



Crown
Commercial
Service

- 1 -

CALL OFF CONTRACT

BEHAVIOURAL INSIGHTS

REFERENCE NUMBER

RM6004

ATTACHMENT 5

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Call Off Contract –Call Off Terms

This Call Off Contract is made on the Thursday, 2nd April 2020 between:

The Department for Business, Energy and Industrial Strategy with offices at 1 Victoria Street, London, SW1H 0ET (“the **Customer**”); and

Behavioural Insights Ltd a company whose registered office is at 4 Matthew Parker St, London, United Kingdom, SW1H 9NP (“the **Supplier**”),

Both the Customer and the Supplier can be referred to as a “**Party**” or together the “**Parties**”.

INTRODUCTION

- (1) The Supplier is one of a number of agencies appointed by the Crown Commercial Service (**CCS**) to the Framework Agreement and is therefore able to enter into this Call Off Contract to provide the Services to the Customer.
- (2) This Call Off Contract, made between the Customer and the Supplier, sets out the terms of the Supplier’s appointment as a provider of the Services to the Customer. The Services will be delivered according to the terms of this Call Off Contract, any agreed Statement of Work, and the Framework Agreement.
- (3) The Supplier’s appointment has been confirmed in the Letter of Appointment.
- (4) The Parties agree that the Services and associated Deliverables shall be supplied in accordance with the terms of the Framework Agreement and this Call Off Contract.
- (5) Following the successful completion of a Further Competition Procedure, the Letter of Appointment, these Call Off Terms and any Statement of Work will become binding.

IT IS AGREED:

1. APPOINTMENT & STATEMENTS OF WORK

- 1.1. Throughout the Term of this Call Off Contract, the Supplier will perform the Services and (where relevant) supply the Deliverables to the Customer in accordance with agreed Statements of Work.
- 1.2. Subject to Clause 1.4 the Parties may agree new Projects to be delivered under this Call-Off Contract by agreeing a new Statement of Work. This must be done in writing and using the form set out at Schedule 2. Once both Parties have signed a Statement of Work, it automatically forms part of this Call Off Contract.
- 1.3. Any schedule attached to a Statement of Work will describe in detail the different types of Services to be provided under that Statement of Work. A schedule attached to a Statement of Work only applies to the relevant Project to be delivered under that Statement of Work, and not to any other Statement of Work, or to the provision of the Services as a whole.
- 1.4. Where a Statement of Work would result in:
 - 1.4.1 a variation of the Services procured under this Call Off Contract;
 - 1.4.2 an increase in the Charges agreed under this Call Off Contract; or
 - 1.4.3 a change in the economic balance between the Parties to the detriment of the Customer that is not provided for in this Call Off Contract,the relevant term(s) will be dealt with as a proposed Variation to this Call Off Contract in accordance with the Variation procedure set out in Clause 9.

2. TERM

- 2.1. This Call Off Contract starts on the **Effective Date** and ends on the **Expiry Date**, as stated in the Letter of Appointment. The Expiry Date may be changed in accordance with Clause 2.2 or Clause 23.
- 2.2. The Customer may extend this Call Off Contract for any period up to the Extension Expiry Date by giving the Supplier notice in writing before the Expiry Date. The minimum notice which must be given in order to amend the Expiry Date is specified in the Letter of Appointment.
- 2.3. The revised date the contract will end (the **New Expiry Date**) will be set out in the notice given under Clause 2.2 above.
- 2.4. The terms and conditions of this Call Off Contract will apply throughout any extended period.
- 2.5. Each Project starts on the Project Commencement Date and ends on the Project Completion Date, unless it is terminated earlier in accordance with Clause 23.

3. CALL OFF GUARANTEE

- 3.1. Where the Customer has stated in the Letter of Appointment that this Call Off Contract is conditional on receipt of a Guarantee, then, on or prior to the Effective Date (or on any other date specified by the Customer), the Supplier must provide:
 - 3.1.1. an executed Guarantee from a Guarantor; and

3.1.2. a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.

3.2. The Customer may at any time agree to waive compliance with the requirement in Clause 3.1 by giving the Supplier notice in writing.

4. CUSTOMER'S OBLIGATIONS

4.1. The Customer will give the Supplier instructions as to its requirements for the Services and Deliverables. These will be included in a Statement of Work and may include start and end dates for each stage of the proposed Services and Deliverables.

5. SERVICE DELAY, DELIVERY & RECTIFICATION

Service Delivery

5.1. The Supplier will give the Customer full and clear instructions as to any Customer Materials it reasonably requires to perform the Services and provide the Deliverables.

5.2. The Supplier will:

5.2.1 comply with all Law;

5.2.2 use all reasonable and proper skill and care in its performance of the Services and provision of the Deliverables;

5.2.3 comply with all reasonable Customer instructions regarding the Services and Deliverables, as long as these instructions do not materially amend the Statement of Work (unless the amendment has been agreed in accordance with Clause 9.1);

5.2.4 keep Customer Materials under its control safe and secure and in accordance with any security policy provided by the Customer; and

5.2.5 provide all Deliverables by any dates set out in the applicable Statement of Work or any other date(s) agreed by the parties in writing.

Delay

5.3. If the Customer materially breaches its obligations in connection with this Call Off Contract (including its payment obligations), and consequently delays or prevents the Supplier from performing any of the agreed Services or providing any of the agreed Deliverables this will be a "Customer Cause". In the event of a Customer Cause, the Supplier will be granted an appropriate extension of time (to be approved by the Customer, acting reasonably) to perform the agreed Services or provide the agreed Deliverables. The Supplier will not be liable for any Losses incurred by the Customer as a result of Customer Cause, provided the Supplier complies with its obligations set out at Clause 5.4.

5.4. The Supplier must notify the Customer within 2 Working Days of the Supplier becoming aware that the Customer has breached, or is likely to breach, its obligations in connection with this Call Off Contract. This notice must detail:

5.4.1 the Customer Cause and its actual or potential effect on the Supplier's ability to meet its obligations under this Call Off Contract, and

5.4.2 any steps which the Customer can take to eliminate or mitigate the consequences and impact of such Customer Cause.

- 5.5. The Supplier must use all reasonable endeavours to eliminate or mitigate the consequences and impact of a Customer Cause. The Supplier must try to mitigate against any Losses that the Customer or the Supplier may incur, and the duration and consequences of any delay or anticipated delay.
- 5.6. If at any time the Supplier becomes aware that it may not be able to perform the Services or provide any Deliverables by any date set out in the applicable Statement of Work (or any other deadline agreed by the Parties in writing), this will constitute a Default and the Supplier will immediately notify the Customer of the Default and the reasons for the Default.
- 5.7. If the Default described in Clause 5.6 above is, in the Customer's opinion capable of remedy, the Customer may, up to 10 Working Days from being notified of the Default, instruct the Supplier to comply with the Rectification Plan Process.

