedule 9 containing details of agreed Variations to the Framework Agreement or a Call-Off Contract.
“Change of Control”	Means a merger, take-over, change of control, change of name or status including where the Framework Provider undergoes a change of control within the meaning of section 450 and section 1124 of the Corporation Taxes Act 2010.
“Commencement Date”	means the date set out in the Order Form upon which the Call-Off Contract commences.
“Commercially Sensitive Information”	means the information included at Schedule 11 to the Framework Agreement and/or listed in or accompanying or attached to the Order Form comprised of information: (a) which is provided by the Framework Provider to the Customer in confidence for the period set out in the Order Form; or (b) any information that would be regarded as commercially sensitive by a reasonable business person relating to: (i) the business, affairs, plans of the Framework Provider; and

	(ii) the operations, processes, product information, know-how, designs, trade secrets or software of the Framework Provider.
“Completion Date”	means the date of expiry of the Call-Off Contract set out in the Order Form.
“Confidential Information”	means any information which has been designated as confidential by the disclosing party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of the disclosing party and all Personal Data. Confidential Information shall not include information which: (a) was public knowledge at the time of disclosure (otherwise than by breach of the Framework Agreement or a Call-Off Contract); (b) was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party; (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or (d) is independently developed without access to the Confidential Information.
“Contracting Body/ Contracting Bodies”	means the Authority and any other contracting bodies described in the Find a Tender notice entitled to order Services under this Framework Agreement.
“Contract Manager”	means the official of a Customer, or other person employed in that capacity, appointed by the Customer to act on its behalf for the purpose of managing its Call-Off Contract as identified in the Order Form and/or as notified in writing to the Framework Provider.
“Contract Period”	means in any Call-Off Contract the period from the Commencement Date to: (a) the date of expiry set out in clause A4 (Contract Period), or (b) following an extension pursuant to clause F8 (Extension of Contract Period), the date of expiry of the extended period, or (c) such earlier date of termination or partial termination of the Call-Off Contract in accordance with the Law or the provisions of the Call-Off Contract.

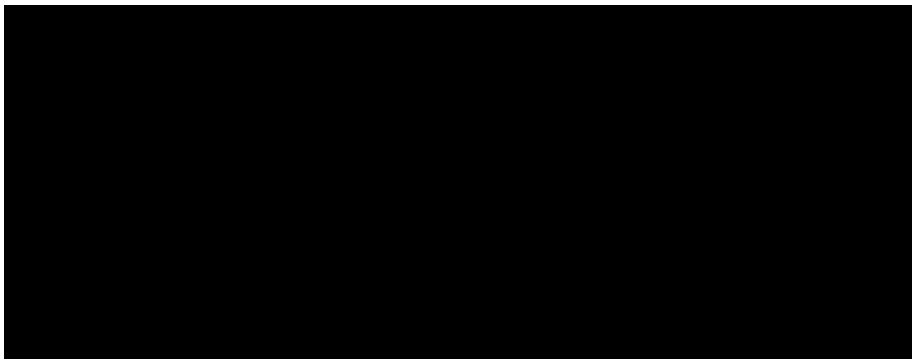
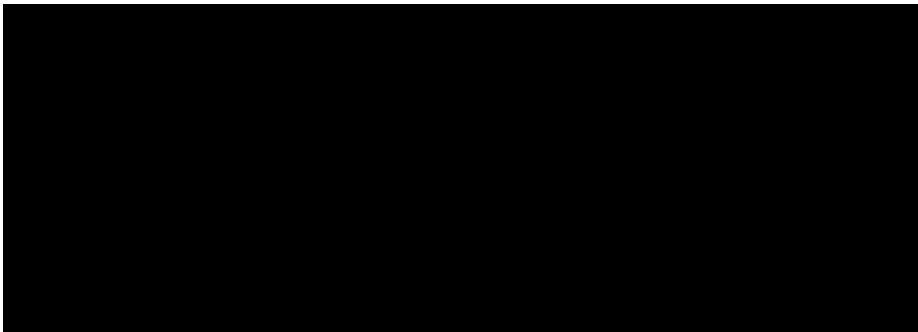
“Contract Price”	means the price (exclusive of any applicable VAT), payable to the Framework Provider by the Customer under any Call-Off Contract, as set out in the Order Form, for the full and proper performance by the Framework Provider of its obligations under the Call-Off Contract.
“Contract Year”	means a consecutive period of twelve (12) months commencing on the Framework Commencement Date or each anniversary thereof.
“Control”	means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “Controls” and “Controlled” shall be interpreted accordingly.
“Controller”	has the meaning given in the UK GDPR.
“Crown”	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments, and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf and “Crown Body” is an emanation of the foregoing.
“Customer”	means a Contracting Body calling off Services under the Framework Agreement as identified in an Order Form.
“Customer Data”	Means any or all (a) data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Framework Provider by or on behalf of the Customer; or (ii) which the Framework Provider is required to generate, process, store or transmit pursuant to the Call-Off Contract (including any photographs or other images taken by the Framework Provider’s Staff on the Premises); or (b) any Personal Data for which the Customer is the Controller.
“Customer Equipment”	means any equipment, consumables, plant, materials and other such items supplied by the Customer for use by the Framework Provider in the performance of its obligations under any Call-Off Contract.

“Customer Premises”	means any premises owned, occupied or controlled by the Customer or any other Crown Body which are made available for use by the Framework Provider or its Sub-Contractors for provision of the Services.
“Customer Software”	means software which is owned by or licensed to the Customer (other than under or pursuant to the Call-Off Contract) and which is or will be used by the Framework Provider for the purposes of providing the 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 Framework Provider in connection with the Call-Off Contract which is owned by or licensed to the Customer by a third party and which interfaces with the Framework Provider System or which is necessary for the Customer to receive the Services.
“Data Loss Event”	means any event that results, or may result, in unauthorised access to Personal Data held by the Framework Provider under the Framework Agreement or Call-Off Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of the Framework Agreement or Call-Off Contract, including any Personal Data Breach.
“Data Protection Impact Assessment”	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
“Data Protection Legislation”	means the UK GDPR and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 (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 Protection Manager”	means the Framework Provider’s primary point of contact for data protection queries.
“Data Protection Officer”	has the meaning given in the UK GDPR.
“Data Subject”	has the meaning given in the UK GDPR.
“Data Subject 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.

“Default”	means any breach of the obligations of the relevant party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant party or the Staff in connection with or in relation to the subject-matter of the Framework Agreement or Call-Off Contract and in respect of which such party is liable to the other.
“DEFRA”	Means the Department for the Environment, Farming and Rural Affairs
“DOTAS”	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions
“DPA 2018”	means the Data Protection Act 2018.
“End Date”	means the date the Call-Off Contract ends.
“Environmental Information Regulations”	means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
“Equipment”	means the Framework Provider’s equipment, consumables, plant, materials and such other items supplied and used by the Framework Provider in the delivery of the Services.
“Exceptional Circumstances”	means an event deemed solely by the Customer as not falling within the definition of Force Majeure but prevents normal operation of the business. (For example, failure of the first method of kill or utility failures, and others at the sole discretion of the Customer).
“FOIA”	means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
“Force Majeure Event”	any event, circumstance, matter or cause affecting the performance by either Party 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 a Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (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 Framework Provider, the Framework Provider Staff (including any subsets of them) or any other failure in the Framework Provider or the Subcontractor's supply chain; (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, and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
“Framework Agreement”	means this framework agreement for the provision of the Services between the Authority and Framework Provider, together with any schedules, annexes and appendices appended to the foregoing.
“Framework Commencement Date”	means the date of commencement of the Framework Agreement as set out in clause 2.1 of Section 2 of the Framework Agreement.
“Framework Provider”	means the party appointed as a potential Framework Provider of Services as identified in section 1 to this Framework Agreement.
“Framework Term”	means the term of this Framework Agreement as set out in clause 2
“Fraud”	means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Call-Off Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.
“General Anti-Abuse Rule”	means:

	(a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.
“Geographical Regions / Region”	means the Geographical Regions as specified in the Specification of Requirements.
“Good Industry Practice”	means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
“Halifax Abuse Principle”	means the principle explained in the CJEU Case C-255/02 Halifax and others.
“HMG Security Policy Framework”	means the Cabinet Office Security Policy Framework as updated from time to time, a copy of which may be found at: https://www.gov.uk/government/publications/security-policy-framework
“HMRC”	means HM Revenue & Customs.
“ICT Environment”	means the Authority System and the Framework Provider System.
“IP Completion Day”	has the meaning given to it in the European Union (Withdrawal) Act 2018;
“Incident”	means an occasion, which may or may not include an occurrence of Exotic Notifiable Disease, where the Services may be required at short notice (within six (6) to twelve (12) hours).
“Information”	has the meaning given under section 84 of the FOIA.
“Intellectual Property Rights”	means patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, Know-How, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.
“Initial Contract Period”	means the period from the Commencement Date to the End Date.

“Invitation to Tender or ITT”	means the Invitation to Tender for a Framework with Tender Reference C21922 issued on 07 December 2023 and all related documents published by the Authority and made available to the Framework Provider and other tenderers.
“IP Materials”	has the meaning given to it in clause E7.1 (Intellectual Property Rights) of the Call-Off Contract.
“Key Personnel”	means the following individuals: For the Framework Provider:  For the Customer: 
“Know-How”	means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).
“Law”	means any law, statute, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of Section 4(1) EU Withdrawal Act 2018 as amended by EU (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Parties are bound to comply

“Lot” or “Lots”	means the lot(s) in respect of which Services may be ordered from the Framework Provider and which are described in Schedule 2 to this Framework Agreement.
“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.
“Mini-competition”	means the award of a Call Off Contract by re-opening competition between the Framework Providers appointed to the Framework Agreement and which are capable of performing the proposed Call-Off Contract.
“Month”	means calendar month.
“National Insurance Contributions”	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
“Notified Premises”	means the premises where the animals or Carcase(s) are located.
“Occasion of Tax Non-Compliance”	means: (a) any tax return of the Framework Provider 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 Framework Provider under the General Anti-Abuse Rule or the Halifax Abuse principle or under any tax rules or legislation 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 Framework Provider was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or (b) any tax return of the Framework Provider submitted to a Relevant Tax Authority on or after 1 October 2012 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 Framework Commencement Date or, with respect to a Call-Off Contract, the Commencement Date, or to a civil penalty for fraud or evasion.

“Order” or “Order Form”	means the document a Customer will send to the Framework Provider setting out the details of the Services it requires from the Framework Provider in the form set out in Schedule 6 to this Framework Agreement or, where an order may be placed verbally in accordance with the Schedule 4 Call-Off Procedure, the verbal order placed by the Framework Provider in accordance with such Call-Off Procedure.
“Outbreak”	means an occurrence of Exotic Notifiable Disease at one or more premises.
“Out Codes”	means the first part of a UK postcode.
“Party”	means (a) if the term is used within Section 2 Standard Terms and Conditions of Framework Agreement, any party to the Framework Agreement and (b) if the term is used within a Call-Off Contract, any party to a Call-Off Contract.
“Personal Data”	has the meaning given in the UK GDPR.
“Personal Data Breach”	has the meaning given in the UK GDPR.
“Personal Protective Equipment” or “PPE”	means protective clothing, helmets, goggles, or other garments or equipment designed to protect the wearer's body from injury or infection.
“Premises”	means the location where the Services are to be performed.
“Pricing Matrix”	means the pricing matrices set out in Schedule 3 to this Framework Agreement.
“Processor”	has the meaning given in the UK GDPR.
“Prohibited Act”	means any of the following which constitute prohibited acts: (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority or Contracting Body a financial or other 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 Framework Agreement; (c) committing any offence: (i) under the Bribery Act 2010; (ii) under legislation creating offences concerning fraudulent acts (iii) at common law concerning fraudulent acts relating to the Framework Agreement or any other contract with a Contracting Body; or (iv) defrauding, attempting to defraud or conspiring to defraud a Contracting Body. (a) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.
“Property”	means the property, other than real property, issued or made available to the Framework Provider by the Authority or Customer in connection with the Framework Agreement or any Call-Off Contract.
“Protective Measures”	means technical and organisational measures which must take account of: (a) the nature of the data to be protected (b) harm that might result from Data Loss Event; (c) state of technological development (d) the cost of implementing any 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.

“Framework Provider Equipment”	means the Framework Provider’s equipment, consumables, plant, materials and such other items supplied and used by the Framework Provider in the performance of its obligations under any Call-Off Contract.
“Framework Provider’s Representative”	means any competent person appointed by the Framework Provider to be his representative in relation to the performance of any Call-Off Contract who will receive and act on any directions given by the Contract Manager.
“Framework Provider Software”	means software which is proprietary to the Framework Provider, including software which is or will be used by the Framework Provider for the purposes of providing the Services and which is specified as such in the Order Form.
“Framework Provider System”	means the information and communications technology system used by the Framework Provider in providing the Services including the Framework Provider Software, the Framework Provider Equipment and related cabling (but excluding the Authority System).
“Public Contracts Regulations”	means the Public Contracts Regulations 2015 (SI 2015/102)
“Purchase Order Number”	means the purchase order number specified by the Customer in the Order Form.
“Quality Standards”	means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Framework Provider would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Order Form.
“Receipt”	means the physical or electronic arrival of the invoice at the address of the Customer detailed in the Order Form or at any other address given by the Customer to the Framework Provider for the submission of invoices.
“Relevant Tax Authority”	means HM Revenue & Customs or, if applicable, a tax authority in the jurisdiction in which the Framework Provider is established.
“Regulatory Bodies”	means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Call-Off Contract or any other affairs of the Authority and “Regulatory Body” shall be construed accordingly.

"Relevant Conviction"	means a conviction that is relevant to the nature of the Services or as listed by the Customer and/or relevant to the work of the Customer.
"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.
"Replacement Framework Provider"	means any third party service Framework Provider appointed by the Authority or a Customer to supply any Services which are substantially similar to any of the Services and which the Contracting Body receives in substitution for any of the Services following the expiry, termination or partial termination of a Call-Off Contract.
"Request for Information"	means a request for information under the FOIA or the Environmental Information Regulations.
"Response"	means the information submitted in response to the Framework ITT via the online response forms on Atamis including the Framework Provider's formal Tender.
"Returning Employees"	means those persons agreed by the Parties to be employed by the Framework Provider (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Contract Period.
"RPE"	means Respiratory Protective Equipment.
"Security Policy Framework"	means the HMG Security Policy Framework (available from the Cabinet Office's Government Security Secretariat) as updated from time to time.
"Selection Methodology"	means the selection methodology set out in Schedule 4 to this Framework Agreement, to be applied for the award of Call-Off Contracts.
"Services"	means, in relation to the Framework Agreement, the services described in the Specification, and in relation to a Call-Off Contract, means those services within the scope of services set out in the Specification which are set out in an Order Form and which the Framework Provider is required to carry out under a Call-Off Contract for a Contracting Body/Customer.
"Specification" or "Specification of Requirements"	means the specification (including any related performance measurements, requirements, protocols and targets) of the Services Framework Provider under the Framework Agreement / a Call-Off Contract.

“Staff”	means all persons employed by the Framework Provider to perform its obligations under the Framework Agreement and/or a Call-Off Contract together with the Framework Provider’s servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under the Framework Agreement/ a Call-Off Contract.
“Sub-Contractor”	means a third party directly or indirectly contracted to the Framework Provider (irrespective of whether such person is an agent or Affiliate of the Framework Provider) whose services and/or goods are used by the Framework Provider (either directly or indirectly) in connection with the provision of the Services, and “Sub-Contract” shall be construed accordingly.
“Sub-processor”	means any third party appointed to process Personal Data on behalf of the Framework Provider related to the Framework Agreement or a Call-Off Contract.
“Tender or Tenders”	means documents and information submitted by the Framework Provider to the Authority in response to the Authority’s Invitation to Tender. References to the Tender shall also include all responses given by the Framework Provider in response to the selection questions as part of the assessment of the Framework Provider’s suitability at Stage 2 of the ITT.
“Third Party IP Claim”	any claim, demand suit or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority or the Framework Provider) arising from the performance of the Framework Provider’s obligations under the Framework Agreement or a Call-Off Contract.
“Third Party Software”	means software which is proprietary to any third party which is or will be used by the Contractor to provide the Services including the software and which is specified as such in the Order Form.
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006.
“UK GDPR”	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4);
“Urgent”	means where a response is needed within 24 hours.
“Valid Invoice”	means an invoice containing the detailed information set out in clause C2 (Payment and VAT).

“Variation”	means any amendment of or change to the Framework Agreement or Call-Off Contract or change in which the Services are provided.
“VAT”	means value added tax charged or regulated in accordance with the provisions of the Value Added Tax Act 1994.
“Working Day”	means any day from Monday to Friday, excluding any bank or other national holidays in England, Wales or Scotland.
“Working Hours”	means between the hours of 06:00 – 20:00 on a Working Day.

FRAMEWORK AGREEMENT SCHEDULE 2

SPECIFICATION

PART 1: THE FRAMEWORK PROVIDER'S LOTS

The Framework Provider has been awarded the Lots below;

LOT 1: Animal Health Modelling Services	
LOT 2: Plant Health Modelling Services	✓

PART 2: SPECIFIED REQUIREMENTS

1. Background

- 1.1. The Authority is the United Kingdom (UK) Government Department responsible for the environment, food and farming and rural affairs. The Authority's priorities are to secure a healthy natural environment; a sustainable, low-carbon economy; a thriving farming sector and a sustainable, healthy and secure food supply.
- 1.2. The Authority is committed to ensuring the UK remains a world-leading food and farming nation based on high standards of animal and plant health and animal welfare. As a part of this, one of the Authority's key objectives is to ensure our country is well protected against natural threats and hazards.
- 1.3. As pests and pathogens can spread throughout GB irrespective of regional and political boundaries, the approach to managing an outbreak seeks complementary, consistent and co-ordinated measures in all regions. Responsibility for planning for and managing outbreaks of notifiable pests and pathogens in the different countries of GB falls to the respective Governments. Northern Ireland is recognised as a separate epidemiological unit and would expect to operate separate but similar controls in the event of an incident or outbreak.
- 1.4. Exotic diseases are pests and pathogens which are not normally present in the UK and are constantly present in various countries worldwide and becoming newly established in others. The risk of these diseases infecting animals and plants in the UK is usually low, but the threat continues and cannot be eliminated.
- 1.5. Endemic diseases are those pests and pathogens already present within the UK. Endemic diseases have the potential to result in substantial economic loss to industry and can have a significant impact upon animal and plant health and welfare.
- 1.6. The Authority takes lead on planning and responding to outbreaks of notifiable exotic diseases of animals such as Foot and Mouth Disease, African swine fever and Rabies. Outbreaks of these diseases cause animals to suffer, damage businesses, jeopardise international trade and cost the UK taxpayer significant sums of money. Some zoonotic diseases also pose risks to human health and food safety.
- 1.7. There are many plant pests and diseases which if they were to become established in the UK could cause serious damage to our crops, forestry and the wider environment. Such outbreaks could also jeopardise trade and may have extensive cost implications for UK businesses and taxpayers. Official controls and restrictions on the import,

movement and keeping of plants, plant pests and other material (e.g. soil) are vital to help prevent the introduction and spread of harmful organisms.

- 1.8. Quantitative modelling enhances the Authority's evidence base and provides additional specialist advice upon which policy decisions are taken. The main contribution of models to date has been towards the development and modification of disease prevention and control policy, proactively as well as in response to outbreaks. In doing so, quantitative modelling informs policies that support the protection of public health, the environment and the economy from animal and plant pests and diseases which in turn enables a sustainable, secure and healthy food supply. It also ensures that the Authority is better prepared to deal swiftly and efficiently with emergencies in its areas of responsibility.

2. Scope

- 2.1. The Contractor is appointed to the Animal and Plant Health Modelling Services Framework to supply animal and plant health modelling expertise and services via:
 - 2.1.1. **Lot 1 – Animal Health Modelling Services**
 - 2.1.2. **Lot 2 – Plant Health Modelling Services**
- 2.2. Both Lots are intended to be used in both emergency and non-emergency situations. The relevant call-off processes which will apply are described in section 11 of this Specification of Requirements.
- 2.3. Modelling and analytical requirements are for the whole of the UK. The Contractor may be required to perform analysis at a country level, government level, regional level, county level or other geographic level.
- 2.4. This Framework replaces the previous Animal and Plant Health Modelling Framework, reference 25333. This was the Authority's previous framework for animal and plant health modelling services which will expire in April 2024.

3. General Service Requirements

- 3.1. The Framework will give the Authority access to quantitative modelling capability and tools for animal and plant pest and disease modelling and expert analysis to meet occasional ad hoc policy requests. The Authority requires the Framework Provider to be available to respond to emergency situations in the form of expert consultation and/or input to modelling exercises. The purpose of carrying out this analysis is to inform policy decisions which may need to be made quickly, often based on evidence that is not complete.
- 3.2. In an outbreak, Lot 2 (Plant Health) Services may also be required to support an outbreak but usually with a longer lead-in time of more than 48 hours.
- 3.3. Outlined below is a list of potential uses of the Framework:
 - 3.3.1. *Expert advice* – Provision of veterinary technical and scientific evidence in relation to epidemiological, pest and disease spread and other forms of dispersion, economic and wildlife population modelling and in response to specific questions on a developing policy in peacetime and outbreaks. Provision of advice and evidence will be used to support a policy team in identifying options.
 - 3.3.2. *Policy development and review* – For example testing specific policy options, such as Foot and Mouth Disease (FMD) or Bluetongue vaccination strategies or sheep identification and cost/benefit analysis of disease control strategies for established pests. For plant health this may include cost/benefit of control strategies such as *Phytophthora ramorum* or for the development of policy options for exotic pests - such as, Emerald Ash Borer.
 - 3.3.3. *Impact assessments* – For example, the exploration of the impact of different sheep identification and movement systems or standstill regimes on disease

control, in order to estimate the expected benefits as part of the assessment of options for implementing new legislation.