Rectification Plan Process

- 5.8. If instructed to comply with the Rectification Plan Process by the Customer under Clause 5.7 above, the Supplier will submit a draft Rectification Plan to the Customer to review as soon as possible and in any event within 10 Working Days (or such other period as may be agreed between the Parties) from being instructed to do so. The Supplier shall submit a draft Rectification Plan even if the Supplier does not agree that the Default is capable of remedy.
- 5.9. The draft Rectification Plan shall set out:
 - 5.9.1 full details of the Default that has occurred, including the underlying reasons for it;
 - 5.9.2 the actual or anticipated effect of the Default; and
 - 5.9.3 the steps which the Supplier proposes to take to rectify or mitigate the Default and to prevent any recurrence of the Default, including timescales for such steps and for the rectification of the Default (where applicable).
- 5.10 The Supplier shall promptly provide to the Customer any further documentation that the Customer requires to assess the Supplier's reasoning behind the default. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined in accordance with paragraph 5 of Schedule 4 (Dispute Resolution Procedure).
- 5.11 The Customer may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate. An example of an inadequate draft Rectification Plan is one which:
 - 5.11.1 is insufficiently detailed to be capable of proper evaluation;
 - 5.11.2 will take too long to complete;
 - 5.11.3 will not prevent reoccurrence of the Default;
 - 5.11.4 will rectify the Default but in a manner which is unacceptable to the Customer; or
 - 5.11.5 will not rectify the Default.
- 5.12 The Customer will tell the Supplier as soon as reasonably practicable if it agrees to or rejects the draft Rectification Plan.

decision in its rejection notice. The Supplier must take these reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit a revised draft of the Rectification Plan to the Customer for review within 5 Working Days (or such other period as agreed between the Parties) of the Customer's rejection notice.

5.14 If the Customer agrees the draft Rectification Plan, or any revised draft Rectification Plan, the Supplier shall immediately start work on the actions set out in the Rectification Plan.

6. SUPPLIER: OTHER APPOINTMENTS

6.1 Adverse public perception could have a detrimental impact on the Customers desired outcomes for the Project. To minimise this risk, the Supplier must not, without the Customers written consent, provide communication or campaign services to a third party during the Term of this Call Off Contract where the provision of such services (in the reasonable opinion of the Customer):

6.1.1 has the potential to adversely affect the Customer's desired outcome of the Project or diminish the trust that the public places in the Customer; or

6.1.2 is likely to cause embarrassment to the Customer or bring the Customer into disrepute or may result in a conflict of interest for the Customer.

6.2 The only exception to this is if the Supplier provides communication services to an existing Customer, which the Customer had been informed about before entering into this Call Off Contract.

6.3 If the Supplier becomes aware of a breach, or potential breach, of its obligations under Clause 6.1, the Supplier must notify the Customer immediately, providing full details of the nature of the breach and the likely impact on any Projects

6.4 If the Supplier breaches Clause 6.1, the Customer may terminate this Call Off Contract, a Project, or any part of a Project with immediate effect in accordance with Clause 23.3.

7. CUSTOMER: OTHER APPOINTMENTS

7.1 Subject to Clause 6 the relationship between the Parties is non-exclusive. The Customer is entitled to appoint any other Supplier to perform services and produce deliverables which are the same or similar to the Services or Deliverables.

8. PERSONNEL

8.1 The Supplier must ensure that Supplier personnel who provide the Services:

8.1.1 are appropriately experienced, qualified and trained to provide the Services in accordance with this Call Off Contracts;

8.1.2 apply all reasonable skill, care and diligence in providing the Services;

8.1.3 obey all lawful instructions and reasonable directions of the Customer and provide the Services to the reasonable satisfaction of the Customer, and

- 8.1.4 are vetted in accordance with Good Industry Practice and, where applicable, the security requirements of the Customer and the Standards.
- 8.2 The Supplier will be liable for all acts or omissions of the Supplier personnel. Any act or omission of a member of any Supplier personnel which results in a breach of this Call Off Contract is a breach by the Supplier.
- 8.3 The Customer acknowledges and agrees that it may be necessary for the Supplier to replace the personnel providing the Services with alternative personnel with similar levels of seniority and experience.
- 8.4 The Supplier will seek to ensure that any Key Individual responsible for the provision of the Services will remain involved in the provision of the Services. If any Key Individual leaves the Supplier, or ceases to be involved in the provision of the Services for any reason (for example, if they are promoted to a different role within the Supplier), the Supplier will consult with the Customer and, subject to the Customer's prior Approval, appoint a suitable replacement.
- 8.5 If the Customer reasonably believes that any of the Supplier personnel are unsuitable to undertake work on this Call Off Contract, it will notify the Supplier who will then end the person's involvement in providing the Services.

9. VARIATIONS AND CANCELLATIONS

- 9.1 Either Party may request a change to this Call Off Contract, a Project or a Statement of Work. Any requested change must not amount to a material change of this Call Off Contract (within the meaning of the Regulations and the Law). A change, once implemented, is called a "Variation".
- 9.2 A Party may request a Variation by completing, signing and sending the Variation Form to the other Party. The requesting Party must give sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred by it.
- 9.3 Subject to Clause 9.5, the receiving Party must respond to the request within the time limits specified in the Variation Form. The time limits shall be reasonable and ultimately at the discretion of the Customer, having regard to the nature of the Services and the proposed Variation.
- 9.4 If the Supplier requests a Variation, the Customer can ask the Supplier to carry out an assessment of the effects of the proposed Variation (an **Impact Assessment**). The Impact Assessment must consider:
- 9.4.1 the impact of the proposed Variation on the Services and Supplier's ability to meet its other obligations under this Call Off Contract (including in relation to other Statements of Work);
 - 9.4.2 the initial cost of implementing the proposed Variation and any ongoing costs post-implementation;

- 9.4.3 any increase or decrease in the Contract Charges, any alteration in the resources or expenditure required by either Party and any alteration to the working practices of either Party;
 - 9.4.4 a timetable for the implementation, together with any proposals for the testing of the Variation; and
 - 9.4.5 any other information the Customer reasonably asks for in response to the Variation request.
- 9.5 The Parties may agree to adjust the time limits specified in the Variation Form so the Impact Assessment can be carried out.
- 9.6 If the Parties agree the Variation, the Supplier will implement it, and be bound by it as if it was part of this Call Off Contract.
- 9.7 Until a Variation is agreed, the Supplier must continue to perform and be paid for the Services as originally agreed, unless otherwise notified by the Customer.
- 9.8 Subject to Clauses 9.9 and 23.1 the Customer can ask the Supplier to suspend or cancel any Project or Statement of Work, or any part of a Project, including any plans, schedules or work in progress at any time, regardless of whether a Variation has been requested. Any request shall be made by an Authorised Customer Approver in writing The Supplier will take all reasonable steps to comply with any such request.
- 9.9 In the event of any cancellation under Clause 9.8, the Customer will pay the Supplier all Contract Charges reasonably and properly incurred by the Supplier during the Project Notice Period, provided that the Supplier uses all reasonable endeavours to mitigate any charges or expenses.

10. APPROVALS AND AUTHORITY

- 10.1 For the purposes of this Call Off Contract, any reference to Customer Approval means written approval in one of the following ways:
- 10.1.1 the Customer issuing a purchase order bearing the signature of an Authorised Customer Approver, or
 - 10.1.2 e-mail from the individual business e-mail address of an Authorised Customer Approver, or
 - 10.1.3 the signature of an Authorised Customer Approver on the Supplier's documentation
- 10.2 Any reference to Supplier Approval means written approval in one of the following ways:
- 10.2.1 e-mail from the individual business e-mail address of an Authorised Supplier Approver, or
 - 10.2.2 the signature of an Authorised Supplier Approver on the Customer's documentation
- 10.3 The Supplier will seek the Customer's prior Approval of:

- 10.3.1 any estimates or quotations for any costs to be paid by the Customer that are not agreed in a Statement of Work; and
- 10.3.2 any creative treatments, including but not limited to scripts, messaging, storyboards, copy, layouts, design, artwork, or proposed marketing activity
- 10.3 The Supplier will seek the Customer's prior Approval of any draft Deliverables. The Customer's Approval will be the Supplier's authority to proceed with the use of the relevant Deliverables.
- 10.4 If the Customer does not approve of any matter requiring Approval, it must notify the Supplier of its reasons for disapproval within 14 days of the Supplier's request.
- 10.5 If the Customer delays approving or notifying the Supplier as to its disapproval, the Supplier will not be liable for any resulting delays or adverse impact caused to the delivery of the Project.

11. PROJECT MANAGEMENT

11.1 During the Term of this Call Off Contract, the Supplier will:

11.1.1 keep the Customer fully informed as to the progress and status of all Services and Deliverables, by preparing and submitting written reports at such intervals and in such format as is agreed by the Parties.

11.1.2 promptly inform the Customer of any actual or anticipated problems relating to provision of the Deliverables.

11.2 During the Term, the Parties' respective project managers will arrange and attend meetings to review the status and progress of the Services, Deliverables and the Project(s), and to seek to resolve any issues that have arisen. These meetings will be held at locations and intervals as agreed by the parties.

11.3 Unless otherwise agreed in the Statement of Work, the Supplier will produce contact reports providing each Party with a written record of matters of substance discussed at meetings or in telephone conversations between the parties within 3 Working Days of such discussions. If the Customer does not question any of the subject matter of a contact report within 7 Working Days of its receipt, it will be taken to be a correct record of the meeting or telephone conversation.

12. FEES AND INVOICING

- 12.1. The Contract Charges for the Services will be the full and exclusive remuneration of the Supplier for supplying the Services. Unless expressly agreed in writing by the Customer in the Statements of Work, the Contract Charges will include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 12.2. All amounts stated are exclusive of VAT which will be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 12.3. The Supplier will invoice the Customer in accordance with the payment profile agreed in the Statements of Work. Each invoice will include all supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 12.4. The Customer will pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under this Call Off Contract, withhold or reduce payments in the event of unsatisfactory performance.
- 12.5. If the Customer does not pay an undisputed amount properly invoiced by the due date, the Supplier has the right to charge interest on the overdue amount at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 12.6. If at any time during the Term the Supplier reduces its Framework Prices for Services provided in accordance with the terms of the Framework Agreement, the Supplier shall immediately reduce the Contract Charges for the Services under this Call Off Contract by the same amount. This obligation applies whether or not the Services are offered in a catalogue provided under the Framework Agreement.
- 12.7. The Customer is entitled to deduct from any sum due any money that the Supplier owes the Customer. This includes any sum which the Supplier is liable to pay to the Customer in respect of breach of this Call Off Contract. In these circumstances, the Supplier may not assert any credit, set-off or counterclaim against the Customer.
- 12.8. The Supplier will indemnify the Customer on a continuing basis against any liability (to include any interest, penalties or costs incurred, levied, demanded or assessed) on the Customer at any time in respect of the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call Off Contract. Any amounts due under Clause 12.2 will be paid by the Supplier to the Customer not less than 5 Working Days before the date upon which the tax or other liability is payable by the Customer.
- 12.9. If there is a dispute between the Parties about an amount invoiced, the Customer will pay the undisputed amount by the due date. The Supplier will not suspend the supply of the Services in any Project, unless the Supplier is entitled to terminate that Project for a failure to pay undisputed sums in accordance with Clause 22.8.

13. THIRD PARTY AGENCIES: ASSIGNMENT AND SUB-CONTRACTING

Assignment and Sub-Contracting

- 13.1. Other than where a Sub-Contractor is agreed in the Letter of Appointment or a Statement of Work, the Supplier will not, without the prior Approval of the Customer, assign, sub-contract, novate or in any way dispose of the benefit or the burden of this Call Off Contract or any part of it.
- 13.2. In requesting Approval to sub-contract, the Supplier will:
- 13.2.1 use reasonable care and skill in the selection of proposed Sub-Contractors;
 - 13.2.2 if the Customer requests, the Supplier will obtain more than one quote for a particular sub-contracted service; and
 - 13.2.3 provide the Customer with a business case for sub-contracting all or part of the Services, identifying why it is economically advantageous for the Supplier to sub-contract to its proposed sub-contractor. The Customer may reject the Supplier's request to appoint a proposed sub-contractor if it considers the proposed sub-contractor does not provide value for money.
- 13.3. If the Customer consents to the Supplier's proposed sub-contractor, it shall be a Sub-Contractor as the term is defined in Schedule 1 (Definitions).
- 13.4. In granting consent to any assignment, novation sub-contracting or disposal, the Customer may set additional terms and conditions it considers necessary.
- 13.5. The Supplier shall ensure that its Sub-Contractor does not further sub-contract all or part of the Services or Deliverables.
- 13.6. Any contracts the Supplier enters into with third party suppliers for Services and Deliverables ("**Sub-Contracts**") must be on terms that are in line with the Suppliers' standard contractual terms and conditions, must not permit further sub-contracting, and must not conflict with the terms of this Call Off Contract.
- 13.7. Provided that the Supplier has notified the Customer of any significant restrictions or contract terms contained in any Sub-Contracts, the Customer hereby acknowledges that:
- 13.7.1. its right to use or otherwise benefit from any Services or Deliverables acquired under Sub-Contracts will be as set out in the Sub-Contracts; and
 - 13.7.2. it will be responsible for any reasonable and proper charges or liabilities (including cancellation payments) that the Supplier is directly liable for under Sub-Contracts only to the extent that that these are caused by an act or omission of the Customer or its Affiliates.
- 13.8. The Supplier will promptly provide the Customer with a copy of any Sub-Contract if requested to do so.
- 13.9. The Supplier will be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 13.10. The Supplier will obtain the Customer's Approval before commissioning services from any Supplier Affiliate.