- 3.3.4. *Lessons identified/Contingency planning* – Based on the modelling of past epidemics, models can be used to answer questions of the type “what if this had been done differently?”. The answers to these questions may inform adjustment of control policies and/or contingency plans for tackling future outbreaks (a model which reproduces a range of possible scenarios can be used).
- 3.3.5. *Resource planning* – models of epidemics and their control can be used to estimate resource requirements so that these may be planned for. Resource planning is part of contingency planning, but models may also be useful real-time tools and may be used to predict the scale of increase in resource requirements in specific situations.
- 3.3.6. *Economic impact assessment* – Economic impact assessment of animal and plant diseases must be based on quantitative information about the impact of the disease. Such physical information might be data reported from an actual past outbreak but to contribute to future policy decisions and disease management planning it is likely to arise from a combination of expert opinion and epidemiological modelling. Diseases could be exotic such as FMD or African Swine Fever (ASF) or endemic such as Salmonella or Porcine Reproductive and Respiratory Syndrome (PRRS). For plant health this could cover diseases such as those caused by Phytophthora species or Sweet Chestnut Blight.
- 3.3.7. *Training and exercises* – models can be used as “virtual outbreak simulators” for training purposes.
- 3.3.8. *Surveillance targeting* – models can be used to indicate where it is most beneficial to target surveillance efforts. This is particularly important where resources are limited.
- 3.3.9. *Retrospective analysis* – where good data is available from past epidemics, models can be constructed as an aid to understanding the dynamics of the epidemic (requires a model to mimic a specific real-life epidemic).
- 3.3.10. *Emergency response* – models can be used to investigate recent past and short-term future pathogen spread in cases where a disease incident or an outbreak is in progress, to allow better targeting of mitigation measures.
- 3.3.11. *Risk quantification* – models can be used to quantify the risk of a pathogen entering and/or spreading within an area of interest. This may require the use of models of the distribution of susceptible domestic and wild hosts (and/or vectors), and can be used to identify data gaps and to inform mitigation measures.

Lot Specific Requirements: Lot 2 – Plant Health Modelling Services

4. Lot 2 Overview

- 4.1. Quantitative modelling for plant and bee health contributes to the evidence base required by government to assess risk and manage outbreaks of pests and diseases of relevance to plant and bee health. Recent policy interests include but are not limited to Phytophthora Ramorum, Phytophthora Kernoviae, Phytophthora Pluvialis, Chalara, Oak Processionary Moth, Emerald Ash Borer, Xylella fastidiosa, Acute Oak Decline, Varroa and Asian Hornet.
- 4.2. An assigned budget is available for plant health modelling and may be used to fund one or two larger projects or a series of small projects. The distribution of the budget will be determined annually based on the needs of policy and operations.
- 4.3. The Framework Provider shall provide Modelling Services in relation to one (as a minimum) or more of the pests/diseases listed above. The Framework Provider must have access to their own pest/disease simulation tool(s) for the pests/disease of interest

or models that can be adapted to be appropriate for the pest/disease of interest. The Authority may also ask Framework Providers to develop models for new priority pests and diseases as identified by prioritisation activities, such as the Plant Health Risk Register (PHRR). The Framework Provider's pest/disease simulation model(s) should be applicable to as wide a range of questions about the spread and control of pest/disease outbreak as possible.

5. Lot 2 Service Requirements

- 5.1. Throughout the duration of the Framework, the Framework Provider shall:
 - 5.1.1. Populate and maintain their model(s) with relevant data, so that outputs can be rapidly generated in an emergency.
 - 5.1.2. Provide a model summary document as part of each project which sets out the limitations, the strengths, what the model can be used for and how the model works. The summary document should be provided following development and running of the model to provide indicative results to policy and operational colleagues. Following acceptance in draft, the summary document should form part of a final report. The Framework Provider shall be responsible for updating the summary document as necessary.
 - 5.1.3. Maintain access and interoperability with any relevant data sources that have been used to support or run the model. This may include, but is not limited to, Forestry Commission data, meteorological data, and surveillance data.
 - 5.1.4. Abide by data sharing protocols; to facilitate modelling during an outbreak, the Framework Provider shall be provided with relevant datasets by the Authority in a suitable format on a regular basis, determined by the Authority at the time of issue. The Framework Provider shall then use these datasets to populate their models. The Framework Provider shall ensure that they access and use the datasets in accordance with any data sharing protocols set by the data owners.
 - 5.1.5. Where possible, maintain or develop models which, with little associated cost, can be modified to cover other priority pests and diseases. Examples include where the basic structure of a model can be modified to fit another pest from that for which it was originally intended.
- 5.2. The Framework Provider may be required to respond to Mini Competitions for a variety of non-emergency requirements, including but not limited to the following examples:
 - 5.2.1. Respond to ad hoc modelling requests using existing models. For example, this may be for informing policy development and review, for testing specific policy options and for providing up-to-date predictions for policy development. This may involve periodic development of existing models in response to emerging requirements.
 - 5.2.2. Respond to requests to develop new models which can interface with existing modelling tools in the market, for example, meteorological models, and/or adapt models so they can be applied to simulations of the Authority's current contingency plans.
 - 5.2.3. Participate in the evaluation of other models and model outputs, including peer review of any work undertaken e.g. by other suppliers.
 - 5.2.4. Attend workshops/events relevant to improving understanding of the data or the policy context around a particular disease.
 - 5.2.5. Organise quality assurance activities (e.g. peer reviews, workshops with experts) to ensure that the models meet the Authority's quality assurance requirements. Quality assurance must be in line with relevant guidance from, but not limited to,

the [AQUA book](#) and the [Code of Practice for Official Statistics](#). Quality assurance must also be in line with any relevant academic principles of quality.

5.2.6. Engage with other organisations to ensure specialist input from other disciplines, including other institutions. This will require the Framework Provider to seek advice/involvement of others and communicate clearly and effectively with them to develop more useful scenarios.

5.2.7. Development of models for use in emergency situations.

6. Performance Management Framework

- 6.1. As part of the Authority's continuous drive to improve the performance of all contracts, this Performance Management Framework will be used to monitor, measure and control all aspects of the Framework Provider's performance of contract responsibilities under the Call-Off Contract.
- 6.2. The purpose of this Performance Management Framework is to set out the obligations on the Framework Provider, to outline how the Framework Provider's performance will be evaluated and to detail the sanctions for performance failure. The Framework Provider is responsible for the performance of any sub-contractors.
- 6.3. The use of a strong service credit regime accompanied by a proactive approach to correcting failures and addressing their cause improves the relationship and enables a partnership rather than a confrontational style of working. Its focus is on managing and improving service. It is not about taking cost out of the service.
- 6.4. Key Performance Indicators (KPIs) are set out at Table A below. They will be monitored on a monthly, quarterly or annual basis as appropriate to the Service and will form part of the Contract Performance Review.
- 6.5. The Authority will be entitled to refine, vary or modify the KPIs, performance standards and service credits from time to time during the Contract Period through a variation to be agreed with the Framework Provider using a Contract Change Note (CCN).
- 6.6. Where a KPI has a percentage measure, the Framework Provider's performance will be rounded to the nearest whole number.
- 6.7. The Authority will produce an annual Performance Management report, to be sent to the Framework Provider, detailing the Framework Provider's performance against KPIs. This will cover any training or deployment call-offs which have taken place during the period.
- 6.8. The Framework Provider will maintain their own management reports, including Issues Log, which will include detail on periodic checks to ensure quality.
- 6.9. Any performance issues highlighted in the reports will be addressed by the Framework Provider, who may be required to provide an improvement plan to address all issues highlighted within a week of receipt of the report. Performance management reports and KPI performance will be a key feature of any Contract Review meetings.
- 6.10. Where performance failure attributable to the Framework Provider is identified in the Performance Management report and relates to the KPIs then the service credit regime may apply, at the sole discretion of the Authority.

7. Service Credits

- 7.1. The use of service credits is governed by the following principles:
- 7.2. Service credits sit within the wider service management approach being pursued by the Framework Provider and the Contracting Body. Use of service credits does not preclude any other remedy for failure of performance available to the Contracting Body under the terms and conditions of the Call-Off Contract.

- 7.3. The service credit regime will be instigated on each occasion when there is a service failure within the performance monitoring period. Failure to meet a KPI may also give rise to a remediation plan.
- KPIs with a service credit rating of 0 will have no associated service credit
 - KPIs with a service credit rating of 1 will have a service credit of 3% of the invoice amount for the associated Call-off Contract value applied for each KPI failure
 - KPIs with a service credit rating of 2 will have a service credit of 5% of the invoice amount for the Call-off Contract value (the applicable quarterly period), applied for each KPI failure.
 - The maximum annual service credit to be applied will be no more than 10% of the total Call-off Contract value.
- 7.4. The Framework Provider will provide the Authority with the information listed in the Specification and such other supporting information as the Authority may reasonably request in order to determine the proper application of any service credits due.
- 7.5. For services where the Framework Provider is paid by the Authority, service credits will be paid to the Authority as a credit note to the next invoice, or if no invoice is due within 30 days of a performance report, then the Framework Provider will issue a bespoke credit note to the Authority.
- 7.6. For services where the Framework Provider recovers costs directly, service credits will be paid to individual users of the service as a credit note to their next invoice. The Framework Provider will propose how the service credit amounts will be applied to each user of the service.
- 7.7. The full, agreed service credit regime will operate from the initial delivery date until the end of the Contract Period. At the end of the first complete performance monitoring period, the Authority and the Framework Provider will enter into good faith discussions to review the KPIs and assess their effectiveness. The KPIs may be adjusted to ensure that they are appropriate and achievable.

8. Governance and Contract Management

- 8.1. The Framework Provider shall appoint a nominated person of appropriate grade to be the Framework Provider's Authorised Representative to manage the provision of the Service and to liaise with the Authority as required. At any meeting it will be assumed the Framework Provider's Authorised Representative will be authorised to make critical decisions.
- 8.2. The Framework Provider shall appoint a named individual as the Framework Provider's Authorised Representative who shall be responsible for the overall quality and timeliness of the Services to be provided.
- 8.3. An annual Framework Capability Review Meeting will be held between the Authority and the Framework Provider.
- 8.4. The Framework Provider may also be required to attend a Contract Performance Review Meeting in respect of any Call-off Contracts awarded to the Framework Provider. These may be held monthly or quarterly as appropriate to the Service requirements. Details of the governance requirements will be specified at the point of call-off.
- 8.5. The Framework Provider shall be responsible for any travel and subsistence costs incurred because of attendance at any Review Meeting. Meetings may also be held by teleconference with the agreement of all parties.
- 8.6. The Framework Provider shall be appropriately represented in person at all Review Meetings by an appointed Framework Provider's Authorised Representative that will be authorised to make critical decisions.

Annex A. Key Performance Indicators

KPI	Lots	Description	Measure	KPI Target	Source(s)	Service Credit Rating
KPI 1 Service Delivery	All	The Provider delivers against the project milestones.	The Provider achieves the delivery dates for the project milestones as specified in the Order	98%	Contracting Body's Contract Manager	2
KPI 2 Contract Management	All	The Provider is responsive during Service delivery	The Provider attends monthly/quarterly (as specified in the Order) Contract Performance Review Meetings and provides the Contracting Body with regular (as specified in the Order) updates throughout the project.	98%	Contracting Body's Contract Manager	1
KPI 3 Quality	All	The Provider's model outputs meet the Contracting Body's quality assurance standards	The model outputs are in line with the AQUA book and the Code of Practice for Official Statistics	98%	Contracting Body's Contract Manager	2
KPI 4 Contract Management	All	The Provider delivers projects within the agreed budget and inline with the agreed Framework Prices	The Provider's invoices match the agreed Framework Prices and the payment schedule specified in the Order	98%	Contracting Body's Contract Manager	1

FRAMEWORK AGREEMENT SCHEDULE 3

PRICING MATRIX

1 FRAMEWORK PROVIDER RATES

1.1 All prices are in £ Sterling (GBP), excluding VAT.

1.2 Lot 2: Plant Health Modelling Services

1.2.1 For Lot 2, the Framework Provider may apply either Day & Hourly Rates or an Out of Hours Hourly Rate, as follows:

Role	Day Rate (£)	Hourly Rate (£)	Out of Hours Hourly Rate (£)
Senior Modeller			
Modeller			
Assistant Modeller			
Administrator			

2 The 'Day Rate' is the price charged for eight (8) or more hours, within the hours of 06:00 to 20:00 Monday to Friday.

3 The 'Hourly Rate' is the price charged per one (1) hour, within the hours of 06:00 to 20:00 Monday to Friday. However, where the total number of hours spent results in the cost exceeding the Half Day Rate, the Half Day Rate shall apply.

4 The 'Half Day Rate' is the price charged for four (4) hours, within the hours of 06:00 to 20:00 Monday to Friday. The half day rate will apply for the first four (4) hours that the service is required, and any additional hours will then be applied at the Hourly Rate. However, where the total number of hours spent results in the cost exceeding the Day Rate, the Day Rate shall apply.

5 The 'Out of Hours Hourly Rate' is the price charged for one hour, within the hours of 20:01 – 05:59 Monday to Fridays and all day on Saturdays, Sundays and Bank Holidays. For the avoidance of doubt, out of hours payments on Bank Holidays shall be limited to official Bank Holidays in England and Wales.

6 Out of Hours Hourly Rates will not be paid in relation to non-emergency work.

FRAMEWORK AGREEMENT SCHEDULE 4

CALL OFF PROCEDURE

1. CALL-OFF CONTRACT AWARD PROCEDURE

- 1.1. When the Authority has a requirement to procure Services through the Framework Agreement (except in an emergency situation), a Call-Off Contract will be awarded via a Mini-Competition, save in the case of an Incident or Outbreak the Authority reserves the right to make a direct award in accordance with paragraph 1.11. A mini-Competition will re-open the competition to all Framework Providers admitted to the Framework who are capable of performing the proposed Services within the relevant Lot.
- 1.2. The Framework Agreement and the Call-off Contract Terms will apply to the Call-off Contract, together with such more precisely formulated terms as may be specified by the Authority. Use of the Mini-Competition procedure does not mean that the Specification of Requirements set out for this Framework can be changed, although a more precise statement of the requirements may be made.
- 1.3. The invitation to take part in a Mini-Competition will:
 - 1.3.1. be issued in via the Atamis, the Authority's e-tendering system or via email;
 - 1.3.2. be issued to all Framework Providers in the relevant Lot capable of fulfilling the Authority's requirements;
 - 1.3.3. specify the award criteria;
 - 1.3.4. specify a fixed time limit for submission of proposals. Such time limit shall be of sufficient duration to allow proposals to be submitted, taking into account factors such as the complexity of the Authority's requirements and the time needed to compile and submit a proposal;
 - 1.3.5. state the Service requirements and seek proposals for fulfilling the requirement, including costs to meet the specific requirements, in accordance with the prices applicable for the relevant Lot;
 - 1.3.6. contain a copy of the Order Form, completed as if it were the resultant Order completed as far as possible and indicating where information from the winning Framework Provider's proposal will be needed as an input to complete the Order.
- 1.4. When invited by the Authority the Framework Providers will, via the Atamis, the Authority's e-tendering system or via email, either submit a written proposal or decline the invitation to take part in the re-opening of competition.
- 1.5. The Authority reserves the right to reject any responses that are received after the specified deadline.
- 1.6. The Authority reserves the right to discuss its outline scope of services simultaneously with all Framework Providers and if necessary make modifications at its sole discretion to any outline scope of services before it issues its written invitations to tender for Call-Off Contracts.
- 1.7. The Authority will evaluate all the Tenders submitted for each Mini-Competition.
- 1.8. The Call-Off Contract shall be awarded to the highest scoring Framework Provider.

- 1.9. Any tenders submitted by the Framework Provider in response to a Mini-Competition shall remain open for acceptance for 90 days (or such other period as specified in the invitation to tender issued by the Authority).
- 1.10. Notwithstanding the fact that the Authority has followed the procedure set out above the Authority shall always be entitled to decline to make an award for its Service requirements. Nothing in this Framework Agreement shall oblige the Authority or to place any Order for Services.
- 1.11. Subject to paragraph 1.1 (above), the Authority reserves the right in emergency situations to adopt a Direct Award process which will follow the procedures set out below:
 - 1.11.1. Identify all Framework Providers capable of performing the required services without any amendment to the Scope of Services contained within the Framework Agreement.
 - 1.11.2. Determine which Framework Provider's offering provides the most economical advantageous solution based on information submitted in the Framework Provider's Response to the Framework ITT.
- 1.12. All Call-Off Contracts awarded either through the Mini-Competition process or through the Direct Award process shall be awarded based on a combination of capability, capacity and cost. The technical weighting will range between 50% - 80% and the commercial weighting will range between 20% - 50%. The weightings applied will be determined by the Authority and based on the complexity of the Customer's requirement.
- 1.13. All Call-off Contracts shall be based on the Order Form set out in Framework Agreement Terms and Conditions, Schedule 6 (Call Off Order Form) and governed by the Authority's Conditions of Framework and the Terms and Conditions for Call-off Contracts, set out in Framework Agreement Terms and Conditions, Schedule 5 (Call Off Terms and Conditions).
- 1.14. The Authority reserves the right to amalgamate tender debriefs and carry them out at Review Meetings.
- 1.15. The Authority will nominate a responsible owner for monitoring and managing each individual Call-Off Contract. This will be the Contract Manager.

FRAMEWORK AGREEMENT SCHEDULE 5

CALL OFF TERMS AND CONDITIONS

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A. GENERAL PROVISIONS

A1 Definitions and Interpretation:

- A1.1 In this Call-Off Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 to the Framework Agreement or the relevant schedule to the Framework Agreement.
- A1.2 If a capitalised expression does not have an interpretation in Schedule 1 to the Framework Agreement or the relevant schedule to the Framework Agreement, it shall have the meaning given to it in this Call-Off Contract. If no meaning is given to it in this Call-Off Contract, 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.
- A1.3 The interpretation and construction of this Call-Off Contract shall be subject to the following provisions:
- A1.3.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
 - A1.3.2 words importing the masculine include the feminine and the neuter;
 - A1.3.3 reference to a clause is a reference to the whole of that clause unless stated otherwise;
 - A1.3.4 references to any statutory provision, enactment, order, regulation or other similar instrument shall be construed as a reference to the statutory provision, enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted from time to time and shall include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it;
 - A1.3.5 reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
 - A1.3.6 the words “other”, “in particular”, “for example”, “including” 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”; and
 - A1.3.7 headings are included in the Call-Off Contract for ease of reference only and shall not affect the interpretation or construction of the Call-Off Contract.
- A1.4 If there is any conflict between the provisions of this Call-Off Contract and the provisions of the Framework Agreement, the provisions of the Framework Agreement shall prevail over those of the Call-Off Contract save that:
- A1.4.1 any special conditions or variations set out in the Order Form (provided that such conditions or such variations do not amount to a material change of the Framework Agreement within the meaning of the Public Contracts

Regulations) forming part of the Call-Off Contract shall prevail over Framework Agreement; and

A1.4.2 subject to clause A1.5, the Call-Off Contract shall prevail over the Tender.

A1.5 Any special conditions or variations set out in the Order Form (provided that such conditions or such variations do not amount to a material change of this Call-off Contract within the meaning of the Public Contracts Regulations) forming part of the Call-Off Contract shall prevail over the Framework Agreement and the Call-Off Terms and Conditions.

A1.6 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";

A1.7 the Schedules form part of the Contract and shall have effect as if set out in full in the body of the Contract and any reference to the Contract shall include the Schedules;

A1.8 references in the Contract to any clause or sub-clause or Schedule without further designation shall be construed as a reference to the clause or sub-clause or Schedule to the Contract so numbered; and

A1.9 references in the Contract to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to the Contract so numbered.

A1.10 any reference in this Contract which immediately before the IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):

- i. any EU regulation, EU decision, EU tertiary legislation or provision of the European Economic Area ("EEA") agreement ("EU References") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- ii. any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

A2 Customer's Obligations

A2.1 Save as otherwise expressly provided, the obligations of the Customer under the Call-Off Contract are obligations of the Customer in its capacity as a contracting counterparty and nothing in the Call-Off Contract shall operate as an obligation upon, or in any other way fetter or constrain the Customer in any other capacity, nor shall the exercise by the Customer of its duties and powers in any other capacity lead to any liability under the Call-Off Contract (howsoever arising) on the part of the Customer to the Framework Provider.

A3 Framework Provider's Status

A3.1 At all times during the Contract Period the Framework Provider shall be an independent contractor and nothing in the Call-Off Contract shall create a contract of employment, a

relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Call-Off Contract.

A3.2 The Framework Provider shall not (and shall ensure that any other person engaged in relation to the Call-Off Contract shall not) say or do anything that might lead any other person to believe that the Framework Provider is acting as the agent or employee of the Customer.

A3.3 Where the Framework Provider is an individual:

A3.3.1 the Framework Provider warrants and represents that he is providing Services as an independent contractor and nothing shall render him an employee, worker, agent or partner of the Customer and the Framework Provider shall not hold himself out as such; and

A3.3.2 the Framework Provider agrees that this Call-Off Contract constitutes a contract for the provision of services and not a contract of employment and accordingly, the Framework Provider shall be fully responsible for and shall indemnify the Customer for and in respect of any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services, where the recovery is not prohibited by Law. The Framework Provider shall further indemnify the Customer against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Customer in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the Customer's negligence or wilful default.

A4 Contract Period

A4.1 The Call-Off Contract shall take effect on the Commencement Date and shall expire automatically at midnight on the date set out in the Order Form, unless it is otherwise terminated in accordance with the provisions of the Call-Off Contract, or otherwise lawfully terminated, or extended under clause F8 (Extension of Contract Period). The total Contract Period (including any extension) of this Call-Off Contract shall not exceed two years without the prior Approval of the Authority.

A5 Notices

A5.1 Subject to clause 40.3, where this Call-Off Contract states that a notice or communication between the Parties must be "written" or "in writing" it is not valid unless it is made by letter (sent by hand, first class post, registered post or by the recorded delivery service) or by email or by communication via Atamis. The address details for each Party shall be as stated in the Order Form.

A5.2 If it is not returned as undelivered, a notice served:

A5.2.1 in a letter is deemed to have been received 2 Working Days after the day it was sent; and

A5.2.2 in an email or via Atamis is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day, or on the next Working Day if not sent on a Working Day,

or when the other Party acknowledges receipt, whichever is the earlier.

A5.3 Notices pursuant to clauses G3 (Force Majeure), I2 (Dispute Resolution) or to terminate this Call-Off Contract or any part of the Services are valid only if served in a letter by hand, registered post or by the recorded delivery service.

A5.4 Either Party may change its address for service by serving a notice in accordance with this clause.

A6 Mistakes in Information

A6.1 The Framework Provider shall be responsible for the accuracy of all drawings, documentation and information supplied to the Customer by the Framework Provider in connection with the supply of the Services and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions therein.

A7 Conflicts of Interest

A7.1 The Framework Provider shall take appropriate steps to ensure that neither the Framework Provider nor any Staff is placed in a position where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Framework Provider and the duties owed to the Customer under the provisions of the Call-Off Contract. The Framework Provider will notify the Customer without delay giving full particulars of any such conflict of interest which may arise.

A7.2 The Customer reserves the right to terminate the Call-Off Contract immediately by notice in writing and/or to take or require the Framework Provider to take such other steps it deems necessary where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Framework Provider and the duties owed to the Customer under the provisions of the Call-Off Contract. The actions of the Customer pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Customer.

A8 The Contracts (Rights of Third Parties) Act 1999

A8.1 A person who is not a Party to the Call-Off Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

B. PERFORMANCE

B1 The Specification

B1.1 In consideration of the Framework Provider supplying the Services during the Contract Period in accordance with the Customer's requirements as set out in the Specification and the provisions of the Call-Off Contract the Framework Provider shall be paid the Contract Price.

- B1.2 Wherever reasonably requested to do so by the Customer, the Framework Provider shall co-ordinate his activities in supplying the Services with those of the Customer and other contractors engaged by the Customer.
- B1.3 Timely supply of the Services shall be of the essence of the Call-Off Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date. If the Framework Provider fails to deliver the Services within the time promised or specified in the Specification (other than as a direct result of the Default of the Customer), the Customer is released from any obligation to accept and pay for the Services, as applicable, and may terminate the Call-Off Contract, in either case without prejudice to any other rights and remedies of the Customer.

B2 Inspections

- B2.1 If requested by the Customer, the Framework Provider shall permit the Customer to enter the Framework Provider's premises to inspect and examine the manner in which the Framework Provider supplies the Services.
- B2.2 Inspections carried out pursuant to clause B2.1 shall be carried out during business hours on reasonable notice to the Framework Provider, provided that, in the event of an emergency, the Framework Provider shall grant the Authority immediate access to its premises. The Framework Provider shall provide free of charge all such reasonable access and facilities as the Customer may reasonably require for such inspection and examination. In this clause B2, the supply of Services includes planning or preliminary work in connection with the supply of the Services.

B3 Provision and Removal of Equipment

- B3.1 The Framework Provider shall provide all equipment, consumables, plant, materials and other such items and resources necessary for the supply of the Services, unless otherwise agreed by the Customer in writing.
- B3.2 The Framework Provider shall not deliver any Framework Provider Equipment to nor begin any work on the Premises without obtaining prior Approval. Any or all Framework Provider Equipment may be subject to cleansing and disinfection biosecurity measures and the Framework Provider shall, and shall ensure that all its Staff and Sub-Contractors, comply with all instructions of the Customer or Authority representatives regarding the cleansing and disinfection of Framework Provider Equipment.
- B3.3 All Framework Provider Equipment brought onto the Premises shall be at the Framework Provider's own risk and the Customer shall have no liability for any loss of or damage to any Framework Provider Equipment unless the Framework Provider is able to demonstrate that such loss or damage was caused or contributed to by the Customer's Default. For the avoidance of doubt, the Customer shall have no liability for any loss of or damage to any Framework Provider Equipment where this arises from compliance with cleansing and disinfection measures imposed at the Premises.
- B3.4 The Framework Provider shall provide for the haulage or carriage of all Framework Provider Equipment to the Premises and the removal of Framework Provider Equipment when no longer required at its sole cost.
- B3.4 Unless otherwise agreed, Framework Provider Equipment brought onto the Premises will remain the property of the Framework Provider.

- B3.5 Any Customer Equipment provided to the Framework Provider shall remain the property of the Customer and shall on request be decontaminated and delivered to the Customer as directed by the Customer. If the cost of any equipment is reimbursed to the Framework Provider, such equipment shall be considered to be Customer Equipment. The Framework Provider will keep a proper inventory of such Customer Equipment and will deliver that inventory to the Customer on request and on completion of the provision of Services under this Call-Off Contract.
- B3.6 The Framework Provider shall maintain all equipment (including Framework Provider Equipment and Customer Equipment) within the Premises in a safe and serviceable condition and in accordance with the instructions of the Customer or Authority's representatives at the Premises. To the extent it is practicable, this will include maintaining all equipment in a clean condition.
- B3.7 The Framework Provider shall, at the Customer's written request, at its own expense and as soon as reasonably practicable:
- (a) remove immediately from the Premises any Framework Provider Equipment which in the reasonable opinion of the Customer is to the extent required under the Call-Off Contract, either unduly hazardous, noxious or not in accordance with the Call-Off Contract; and
 - (b) replace such item with a suitable substitute item of Framework Provider Equipment.
- B3.8 On completion of the provision of Services under this Call-Off Contract, the Framework Provider shall remove the Framework Provider Equipment together with any other materials used by the Framework Provider to supply the Services and shall leave the Premises in a clean, safe and tidy condition unless otherwise agreed by the Customer. The Framework Provider is solely responsible for making good any damage to those Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Framework Provider or any Staff, unless such damage is a result of the Services as agreed by the Parties.

B4 Manner of Carrying Out the Services

- B4.1 The Framework Provider shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Call-Off Contract, the Framework Provider shall agree the relevant standard of the Services with the Customer prior to the supply of the Services and, in any event, the Framework Provider shall perform its obligations under the Call-Off Contract in accordance with the Law and Good Industry Practice.
- B4.2 The Framework Provider shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services. The Framework Provider shall ensure that those Staff are properly managed and supervised.
- B4.4 The Framework Provider 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 Framework Provider pursuant to the exercise of a right of the Customer to such withholding or deduction under this Call-Off Contract; and/or

(b) the existence of an unresolved dispute.

B5 Framework Provider's Staff

B5.1 The Framework Provider shall:

B5.1.1 ensure that all Staff:

- a. are appropriately qualified, trained and experienced to perform its obligations under this Call-Off Contract
- b. exercise reasonable skill, care and diligence in providing the Services;
- c. when attending the Premises, comply with all instructions of the Customer and/or Authority's representative in control of the Premises;
- d. in respect of the provision of Services, are lawfully entitled to work in the United Kingdom

B5.1.2 retain overall control of the Staff at all times so that the Staff shall not be deemed to be employees, agents, workers or contractors of the Customer;

B5.1.3 comply with all applicable Laws relating to its Staff, in particular the Modern Slavery Act 2015,

B5.1.4 be liable at all times for all acts and omissions of Staff, so that any act or omission of Staff which results in a Default under this Call-Off Contract shall be a Default by the Framework Provider.

B5.2 The Customer may, by written notice to the Framework Provider, refuse to admit onto, or withdraw permission to remain on, the Premises:

B5.2.1 any member of the Staff; or

B5.2.2 any person employed or engaged by any member of the Staff,

whose admission or continued presence would, in the reasonable opinion of the Customer, be undesirable. The Framework Provider shall ensure that the relevant person who is not permitted to remain on the Premises immediately complies with any instructions to leave the Premises.

B5.3 At the Customer's written request, the Framework Provider shall provide a list of the names and addresses of all persons who may require admission in connection with the Call-Off Contract to the Premises, specifying the capacities in which they are concerned with the Call-Off Contract and giving such other particulars as the Customer may reasonably request.

B5.4 If the Framework Provider fails to comply with clause B5.2 immediately upon request and in the reasonable opinion of the Customer, such failure may be prejudicial to the interests of the Customer, the Authority and/or the Crown, then the Customer may terminate the Call-Off Contract, provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Customer.

- B5.5 The decision of the Customer as to whether any person is to be refused access to the Customer's Premises and as to whether the Framework Provider has failed to comply with clause B5.4 shall be final and conclusive.
- B5.6 This Call-Off Contract constitutes a contract for the provision of services and not a contract of employment and accordingly, the Framework Provider shall be fully responsible for and shall indemnify the Customer for and in respect of any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Framework Provider or any of its Staff against the Customer arising out of or in connection with the provision of the Services, including any claims or actions brought under the Agency Workers Regulations 2010 (SI 2010/93);
- B5.7 The Framework Provider shall comply with its obligations in clauses 12.4 to 12.6 of the Framework Agreement in respect of its obligations to ensure that no slavery, human trafficking or forced labour are used in the Framework Provider's operations and/or its supply chain. On request, the Framework Provider shall provide access to any records or reports to be prepared and/or maintained by the Framework Provider in accordance with clause 12 of the Framework Agreement.
- B5.8 The Framework Provider shall notify the Customer as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Call-Off Contract.

B6 Key Personnel

- B6.1 The Framework Provider acknowledges that the Key Personnel are essential to the proper provision of the Services to the Customer.
- B6.2 The Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances or where the Authority has requested the removal of such Key Personnel in accordance with clause 41.6 of the Framework Agreement.
- B6.3 Any replacements to the Key Personnel shall be subject to the agreement of the Customer. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the provision of the Services.
- B6.4 The Customer shall not unreasonably withhold its agreement under clauses B6.2 or B6.3. Such agreement shall be conditional on appropriate arrangements being made by the Framework Provider to minimise any adverse impact on the Call-Off Contract which could be caused by a change in Key Personnel.
- B6.5 The Customer may, by written notice to the Framework Provider, ask the Framework Provider to remove any Key Personnel from performing obligations under this Call-Off Contract, whose continued presence would, in the reasonable opinion of the Customer, be undesirable. The Framework Provider shall promptly comply with any such request.

B7 Licence to Occupy Premises

- B7.1 Access to Premises shall be permitted on a non-exclusive licence basis free of charge and solely for the purpose of the Framework Provider performing its obligations under the Call-

Off Contract. The Framework Provider shall vacate the Premises on completion, termination or abandonment of the Call-Off Contract.

- B7.2 The Framework Provider shall limit access to the Premises referred to in clause B7.1 to such Staff as is necessary to enable it to perform its obligations under the Call-Off Contract and the Framework Provider shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such Premises as the Customer may reasonably request.
- B7.4 The Framework Provider shall (and shall ensure that any Staff attending the Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises or for the use of such Premises as determined by the Customer (or the Authority where the Authority is in control of the Premises by operation of Law), and the Framework Provider shall pay for the cost of making good any damage caused by the Framework Provider or its Staff other than fair wear and tear or where purposefully occurring as a result of the method of delivering the Services, by agreement between the Parties. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
- B7.5 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 Framework Provider or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Call-Off Contract, the Customer retains the right at any time to use any premises owned or occupied by it in any manner it sees fit.

B8 Property

- B8.1 All Property shall be and remain the property of the Customer (or the Authority) and the Framework Provider irrevocably licenses the Customer and its agents to enter any premises of the Framework Provider during normal business hours on reasonable notice to recover any such Property. The Framework Provider shall not in any circumstances have a lien or any other interest on the Property and the Framework Provider shall at all times possess the Property as fiduciary agent and bailee of the Customer (or the Authority). The Framework Provider shall take all reasonable steps to ensure that the title of the Customer to the Property and the exclusion of any such lien or other interest are brought to the notice of all Staff and Sub-Contractors and other appropriate persons and shall, at the Customer's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Customer (or Authority).
- B8.2 The Framework Provider shall use the Property solely in connection with the Call-Off Contract and for no other purpose without prior Approval.
- B8.3 The Framework Provider shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Customer's reasonable security requirements as required from time to time.
- B8.4 The Framework Provider shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear or as an agreed purposeful result of delivering the Services), unless such loss or damage was directly caused by the Customer's Default. The Framework Provider shall inform the Customer immediately of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

C PAYMENT AND CONTRACT PRICE

C1 Contract Price

- C1.1 In consideration of the Framework Provider's performance of its obligations under the Call-Off Contract, the Customer shall pay the Contract Price in accordance with clause C2 (Payment and VAT).

C2 Payment and VAT

- C2.1 The Framework Provider shall submit a Valid Invoice to the Customer as specified by the Customer in the Order Form. A Valid Invoice must contain the reference number of the relevant Order.
- C2.2 The Customer shall, in addition to the Contract Price and following Receipt of a Valid Invoice, pay the Framework Provider a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Call-Off Contract.
- C2.3 The Framework Provider shall add VAT to the Contract Price at the prevailing rate as applicable and shall show the amount of VAT payable separately on all invoices as an extra charge. If the Framework Provider fails to show VAT on an invoice, the Customer will not, at any later date, be liable to pay the Framework Provider any additional VAT.
- C2.4 All Provider invoices shall be expressed in sterling or such other currency as shall be permitted by the Customer in writing.
- C2.4 The Valid Invoices submitted in accordance with clause C2.1 above (and checked and signed by Provider's Representative as being accurate and complete) shall, where required by the Customer, be accompanied by supporting timesheets and any other supporting documentation requested by the Customer relating to the Services, and contain at least the following information:
- C2.4.1 the Provider's full name, address and title of the Call-Off Contract;
 - C2.4.2 identification of which Services are provided by the Provider and which are provided by Sub-Contractors;
 - C2.4.3 the address of the Premises and the date(s) on which Services were performed;
 - C2.4.4 where appropriate, the time spent working on the Premises by individual members of Staff (i.e. clocking on and off);
 - C2.4.5 where appropriate, details of journeys made and distances travelled;
 - C2.4.6 details of the type of work undertaken by individual members of Staff;
 - C2.4.7 Purchase Order number.
- C2.5 Any timesheets provided to support amounts invoiced must be signed, dated and verified by the Contract Manager or Customer/Authority supervising officer on the Premises. If properly completed and verified timesheets fully covering the work comprised in a Valid

Invoice are not received along with a Valid Invoice then the Customer shall have no obligation to pay invoices to which those timesheets relate.

C2.5.1 The Customer shall not pay Framework Provider time spent on meal or rest breaks and the Framework Provider shall ensure that all workers take adequate meal or rest breaks.

C2.5.2 Meal and rest breaks will include breaks both in or outside an individual's workplace along with any time taken in travelling to or from the break location and/or any facilities for cleaning/changing/washing in preparation for or return from a meal or rest break.

C2.5.3 Timesheets must include a minimum of 30 minutes break for each shift of 8 hours, a minimum of 45 minutes break in a shift of between 8 and 12 hours and a minimum of one hour break will be taken within a shift in excess of 12 hours and the Framework Provider's rates and the Price must include such breaks.

C2.5.4 The Customer shall pay only for the time spent by Staff working on the Premises.

C2.6 The Customer shall not pay the Provider's overhead costs unless specifically agreed in writing by the Customer and overhead costs shall include, without limitation; facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.

C2.6.1 The Provider may claim expenses only if they are clearly identified, supported by original receipts and Approved.

C2.7 No payment will be chargeable to or payable by the Customer in respect of any plant or equipment which is stood down during any notice period pursuant to clause H1, H2, H3 and/or H4 and the Provider shall be under a duty to mitigate such costs as far as is reasonably possible e.g. by reutilising Staff, Provider Equipment, plant, materials and services on other current or forthcoming applications or projects.

C2.7.1 The Customer shall not pay for plant which is not in use during a meal or rest break.

C2.8 In submitting any Valid Invoice for payment, the Framework Provider, if registered for VAT, shall produce valid VAT invoices and the Customer shall have no obligation to pay any claimed sums which are not supported by a VAT invoice from the Framework Provider. Only the Framework Provider's Valid Invoices may be submitted for payment, no invoices from any other party will be payable by the Customer. Where different rates of VAT apply to the Services then the Framework Provider shall submit a separate invoice in respect of each of the Services which attract different VAT rates.

C2.10 Where the Customer, at its sole discretion, makes any payment to the Framework Provider prior to the submission of a Valid Invoice (whether an interim payment or any other payment whatsoever) then this payment shall be on account of and deductible from the next payment to be made.

C2.11 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice or timesheet in accordance with the requirements of this Call-Off Contract then the Customer shall be entitled to recover this payment against future invoices raised or directly from the Framework Provider. All payments made by the Customer to a Framework Provider shall be on an interim basis pending final resolution of an account with the Framework Provider in accordance with the terms of this clause C2.

- C2.12 Unless there is a genuine dispute with regard to an Invoice, the Customer shall pay all sums due to the Framework Provider within thirty (30) calendar days of Receipt of a Valid Invoice, to be submitted in arrears.
- C2.13 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Framework Provider interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- C2.14 Where the Framework Provider enters into a Sub-Contract with a supplier or contractor for the purpose of performing its obligations under the Call-Off Contract, it shall ensure that a provision is included in such a Sub-Contract which requires payment to be made of all sums due by the Framework Provider to the Sub-Contractor within a specified period not exceeding thirty (30) calendar days from the receipt of a Valid Invoice.
- C2.15 The Framework Provider 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 in respect of the Framework Provider's failure to account for or to pay any VAT relating to payments made to the Framework Provider under the Call-Off Contract. Any amounts due under this clause C2.15 shall be paid by the Framework Provider 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.
- C2.15 The Framework Provider shall not suspend the supply of the Services unless the Framework Provider is entitled to terminate the Call-Off Contract under clause H2.3 (Termination on Default) for failure to pay undisputed sums of money. Any disputed amounts shall be resolved through the dispute resolution procedure in clause I2.
- C2.16 The Customer shall not pay an invoice which is not a Valid Invoice.

C3 Recovery of Sums Due

- C3.1 Wherever under the Call-Off Contract any sum of money is recoverable from or payable by the Framework Provider to the Customer (including any sum which the Framework Provider is liable to pay to the Customer in respect of any breach of the Call-Off Contract), the Customer may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Framework Provider from the Customer under the Call-Off Contract or under any other agreement or contract with the Customer or the Crown.
- C3.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C3.3 The Provider shall make all payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Provider has a valid court order requiring an amount equal to such deduction to be paid by the Customer to the Provider.
- C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Call-Off Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

C4 Contract Price During Extension of the Contract Period

- C4.1 Subject to the Order Form and the provision in clause F6 (Variation), the Contract Price shall apply for the Contract Period and following an extension pursuant to clause F8 (Extension of Contract Period), to the date of expiry of the extended period, or such earlier date of termination or partial termination of the agreement in accordance with applicable Law or the provisions of the Call-Off Contract.

D. STATUTORY OBLIGATIONS AND REGULATIONS AND OTHER REQUIREMENTS

D1 Prevention of Bribery

- D1.1 The Provider represents and warrants to the Customer that the representations and warranties in clause 8.2 of the Framework Agreement remain true and accurate for the Contract Period.
- D1.2 The Provider shall not, during the Contract Period:
- D1.2.1 commit a Prohibited Act; and/or
 - D1.2.2 do or suffer anything to be done which would cause the Customer or any of its 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.
- D1.3 The Provider shall, during the Contract Period:
- D1.3.1 establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
 - D1.3.2 keep appropriate records of its compliance with its obligations under clause D1.3.1 and make such records available to the Customer on request.
- D1.4 The Provider shall immediately notify the Customer in writing if it becomes aware of any breach of the representations and warranties made in clause D1.1 and/or breach of the obligations under clause D1.2, or has reason to believe that it has or any of the Staff have:
- D1.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - D1.4.2 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
 - D1.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Call-Off Contract or otherwise suspects that any person directly or indirectly connected with the Call-Off Contract has committed or attempted to commit a Prohibited Act.

- D1.5 If the Provider notifies the Customer pursuant to clause D1.4, the Provider 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.
- D1.6 If the Provider is in Default under clauses D1.1 and/or D1.2, the Customer may by notice:
- D1.6.1 require the Provider to remove from performance of the Call-Off Contract any Staff whose acts or omissions have caused the Default; or
 - D1.6.2 immediately terminate the Call-Off Contract.
- D1.7 Any notice served by the Customer under clause D1.6 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 taken (including, where relevant, the date on which the Call-Off Contract shall terminate).

D2 Prevention of Fraud

- D2.1 The Provider shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Provider (including its shareholders, members, directors) in connection with the receipt of monies from the Customer.
- D2.2 The Provider shall notify the Customer immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- D2.3 If the Provider or its Staff commits Fraud in relation to this or any other contract with the Crown (including the Customer) the Customer may:
- D2.3.1 terminate the Call-Off Contract and recover from the Provider the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period; and
 - (b) recover in full from the Provider any other loss sustained by the Customer in consequence of any breach of this clause.

D3 Discrimination

- D3.1 The Provider shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Provider shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- D3.2 The Framework Provider shall take all reasonable steps to secure the observance of clause D3.1 by all Staff.
- D3.3 The Framework Provider shall notify the Customer immediately in writing as soon as it becomes aware of any legal proceedings threatened or issued against it by its Staff on the grounds of discrimination arising in connection with the provision of the Services under this Call-Off Contract.

D4 Environmental Requirements

- D4.1 The Framework Provider shall in the performance of the Call-Off Contract have due regard to the Customer's Environmental, Sustainable Procurement and Ethical Procurement policies ("**Environmental Policies**") which require the Customer through its procurement and management of suppliers to:
- D4.1.1 conserve energy, water, wood, paper and other resources and reduce waste;
 - D4.1.2 phase out the use of ozone depleting substances;
 - D4.1.3 minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment;
 - D4.1.4 minimise the use of products harmful to health and the environment such as hazardous substances and solvents, replacing them with more benign substances where feasible and, where such substances are necessary, to ensure that they are stored in properly labelled containers, used and disposed of in compliance with legal and regulatory requirements and any instructions from the Customer;
 - D4.1.5 reduce fuel emissions wherever possible;
 - D4.1.6 maximise the use of recovered materials in its provision of the Services under this Call-Off Contract and, if recycled materials are not suitable or not readily available, to maximise the use of materials taken from renewable sources; and
 - D4.1.7 promote the design of products that are capable of reuse or remanufacture or easily separable into recyclable parts consisting of one material (e.g., steel, plastic, textile).
- D4.2 The Framework Provider shall ensure that any equipment and materials used in the provision of the Services do not contain:
- D4.2.1 ozone depleting substances such as hydrochlorofluorocarbons (HCFCs), halons, carbon tetrachloride, 111 trichloroethane, bromochloromethane or any other damaging substances, and/or
 - D4.2.2 HFCs and other gaseous and non – gaseous substances with a high global warming potential,
- unless given written permission by the Customer to do so.
- D4.3 The Framework Provider shall conserve energy and water; reduce carbon emissions and other greenhouse gases; minimise the use of substances damaging or hazardous to health and the environment and reduce waste by, for example, using resources more efficiently and reusing, recycling, and composting and respecting biodiversity.
- D4.4 Where required by the Customer, the Framework Provider shall provide the Customer with evidence of its compliance with its obligations under clause D4.3.
- D4.5 The Framework Provider shall ensure that its Staff assigned to the Call-Off Contract are aware of the Customer's Environmental Policies.