Supply Chain Protection

- 13.11. The Supplier will ensure that all Sub-Contracts contain provisions:

- 13.11.1. requiring the Supplier to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding 30 days from the receipt of a Valid Invoice;
- 13.11.2. requiring the Supplier to verify any invoices submitted by a Sub-Contractor in a timely manner;
- 13.11.3. giving the Customer the right to publish the Supplier's compliance with its obligation to pay undisputed invoices to the Sub-Contractor within the specified payment period;
- 13.11.4. giving the Supplier a right to terminate the Sub-Contract if the Sub-Contractor fails to comply with legal obligations in the fields of environmental, social or labour law; and
- 13.11.5. requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards provisions to the same effect as those required by this Clause 13.11.

14. DISCOUNTS AND REBATES

- 14.1. The Supplier will disclose to the Customer any commission, discount or rebate earned by the Supplier arising in respect of third party costs directly related to the Projects. The Customer will receive the full benefit of such commission, discount or rebate.

15. CONFIDENTIALITY, TRANSPARENCY AND FREEDOM OF INFORMATION

CONFIDENTIALITY

- 15.1. For the purposes of the Clauses below, a Party which receives or obtains, directly or indirectly, Confidential Information is a "Recipient". A Party which discloses or makes available Confidential Information is a "Disclosing Party".
- 15.2. Unless a Recipient has express permission to disclose Confidential Information, it must:
 - 15.2.1. treat the Disclosing Party's Confidential Information as confidential and store it securely
 - 15.2.2. not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Call Off Contract or with the owner's prior written consent
 - 15.2.3. use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Call Off Contract, and
 - 15.2.4. immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.
- 15.3. The Recipient is entitled to disclose Confidential Information if:
 - 15.3.1. It is required to so by Law (though in such cases, Clause 15.15 (Freedom of Information) applies to disclosures required under the FOIA or the EIRs)
 - 15.3.2. the need for such disclosure arises out of or in connection with:

- 15.3.3. any legal challenge or potential legal challenge against the Customer regarding this Call Off Contract
- 15.3.4. the examination and certification of the Customer's accounts (provided that the disclosure is made on a confidential basis) or for any examination under Section 6(1) of the National Audit Act 1983, or
- 15.3.5. a Central Government Body review in respect of this Call Off Contract or
- 15.3.6. the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010. Such disclosure can only be made to the Serious Fraud Office.
- 15.4. If the Recipient is required by Law to disclose Confidential Information, it should notify the Disclosing Party as soon as reasonably practicable and to the extent permitted by Law. It may advise the Disclosing Party of what Law or regulatory body requires such disclosure and what Confidential Information it will be required to disclose.
- 15.5. Subject to Clauses 15.3 and 15.4, the Supplier may disclose Confidential Information, on a confidential basis, to:
 - 15.5.1. Supplier personnel who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance under this Call Off Contract, and
 - 15.5.2. its professional advisers for the purposes of obtaining advice in relation to this Call-Off Contract.
- 15.6. Where the Supplier discloses Confidential Information in such circumstances, it remains responsible for ensuring the persons to whom the information was disclosed comply with the confidentiality obligations set out in this Call Off Contract.
- 15.7. The Customer may disclose the Confidential Information of the Supplier:
 - 15.7.1. to any Central Government Body, on the basis that the information may only be further disclosed to Central Government Bodies
 - 15.7.2. to Parliament, including any Parliamentary committees, or if required by any British Parliamentary reporting requirement
 - 15.7.3. if disclosure is necessary or appropriate in the course of carrying out its public functions
 - 15.7.4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by a Central Government Body or Contracting Body (including any benchmarking organisation) for any purpose relating to or connected with this Call Off Contract
 - 15.7.5. on a confidential basis for the purpose of the exercise of its rights under this Call Off Contract, or
 - 15.7.6. to a proposed successor in title (transferee, assignee or novatee) to the Customer.

confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this Clause 15.

- 15.9. Nothing in this Clause 15 will prevent a Recipient from using any techniques, ideas or know-how gained during the performance of this Call Off Contract in the course of its normal business, as long as this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.
- 15.10. If the Supplier fails to comply with this Clause 15, the Customer can terminate this Call Off Contract.

TRANSPARENCY

- 15.11. Except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Call Off Contract (and any Transparency Reports submitted by the Supplier under it) is not Confidential Information. This will be made available in accordance with the procurement policy note 13/15 www.gov.uk/government/uploads/system/uploads/attachment_data/file/458554/Procurement_Policy_Note_13_15.pdf and the Transparency Principles referred to therein.
- 15.12. The Customer will determine whether any of the content of this Call Off Contract is exempt from disclosure in accordance with the provisions of the FOIA. The Customer may consult with the Supplier to inform its decision regarding any redactions but will have absolute discretion over the final decision.
- 15.13. Notwithstanding any other provision of this Call Off Contract, the Supplier consents to the Customer publishing this Call Off Contract in its entirety (including any agreed changes). Any information which is exempt from disclosure in accordance with the provisions of the FOIA will be redacted).
- 15.14. The Supplier will cooperate with the Customer to enable publication of this Call Off Contract.

FREEDOM OF INFORMATION

- 15.15. The Customer is subject to the requirements of the FOIA and the EIRs. The Supplier will:
- 15.15.1. provide all necessary assistance to the Customer to enable it to comply with its Information disclosure obligations.
- 15.15.2. send all Requests for Information it receives relating to this Call Off Contract to the Customer as soon as practicable and within a maximum of 2 Working Days from receipt.
- 15.15.3. provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days of the Customer's request.
- 15.16. The Supplier must not respond directly to a Request for Information without the Customer's prior Approval.

- 15.17. The Customer may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Customer will take reasonable steps to notify the Supplier of a Request for Information where it is permissible and reasonably practical for it to do so. However, the Customer will be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information are exempt from disclosure in accordance with the FOIA and/or the EIRs.