D4.6 In relation to climate change adaptation, the Framework Provider shall:

D4.6.1 identify any risks arising from climate change and variable weather such as higher temperatures, droughts, flooding, sea and river level rises, coastal and riparian erosion, water scarcity, and loss of water quality which may disrupt and/or affect the supply of Services to the Customer under this Call-Off Contract; and

D4.6.2 where such risks have been identified, enhance the resilience of its organisation to enable it to adapt and deal with the effects of such extreme events, including by having the necessary awareness-raising, evaluation, preventive, preparatory, recovery measures and support systems in place in order to minimise any disruption to the supply of Services under this Call-Off Contract.

D5 Health and Safety and Wellbeing

D5.1 The Framework Provider shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other Law relating to health and safety and wellbeing, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Call-Off Contract, and the Framework Provider shall conduct any necessary risk assessments or control measures as appropriate in respect of Staff attending the Premises.

D5.2 While on the Premises, the Framework Provider shall comply with any health and safety and wellbeing measures notified by the Customer (or the Authority) in respect of Staff and other persons working there. This shall not limit the Framework Provider's responsibility in respect of its obligations in clause D5.1 and the Framework Provider shall liaise with the Customer (or Authority) representative on the Premises to ensure consistency in health and safety measures and procedures.

D5.3 The Framework Provider shall promptly notify the Customer of any health and safety hazards, near misses or incidents, which may arise in connection with the performance of its obligations under the Call-Off Contract. The Customer shall promptly notify the Framework Provider of any health and safety hazards, near misses or incidents which may exist or arise at the Premises and which may affect the Framework Provider in the performance of its obligations under the Call-Off Contract.

D5.4 The Framework Provider shall notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Call-Off Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

D5.5 The Framework Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Customer on request.

D5.7 The obligations in this clause D5 are subject to any additional obligations in respect of health and safety in the Specification or set out in the Order Form.

E PROTECTION OF INFORMATION

E1 Customer Data

- E1.1 The Framework Provider shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- E1.2 The Framework Provider shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Framework Provider of its obligations under this Call-Off Contract or as otherwise expressly authorised in writing by the Customer.
- E1.3 To the extent that Customer Data is held and/or Processed by the Framework Provider, the Framework Provider shall supply that Customer Data to the Customer as requested by the Customer in the format specified in the Specification.
- E1.4 The Framework Provider shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.
- E1.5 The Framework Provider shall perform secure back-ups of all Customer Data and shall ensure that up-to-date back-ups are stored securely off-site. The Framework Provider shall ensure that such back-ups are made available to the Customer immediately upon request.
- E1.6 The Framework Provider shall ensure that any system on which the Framework Provider holds any Customer Data, including back-up data, is a secure system that complies with the HMG Security Policy Framework.
- E1.7 If the Customer Data is corrupted, lost or sufficiently degraded as a result of the Framework Provider's Default so as to be unusable, the Customer may:
 - E1.7.1 require the Framework Provider (at the Framework Provider's expense) to restore or procure the restoration of Customer Data and the Framework Provider shall do so promptly; and/or
 - E1.7.2 itself restore or procure the restoration of Customer Data, and shall be repaid by the Framework Provider any reasonable expenses incurred in doing so.
- E1.8 If at any time the Framework Provider suspects or has reason to believe that Customer Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Framework Provider shall notify the Customer immediately and inform the Customer of the remedial action the Framework Provider proposes to take.

E2 Data Protection

- E2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation:
 - E2.1.1 the Customer is the Controller and the Framework Provider is the Processor of the Personal Data specified in Schedule 7 and/or as more particularly specified in an Order Form; and
 - E2.1.2 the Parties may provide each other with Personal Data relating to persons employed by them and their agents, suppliers and Sub-Contractors for purposes of administering the Call-Off Contract and each Party will be an independent Controller of such Personal Data (because the Parties each, independently of each other, determine the means and purposes of processing such Personal Data).
- E2.2 Both Parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with the Call-Off Contract.

- E2.3 Each Party shall take all reasonable measures relating to the security of processing which are required pursuant to Article 32 of the UK GDPR including, without limitation, those security measures specified in this clause E2.
- E2.4 The only processing of Personal Data specified in E2.1.1 that the Framework Provider is authorised to do is listed in Schedule 7 (and/or as more particularly specified in an Order Form) by the Customer and may not be determined by the Framework Provider. The Framework Provider shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- E2.5 The only processing of Personal Data specified in clause E2.1.2 that the Parties are authorised to do is processing for purposes of administration of the Call-Off Contract.
- E2.6 The Framework Provider 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:
- E2.6.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - E2.6.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - E2.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - E2.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- E2.7 The Framework Provider shall, in relation to any Personal Data processed in connection with its obligations under this Call-Off Contract:
- E2.7.1 process that Personal Data only in accordance with Schedule 7 (and/or as more particularly specified in an Order Form) unless the Framework Provider is required to do otherwise by Law. If it is so required the Framework Provider shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
 - E2.7.2 ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Customer may reasonably reject (but failure to reject shall not amount to approval by the Customer of the adequacy of the Protective Measures), 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;
 - E2.7.3 ensure that:
 - (i) the Staff do not process Personal Data except in accordance with this Call-Off Contract (and in particular Schedule 7 (and/or as more particularly specified in an Order Form));

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Framework Provider's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Framework Provider 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 Customer or as otherwise permitted by this Contract; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

E2.7.4 not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(i) the Customer or the Framework Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or section 73 of DPA) as determined by the Customer;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Framework Provider 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 Framework Provider complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

E2.7.5 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 Framework Provider is required by Law to retain the Personal Data.

E2.8 Subject to clause E2.9 the Framework Provider shall notify the Customer immediately if, in relation to any Personal Data processed in connection with its obligations under this Call-Off Contract, it:

E2.8.1 receives a Data Subject Request (or purported Data Subject Request);

E2.8.2 receives a request to rectify, block or erase any Personal Data;

E2.8.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

E2.8.4 receives any communication from the Information Commissioner or any other regulatory authority;

- E2.8.5 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
 - E2.8.6 becomes aware of a Data Loss Event.
 - E2.9 The Framework Provider's obligation to notify under clause E2.8 shall include the provision of further information to the Customer in phases, as details become available.
 - E2.10 Taking into account the nature of the processing, the Framework Provider shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Call-Off Contract and any complaint, communication or request made under Clause E2.8 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
 - E2.10.1 the Customer with full details and copies of the complaint, communication or request;
 - E2.10.2 such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - E2.10.3 the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - E2.10.4 assistance as requested by the Customer following any Data Loss Event;
 - E2.10.5 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.
 - E2.11 The Framework Provider shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Framework Provider employs fewer than 250 staff, unless:
 - E2.11.1 the Customer determines that the processing is not occasional;
 - E2.11.2 the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - E2.11. 3 the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
 - E2.12 The Framework Provider shall allow for audits of its Personal Data processing activity by the Customer or the Customer's designated auditor.
 - E2.13 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
 - E2.14 Before allowing any Sub-processor to process any Personal Data related to this Call-Off Contract, the Framework Provider must:

- E2.14.1 notify the Customer in writing of the intended Sub-processor and processing;
 - E2.14.2 obtain the written consent of the Customer;
 - E2.14.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause E2 such that they apply to the Sub-processor; and
 - E2.14.4 provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- E2.15 The Framework Provider shall remain fully liable for all acts or omissions of any of its Sub-processors.
- E2.16 The Customer 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).
- E2.17 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Framework Provider amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- E2.18 This clause E2 shall apply during the Contract Period and indefinitely after its expiry.

E3 Security (including IT Security):

- E3.1 The Framework Provider shall comply with all security requirements specified in the Specification and all security requirements notified by the Customer relating to the Premises, and shall ensure that all Staff comply with such requirements.
- E3.2 The Framework Provider shall be responsible for the security of the Framework Provider System and shall at all times provide a level of security which:
- (a) is in accordance with Good Industry Practice and Law;
 - (b) complies with HMG Security Policy Framework; and
 - (c) meets any specific security threats to the Framework Provider System.
- E3.3 The Customer shall provide to the Framework Provider upon request copies of its written security procedures.
- E3.4 The Framework Provider shall, as an enduring obligation throughout the Call-Off Contract, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.
- E3.5 Notwithstanding clause E3.4, 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 Services to their desired operating efficiency.
- E3.6 Any cost arising out of the actions of the Parties taken in compliance with clause E3.5 shall be borne by the Parties as follows:

- (a) by the Framework Provider where the Malicious Software originates from the Framework Provider Software, the Third Party Software or the Customer Data (whilst the Customer Data was under the control of the Framework Provider); and
- (b) by the Customer if the Malicious Software originates from the Customer Software or the Customer Data (whilst the Customer Data was under the control of the Customer).

E4 Confidential Information

- E4.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in the Call-Off Contract, the Framework Provider shall treat all Confidential Information supplied by, concerning, belonging or relating to the Customer as confidential and shall not disclose any such Confidential Information to any other person without the prior written consent of the Customer, except to such persons and to such extent as may be necessary for the performance of the Framework Provider's obligations under the Framework Agreement or the Call-Off Contract.
- E4.2 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in the Framework Agreement or the Call-Off Contract, the Customer shall treat all Confidential Information of the Framework Provider as confidential and shall not disclose any such Confidential Information to any other person without the prior written consent of the Framework Provider, except to such persons and to such extent as may be necessary for the performance of the Customer's obligations under the Framework Agreement or the Call-Off Contract.
- E4.3 Where required by the Customer, the Framework Provider shall ensure that Staff, Sub-Contractors, professional advisors and consultants sign a non-disclosure agreement in substantially the form attached in Schedule 10 of the Framework Agreement prior to commencing any work in connection with the Call-Off Contract. The Framework Provider shall maintain a list of the non-disclosure agreements completed in accordance with this clause (and/or the corresponding provisions of clause 16.3 of the Framework Agreement to the extent they relate to the Services under this Call-Off Contract). Where requested by the Customer, the Framework Provider shall provide the Customer with a copy of the list and, subsequently upon request by the Customer, copies of such of the listed non-disclosure agreements as required by the Customer. The Framework Provider shall ensure that its Staff, Sub-Contractors, professional advisors and consultants are aware of the Framework Provider's confidentiality obligations under the Framework Agreement.
- E4.4 The Framework Provider may only disclose the Customer's Confidential Information to such Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- E4.5 The Framework Provider shall not, and shall procure that the Staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of the Framework Agreement or the Call-Off Contract.
- E4.6 Clause E4.1 and E4.2 shall not apply to the extent that:
 - E4.1.1 such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations;

- E4.1.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - E4.1.3 such information was obtained from a third party without obligation of confidentiality;
 - E4.1.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Framework Agreement or the Call-Off Contract; or
 - E4.1.5 it is independently developed without access to the other Party's Confidential Information.
 - E4.1.6 to enable determination under clause I2
- E4.7 Nothing in clauses E4.1 and E4.2 shall prevent the Customer disclosing any Confidential Information obtained from the Framework Provider:
- E4.7.1 for the purpose of the examination and certification of the Customer's accounts; or
 - E4.7.2 for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or
 - E4.7.3 to the Authority, any government department, Crown Body or any Contracting Body and the Framework Provider hereby acknowledges that the Authority, all government departments, Crown Bodies or Contracting Bodies receiving such Confidential Information may further disclose the Confidential Information to other government departments, Crown Bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department, the Crown or any Contracting Body; or
 - E4.7.4 to any consultant, contractor or other person engaged by the Customer,
- provided that in disclosing information under sub-clauses E4.7.3 and E4.7.4 the Customer discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- E4.8 Nothing in clauses E4.1 or E4.2 of this Call-Off Contract shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Call-Off Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- E4.9 The Customer shall use all reasonable endeavours to ensure that any government department, Crown Body, Contracting Body, employee, third party or Sub-Contractor to whom the Framework Provider's Confidential Information is disclosed pursuant to clause E4 is made aware of the Customer's obligations of confidentiality.

- E4.10 In the event that the Framework Provider fails to comply with clauses E4.1 to E4.5, the Customer reserves the right to terminate the Call-Off Contract with immediate effect by notice in writing. The Customer reserves the right to terminate or suspend the Call-Off Contract in the event that the Framework Provider or its Staff or Sub-Contractors fail to comply with this clause E4. A suspension notice given to a Framework Provider pursuant to clause E4 must specify the period of suspension.
- E4.11 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services under the Call-Off Contract, the Framework Provider undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice and complies with the HMG Security Policy Framework.
- E4.12 The Framework Provider will immediately notify the Customer of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services (including the Customer Data) under the Call-Off Contract and will keep a record of such breaches. The Framework Provider will use its best endeavours to recover such Confidential Information or data (including Customer Data) however it may be recorded. This obligation is in addition to the Framework Provider's obligations under clauses E4.1 to E4.5. The Framework Provider will co-operate with the Customer in any investigation that the Customer considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.
- E4.13 The Framework Provider shall, at its own expense, alter any security systems at any time during the Contract Period at the Customer's request if the Customer reasonably believes the Framework Provider has failed to comply with clause E4.11.
- E4.14 All Confidential Information in tangible form received hereunder together with all copies thereof shall be destroyed or returned immediately to the Customer and notified to the Customer, upon request or upon completion of the task for the purposes of which such Confidential Information was released.
- E4.15 In the event that the Framework Provider fails to comply with clause E4.1, the Framework Provider agrees that monetary damages would not be a sufficient remedy for breach of clause E4.1 and that the Customer shall be entitled, without prejudice to any other rights or remedies that may be available, to seek injunctive relief without proof of special damages, or any other equitable relief or remedy for any threatened or actual breach of clause E4.1.
- E4.16 The Framework Provider hereby gives its consent for the Authority to publish the whole of this Call-Off Contract (subject to any redactions which the Customer considers appropriate applying the principles for withholding disclosure under clause E5.3 below) including from time to time agreed changes to the Call-Off Contract, to the general public.

E5 Freedom Of Information

- E5.1 The Framework Provider acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Customer to enable the Customer to comply with its Information disclosure obligations.
- E5.2 The Framework Provider shall and shall procure that any Sub-Contractor shall transfer to the Customer all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information:

- E5.2.1 provide the Customer with a copy of all Information in its possession or power in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may specify) of the Customer's request; and
 - E5.2.2 provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA and/or regulation 5 of the Environmental Information Regulations.
- E5.3 The Customer shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Call-Off Contract or any other agreement whether any Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA and/or the Environmental Information Regulations.
- E5.4 In no event shall the Framework Provider respond directly to a Request for Information unless expressly authorised to do so by the Customer.
- E5.5 The Framework Provider acknowledges that (notwithstanding the provisions of clause E4 (Confidential Information)) the Customer may be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Framework Provider or the Services in certain circumstances:
 - E5.5.1 without consulting the Framework Provider; or
 - E5.5.2 following consultation with the Framework Provider and having taken its views into account;

provided always that where clause E5.5.1 applies the Customer shall, in accordance with any recommendations of the Codes of Practice under the FOIA or the Environmental Information Regulations, take reasonable steps, where appropriate, to give the Framework Provider advance notice, or failing that, to draw the disclosure to the Framework Provider's attention after any such disclosure.
- E5.6 The Framework Provider shall ensure that all Information is retained for disclosure and shall permit the Customer to inspect such records as requested from time to time.
- E5.7 The Framework Provider acknowledges that identifying Information as being Commercially Sensitive Information is of indicative value only and that the Customer may be obliged to disclose it in accordance with this clause E5.
- E5.8 The Customer shall not be liable for any loss, damage, harm or other detriment suffered by the Framework Provider arising from the disclosure of any Information falling within the scope of the FOIA and/or the Environmental Information Regulations (including Commercially Sensitive Information).

E6 Publicity, Media and Official Enquiries

- E6.1 The Framework Provider shall not and shall procure that the Staff shall not wilfully and in breach of any obligation under this Call-Off Contract, do anything which may damage the reputation of the Customer in any way or bring the Customer into disrepute. In particular, the Framework Provider acknowledges the sensitivity of certain aspects of the Services and

shall comply with the Customer and/or Authority's instructions regarding any restrictions on communications in connection with the Services.

E6.2 The Framework Provider shall not and shall procure that the Staff shall not, without the prior Approval of the Customer, which Approval shall not be unreasonably withheld or delayed:

E6.2.1 publish or broadcast, including through interviews with the media, use of social media and other communications with third parties, any details of:

(a) the Services provided to the Customer; and/or

(b) the AP;

E.6.2.2 use the Customer's name or brand in any promotion or marketing, including on its own website, or announcement of orders;

E6.2.3 make any press announcements or publicise this Call-Off Contract or its contents in any way.

E6.3 The Framework Provider agrees and acknowledges that nothing in this Call-Off Contract either expressly or by implication constitutes an endorsement of any products or services of the Framework Provider by the Customer and the Framework Provider shall not (and shall procure that the Staff do not) conduct itself in such a way as to imply or express any such approval or endorsement.

E6.4 The Framework Provider agrees that monetary damages would not be a sufficient remedy for breach of clauses E6.1 to E6.3 and that the Customer shall be entitled, without prejudice to any other rights or remedies that may be available, to seek injunctive relief without proof of special damages, or any other equitable relief or remedy for any threatened or actual breach of such clauses.

E6.5 The Framework Provider shall at all times during the Contract Period on written demand indemnify the Customer and keep the Customer fully indemnified against all losses, incurred by, awarded against or agreed to be paid by the Framework Provider arising out of any claim or infringement or alleged infringement resulting from the Framework Provider's unauthorised use of the Customer's name or logo.

E7 Intellectual Property Rights

E7.1 As between the Parties, ownership of any and all Intellectual Property Rights in any Customer Data and any and all Intellectual Property Rights in guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs images, videos or other material which is:

E7.1.1 furnished to or made available to the Framework Provider by or on behalf of the Customer;

E7.1.2 prepared by or for the Framework Provider on behalf of the Customer for use, or intended use, in relation to the performance by the Framework Provider of its obligations under this Call-Off Contract; or

E7.1.3 the result of any work done by the Framework Provider, the Staff or any Sub-Contractor in relation to the provision of the Services including any images

and videos prepared in accordance with the Specifications (together with E7.1.1 and E7.1.2 above, the "**IP Materials**"),

shall vest in the Customer (or, as to copyright or database rights, where the Customer is a Crown Body, ownership shall vest in the Crown) and the Framework Provider shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without prior Approval save to the extent necessary for performance by the Framework Provider of its obligations under the Framework Agreement or the Call-Off Contract.

- E7.2 The Framework Provider hereby assigns to the Customer (or the Crown as to copyright and database rights where the Customer is a Crown Body), with full title guarantee, all Intellectual Property Rights which may subsist in the IP Materials prepared in accordance with clause E7.1.2 and E7.1.3. This assignment shall take effect on the date of the Call-Off Contract or (in the case of rights arising after the date of the Call-Off Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Framework Provider. The Framework Provider shall execute all documentation and do all acts as are necessary to execute this assignment.
- E7.3 The Framework Provider shall waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Call-Off Contract or the performance of its obligations under the Framework Agreement or the Call-Off Contract.
- E7.4 The Framework Provider shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Call-Off Contract grants to the Customer a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Customer an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same manner. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Customer to sub-license, transfer, novate or assign to other Contracting Bodies, Crown Bodies, a Replacement Framework Provider or to any other third party supplying Services to the Customer.
- E7.5 The Framework Provider shall not infringe any Intellectual Property Rights of any third party in supplying the Services and/or performing its obligations under this Call-Off Contract and the Framework Provider shall, during and after the Contract Period, indemnify and keep indemnified and hold the Customer and where the Customer is a Crown Body, the Crown harmless from and against any and all losses, charges, damages, costs and expenses and other liabilities which the Customer or the Crown may suffer or incur as a result of a Third Party IP Claim or in connection with any breach of this clause E7.5, except to the extent that any such claim results directly from:
- E7.5.1 items or materials based upon designs supplied by the Customer; or
- E7.5.2 the use of Customer Data which is not required to be verified by the Framework Provider under the Call-Off Contract.
- E7.6 The Customer shall notify the Framework Provider in writing of any claim or demand brought against the Customer for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Framework Provider to the Customer.
- E7.7 The Framework Provider shall at its own expense conduct all negotiations and any litigation arising in connection with any Third Party IP Claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether

by the Customer or the Framework Provider) arising from the performance of the Framework Provider's obligations under the Call-Off Contract ("**Third Party IP Claim**") provided that the Framework Provider shall at all times:

- E7.7.1 consult the Customer on all material issues which arise during the conduct of such litigation and negotiations;
 - E7.7.2 take due and proper account of the interests of the Customer; and
 - E7.7.3 not settle or compromise any claim without prior Approval of the Customer (not to be unreasonably withheld or delayed).
- E7.8 The Customer shall at the request of the Framework Provider afford to the Framework Provider all reasonable assistance for the purpose of contesting any Third Party IP Claim and the Framework Provider shall indemnify the Customer for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Framework Provider shall not be required to indemnify the Customer under this clause E7.8 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clause E7.5.1 or E7.5.2.
- E7.9 The Customer shall not make any admissions which may be prejudicial to the defence or settlement of any Third Party IP Claim.
- E7.10 If any Third Party IP Claim is made or in the reasonable opinion of the Framework Provider is likely to be made, the Framework Provider shall notify the Customer and, at its own expense and subject to the Approval of the Customer (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Customer under clause G2.1.7 (Warranties and Representations)) use its best endeavours to:
- E7.10.1 modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
 - E7.10.2 procure a licence to use the Intellectual Property Right(s) and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Customer,
- and in the event that the Framework Provider is unable to comply with this clause E7.10 within twenty (20) Working Days of receipt by the Customer of the Framework Provider's notification the Customer may terminate the Call-Off Contract with immediate effect by notice in writing.
- E7.11 The Framework Provider grants to the Customer a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Framework Provider owned or developed prior to the Commencement Date and which the Customer reasonably requires in order to exercise its rights under, and receive the benefit of, the Call-Off Contract (including, without limitation, the Services).
- E7.12 Other than as set out in this clause E7 neither the Framework Provider or the Customer will acquire any right title or interest in the other's Intellectual Property Rights.

E8 Audit

- E8.1 In addition to any specific record-keeping obligations set out in the Specification, the Framework Provider shall keep and maintain until six (6) years after the end of the term of the Call-Off Contract, or such other period as may be agreed between the parties, full and accurate records of the Call-Off Contract including the Services supplied under it, all expenditure reimbursed by the Customer, and all payments made by the Customer. The Framework Provider shall on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Call-Off Contract.
- E8.2 The Framework Provider agrees to make available to the Customer, free of charge, whenever requested, copies of audit reports obtained by the Framework Provider in relation to the Services.
- E8.3 The Framework Provider shall permit duly authorised representatives of the Customer and/or the National Audit Office to examine the Framework Provider's records and documents relating to the Services and to provide such copies and oral or written explanations as may reasonably be required.
- E8.4 The Framework Provider (and its agents and Sub-Contractors) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Customer and for carrying out examinations into the economy, efficiency and effectiveness with which the Customer has used its resources. The Framework Provider shall provide such explanations as are reasonably required for these purposes.

E9 Official Secrets Act and Finance Act

- E9.1 The Framework Provider shall comply with, and shall ensure that its Staff and Sub-Contractors comply with, the provisions of:
- E9.1.1 the Official Secrets Acts 1911 to 1989; and
- E9.1.2 Section 182 of the Finance Act 1989.
- E9.2 In the event that the Framework Provider or its Staff or Sub-Contractors fail to comply with this clause E9.1, the Customer reserves the right to terminate or suspend the Call-Off Contract by giving notice in writing to the Framework Provider.
- E9.3 A suspension notice given to the Framework Provider pursuant to clause E9.2 must specify the period of suspension.

E10 Tax Compliance

- E10.1 If, during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Framework Provider shall:
- E10.1.1 notify the Customer in writing of such fact within 5 Working Days of its occurrence; and
- E10.1.2 promptly give the Customer:

(a) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and

(b) such other information in relation to the Occasion of Tax Non-Compliance as the Customer may reasonably require.

E10.2 If the Framework Provider or any Staff are liable to be taxed in the UK or to pay National Insurance Contributions ("**NICs**") in respect of consideration received under the Call-Off Contract, the Framework Provider shall:

E10.2.1 at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all Laws relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other Laws relating to NICs, in respect of that consideration; and

E10.2.2 indemnify the Customer against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Framework Provider or any Staff.

F. CONTROL OF THE CONTRACT

F1 Failure to meet Requirements

F1.1 If the Customer informs the Framework Provider in writing that the Customer reasonably believes that any part of the Services does not meet the requirements of the Call-Off Contract or differs in any way from those requirements, and this is not as a result of a Default by the Customer, the Framework Provider shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Call-Off Contract within such reasonable time as may be specified by the Customer.

F2 Monitoring of Contract Performance

F2.1 The Framework Provider shall immediately inform the Customer if any aspect of the Call-Off Contract is not being or is unable to be performed, the reasons for non-performance, any corrective action and the date by which that action will be completed.

F2.2 In addition to any contract management provisions in the Specification, at or around six (6) Months from the Commencement Date and each anniversary of the Commencement Date thereafter (each being a "**Review Date**"), the Customer may carry out a review of the performance of the Framework Provider ("**Checkpoint Review**") in respect of this Call-Off Contract. Without prejudice to the generality of the foregoing, the Customer may in respect of the period under review consider such items as (but not limited to): the Framework Provider's performance in respect of the Services supplied under the Call-Off Contract; the Framework Provider's contribution to innovation; whether the Services provide the Customer with best value for money; consideration of any changes which may need to be made to the Services; a review of future requirements in relation to the Services and progress against key milestones.

F2.3 The Framework Provider shall provide at its own cost any assistance reasonably required by the Customer to perform such Checkpoint Review including the provision of data and information.

- F2.4 The Customer may (at its absolute discretion) produce a report (a "**Checkpoint Review Report**") of the results of each Checkpoint Review stating any areas of exceptional performance and areas for improvement in the provision of the Services and where there is any shortfall in any aspect of performance reviewed as against the Customer's expectations and the Framework Provider's obligations under this Call-Off Contract.
- F2.5 The Customer shall provide the Framework Provider with a copy of the Checkpoint Review Report (if applicable) for any comments the Framework Provider may have. The Customer shall consider such comments and at its absolute discretion produce a revised Checkpoint Review Report.
- F2.6 The Framework Provider shall, within ten (10) Working Days of receipt of the Checkpoint Review Report (revised as appropriate) provide the Customer with a plan to address resolution of any shortcomings and implementation of improvements identified by the Checkpoint Review Report.
- F2.7 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Framework Provider's failure to meet its obligations under this Call-Off Contract identified by the Checkpoint Review Report, or those which result from the Framework Provider's failure to meet the Customer's expectations notified to the Framework Provider or of which the Framework Provider ought reasonably to have been aware) shall be implemented at no extra charge to the Customer.

F3 Remedies in the event of inadequate performance or failure to perform

- F3.1 Where a complaint is received about the standard of Services or about the manner in which any Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Framework Provider's obligations under the Call-Off Contract, then the Customer shall notify the Framework Provider, and where considered appropriate by the Customer, investigate the complaint. The Customer may, in its sole discretion, uphold the complaint and take further action in accordance with the Performance Management Framework within the Specification and/or clause H2 (Termination on Default) of the Call-Off Contract.
- F3.2 In the event that the Customer is of the reasonable opinion that there has been a material breach of the Call-Off Contract by the Framework Provider, then the Customer may, without prejudice to its rights to terminate the Call-Off Contract under clause H2 (Termination on Default), do any of the following:
- F3.2.1 without terminating the Call-Off Contract, itself supply or procure the supply of all or part of the Services until such time as the Framework Provider shall have demonstrated to the reasonable satisfaction of the Customer that the Framework Provider will once more be able to supply all or such part of the Services in accordance with the Call-Off Contract;
- F3.2.2 without terminating the whole of the Call-Off Contract, terminate the Call-Off Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;
- F3.2.3 set off any liability of the Customer to the Framework Provider, against any liability of the Customer to the Framework Provider, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Call- Off Contract or another contract; and/or

- F3.2.4 withhold or reduce payments to the Framework Provider in accordance with the Performance Management Framework at Appendix C to the Specification.
- F3.3 Without prejudice to its right under clause C3 (Recovery of Sums Due), the Customer may charge the Framework Provider for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Customer or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Framework Provider for such part of the Services.
- F3.4 Where in the opinion of the Customer the Framework Provider has failed to supply all or any part of the Services in accordance with the Call-Off Contract, professional or industry practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Customer may give the Framework Provider written notice specifying the way in which its performance falls short of the requirements of the Call-Off Contract, or is otherwise unsatisfactory.
- F3.5 Where the Framework Provider has been notified of a failure in accordance with Clause F3.4 the Customer may:
- F3.5.1 direct the Framework Provider, to investigate, identify and remedy the failure within such time as may be specified by the Customer and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Customer within the specified timescale; and/or
- F3.5.2 withhold or reduce payments to the Framework Provider, in accordance with the Performance Management Framework at Appendix C to the Specification.
- F3.6 Where the Framework Provider has been notified of a failure in accordance with Clause F3.4, the Framework Provider shall:
- F3.6.1 use all reasonable endeavours to immediately minimise the impact of such failure(s) to the Customer and to prevent such failure(s) from recurring; and
- F3.6.2 immediately provide the Customer with such information as the Customer may request regarding what measures are being taken to comply with the obligations in this clause and the progress of those measures until resolved to the satisfaction of the Customer.
- F3.7 If, having been notified of any failure, the Framework Provider fails to remedy it in accordance with Clause F3.6 within the time specified by the Customer, the Customer may treat the continuing failure as a material breach of the Call-Off Contract may terminate the Call-Off Contract in accordance with clause H2 (Termination on Default).

F4 Transfer and Sub-Contracting

- F4.1 Except where clauses F4.5 and F4.6 both apply, the Framework Provider shall not transfer, charge, assign, sub-contract or in any other way dispose of the Call-Off Contract or any part of it without the prior Approval of the Customer. All such documents shall be evidenced in writing and shown to the Customer on request. Sub-contracting any part of the Call-Off Contract shall not relieve the Framework Provider of any of its obligations or duties under the Call-Off Contract.

- F4.2 Any Sub-contractor arrangements shall be in accordance with the requirements of paragraph 4.7 to 4.11 of the Specification. Where appropriate, the Framework Provider shall provide each Sub-Contractor with a copy of the Call-Off Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Call-Off Contract. The Framework Provider shall be responsible for the acts and/or omissions of its Sub-Contractors as though they are its own.
- F4.3 The Framework Provider shall ensure that all its Sub-Contractors and suppliers retain each record, item of data and document relating to the Services for a period of not less than six (6) years from the end of the term of the Call-Off Contract, and shall make them available to the Customer on request in accordance with the provisions of clause E8 (Audit). Should any Sub-Contractor or supplier refuse to permit the Customer to access the required records then the Customer shall have no obligation to pay any claim or invoice made by the Framework Provider on the basis of such documents or work carried out by the Sub-Contractor or supplier.
- F4.4 Where the Customer has consented to the placing of Sub-Contracts, the Framework Provider shall notify the Customer the name(s), contact details and legal representatives of the Sub-Contractor(s) and copies of each Sub-Contract shall, at the request of the Customer, be sent by the Framework Provider to the Customer promptly on request.
- F4.5 If the Customer believes there are:
- F4.5.1 compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Public Contracts Regulations, the Framework Provider shall replace or not appoint the Sub-Contractor; or
 - F4.5.2 non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Public Contracts Regulations, the Customer may require the Framework Provider to replace or not appoint the Sub-Contractor and the Framework Provider shall promptly comply with such requirement.
- F4.6 Notwithstanding clause F4.1, the Framework Provider may assign to a third party (“**the Assignee**”) the right to receive payment of the Contract Price or any part thereof due to the Framework Provider under this Call-Off Contract (including any interest which the Customer incurs under clause C2 (Payment and VAT)). Any assignment under this clause F4.6 shall be subject to:
- F4.5.1 reduction of any sums in respect of which the Customer exercises its right of recovery under clause C3 (Recovery of Sums Due);
 - F4.5.2 all related rights of the Customer under the Call-Off Contract in relation to the recovery of sums due but unpaid; and
 - F4.5.3 written notification received by the Customer under both clauses F4.7 and F4.8.
- F4.7 In the event that the Framework Provider assigns the right to receive the Contract Price under clause F4.6, the Framework Provider or the Assignee shall notify the Customer in writing of the assignment and the date upon which the assignment becomes effective.
- F4.8 The Framework Provider shall ensure that the Assignee notifies the Customer of the Assignee’s contact information and bank account details to which the Customer shall make payment.

F4.9 The provisions of clause C2 (Payment and VAT) shall continue to apply in all other respects after the assignment and shall not be amended without Approval.

F4.10 Subject to clause F4.11, the Customer may assign, novate or otherwise dispose of its rights and obligations under the Call-Off Contract or any part thereof to:

F4.10.1 any Contracting Body; or

F4.10.2 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

F4.10.3 any private sector body which substantially performs the functions of the Customer,

provided that any such assignment, novation or other disposal shall not unreasonably increase the burden of the Framework Provider's obligations under the Call-Off Contract.

F4.11 Any change in the legal status of the Customer such that it ceases to be a Contracting Body shall not, subject to clause F4.12, affect the validity of the Call-Off Contract. In such circumstances the Call-Off Contract shall bind and inure to the benefit of any successor body to the Customer.

F4.12 If the rights and obligations under the Call-Off Contract are assigned, novated or otherwise disposed of pursuant to clause F4.10 to a body which is not a Contracting Body or if there is a change in the legal status of the Customer such that it ceases to be a Contracting Body (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):

F4.12.1 the rights of termination of the Customer in clauses H1 (Termination on Insolvency and Change of Control) and H2 (Termination on Default) shall be available to the Framework Provider in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and

F4.12.2 the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Call-Off Contract or any part thereof with the prior consent in writing of the Framework Provider.

F4.13 The Customer may disclose to any Transferee any Confidential Information of the Framework Provider which relates to the performance of the Framework Provider's obligations under the Call-Off Contract. In such circumstances the Customer shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Framework Provider's obligations under the Call-Off Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

F4.14 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Call-Off Contract.

F5 Waiver

F5.1 The failure of either Party to insist upon strict performance of any provision of the Call-Off Contract, or the failure of either Party to exercise, or any delay in exercising, any right or

remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Call-Off Contract.

- F5.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause A5.2 (Notices).
- F5.3 A waiver of any right or remedy arising from a breach of the Call-Off Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Call-Off Contract.

F6 Variation

- F6.1 If, after the Commencement Date, the Customer's requirements change, the Customer may request a Variation subject to the terms of this clause F6.
- F6.2 The Customer may request a Variation by notifying the Framework Provider in writing of the Variation and giving the Framework Provider sufficient information to assess the extent of the Variation and consider whether any change to the Contract Price is required in order to implement the Variation within a reasonable time limit specified by the Customer. If the Framework Provider accepts the Variation it shall confirm it in writing.
- F6.3 If the Framework Provider is unable to accept the Variation or where the Parties are unable to agree a change to the Contract Price, the Customer may:
 - F6.3.1 allow the Framework Provider to fulfil its obligations under the Call-Off Contract without the Variation; or
 - F6.3.2 terminate the Call-Off Contract immediately except where the Framework Provider has already delivered all or part of the Services or where the Framework Provider can show evidence of substantial work being carried out to fulfil the requirements of the Call-Off Contract; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).
- F6.4 No Variation will take effect unless and until it is recorded in a validly executed CCN.
- F6.6 The provisions of this clause F6 may be varied in an emergency if it is not practicable to obtain the Approvals within the time necessary to make the Variation in order to address the emergency. In an emergency, Variations may be approved by a different representative of the Customer. However, the Customer's Contract Manager shall have the right to review such a Variation and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Variation.

F7 Severability

- F7.1 If any provision of the Call-Off Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Call-Off Contract shall continue in full force and effect as if the Call-Off Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F8 Extension of Contract Period

- F8.1 The Customer may, by giving written notice to the Framework Provider, extend the Call-Off Contract for a further period up to the date set out in the Order Form, provided that the maximum Contract Period does not exceed two (2) years. The provisions of the Call-Off Contract will apply throughout any such extended period.

F9 Remedies Cumulative

- F9.1 Except as otherwise expressly provided by the Call-Off Contract, all remedies available to either Party for breach of the Call-Off Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

F10 Entire Agreement

- F10.1 The Call-Off Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Call-Off Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

F11 Execution of the Call-Off Contract

- F11.1 This Call-Off Contract shall be formed on acceptance by the Framework Provider of the Order Form in accordance with clause 6.4 of the Framework Agreement. Any Order Form may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

G LIABILITIES

G1 Liability, Indemnity and Insurance

- G1.1 Neither Party excludes or limits liability to the other Party for:

G1.1.1 death or personal injury caused by its negligence; or

G1.1.2 Fraud or fraudulent misrepresentation;

G1.1.4 any breach of any obligations implied by section 2 of the Supply of Goods and Services Act 1982;

G1.1.5 any breach of clause D1, D2, E1, E2 and E4; or

G1.1.6 any liability to the extent it cannot be limited or excluded by Law.

- G1.2 Subject to clauses G1.3 and G1.4, the Framework Provider shall indemnify the Customer and keep the Customer indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or the late or purported supply, of the Services or the performance or non-performance by the Framework Provider of its obligations under the Call-Off Contract or the presence of the Framework Provider or any Staff or Sub-Contractors on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted

to be given by the Framework Provider, or any other loss which is caused directly or indirectly by any act or omission of the Framework Provider, its Staff and Sub-Contractors.

- G1.3 Subject to clause G1.1 the aggregate liability of either Party in respect of the Call-Off Contract shall not exceed £1 million.
- G1.4 The Framework Provider shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Call-Off Contract.
- G1.5 The Customer may recover from the Framework Provider the following losses incurred by the Customer to the extent they arise as a result of a Default by the Framework Provider:
- G1.5.1 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;
 - G1.5.2 any wasted expenditure or charges;
 - G1.5.3 the additional costs of procuring a Replacement Framework Provider for the remainder of the Contract Period and or replacement deliverables which shall include any incremental costs associated with the Replacement Framework Provider and/or replacement deliverables above those which would have been payable under the Call-Off Contract;
 - G1.5.4 any compensation or interest paid to a third party by the Customer; and
 - G1.5.5 any fine or penalty incurred by the Customer pursuant to Law and any costs incurred by the Customer in defending any proceedings which result in such fine or penalty.
- G1.6 Subject always to clause G1.1 and G1.5, in no event shall either Party be liable to the other for any:
- G1.6.1 loss of profit, turnover, business opportunity, revenue or damage to goodwill (in each case whether direct or indirect); or
 - G1.6.2 loss of savings (whether anticipated or otherwise); and/or
 - G1.6.3 indirect, special or consequential loss or damage.
- G1.7 Unless otherwise specified by the Customer, the Framework Provider shall, with effect from the Commencement Date for such period as necessary to enable the Framework Provider to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Framework Provider, arising out of the Framework Provider's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Framework Provider. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 6 years following the end of the Contract.

- G1.8 The Framework Provider shall hold employer's liability insurance in respect of Staff and such insurance shall be in accordance with any legal requirement from time to time in force.
- G1.9 The Framework Provider shall give the Customer, on request, copies of all insurance policies referred to in this clause 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.
- G1.10 If the Framework Provider does not give effect to and maintain the insurances required by the provisions of the Call-Off Contract the Customer may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Framework Provider.
- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Framework Provider of any liabilities under the Call-Off Contract.
- G1.12 The Framework Provider shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Framework Provider, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Framework Provider is an insured, a co-insured or additional insured person.

G2 Warranties and Representations

- G2.1 The Framework Provider warrants and represents for the duration of the Call-Off Contract that:
- G2.1.1 it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Call-Off Contract and that the Call-Off Contract is executed by a duly authorised representative of the Framework Provider;
 - G2.1.2 in entering the Call-Off Contract it has not committed any Fraud;
 - G2.1.3 as at the Commencement Date, all information contained in its response to the Invitation to Tender or other offer made by the Framework Provider to the Customer and/or Authority (including all representations and warranties set out in the Framework Agreement) remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Customer prior to execution of the Call-Off Contract and in addition, that it will advise the Customer of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
 - G2.1.4 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Call-Off Contract;
 - G1.2.5 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 the Call-Off Contract;

- G2.1.6 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 Framework Provider 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 Framework Provider's assets or revenue;
- G2.1.7 it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under the Call-Off Contract;
- G2.1.8 any person engaged by the Framework Provider shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- G2.1.9 in the three (3) years (or period of existence where the Framework Provider has not been in existence for three (3) years) prior to the date of the Call-Off Contract:
 - (a) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (b) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (c) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Call-Off Contract;
- G2.1.10 it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Framework Provider's obligations under the Call-Off Contract; and
- G2.1.11 it has, if relevant, notified the Customer in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

G3 Force Majeure

- G3.1 Subject to the remaining provisions of this clause G3, a Party may claim relief under this clause G3 from liability for failure to meet its obligations under the 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 Framework Provider in performing its obligations under the 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 Framework Provider.
- G3.2 The Affected Party shall as soon as reasonably practicable, issue a notice which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect (a "**Force Majeure Notice**").

- G3.3 If the Framework Provider is the Affected Party, it shall not be entitled to claim relief under this clause G3 to the extent that consequences of the relevant Force Majeure Event:
- G3.3.1 are capable of being mitigated by taking steps in accordance with clause G3.5 but the Framework Provider has failed to do so; and/or
 - G3.3.2 should have been foreseen and prevented or avoided by a prudent Framework Provider of services similar to the Services, operating to the standards required by the Call-Off Contract and Framework Agreement.
- G3.4 Subject to clause G3.5, 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 Services affected by the Force Majeure Event.
- G3.5 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 Framework Provider 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.
- G3.6 If, as a result of a Force Majeure Event:
- G3.6.1 an Affected Party fails to perform its obligations in accordance with the Call-Off Contract, then during the continuance of the Force Majeure Event:
 - (a) the other Party shall not be entitled to exercise its rights to terminate the Call-Off Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
 - (b) neither Party shall be liable for any Default arising as a result of such failure;
 - G3.6.2 the Framework Provider fails to perform its obligations in accordance with the Call-Off Contract it shall be entitled to receive payment of the Contract Price (or a proportional payment of it) only to the extent that the Services (or part thereof) continue to be performed in accordance with the terms of the Call-Off Contract during the occurrence of the Force Majeure Event.
- G3.7 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 the Call-Off Contract.
- G3.8 Relief from liability for the Affected Party under this clause G3 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and shall not be dependent on the serving of notice under clause G3.7.

H DEFAULT, DISRUPTION AND TERMINATION

H1 Termination on Insolvency and Change of Control

H1.1 The Customer may terminate the Call-Off Contract with immediate effect by notice in writing and without compensation to the Framework Provider where a situation arises in respect of the Framework Provider pursuant to which the Authority has the right to terminate the Framework Agreement pursuant to clause 22 of the Framework Agreement.

H1.2 The Framework Provider shall notify the Customer immediately in writing of any proposal or negotiations which will or may result in a Change of Control. The Customer may terminate the Call-Off Contract with immediate effect by notice in writing and without compensation to the Framework Provider within six (6) Months of:

H1.3.1 being notified that a Change of Control has occurred; or

H1.3.2 where no notification has been made, the date that the Customer becomes aware of the Change of Control,

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

H2 Termination on Default

H2.1 The Customer may terminate the Call-Off Contract by written notice to the Framework Provider with immediate effect if the Framework Provider commits a material breach of the Call-Off Contract and:

H2.1.1 the Framework Provider has not remedied the material breach to the satisfaction of the Customer within such period as may be specified by the Customer, after issue of a written notice specifying the material breach and requesting it to be remedied; or

H2.1.2 the material breach is not, in the opinion of the Customer, capable of remedy, provided that, where it is not practicable for the Customer to issue a notice in writing for purposes of clause H2.1, notice may be given verbally and followed up in writing.

H2.2 For the purposes of clause H2.2, **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Customer would otherwise derive from:

H2.2.1 a substantial portion of this Call-Off Contract; or

H2.2.2 obligations under clauses A7, D1, E1, E2, E3, E4, E7, E9 or E10..