16. SUPPLIER WARRANTIES

- 16.1. The Supplier warrants that:
- 16.1.1. it has full capacity and authority to enter into this Call Off Contract and that by doing so it will not be in breach of any obligation to a third party;
 - 16.1.2. the personnel who perform the Services are competent and suitable to do so;
- 16.2. The Supplier undertakes that:
- 16.2.1. the use of the Deliverables by the Customer in accordance with this Call Off Contract and for the purposes set out in the Statement of Work will not infringe the copyright of any third party; and
 - 16.2.2. as at the date they are delivered, the Deliverables of this Call Off Contract may be used for the purposes set out in the Statement of Work and comply with all Advertising Regulations.
- 16.3. The Supplier hereby indemnifies the Customer against any Losses incurred by the Customer as a result of breach by the Supplier of its warranty and undertaking in Clauses 16.1 and 16.2.

17. CUSTOMER WARRANTIES

- 17.1. The Customer warrants that:
- 17.1.1. it has full capacity and authority to enter into this Call Off Contract and that by doing so it will not be in breach of any obligation to a third party; and
 - 17.1.2. the Customer Materials will not, when used in accordance with this Call Off Contract and any written instructions given by the Customer, infringe third party copyright.

18. LIABILITY

- 18.1. Nothing in this Call Off Contract will exclude or in any way limit either Party's liability for fraud, death or personal injury caused by its negligence.
- 18.2. Subject always to Clauses 18.1 and 18.3, the maximum amount the Supplier can be liable for in respect of all Defaults shall in no event exceed:
- 18.2.1. in relation to any Defaults occurring from the Effective Date to the end of the first Contract Year, the higher of the figure specified in the Letter of Appointment or a sum equal to 125% of the Contract Charges estimated by the Customer for the first Contract Year;

- 18.2.2. in relation to any Defaults occurring in each subsequent Contract Year that commences during the remainder of the Term, the higher of the figure specified in the Letter of Appointment or a sum equal to 125% of the Contract Charges payable to the Supplier under this Call Off Contract in the previous Contract Year; and
- 18.2.3. in relation to any Defaults occurring in each Contract Year that commences after the end of the Initial Term, the higher of the figure specified in the Letter of Appointment or a sum equal to 125% of the Contract Charges payable to the Supplier under this Call-Off Contract in the last Contract Year commencing during the Term;
- 18.3. Subject to Clause 18.1 and except for any claims arising under Clause 20.12, neither Party will be liable to the other in any situation for any:
- 18.3.1. loss of profits
 - 18.3.2. loss of goodwill or reputation
 - 18.3.3. loss of revenue
 - 18.3.4. loss of savings whether anticipated or otherwise; or
 - 18.3.5. indirect or consequential loss or damage of any kind
- 18.4. Without prejudice to its obligation to pay the undisputed Contract Charges as and when they fall due for payment, the Customer's total aggregate liability in respect of all defaults, claims, losses or damages howsoever caused will in no event exceed the figure specified in the Letter of Appointment.

19. INSURANCE

- 19.1. The Supplier will hold insurance policies to the value sufficient to meet its liabilities in connection with this Call Off Contract (including any specific insurance requirements as are set out in the Statements of Work). The Supplier will provide the Customer with evidence that such insurance is in place at the Customer's request.
- 19.2. The Supplier will effect and maintain the policy or policies of insurance as stipulated in the Letter of Appointment.
- 19.3. If, for whatever reason, the Supplier fails to comply with the provisions of this Clause 19 the Customer may make alternative arrangements to protect its interests. If the Customer does so, it may recover the premium and other costs of such arrangements as a debt due from the Supplier.
- 19.4. Any insurance effected by the Supplier will not relieve it of any liability under this Call-Off Contract. It is the Supplier's responsibility to determine the amount of insurance cover that will be adequate to enable the Supplier to satisfy any liability in relation to the performance of its obligations under this Call Off Contract.
- 19.5. The Supplier must ensure that the policies of insurance it holds pursuant to this Clause 19 are not cancelled, suspended or vitiated. The Supplier will use all reasonable endeavours to notify the Customer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any circumstance whereby the relevant insurer could give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

20. INTELLECTUAL PROPERTY RIGHTS

- 20.1. The Supplier acknowledges that the Customer retains ownership of Customer Materials and all Intellectual Property Rights in them. This includes any modifications or adaptations of Customer Materials produced by the Supplier in the course of providing the Services and Deliverables. The Customer hereby grants to the Supplier a non-exclusive licence to use the Customer Materials during the applicable Project Term solely for the purposes of providing the Services and Deliverables.
- 20.2. All Intellectual Property Rights in the Supplier Proprietary Materials remain the property of the Supplier. The Supplier grants to the Customer a non-exclusive, royalty-free licence to use any Supplier Proprietary Materials as are included in the Deliverables, in the Territory, for the period of time and for the purposes set out in the Statement of Work.
- 20.3. Prior to delivery of the Deliverables to the Customer, the Supplier will obtain all licences or consents in respect of Third Party Materials that are required so the Customer can use these Third Party Materials for the purposes set out in the Statement of Work. The Supplier will notify the Customer of any restrictions on usage and any other contractual restrictions arising in respect of such Third Party Materials.
- 20.4. The Supplier agrees:
- 20.4.1. at the Customer 's request and expense, to take all such actions and execute all such documents as are necessary (in the Customer 's reasonable opinion) to enable the Customer to obtain, defend or enforce its rights in the Supplier Materials and Deliverables; and
 - 20.4.2. neither to do nor fail to do any act which would or might prejudice the Customer's rights under this Clause 20.
- 20.5. To the extent permitted by law, the Supplier shall ensure that all Moral Rights in the Supplier Materials are waived. Where it is not lawfully possible to waive Moral Rights, the Supplier agrees not to assert any Moral Rights in respect of the Supplier Materials.

- 20.6. The Supplier will use its reasonable endeavours to ensure that all Moral Rights in Third Party Materials are waived. Where it is not lawfully possible to waive Moral Rights, the Supplier will work with the owner or creator of the Third Party Materials to procure that Moral Rights are not asserted in respect of Third Party Materials. If the Supplier cannot obtain such waiver of (or agreement not to assert) such Moral Rights in respect of any Third Party Materials, the Supplier will notify the Customer and will obtain the Customer's Approval prior to incorporating such Third Party Materials into the Deliverables.
- 20.7. Unless expressly prohibited in a Statement of Work, the Supplier will be able during and after the Term to use any Deliverables which have been broadcast, published, distributed or otherwise made available to the public, and the Customer's name and logo for the purposes of promoting its work and its business including on the Supplier's website, in credentials pitches and in its showreel. Any other use by the Supplier shall be subject to the Customer's prior Approval.
- 20.8. During the Term, if the Supplier is asked to take part in a competitive pitch or other similar process for the Customer, then notwithstanding any of the previous provisions of this Clause 20, the Supplier will retain ownership of all Intellectual Property Rights in any Materials forming part of the pitch process. If the Supplier is successful in such pitch and the Parties agree that such Materials will be used in a Project the Supplier will assign all such Intellectual Property Rights to the Customer.
- 20.9. The Supplier is not liable in connection with this Call Off Contract for any modifications, adaptations or amendments to any Deliverables made by the Customer or by a third party on the Customer's behalf after the Supplier has handed them over. The Supplier is also not liable if any fault, error, destruction or other degradation in the quality and/or quantity of the Deliverables arises due to the acts or omissions of the Customer or its Associates.
- 20.10. The terms of and obligations imposed by this Clause 20 continue after the termination of this Call Off Contract.
- 20.11. The Supplier will indemnify the Customer in full against all costs, expenses, damages and losses (whether direct or indirect in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights in connection with the supply or use of the Services, if the claim is attributable to the acts or omission of the Supplier any of its Associates. This indemnity extends to any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer

21. AUDIT

- 21.1. The Supplier will keep and maintain full and accurate records and accounts of the operation of this Call Off Contract, the Services provided under it, any Sub-Contracts and the amounts paid by the Customer for at least 7 years after the Expiry Date or New Expiry Date, or such longer period as the Parties agree.
- 21.2. The Supplier will:
- 21.2.1. keep the records and accounts referred to in Clause 21.1 in accordance with Good Industry Practice and Law, and

21.2.2. afford any Auditor access to the records and accounts referred to in Clause 21.1 at the Supplier's premises and/or provide records and accounts (including copies of the Supplier's published accounts) or copies of the same to Auditors throughout the Term and the period specified in Clause 21.1. This is so the Auditor(s) can assess compliance by the Supplier and/or its Sub-Contractors with the Supplier's obligations under this Call Off Contract, and in particular to:

- a) verify the accuracy of the Contract Charges and any other amounts payable by the Customer under this Call Off Contract (and proposed or actual variations to them in accordance with this Call Off Contract);
- b) verify the costs of the Supplier (including the costs of all Sub-Contractors and any third party suppliers) in connection with the provision of the Services;
- c) verify the Supplier's and each Sub-Contractor's compliance with the applicable Laws;
- d) identify or investigate an actual or suspected act of fraud or bribery, impropriety or accounting mistakes or any breach or threatened breach of security. In these circumstances, the Customer is not obliged to inform the Supplier of the purpose or objective of its investigations;
- e) identify or investigate any circumstances which may impact upon the financial stability of the Supplier or any Sub-Contractors or their ability to perform the Services;
- f) obtain such information as is necessary to fulfil the Customer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes, including the supply of information to the Comptroller and Auditor General;
- g) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Call Off Contract;
- h) carry out the Customer's internal and statutory audits and to prepare, examine and/or certify the Customer's annual and interim reports and accounts
- i) enable the National Audit Office to carry out an examination under Section 6(1) of the National Audit Act 1983;
- j) review any records relating to the Supplier's performance of the provision of the Services and to verify that these reflect the Supplier's own internal reports and records;
- k) verify the accuracy and completeness of any information delivered or required by this Call Off Contract;
- l) inspect the Customer Materials, including the Customer's IPRs, equipment and facilities, for the purposes of ensuring that the Customer Materials are secure; and
- m) review the integrity, confidentiality and security of any Customer data.

audit does not unreasonably disrupt the Supplier or delay the provision of the Services (although the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the control of the Customer.)

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

21.4.1. all reasonable information requested by the Customer within the scope of the audit;

21.4.2. reasonable access to sites controlled by the Supplier and to any equipment used in the provision of the Services; and

21.4.3. access to the Supplier personnel.

21.5. The Parties agree that they will bear their own respective costs and expenses incurred during any Audit, unless the Audit reveals a default by the Supplier, whereby the Supplier will reimburse the Customer for the Customer's reasonable costs incurred in relation to the Audit.

21.6. If an Audit reveals that the Customer has been overcharged, the Supplier will reimburse to the Customer the amount of the overcharge within 30 days. If an Audit reveals the Supplier has been underpaid, the Customer shall pay to the Supplier the amount of the underpayment within 30 days.

22. TERMINATION

Customer Rights to Terminate

- 22.1. The Customer may, by giving not less than 3 month's written notice to the Supplier, terminate this Call Off Contract without cause.
- 22.2. The Customer may terminate or cancel a Project at any time subject to Clause 9 and payment of all Contract Charges specifically set out at Clause 9.
- 22.3. The Customer may terminate this Call Off Contract or a Project by written notice to the Supplier with immediate effect if the Supplier:
- 22.3.1. commits a material Default which cannot be remedied;
 - 22.3.2. repeatedly breaches any of the terms and conditions of this Call Off Contract in such a manner as to indicate that it does not have the intention or ability to adhere to the terms and conditions;
 - 22.3.3. commits a Default, including a material Default, which in the opinion of the Customer is remediable but has not remedied such Default to the satisfaction of the Customer within 30 days of receiving notice specifying the Default and requiring it to be remedied or in accordance with the Rectification Plan Process;
 - 22.3.4. breaches any of the provisions of Clauses 6.1 (Supplier: Other Appointments), 10 (Approvals and Authority), 15 (Confidentiality, Transparency and Freedom of Information), and 31 (Prevention of Fraud and Bribery);
 - 22.3.5. is subject to an Insolvency Event; or
 - 22.3.6. fails to comply with legal obligations.
- 22.4. The Supplier must notify the Customer as soon as practicable of any Change of Control or any potential Change of Control.
- 22.5. The Customer may terminate this Call Off Contract with immediate effect by written notice to the Supplier within 6 Months of:
- 22.5.1. being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or
 - 22.5.2. where no notification has been made, the date that the Customer becomes aware that a Change of Control is anticipated or is in contemplation or has occurred, but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.
- 22.6. The Customer may terminate this Call Off Contract or a Project by giving the Supplier at least 14 days' notice if:
- 22.6.1. the Framework Agreement is terminated for any reason;
 - 22.6.2. the Parties fail to agree a Variation under Clause 9; or
 - 22.6.3. the Supplier fails to implement an agreed Variation.
- 22.7. Where this Call Off Contract is conditional upon them Supplier procuring a Guarantee pursuant to Clause 3 (Call Off Guarantee), the Customer may terminate this Call Off Contract by issuing a notice of termination Notice to the Supplier where:
- 22.7.1. the Guarantor withdraws the Guarantee for any reason;

- 22.7.2. the Guarantor is in breach or anticipatory breach of the Guarantee;
- 22.7.3. an Insolvency Event occurs in respect of the Guarantor; or
- 22.7.4. the Guarantee becomes invalid or unenforceable for any reason whatsoever, and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Customer; or
- 22.7.5. the Supplier fails to provide the documentation required by Clause 3.1 by the date so specified by the Customer.