H2.3 In the event that through any Default of the Framework Provider, data transmitted or processed in connection with the Call-Off Contract is either lost or sufficiently degraded as to be unusable, the Framework Provider shall be liable for the cost of reconstitution of that data and shall reimburse the Customer in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

- H2.4 If the Customer fails to pay the Framework Provider undisputed sums of money when due, the Framework Provider shall notify the Customer in writing of such failure to pay. If the Customer fails to pay such undisputed sums within ninety (90) Working Days of the date of such written notice, the Framework Provider may terminate the Call-Off Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under clause C3.1 (Recovery of Sums Due) or a Force Majeure Event.

H3 Termination without cause

- H3.1 The Customer may terminate the Call-Off Contract without cause at any time:

H3.1.1 by giving not less than twenty-four (24) hours' written notice to the Framework Provider; or

H.3.1.2 in Exceptional Circumstances, immediately by giving verbal notice to the Framework Provider.

H4 Other Termination Grounds

- H4.1 The Customer may terminate the Call-Off Contract on written notice with immediate effect to the Framework Provider if:

H4.1.1 the Call-Off Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Public Contracts Regulations;

H4.1.2 the Framework Provider was, at the time the Call-Off Contract was awarded, in one of the situations specified in regulation 57(1) of the Public Contracts Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Call-Off Contract;

H4.1.3 Not Used

H4.1.4 the Framework Provider has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.

H5 Consequences of Expiry or Termination

- H5.1 Where the Customer terminates the Call-Off Contract under clause H1, H2 or H4 and then makes other arrangements for the supply of Services, the Customer may recover from the Framework Provider the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period.

- H5.2 Where the Call-Off Contract is terminated under clause H1, H2 or H4, no further payments shall be payable by the Customer to the Framework Provider (for Services supplied by the Framework Provider prior to termination and in accordance with the Call-Off Contract but where the payment has yet to be made by the Customer), until the Customer has established the final cost of making the other arrangements envisaged under this clause.

- H5.3 Where the Customer terminates the Call-Off Contract under clause H3, , no further payments shall be payable by the Customer to the Framework Provider except for Services

supplied by the Framework Provider prior to termination and in accordance with the Call-Off Contract but where the payment has yet to be made by the Customer.

H5.4 Save as otherwise expressly provided in the Call-Off Contract:

H5.4.1 termination or expiry of the Call-Off Contract shall be without prejudice to any rights, remedies or obligations accrued under the Call-Off Contract prior to termination or expiration and nothing in the Call-Off Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and

H5.4.2 termination or expiry of the Call-Off Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Framework Provider under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Bribery), E2 (Data Protection), E4 (Confidential Information), E5 (Freedom of Information), E7 (Intellectual Property Rights), E8 (Audit), E9 (Official Secrets Acts and Finance Act), F9 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance), H6 (Consequences of Expiry or Termination), H7 (Recovery upon Termination) and I1 (Governing Law and Jurisdiction).

H6 Disruption

H7.1 The Framework Provider shall take reasonable care to ensure that in the performance of its obligations under the Call-Off Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer and/or other persons present on the Premises.

H6.2 The Framework Provider shall immediately inform the Customer of any actual or potential industrial action, whether such action be by its own Staff or others, which affects or might affect its ability at any time to perform its obligations under the Call-Off Contract.

H6.3 In the event of industrial action by the Staff, the Framework Provider shall seek Approval of the Customer to its proposals to continue to perform its obligations under the Call-Off Contract.

H6.4 If the Framework Provider's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Customer acting reasonably, then the Call-Off Contract may be terminated with immediate effect by the Customer by notice in writing.

H6.5 If the Framework Provider is temporarily unable to fulfil the requirements of the Call-Off Contract owing to disruption of the Customer's normal business, the Framework Provider may request a reasonable allowance of time and in addition, the Customer will reimburse any additional expense reasonably incurred by the Framework Provider as a direct result of such disruption.

H7 Recovery upon Termination

H7.1 On the termination of the Call-Off Contract for any reason, the Framework Provider shall at its cost:

H7.1.1 immediately return to the Customer or destroy (as directed in writing by the Customer) all Confidential Information, Customer Data, Personal Data and IP Materials in its possession or in the possession or under the control of any

permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Services;

- H7.1.2 immediately deliver to the Customer or destroy (as directed in writing by the Customer) all Property (including materials, documents, information and access keys) provided to the Framework Provider. Such Property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
 - H7.1.3 immediately vacate the Premises (subject to compliance with all instructions of the Customer and/or Authority representative in control of the Premises);
 - H7.1.4 assist and co-operate with the Customer to ensure an orderly transition of the provision of the Services to the Replacement Framework Provider and/or the completion of any work in progress; and
 - H7.1.5 promptly provide all information concerning the provision of the Services which may reasonably be requested by the Customer for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Customer and/or the Replacement Framework Provider to conduct due diligence.
- H7.2 If the Framework Provider fails to comply with clause H7.1.1 and H7.1.2, the Customer may recover possession thereof and the Framework Provider grants a licence to the Customer or its appointed agents to enter (for the purposes of such recovery) any premises of the Framework Provider or its permitted suppliers or Sub-Contractors where any such items may be held.

H8 Retendering and Handover

- H8.1 Within twenty-one (21) days of being so requested by the Customer, the Framework Provider shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Customer to issue tender documents for the future provision of the Services.
- H8.2 The Customer shall take all necessary precautions to ensure that the information referred to in H8.1 is given only to potential Replacement Framework Providers who have qualified to tender for the future provision of the Services.
- H8.3 The Customer shall require that all potential Replacement Framework Providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Customer; and that they shall not use it for any other purpose.
- H8.4 The Framework Provider shall indemnify the Customer against any claim made against the Customer at any time by any person in respect of any liability incurred by the Customer arising from any deficiency or inaccuracy in information which the Framework Provider is required to provide under clause H8.1.
- H8.5 The Framework Provider shall allow access to the Premises, in the presence of a Customer representative, to any person representing any potential Replacement Framework Provider whom the Customer has selected to tender for the future provision of the Services.

- H8.6 If access is required to the Framework Provider's Premises for the purposes of clause H8.5, the Customer shall give the Framework Provider five (5) Working Days' notice of a proposed visit together with a list showing the names of all persons who will be attending those premises. Their attendance shall be subject to compliance with the Framework Provider's security procedures, subject to such compliance not being in conflict with the objectives of the visit.
- H8.7 The Framework Provider shall co-operate fully with the Customer during the handover arising from the completion or earlier termination of the Call-Off Contract. This co-operation, during the period of the new Framework Provider setting up operations, shall extend to allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- H8.8 Within ten (10) Working Days of being so requested by the Customer, the Framework Provider shall transfer to the Customer, or any person designated by the Customer, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Customer.

H9 Exit Management

- H9.1 Upon termination the Framework Provider shall render reasonable assistance to the Customer to the extent necessary to effect an orderly assumption by a Replacement Framework Provider of the Services.
- H9.2 Where the Customer requires a continuation of all or any of the Services on expiry or termination of this Call-Off Contract, either by performing them itself or by engaging a third party to perform them, the Framework Provider shall co-operate fully with the Customer and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- H9.3 The following commercial approach shall apply to the transfer of the Services:
- H9.3.1 where the Framework Provider does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Contract Price.
- H9.3.2 where the Framework Provider reasonably incurs additional costs, the Parties shall agree a Variation to the Contract Price based on the rates either set out in the Pricing Matrix (Schedule 3) in the Framework Agreement or forming the basis for the Contract Price.
- H9.4 When requested to do so by the Customer, the Framework Provider shall deliver to the Customer details of all licences for software used in the provision of the Services including the software licence agreements.
- H9.5 Within one Month of receiving the software licence information described above, the Customer shall notify the Framework Provider of the licences it wishes to be transferred, and the Framework Provider shall provide for the approval of the Customer a plan for licence transfer.

H10 Knowledge Retention

- H10.1 The Framework Provider shall co-operate fully with the Customer in order to enable an efficient and detailed knowledge transfer from the Framework Provider to the Customer on the completion or earlier termination of the Call-Off Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Framework Provider shall provide the Customer free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the Customer. The Framework Provider shall comply with the Customer's request for information no later than fifteen (15) Working Days from the date that that request was made.

I DISPUTES AND LAW

I1 Governing Law and Jurisdiction

- I1.1 Subject to the provisions of clause I2 (Dispute Resolution), the Call-Off Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales and shall be subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Customer to take proceedings against the Framework Provider in any other court of competent jurisdiction, nor shall the taking of proceedings in any other court of competent jurisdiction preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

I2 Dispute Resolution

- I2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Call-Off Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director (or similar) of the Framework Provider and the commercial director of the Customer.
- I2.2 Nothing in this dispute resolution procedure shall prevent the Customer from seeking from any court of competent jurisdiction an interim order restraining the Framework Provider from doing any act or compelling the Framework Provider to do any act.
- I2.3 If the dispute cannot be resolved by the Parties pursuant to clause I2.1 either Party may refer it to mediation pursuant to the procedure set out in clause I2.5 in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.
- I2.4 The obligations of the Parties under the Call-Off Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Framework Provider and the Staff shall comply fully with the requirements of the Call-Off Contract at all times.
- I2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- I2.5.1 Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 20 days after the date of the ADR notice.

- I2.5.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the dispute under clause 42 which clause shall apply at all times.
 - I2.5.3 If the dispute is not resolved within 90 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 90 days, or the mediation terminates before the expiration of the said period of 90 days, the dispute shall be finally resolved by the courts of England and Wales in accordance with clause I1 in this Contract
 - I2.5.4 Not Used
 - I2.5.5 Not Used
 - I2.5.6 Not Used
- I2.6 Subject to clause I2.2, the Parties shall not institute court proceedings until the procedures set out in clauses I2.1 and I2.3 have been completed save that:
 - I2.6.1 The Customer may at any time before court proceedings are commenced, serve a notice on the Framework Provider requiring the dispute to be referred to and resolved by arbitration in accordance with clause I2.7.
 - I2.6.2 If the Framework Provider intends to commence court proceedings, it shall serve written notice on the Customer of its intentions and the Customer shall have twenty-one (21) days following receipt of such notice to serve a reply on the Framework Provider requiring the dispute to be referred to and resolved by arbitration in accordance with clause I2.7.
 - I2.6.3 The Framework Provider may request by notice in writing to the Customer that any dispute be referred and resolved by arbitration in accordance with clause I2.7, to which the Customer may consent as it sees fit.
- I2.7 In the event that any arbitration proceedings are commenced pursuant to clause I2.6:
 - I2.7.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996;
 - I2.7.2 the Customer shall give a written notice of arbitration to the Framework Provider (the “**Arbitration Notice**”) stating:
 - (a) that the dispute is referred to arbitration; and
 - (b) providing details of the issues to be resolved;
 - I2.7.5 the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with I2.7.2 shall be applied and are deemed to be incorporated by reference to the 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;
 - I2.7.6 the tribunal shall consist of a sole arbitrator to be agreed by the Parties;

- 12.7.7 if the Parties fail to agree the appointment of the arbitrator within ten (10) days of the Arbitration Notice being issued by the Customer under clause 12.7.2 or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- 12.7.8 the arbitration proceedings shall take place in London and in the English language; and
- 12.7.9 the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law

FRAMEWORK AGREEMENT SCHEDULE 6

CALL OFF ORDER FORM

FROM

Authority:	Secretary of State for Environment, Food and Rural Affairs
Address:	
Phone Number:	
Email:	
Contact Ref:	
Order Number:	[To be quoted on all correspondence relating to this Order]
Order Date:	

TO

Framework Provider:	
For attention of:	Name: Phone: E-mail:
Address:	

1. SERVICES REQUIREMENTS
(1.1) Services required:

(1.2) Commencement Date:
(1.3) Completion Date:
2. PERFORMANCE OF THE SERVICES [AND DELIVERABLES]
(2.1) Key Personnel of the Framework Provider to be involved in the Supply of the Services
(2.2) Performance Standards
(2.3) Location(s) at which Services are to be provided:
3. PRICE AND PAYMENTS
(3.1) Contract Price payable by the Authority/Contracting Body (excluding VAT, payment profile and method of payment (e.g. Government Procurement Card (GPC) or BACS)) <i>[Guidance: Insert details of the Price, payment profile and method of payment. This should not be different from the rates set out in Schedule 3 to the Framework Agreement. Consider whether payments should be staged and linked to the achievement of particular milestones.]</i>
(3.2) Invoicing and Payment All invoices should be sent, quoting a valid purchase order number (PO Number), to: APinvoices-DEF-U@gov.sscl.com or Shared Services Connected Limited, PO Box 790, Phoenix House, Celtic Springs Business Park, Newport, Gwent, NP10 8FZ. Within 10 Working Days of receipt of your acceptance of this letter via Atamis, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice. To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Customer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to APinvoices-DEF-U@gov.sscl.com or by telephone 0845 603 7262 between 09:00-17:00 Monday to Friday.

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful supply of the Services.

Acceptance of the award of this contract will be made by electronic signature carried out in accordance with the Electronic Identification and Trust Services for Electronic Transactions (Amendment etc.) (EU Exit) Regulations 2019 and the UK Electronic Communications Act 2000. Acceptance of the offer comprised in this Agreement must be made within 2 days from the date of this Call Off and the Agreement is formed on the date on which the Framework Provider communicates acceptance on the Customer's electronic contract management system ("Atamis"). No other form of acknowledgement will

be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Accepted_on_Behalf_of_Framework Provider:
Accepted_on_Behalf_of_Customer:

FOR USE BY FINANCE TEAM ONLY	
Category:	VAT Code
Cost Centre Code:	Objective:
Account and Sub Account Code:	Project Code:
Requisition Raised By:	Requisition Number:
Purchase Order Number:	Receipt Number:

FRAMEWORK AGREEMENT SCHEDULE 7

PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. This Schedule shall be completed by the Authority or, in respect of any Call-Off Contract, the Customer, who may take account of the view of the Framework Provider, however the final decision as to the content of this Schedule shall be with the Authority (or in respect of any Call-Off Contract the Customer), at its absolute discretion.
2. The contact details of the Authority Data Protection Officer are:
3. The contact details of the Framework Provider Data Protection Manager are:
 Email:
4. If a Call-Off Contract involves Personal Data processing that differs from the instructions given in the table below, a Customer may include such specific instructions in an Order Form and such instructions shall apply in respect of that Call-Off Contract.
5. The Framework Provider shall comply with any further written instructions with respect to processing by the Customer. Any such further instructions shall be incorporated into this Schedule.

Data Processing descriptor	Narrative
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority and/or Customer is the Controller and the Framework Provider is the Processor in accordance with clause 18 of the Framework Agreement and clause E2.1 of the Call-Off Contract.
Subject matter of the processing	The Authority is the United Kingdom (UK) Government Department responsible for the environment, food and farming and rural affairs. The Authority's priorities are to secure a healthy natural environment; a sustainable, low-carbon economy; a thriving farming sector and a sustainable, healthy and secure food supply. The Authority is committed to ensuring the UK remains a world-leading food and farming nation based on high standards of animal health and welfare. As a part of this, one of the Authority's key objectives is to ensure our country is well protected against natural threats and hazards. The Authority takes the lead on planning for and responding to incidents or occurrences (Outbreaks) of notifiable pests and diseases of animals (in England and Wales) and plants (in England). Quantitative modelling enhances the Authority's evidence base and provides additional specialist advice upon which policy decisions are taken. It also ensures that the Authority is better

	prepared to deal swiftly and efficiently with emergencies in its areas of responsibility.
Duration of the processing	Personal Data will be processed only for as long as necessary for provision of the Services and for no longer than expiry of the Framework Term or, if longer, expiry of the Call-Off Contract in connection with which it is processed.
Nature and purposes of the processing	Nature: storage, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available Purpose: To fulfil the requirements of this framework, suppliers require up to date georeferenced data on livestock populations and movements, and disease data in the event of an outbreak. We will be required to facilitate the release of livestock demographic, movement and disease data for modelling and analysis. Modelling and analytical services are to be provided for the whole of the UK. The Framework Providers may be required to perform analysis at a country level, government level, regional level or county level.
Type of Personal Data	The Authority expects to facilitate the release of denominator data (the location of livestock premises and well as data on GB animal movements), required by the Framework Provider to inform their models. These datasets will include personal data including the unique identifier for farms (County Parish Holding numbers), geo-coordinates, and potentially addresses too. In an outbreak, the Authority is likely to be sharing this as well as more sensitive and detailed information related to the outbreak or incident, including laboratory results which will likely be accompanied by names and addresses. The necessary data sharing protocols and confidentiality agreements will need to put in place to enable the release of such data once specific details are known.
Categories of Data Subject	Farmers, animal keepers, other private address owners/landowners (if location of a pest or plant disease)
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	In accordance with Clause E2.7.5 of the Schedule 1 - Call-Off Contract Terms and Conditions – “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 Framework Provider is required by Law to retain the Personal Data”.

FRAMEWORK AGREEMENT SCHEDULE 8

BUSINESS CONTINUITY AND DISASTER RECOVERY

- 1 For the purposes of this Schedule 8, “**BCDR Plan**” means the Framework Provider’s business continuity and disaster recovery plan, as may be amended from time to time.
- 2 The Framework Provider shall develop, review, test, change, and maintain a BCDR Plan during the term of the Framework Agreement for use in the event of a disaster or other event (or combination of events) that might result in the loss or partial loss of availability of Services.
- 3 The purpose of the BCDR Plan shall be to ensure that, in the event of a disruption, howsoever caused, the Authority or Contracting Body is able to maintain continuance of the Services. The BCDR Plan shall cater for any failure or disruption and shall address the various possible levels of failure or disruption (that is, from minimal failure through to total failure).
- 4 The BCDR Plan shall detail the processes and arrangements which the Framework Provider shall follow to ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services and the recovery of the Services in the event of a disaster or other event (or combination of events) that might result in the loss or partial loss of availability of Services.
- 5 The Framework Provider shall provide a copy of their BCDR Plan to the Authority or Contracting Body on request and provide details of any reviews, testing and updates taking place during the Framework Term.
- 6 In the event of a disaster or other event (or combination of events) that might result in the loss or partial loss of availability of Services, the Framework Provider shall immediately invoke the BCDR Plan (and shall inform the Authority and any Contracting Body promptly of such invocation).

FRAMEWORK AGREEMENT SCHEDULE 9

CHANGE CONTROL NOTICE



Department
for Environment
Food & Rural Affairs

[CONTRACT / FRAMEWORK AGREEMENT (delete as appropriate)] CHANGE NOTE

Contract Change Note Number	
Contract Reference Number and Title	
Variation Title	
Number of Pages	

Whereas the [Framework Provider (insert supplier name)] and the Authority entered into a [Contract/Framework Agreement] for the provision of [insert contract title] dated [insert date dd/mm/yyyy] (the "Original Contract/Framework Agreement") and now wish to amend the Original [Contract/Framework Agreement].

It is agreed as follows:

1. With effect from [dd/mm/yyyy] the Original [Contract/Framework Agreement] shall be amended as set out in this Contract/Framework Change Note:

Change Requestor / Originator		
Summary of Change		
Reason for Change		
Revised Contract Price	Original Contract Value	£
	Previous Contract Changes	£
	Contract Change Note [x]	£
	New Contract Value	£
Revised Payment Schedule		
Revised Specification (see Annex A)		
Revised Contract Period		
Change in Contract Manager(s)		

Other Changes	
---------------	--

2. Save as herein amended all other terms and conditions of the Original [Contract/Framework Agreement] shall remain in full force and effect.

Signed for and on behalf of [Framework Provider] by:

Signed for and on behalf of the Authority by:

FRAMEWORK AGREEMENT SCHEDULE 10

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made on [insert date of the agreement] (the "Agreement")

BETWEEN:

- (1) [INSERT NAME OF THE AUTHORITY], [acting on behalf of the Crown] of [insert the Authority's address] (the "Authority"); and
- (2) [INSERT NAME OF COMPANY], A [COMPANY]/[LIMITED LIABILITY PARTNERSHIP] REGISTERED IN ENGLAND AND WALES UNDER REGISTERED NUMBER [INSERT REGISTERED NUMBER HERE] WHOSE REGISTERED OFFICE IS AT [INSERT REGISTERED ADDRESS OF COMPANY] (the "Receiving Party").

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

BACKGROUND:

- A. The Receiving Party wishes to receive Confidential Information from the Authority for the purpose of [insert background; note link with clause 2.1.5] (the "Permitted Purpose").

IT IS AGREED as follows:

1 INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

"Affiliate" means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;

"Authority's Group" means the Authority and any Government Body with which the Authority interacts in connection with the Permitted Purpose [and any Subsidiary of the Authority];

"Authority Personal Data" has the meaning given to it in Clause 6.2 of the Agreement;

"Confidential Information" means, irrespective of whether it is marked as being confidential or not:

- a) Information, including all personal data within the meaning of the Data Protection Legislation, provided by the Authority in connection with the Permitted Purpose (whether before or after the date of this Agreement) that relates to:

- (1) the Authority;
 - (2) the Authority's Group; or
 - (3) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Authority or the Authority's Group;
- b) other Information: (i) provided by the Authority or the Authority's Group to the Receiving Party in connection with the Permitted Purpose (whether before or after the date of this Agreement) or (ii) that ought reasonably to be considered to be confidential which comes (or has come) to the Receiving Party's attention or into the Receiving Party's possession in connection with the Permitted Purpose;
- c) discussions, negotiations, and correspondence between the Authority or the Authority's Group and/or any of its directors, officers, employees, consultants or professional advisers and the Receiving Party and/or any of their employees, consultants and/or professional advisers in connection with the Permitted Purpose and all matters arising therefrom; [and]
- d) Information or analysis derived from any of the above; [and]
- e) [the existence and content of this Agreement], but not including any Information that:
 - (i) was in the possession of the Receiving Party without obligation of confidentiality prior to its disclosure by the Authority or the Authority's Group;
 - (ii) the Receiving Party obtained on a non-confidential basis from a third party who is not, to the Receiving Party's knowledge or reasonable belief, bound by a confidentiality agreement with the Authority or any member of the Authority's Group or otherwise prohibited from disclosing the information to the Receiving Party;
 - (iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
 - (iv) the Receiving Party evidences to the reasonable satisfaction of the Authority was independently developed without access to the Confidential Information.

"Control"	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and "Controls" and "Controlled" shall be interpreted accordingly;
"Copies"	means copies, reproductions, summaries, extracts, analyses, memoranda, notes or compilations (in any form or medium, including electronic or digital files of any kind) of Confidential Information, or any other documents, electronic files or records containing, reflecting or derived from the Confidential Information;
"DPA"	means the Data Protection Act 2018;
"Data Protection Legislation"	means (i) the UK GDPR as amended from time to time; (ii) the Data Protection Act 2018 as amended from time to time; (iii) Regulations made under the Data Protection Act 2018; (iv) all applicable Law about the Processing of Personal Data;
"Effective Date"	means the date of this Agreement as set out above;
"UK GDPR"	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4);
"Government Body"	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;
"Information"	means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);

“Information Return Notice”	has the meaning given to it in Clause 5.1;
“Permitted Purpose”	has the meaning given to it in the recital to this Agreement;
“Representatives”	means the Receiving Party's officers, directors, employees, advisers and agents and, where the context admits, providers or potential providers of finance to the Receiving Party;
“Specified Scope”	has the meaning given to it in Clause 5.1;
“Working Day”	means any day other than Saturday, Sunday and any bank or public holiday.

1.2 In this Agreement:

- 1.2.1 a reference to any gender includes a reference to other genders;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 the word “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
- 1.2.4 references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;
- 1.2.5 the expressions "subsidiary", "holding company" and "subsidiary undertaking" shall have the meanings given to them in the Companies Act 2006;
- 1.2.6 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
- 1.2.7 references to Clauses are to clauses of this Agreement.

2 **CONFIDENTIALITY OBLIGATIONS**

- 2.1 In consideration of the Authority providing Confidential Information, at its discretion, to the Receiving Party, the Receiving Party shall:
 - 2.1.1 treat all Confidential Information as secret and confidential;
 - 2.1.2 have in place and maintain proper security measures and procedures which shall be at least as stringent as the measures and procedures it applies to its own confidential information to protect the confidentiality of the Confidential Information, having regard to its form and nature (including any reasonable measures that the Authority may propose from time to time;

- 2.1.3 not disclose or permit the disclosure of, nor otherwise make available, any of the Confidential Information in whole or in part to any other person without obtaining prior written consent from the Authority (which the Authority shall have the express right to grant or deny) or except as expressly set out in this Agreement;
- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom except to its offices in [list countries] provided that no personal data within the meaning of the Data Protection Legislation, however it is conveyed, will be transferred outside the United Kingdom without the prior written consent of the Authority and in accordance with its instructions;
- 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than the Permitted Purpose;
- 2.1.6 not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Permitted Purpose;
- 2.1.7 keep a written record of any document or other Confidential Information received from the Authority in tangible form, and of any copy made of the Confidential Information, and make the same available to the Authority promptly upon request;
- 2.1.8 immediately notify the Authority in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- 2.1.9 not use, reproduce, transform or store the Confidential Information in an externally accessible computer or electronic information retrieval system.

3 **PERMITTED DISCLOSURES**

- 3.1 The Receiving Party may only disclose the Authority's Confidential Information to those of its Representatives who need to know the Confidential Information for the Permitted Purpose, provided that:
 - 3.1.1 it informs these Representatives of the confidential nature of the Confidential Information before disclosure and obtains from its Representatives enforceable undertakings to keep the Confidential Information confidential in terms at least as extensive and binding upon the Representatives as the terms of this Agreement are upon the parties; and
 - 3.1.2 at all times, it is responsible for these Representatives' compliance with the obligations set out in this agreement.
- 3.2 The Receiving Party shall be entitled to disclose Confidential Information only to the minimum extent that they are required to do so by applicable law or by order of a court or as required by the rules and regulations of any regulatory body or any enquiry or investigation by any governmental, parliamentary or official body which has the power to compel disclosure.
- 3.3 Before making a disclosure pursuant to Clause 3.2, the Receiving Party shall at the earliest opportunity and, to the extent that is legally permitted to do so:
 - 3.3.1 notify the Authority in writing of the proposed disclosure; and
 - 3.3.2 ask the court or other public body if applicable, to treat the Confidential Information as confidential.

3.4 Where notice of disclosure under Clause 3.3:

3.4.1 is legally permitted, the Receiving Party shall take into account the reasonable requests of the Authority in relation to the proposed disclosure; or

3.4.2 is prohibited, the Receiving Party shall notify the Authority of the disclosure as soon as possible following the disclosure when it is legally able to do so.

4 TERM

4.1 Each party's obligations under this Agreement shall continue in full force and effect for a period of ☐ years from the Effective Date] OR [as long as the confidential information remains confidential].

4.2 Without prejudice to the obligations set out in Clause 6.4.4, the obligations set out in Clause 6 shall survive termination of this Agreement and/or the Termination Date for as long as the Receiving Party is processing or controlling Authority Personal Data (as per the meaning given to it in Clause 6.2).

5 RETURN OF INFORMATION

5.1 The Authority may serve a notice (an "**Information Return Notice**") on the Receiving Party at any time under this Clause 5.1. An Information Return Notice must specify whether it relates to (i) all Confidential Information provided by the Authority which is protected by this Agreement or (ii) only specified Information or categories of Confidential Information so protected (in either case, the "**Specified Scope**"). On receipt of an Information Return Notice, the Receiving Party shall:

5.1.1 at the Authority's option, securely destroy or return and provide to the Authority documents and other tangible materials that contain any of the Confidential Information within the Specified Scope, including in any case all Copies of the relevant documents and other materials made by the Receiving Party;

5.1.2 ensure, so far as reasonably practicable, that all Confidential Information within the Specified Scope that is held in electronic, digital or other machine-readable form [(including any systems and/or data storage services provided by third parties)] is permanently and securely erased from any computer, word processor, voicemail system or any other device containing such Confidential Information; and

5.1.3 make no further use of any Confidential Information which falls within the Specified Scope.

5.2 Following any secure destruction or return of Confidential Information to the Authority pursuant to Clause 5.1, the Receiving Party's obligations under this Agreement (including in relation to any Confidential Information which falls outside the Specified Scope) shall otherwise continue in force until this Agreement has expired.

5.3 The Receiving Party's obligation to comply with an Information Return Notice in respect of any Confidential Information which falls within the Specified Scope shall not apply in respect of Confidential Information:

5.3.1 [that is stored as part of an electronic back-up system that is rendered inaccessible in the normal course of business; or]

5.3.2 whose retention is required by any applicable law, rule, regulation or requirement of any competent judicial, governmental, supervisory or regulatory body, or for the purposes of any audit.

5.4 The Receiving Party's obligations under this Agreement in respect of the Confidential Information referred to in Clause 5.3 continue to be in force until this Agreement expires.

6 **[DATA PROTECTION]**

6.1 In this Clause 6

6.1.1 the terms "controller", "processor", "data subject", and "processing" shall have the meaning given to those terms in Data Protection Legislation, and "process" and "processed" shall be construed accordingly;

6.1.2 "personal data" has the meaning set out in the Data Protection Legislation and for the purposes of this Agreement, includes special categories of personal data (as set out in Article 9(1) of the UK GDPR) and personal data relating to criminal convictions and offences (as set out in Article 10 of the UK GDPR); and

6.1.3 "Data Protection Regulator" means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Legislation, including (where applicable) in the UK, the UK Information Commissioner's Office, or any successor or replacement body from time to time.

6.2 The Receiving Party acknowledges that the Confidential Information may include personal data which is subject to the Data Protection Legislation ("**Authority Personal Data**"). The Receiving Party acknowledges the factual circumstances dictate the role of responsibility of a person under the Data Protection Legislation, but the Parties anticipate each will act as a controller (in common) in respect of the Authority Personal Data. The Receiving Party undertakes not to process any such Authority Personal Data other than in accordance with the Data Protection Legislation and any relevant codes of practice issued by the Data Protection Regulator.

6.3 The details of the transfer and in particular the Permitted Purpose, details of the data being shared, the lawful basis for sharing and if special category data, criminal offence data or sensitive data (within the meaning of Parts 2 and 3 of the Data Protection Act 2018) is being shared are specified in the Data Protection Particulars as set out in Appendix 1, which forms an integral part of this Agreement.

6.4 The Receiving Party undertakes to the Authority to:

6.4.1 only process the Authority Personal Data in connection with the Permitted Purpose;

6.4.2 implement and maintain appropriate technical and organisational measures sufficient to comply at least with the security, integrity and confidentiality obligations imposed on a controller by the Data Protection Legislation, and shall take reasonable steps to ensure the reliability of any of its Representatives who shall have access to the Authority Personal Data (such steps to include entering into appropriate contractually binding confidentiality undertakings with such Representatives);

6.4.3 not transfer any of the Authority Personal Data, whether on-line or off-line, to any country outside the United Kingdom without the prior written consent of the Authority

and shall (i) ensure that such transfer is in compliance with the Data Protection Legislation and (ii) provide the Authority with evidence of the compliance safeguard implemented;

- 6.4.4 [once a bid has been submitted or there is a decision not to proceed] [once the Permitted Purpose has been completed], cease processing any of the Authority Personal Data and return or upon request securely destroy all the Authority Personal Data provided or made available to the Receiving Party under, or in connection with, the Permitted Purpose, and ensure that all personal data belonging to the Authority is securely and permanently deleted from its systems;
- 6.4.5 notify the Authority promptly, and in any event within 24 hours of becoming aware of, any unauthorised, accidental or unlawful processing of the Authority Personal Data or any actual or suspected loss, leak, destruction of, alteration, access or damage to, the Authority Personal Data;
- 6.4.6 if and to the extent that the Receiving Party receives:
- 6.4.7 a request or notice from a data subject exercising his rights under the Data Protection Legislation which should properly be dealt with by the other Party under the Data Protection Legislation; and/ or
- 6.4.8 (ii) any correspondence from a Data Protection Regulator,
- 6.4.9 in either case in relation to the processing of the Authority Personal Data in connection with the Permitted Purpose, notify the Authority promptly and in any event within 48 hours of receipt of any such request or correspondence; and
- 6.4.10 use reasonable endeavours to notify the Authority if it is obliged to make a disclosure of the Authority Personal Data under any statutory requirement, such notification to be made in advance of such disclosure or immediately thereafter, unless prohibited by law.

6.5 To the extent that one Party is acting as processor for and on behalf of the other Party, then the parties shall agree and execute a contract which as a minimum meets the mandatory contractual requirements of Article 28 of the UK GDPR (the Receiving Party acknowledging that such contractual requirements are incorporated herein mutatis mutandis).

6.6 For the avoidance of doubt, each Party acknowledges that the Authority Personal Data may include the other party's contact data (being the contact information of each Party's representatives) (which each Party shall process in its capacity as a controller) in order to (a) administer, manage and facilitate this Agreement and resolve any disputes relating to the same; (b) respond and/or raise general queries relating to this Agreement; and (c) comply with their respective obligations. Each Party shall process this contact data solely for these purposes and in accordance with that Party's own relevant privacy policy. Each Party may be required to share the other Party's contact data with its affiliates and other relevant parties, within or outside the country of origin, in order to carry out these activities but in doing so, each Party will ensure that the sharing and use of the contact data complies with the applicable Data Protection Legislation.]

7 SECURITY

7.1 The Receiving Party undertakes to respect and observe all regulations and restrictions relating to any security classification marked on the Confidential Information, both during the term of, and following expiry of, this Agreement.

- 7.2 Nothing in this Agreement shall replace or prejudice any security classification marked on any of the Confidential Information.

8 GENERAL

- 8.1 The Receiving Party acknowledges and agrees that all rights, including intellectual property rights, in Confidential Information disclosed to it by the Authority shall remain with and be vested in the Authority or the relevant member of the Authority Group.
- 8.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
- 8.2.1 to grant the Receiving Party any licence or rights other than as may be expressly stated in this Agreement;
- 8.2.2 to require the Authority to disclose, continue disclosing or update any Confidential Information; or
- 8.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided in connection with the Permitted Purpose.
- 8.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 8.4 Without prejudice to any other rights or remedies that either Party may have, each Party acknowledges and agrees that damages alone may not be an adequate remedy for any breach by a Receiving Party of the provisions of this Agreement. Accordingly, each Party acknowledges that the Authority shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 8.5 Each Party will be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 8.6 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

9 SEVERANCE

- 9.1 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.
- 9.2 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

10 THIRD PARTY RIGHTS

- 10.1 A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 (as amended, updated, or replaced from time to time) to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

11 NOTICES

- 11.1 Any notices sent under this Agreement must be in writing.
- 11.2 The following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
Email	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.
Prepaid, Royal Mail Signed For TM 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 9.00am) or on the next Working Day (if after 5.00pm).	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt.

- 11.3 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement:

Receiving Party	Authority
-----------------	-----------

Contact		
Address		
Email		

11.4 This Clause 11 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

12 **[ENTIRE AGREEMENT**

12.1 This Agreement constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral.

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

12.3 Nothing in this Clause 12 shall exclude any liability in respect of misrepresentations made fraudulently.]

13 **GOVERNING LAW AND JURISDICTION**

13.1 This Agreement 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.

13.2 The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

Signed by the Authority

Name:

Signature:

Position in Authority:

Signed by the Receiving Party

Name:

Signature:

Position in the Receiving Party:

APPENDIX 1

Data Protection Particulars

Permitted Purpose	
Categories of data to be shared	
Special categories of data/ criminal offence or sensitive data to be shared	
Lawful basis for sharing	

FRAMEWORK AGREEMENT SCHEDULE 11

COMMERCIALLY SENSITIVE INFORMATION

- 1.1 Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to the Contract following a Request for Information pursuant to clause E5 (Freedom of Information).
- 1.2 In this Schedule the Parties have sought to identify the Framework Provider's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
- 1.3 Where possible the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies.
- 1.4 Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA and the Environmental Information Regulations 2004, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

FRAMEWORK PROVIDER'S COMMERCIALLY SENSITIVE INFORMATION	DATE	DURATION OF CONFIDENTIALITY

FRAMEWORK AGREEMENT SCHEDULE 12

FRAMEWORK PROVIDER AND THIRD PARTY SOFTWARE

FRAMEWORK PROVIDER SOFTWARE

For the purposes of this Schedule 12, “**Framework Provider Software**” means software which is proprietary to the Framework Provider, including software which is or will be used by the Framework Provider for the purposes of providing the Goods and/or Services.

Framework Provider Software comprises:

Software	Supplier (if Affiliate of the Framework Provider)	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?

THIRD PARTY SOFTWARE

For the purposes of this Schedule 12, “**Third Party Software**” means software which is proprietary to any third party which is or will be used by the Framework Provider for the purposes of providing the Goods and/or Services including the software specified in this Schedule 7.

Third Party Software comprises:

Third Party Software	Supplier	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?

FRAMEWORK AGREEMENT SCHEDULE 13

FRAMEWORK PROVIDERS TENDER RESPONSE (Lot 2)

E08: Modelling Experience

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 - [Redacted]
 - [Redacted]
- [Redacted]