Supplier Rights to Terminate

22.8. The Supplier may terminate a Project and any Statement of Work in respect of that Project by written notice to the Customer if:

22.8.1. the Customer has not paid any undisputed amounts falling due under that Project, and

22.8.2. the undisputed sum due remains outstanding for 40 Working Days after the Customer has received a written notice of non-payment from the Supplier specifying:

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

This right of termination does not apply where the failure to pay is due to the Customer exercising its rights under this Call Off Contract (including the right to set off under Clause 29).

23. CONSEQUENCES OF TERMINATION

23.1. Termination of a Project (and any Statement of Work in respect of that Project) in accordance with the terms of this Call Off Contract by either Party shall not serve to terminate this Call Off Contract, which will continue in full force and effect.

23.2. If this Call Off Contract is terminated, all ongoing and outstanding Projects (and any Statements of Work in respect of those Projects) will also terminate on the same date as this Call Off Contract.

23.3. Upon termination of this Call Off Contract or a Project for any reason:

23.3.1. the Expiry Date or New Expiry Date shall be the date this Call Off Contract terminates;

23.3.2. the Customer will pay the Supplier all Contract Charges falling properly due and payable to the Supplier prior to the date of termination (in accordance with Clause 9 where relevant);

23.3.3. each Party will, following a reasonable request by the other Party, promptly deliver or dispose of any and all materials and property belonging or relating to the other Party (including all Confidential Information) and all copies of the same, which are then in its possession, custody or control and which relate to all affected Projects. On the request of the other Party, each will certify in writing that the same has been done; and

23.3.4. the Supplier and its staff will vacate any premises of the Customer occupied for any purpose of providing the Services or Deliverables.

23.4. Any provisions of this Call Off Contract which are to continue after termination will remain in full force and effect after this Call Off Contract is terminated. Such provisions may include (but are not limited to):

23.4.1. Clause 15 (Confidentiality)

23.4.2. Clause 16 (Supplier warranties)

- 23.4.3. Clause 17 (Customer warranties)
- 23.4.4. Clause 18 (Liability)
- 23.4.5. Clause 19 (Insurance)
- 23.4.6. Clause 20 (Intellectual Property Rights)
- 23.4.7. Clause 21 (Audit)
- 23.4.8. Clause 23 (Consequences of Termination)
- 23.4.9. Clause 25 (Notices)
- 23.4.10. Clause 26 (Staff Transfer)
- 23.4.11. Clause 32 (General) and
- 23.4.12. Clause 34 (Governing law and jurisdiction)

24. FORCE MAJEURE

- 24.1. Neither Party will have any liability under or be in breach of this Call Off Contract for any delays or failures in performance which result from circumstances beyond the reasonable control of the Party seeking to claim relief (a **Force Majeure Event** and the **Affected Party**).
- 24.2. Following a Force Majeure Event, the Affected Party must promptly notify the other Party in writing, both when the event causes a delay or failure in performance, and when the event has ended. If a Force Majeure Event continues for 60 consecutive Working Days, the Party not affected by the Force Majeure Event can suspend or terminate this Framework Agreement. They must do so in writing, and state the date from which the suspension or termination will come into effect.
- 24.3. If a Force Majeure event occurs, the Parties will use all reasonable endeavours to prevent and mitigate the impact, and continue to perform their obligations under this Call-Off Contract as far as is possible. Where the Supplier is the Affected Party, it will take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

25. NOTICES

- 25.1. Any notices sent under this Call Off Contract must be in writing and sent by hand, by post or by email. The table below sets out deemed time of delivery and proof of service for each.

Notice delivered	Deemed time of delivery	Proof of service
In person	At the time of delivery	Proof that delivery was made (e.g. a signature is obtained)
By first class post, special delivery or other recorded delivery	2 Working Days from the date of posting	Proof that the envelope was addressed and delivered into the custody of the postal authorities
Email	09:00 hours on the first Working Day after sending	Dispatched in an emailed pdf to the correct email address without any error message

25.2. The address and email address of each Party will be:

25.2.1. Supplier:

25.2.2. Customer:

25.3. For the purpose of this Clause and calculating receipt all references to time are to local time in the place of receipt.

26. STAFF TRANSFER

26.1. The Parties agree that

26.1.1. if providing the Services means staff must be transferred from the Customer to the Supplier, where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Schedule 3 (Staff Transfer) will apply as follows:

- a) where the Relevant Transfer involves the transfer of Transferring Customer Employees, Part A of Schedule 3 (Staff Transfer) will apply
- b) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Schedule 3 (Staff Transfer) will apply
- c) where the Relevant Transfer involves the transfer of Transferring Customer Employees and Transferring Former Supplier Employees, Parts A and B of Schedule 3 (Staff Transfer) will apply, and
- d) Part C of Schedule 3 (Staff Transfer) will not apply

26.2. Where providing the Services does not result in a Relevant Transfer, Part C of Schedule 3 (Staff Transfer) will apply and Parts A and B of Schedule 3 (Staff Transfer) shall not apply; and

26.3. Part D of Schedule 3 (Staff Transfer) will apply on the expiry or termination of the Services or any part of the Services.

26.4. Both during and after the Term, the Supplier will indemnify the Customer against all Employee Liabilities that may arise as a result of any claims brought against the Customer due to any act or omission of the Supplier or any Supplier personnel.

27. THIRD PARTY RIGHTS

27.1. Except for CCS and the persons that the provisions of Schedule 3 of this Call Off Contract confer benefits on, a person who is not a Party to this Call Off Contract has no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

28. DATA PROTECTION, SECURITY AND PUBLICITY

28.1. In addition to its general security obligations under this Call Off Contract, the Supplier shall comply with any security requirements specifically set out in the Statement of Work.

28.2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Schedule 7 (Authorised Processing Template) by the Customer and may not be determined by the Supplier.

28.2.2 The Supplier shall notify the Customer immediately if it considers that any of the Customer instructions infringe the Data Protection Legislation.