E09: Readiness

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

E10: Project Management & Quality Assurance

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

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E11: Team Structure

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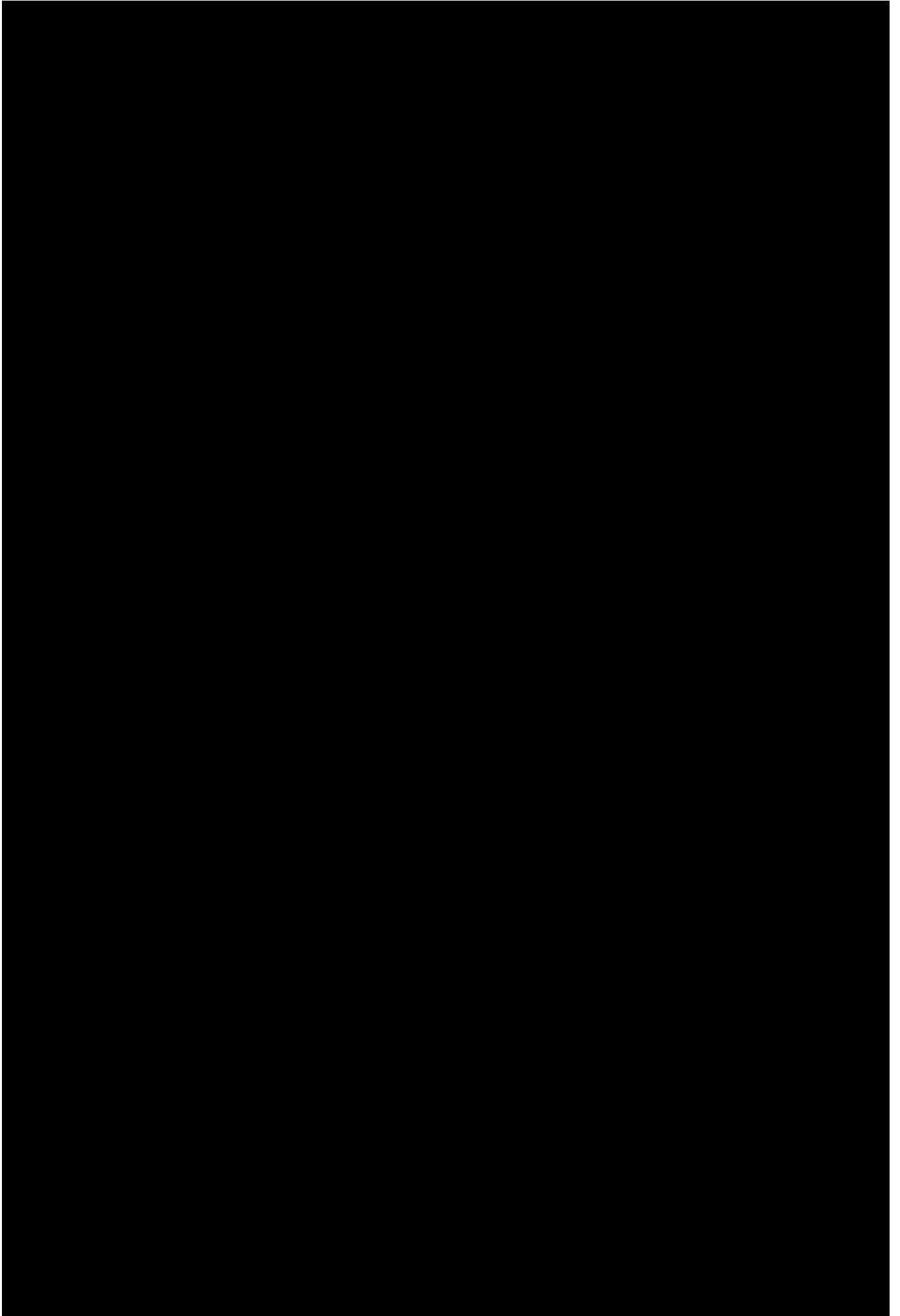
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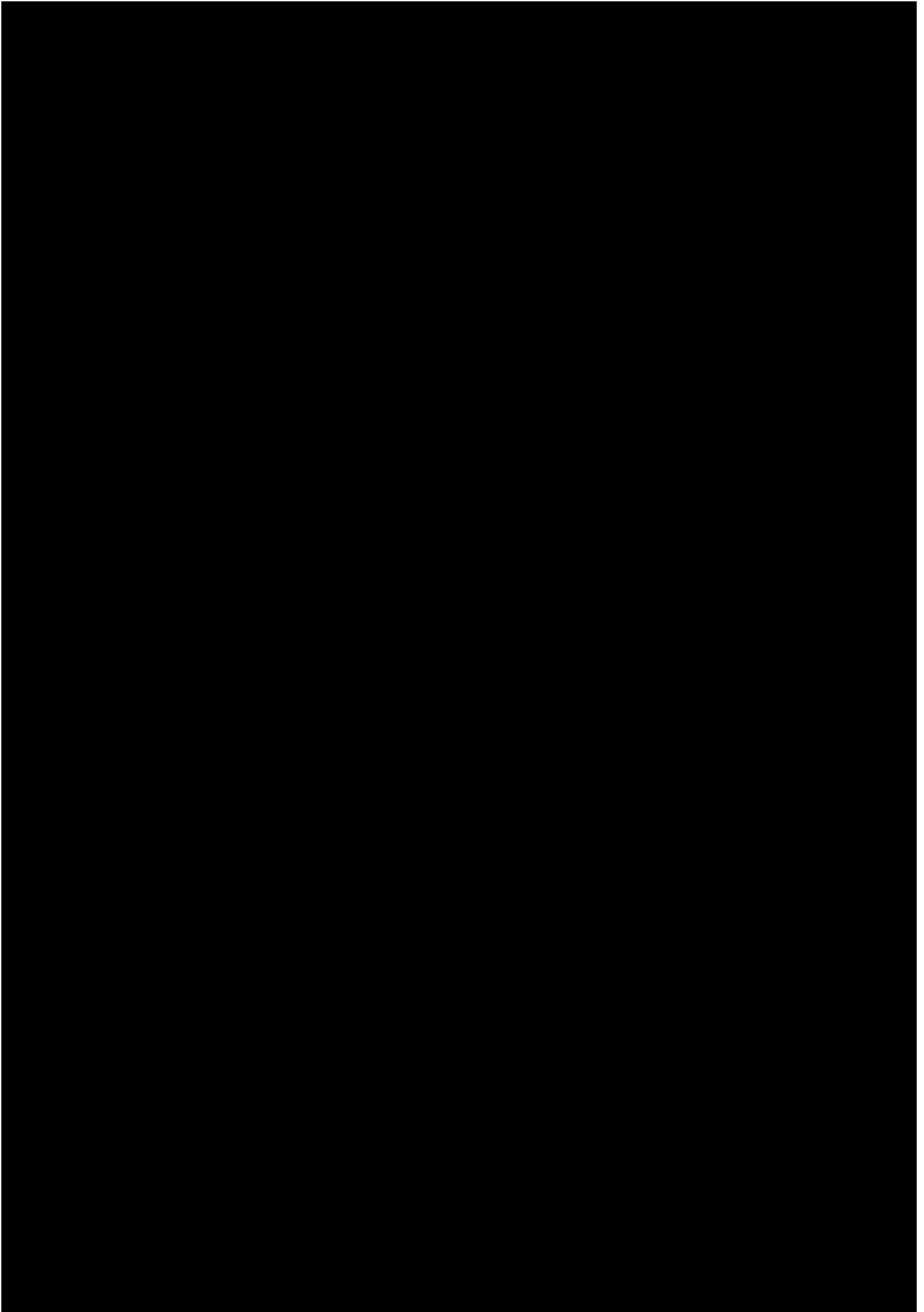
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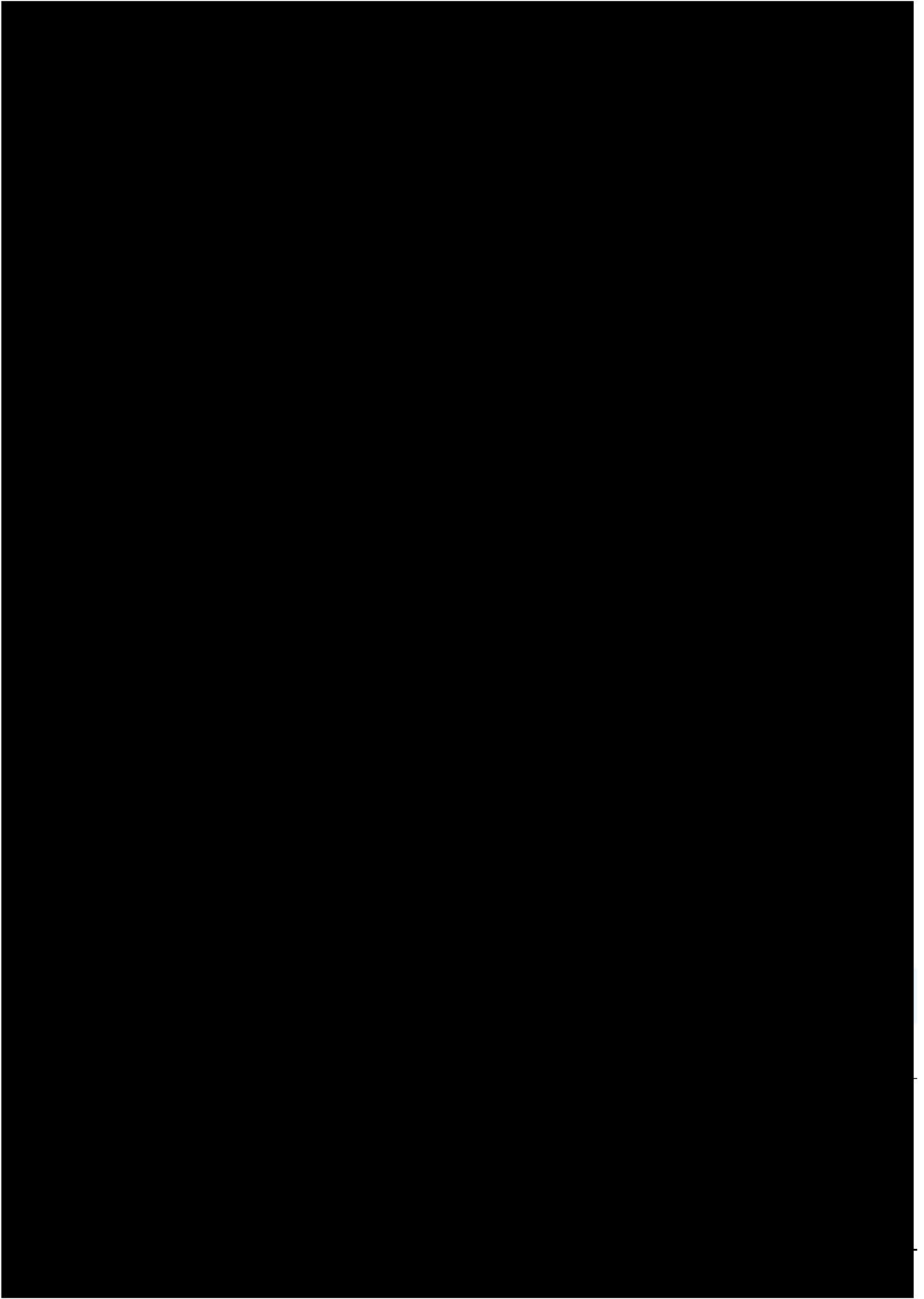
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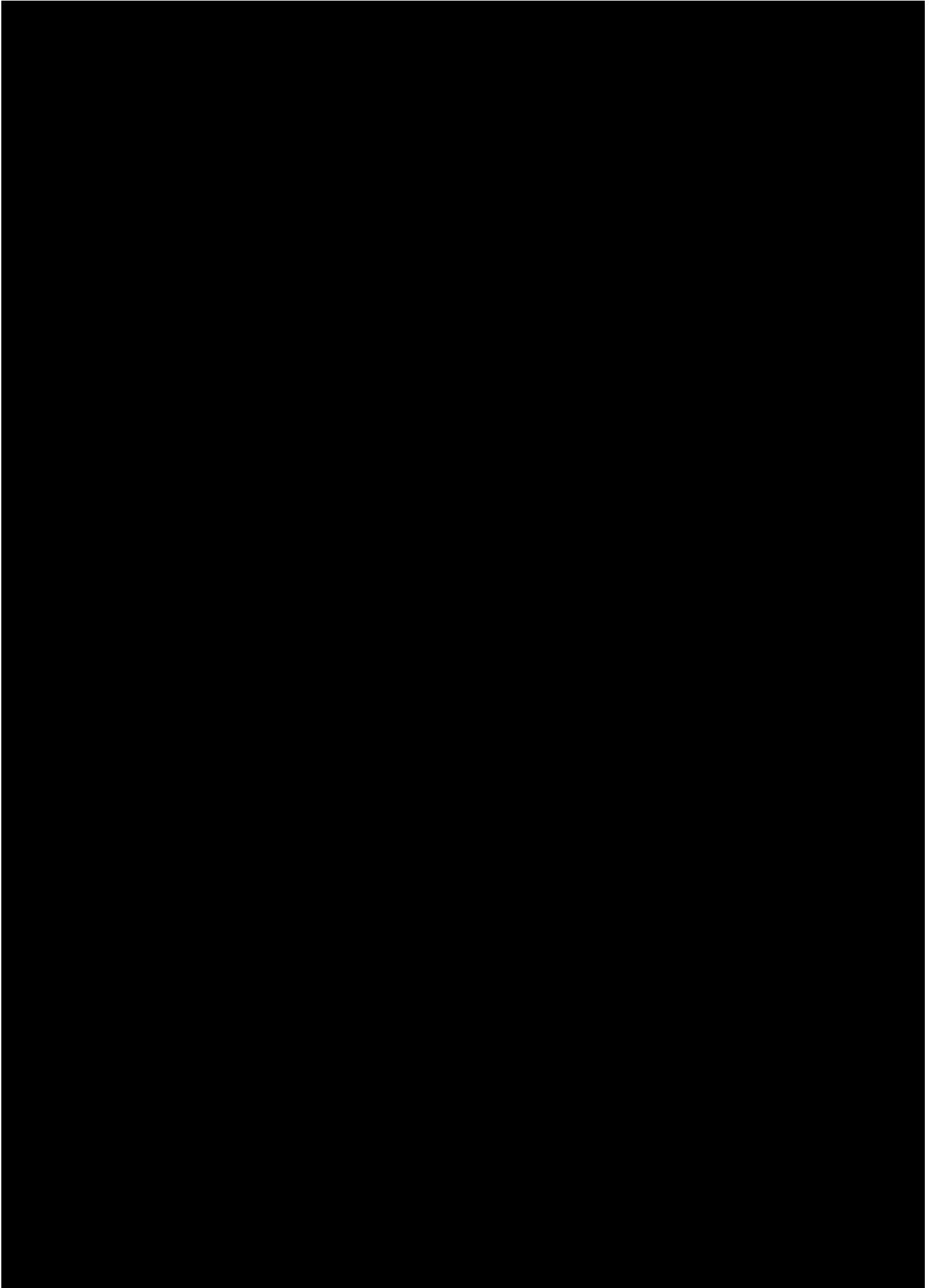
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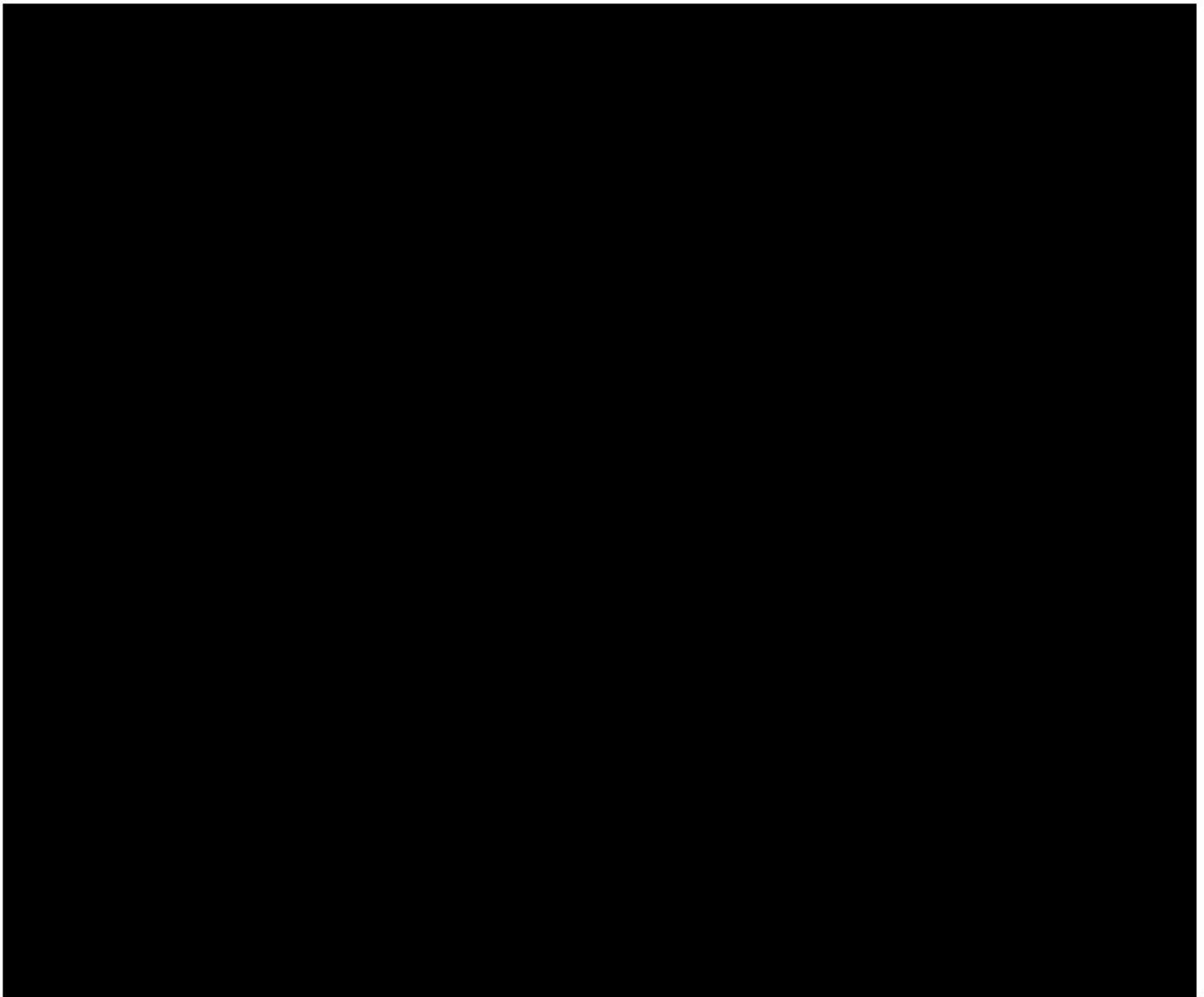
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7

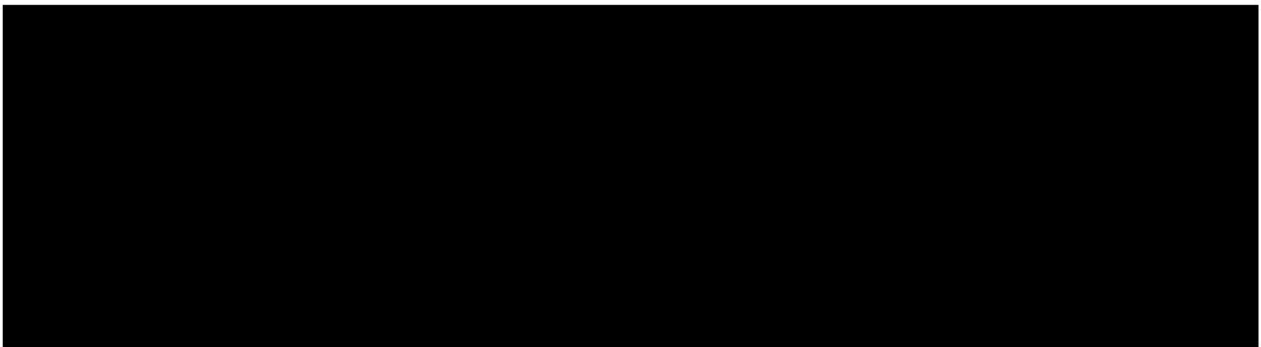
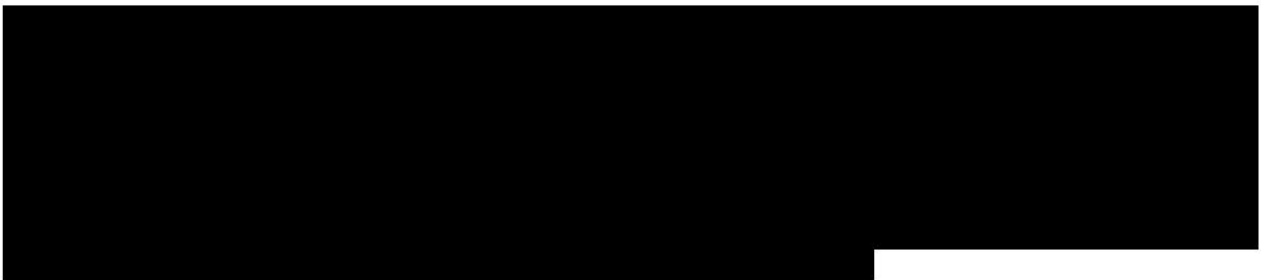
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E12: Reporting & Knowledge Exchange



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SV02: Reduce negative sustainability impacts.

[REDACTED]

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FRAMEWORK AGREEMENT SCHEDULE 14

SECURITY REQUIREMENTS

INTERPRETATION AND DEFINITION

For the purposes of this Schedule 14, unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Breach of Security” means the occurrence of unauthorised access to or use of the Premises, the Premises, the Services, the Contractor System, or any ICT or data (including Customer Data) used by the Customer or the Contractor in connection with the Call-Off Contract.

“Contractor Equipment” means the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub-Contractor (but not hired, leased or loaned from the Customer) for the provision of the Services;

“Contractor Software” means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services and which is specified as such in the Order Form.

“ICT” means Information Communications Technology and includes a diverse set of technological tools and resources used to communicate, and to create, disseminate, store and manage information, including computers, the Internet, broadcasting technologies (radio and television), and telephony.

“Protectively Marked” shall have the meaning as set out in the Security Policy Framework.

“Security Plan” means the Contractor’s security plan prepared pursuant to paragraph 3 an outline of which is set out in an Appendix to this Schedule 14.

“Software” means Specially Written Software, Contractor Software and Third Party Software.

“Specially Written Software” means any software created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of the Call-Off Contract.

“Third Party Software” means software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services including the software and which is specified as such in the Order Form.

1. PRINCIPLES OF SECURITY

1.1 The Contractor acknowledges that the Customer places great emphasis on confidentiality, integrity and availability of information and consequently on the security of the Premises and the security for the Contractor System. The Contractor also acknowledges the confidentiality of Customer Data.

1.2 The Contractor shall be responsible for the security of the Contractor System and shall at all times provide a level of security which:

1.2.1 is in accordance with Good Industry Practice and Law;

1.2.2 complies with Security Policy Framework; and

1.2.3 meets any specific security threats to the Contractor System.

1.3 Without limiting paragraph 1.2, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to maintain the following at acceptable risk levels (to be defined by the Customer):

1.3.1 loss of integrity of Customer Data;

1.3.2 loss of confidentiality of Customer Data;

1.3.3 unauthorised access to, use of, or interference with Customer Data by any person or organisation;

1.3.4 unauthorised access to network elements, buildings, the Premises, and tools used by the Contractor in the provision of the Services;

1.3.5 use of the Contractor System or Services by any third party in order to gain unauthorised access to any computer resource or Customer Data; and

1.3.6 loss of availability of Customer Data due to any failure or compromise of the Services.

2. SECURITY PLAN

2.1 The Contractor shall develop, implement and maintain a Security Plan to apply during the Contract Period (and after the end of the term as applicable) which will be approved by the Customer, tested, periodically updated and audited in accordance with this Schedule 14.

2.2 A draft Security Plan provided by the Contractor as part of its bid is set out herein.

2.3 Prior to the Commencement Date the Contractor will deliver to the Customer for approval the final Security Plan which will be based on the draft Security Plan set out herein.

2.4 If the Security Plan is approved by the Customer it will be adopted immediately. If the Security Plan is not approved by the Customer the Contractor shall amend it within 10 Working Days of a notice of non-approval from the Customer and re-submit to the Customer for approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Customer. If the Customer does not approve the Security Plan following its resubmission, the matter will be resolved in accordance with clause 12 (Dispute Resolution). No approval to be given by the Customer pursuant to this paragraph 2.4 may be unreasonably withheld or delayed. However any failure to approve the Security Plan on the grounds that it does not comply with the requirements set out in paragraphs 2.1 to 2.4 shall be deemed to be reasonable.

2.5 The Security Plan will set out the security measures to be implemented and maintained by the Contractor in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with:

2.5.1 the provisions of this Schedule 14;

2.5.2 the provisions of the Services relating to security;

2.5.3 the Information Assurance Standards;

2.5.4 the data protection compliance guidance produced by the Customer;

2.5.5 the minimum set of security measures and standards required where the system will be handling Protectively Marked or sensitive information, as determined by the Security Policy Framework;

2.5.6 any other extant national information security requirements and guidance, as provided by the Customer's IT security officers; and

2.5.7 appropriate ICT standards for technical countermeasures which are included in the Contractor System.

2.6 The references to Quality Standards, guidance and policies set out in this Schedule 14 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such Quality Standards, guidance and policies, from time to time.

2.7 If there is any inconsistency in the provisions of the above standards, guidance and policies, the Contractor should notify the Authorised Representative of such inconsistency immediately upon becoming aware of the same, and the Authorised Representative shall, as soon as practicable, advise the Contractor which provision the Contractor shall be required to comply with.

2.8 The Security Plan will be structured in accordance with ISO/IEC27002 and ISO/IEC27001 or other equivalent policy or procedure, cross-referencing if necessary to other schedules of the Call-Off Contract which cover specific areas included within that standard.

2.9 The Security Plan shall not reference any other documents which are not either in the possession of the Customer or otherwise specified in this Schedule 14.

3. AMENDMENT AND REVISION

3.1 The Security Plan will be fully reviewed and updated by the Contractor annually or from time to time to reflect:

3.1.1 emerging changes in Good Industry Practice;

3.1.2 any change or proposed change to the Contractor System, the Services and/or associated processes;

3.1.3 any new perceived or changed threats to the Contractor System;

3.1.4 changes to security policies introduced Government-wide or by the Customer; and/or

3.1.5 a reasonable request by the Customer.

3.2 The Contractor will provide the Customer with the results of such reviews as soon as reasonably practicable after their completion and amend the Security Plan at no additional cost to the Customer.

3.3 Any change or amendment which the Contractor proposes to make to the Security Plan (as a result of a Customer request or change to the Services or otherwise) shall be subject to a CCN and shall not be implemented until Approved.

4. AUDIT AND TESTING

4.1 The Contractor shall conduct tests of the processes and countermeasures contained in the Security Plan ("Security Tests") on an annual basis or as otherwise agreed by the Parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the Customer.

4.2 The Customer shall be entitled to send a representative to witness the conduct of the Security Tests. The Contractor shall provide the Customer with the results of such tests (in an Approved form) as soon as practicable after completion of each Security Test.

4.3 Without prejudice to any other right of audit or access granted to the Customer pursuant to the Call-Off Contract, the Customer shall be entitled at any time and without giving notice to the Contractor to carry out such tests (including penetration tests) as it may deem necessary in relation to the Security Plan and the Contractor's compliance with and implementation of the Security Plan. The Customer may notify the Contractor of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the delivery of the Services.

4.4 Where any Security Test carried out pursuant to paragraphs 4.2 or 4.3 reveals any actual or potential security failure or weaknesses, the Contractor shall promptly notify the Customer of any changes to the Security Plan (and the implementation thereof) which the Contractor proposes to make in order to correct such failure or weakness. Subject to Approval in accordance with paragraph 3.3, the Contractor shall implement such changes to the Security Plan 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 Security Plan to address a non-compliance with the Security Policy Framework or security requirements, the change to the Security Plan shall be at no additional cost to the Customer. For the purposes of this paragraph, a weakness means a vulnerability in security and a potential security failure means a possible breach of the Security Plan or security requirements.

5. BREACH OF SECURITY

5.1 Either Party shall notify the other immediately upon becoming aware of any Breach of Security including, but not limited to an actual, potential or attempted breach, or threat to, the Security Plan.

5.2 Upon becoming aware of any of the circumstances referred to in paragraph 5.1, the Contractor shall immediately take all reasonable steps necessary to:

5.2.1 remedy such breach or protect the Contractor System against any such potential or attempted breach or threat; and

5.2.2 prevent an equivalent breach in the future.

5.3 Such steps shall include any action or changes reasonably required by the Customer. If such action is taken in response to a breach that is determined by the Customer acting reasonably

not to be covered by the obligations of the Contractor under the Call-Off Contract, then the Contractor shall be entitled to refer the matter to the CCN procedure set out in Schedule 1.

5.4 The Contractor shall as soon as reasonably practicable provide to the Customer full details (using such reporting mechanism as may be specified by the Customer from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.

APPENDIX 1- OUTLINE SECURITY PLAN

APPENDIX 2 - SECURITY POLICY: SECURITY POLICY FRAMEWORK

A copy of the Security Policy Framework may be found at:

<https://www.gov.uk/government/publications/security-policy-framework>