28.2.3 *The Supplier shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:*

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;*
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;*
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and*
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.*

28.2.4 *The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Call Off Contract:*

- (a) process that Personal Data only in accordance with Schedule 6 (Authorised Processing Template (page 84 of this document)), unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;*
- (b) ensure that it has in place Protective Measures which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:*
 - (i) nature of the data to be protected;*
 - (ii) harm that might result from a Data Loss Event;*
 - (iii) state of technological development; and*
 - (iv) cost of implementing any measures;*

- (c) *ensure that :*
- (i) *the Supplier Personnel do not process Personal Data except in accordance with this Call Off Contract (and in particular Schedule 6 (Authorised Processing Template (page 84 of this document)));*
 - (ii) *it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:*
 - (A) *are aware of and comply with the Supplier's duties under this Clause;*
 - (B) *are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;*
 - (C) *are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Call Off Contract; and*
 - (D) *have undergone adequate training in the use, care, protection and handling of Personal Data;*
- (d) *not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:*
- (i) *the Customer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;*
 - (ii) *the Data Subject has enforceable rights and effective legal remedies;*
 - (iii) *the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and*
 - (iv) *the Supplier complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;*
- (e) *at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Call Off Contract unless the Supplier is required by Law to retain the Personal Data.*

28.2.5 *Subject to Clause 28.2.7, the Supplier shall notify the Customer immediately if it:*

- (f) *receives a Data Subject Access Request (or purported Data Subject Access Request);*
- (g) *receives a request to rectify, block or erase any Personal Data;*
- (h) *receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;*
- (i) *receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Call Off Contract;*
- (j) *receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or*
- (k) *becomes aware of a Data Loss Event.*

- 34.6.6 *The Supplier's obligation to notify under Clause 34.6.5 shall include the provision of further information to the Customer in phases, as details become available.*
- 28.2.6 *Taking into account the nature of the processing, the Supplier shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 36.6.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:*
- (a) the Customer with full details and copies of the complaint, communication or request;*
 - (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;*
 - (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;*
 - (d) assistance as requested by the Customer following any Data Loss Event;*
 - (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.*
- 28.2.7 *The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:*
- (a) the Customer determines that the processing is not occasional;*
 - (b) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and*
 - (c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.*
- 28.2.8 *The Supplier shall allow for audits of its Data Processing activity by the Customer or the Customer designated auditor.*
- 28.2.9 *The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.*
- 28.2.10 *Before allowing any Sub-processor to process any Personal Data related to this Call Off Contract, the Supplier must:*
- (a) notify the Customer in writing of the intended Sub-processor and processing;*
 - (b) obtain the written consent of the Customer;*
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 28.2.11 such that they apply to the Sub-processor; and*
 - (d) provide the with such information regarding the Sub-processor as the Customer may reasonably require.*
- 28.2.11 *The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.*
- 28.2.12 *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).*

28.2.13 *The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Supplier amend this Call Off Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.*

Publicity and Branding

28.3 The Supplier may not make any press announcements or publicise this Call Off Contract or use the Customer's name or brand in any promotion or marketing or announcement of orders without Approval from the Customer.

28.4 The Supplier will seek the Customer's prior Approval before marketing their involvement in any Deliverable or draft Deliverable or entering into any industry awards or competition which will involve the disclosure of all or any part of any Deliverable or draft Deliverable.

29. RETENTION AND SET OFF

29.1. If the Supplier owes the Customer any money, the Customer may retain or set off this money against any amount owed to the Supplier under this Call Off Contract or any other agreement between the Supplier and the Customer. In order to exercise this right, the Customer will, within 30 days of receipt of the relevant invoice, notify the Supplier of its reasons for retaining or setting off the relevant Contract Charges.

29.2. The Supplier will make any payments due to the Customer without any deduction. Deductions, whether by way of set-off, counterclaim, discount, abatement or otherwise, are not permitted unless the Supplier has obtained a sealed court order requiring an amount equal to such deduction to be paid by the Customer.

30. INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS

30.1. Where the Supplier or any Supplier personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Call Off Contract, the Supplier will:

30.1.1. comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, and

30.1.2. indemnify the Customer against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Supplier Personnel.

- 30.2. If any of the Supplier Personnel is a Worker as defined in Call Off Schedule 1 (Definitions) who receives consideration relating to the Services, then, in addition to its obligations under Clause 30.1, the Supplier must ensure that its contract with the Worker contains the following requirements:
- 30.2.1. that the Customer may, at any time during the Term, request that the Worker provides information to demonstrate how the Worker complies with the requirements of Clause 30.1, or why those requirements do not apply to it. In such case, the Customer may specify the information which the Worker must provide and the period within which that information must be provided
 - 30.2.2. that the Worker's contract may be terminated at the Customer's request if:
 - 30.2.2.a. the Worker fails to provide the information requested by the Customer within the time specified by the Customer under Clause 30.2.1 and/or
 - 30.2.2.b. the Worker provides information which the Customer considers is inadequate to demonstrate how the Worker complies with Clause 30.2.1, or confirms that the Worker is not complying with those requirements
 - 30.2.3. that the Customer may supply any information it receives from the Worker to HMRC for the purpose of the collection and management of revenue for which they are responsible.

31. PREVENTION OF FRAUD AND BRIBERY

- 31.1. The Supplier represents and warrants that neither it, nor to the best of its knowledge any of its staff or Sub-Contractors, have at any time prior to the Effective Date:
- 31.1.1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; or
 - 31.1.2. been listed by any government department or Supplier 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.
- 31.2. The Supplier must not:
- 31.2.1. commit a Prohibited Act; or
 - 31.2.2. do or suffer anything to be done which would cause the Customer or any of the Customer's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 31.3. The Supplier shall during the Term:
- 31.3.1. 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;
 - 31.3.2. keep appropriate records of its compliance with its obligations under 31.3.1 and make such records available to the Customer on request;

- 31.3.3. if so required by the Customer, within 20 Working Days of the Effective Date, and annually thereafter, certify to the Customer in writing that the Supplier and all persons associated with it or its Sub-Contractors or other persons who are supplying the Services in connection with this Call Off Contract are compliant with the Relevant Requirements. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request; and
- 31.4. have, maintain and (where appropriate) enforce an anti-bribery policy to prevent it and any Supplier staff or Sub-Contractors or any person acting on the Supplier's behalf from committing a Prohibited Act. This anti-bribery policy must be disclosed to the Customer on request.
- 31.5. The Supplier shall immediately notify the Customer in writing if it becomes aware of any breach of Clause 32.1, or has reason to believe that it has or any of the Supplier staff or Sub-Contractors have:
- 31.5.1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- 31.5.2. been listed by any government department or Supplier 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;
- 31.5.3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Call Off Contract; or
- 31.5.4. otherwise suspects that any person or Party directly or indirectly connected with this Call Off Contract has committed or attempted to commit a Prohibited Act.
- 31.6. If the Supplier makes a notification to the Customer under to Clause 32.5, the Supplier shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Customer to audit any books, records and/or any other relevant documentation in accordance with Clause 21 (Audit).
- 31.7. If the Supplier breaches Clause 31.5, the Customer may by notice:
- 31.7.1. require the Supplier to remove any Supplier Personnel whose acts or omissions have caused the Supplier's breach from any Project; or
- 31.7.2. immediately terminate this Call Off Contract for material Default.
- 31.8. Any notice served by the Customer under Clause 31.5 shall set out:
- 31.8.1. the nature of the Prohibited Act;
- 31.8.2. the identity of the Party who the Customer believes has committed the Prohibited Act;
- 31.8.3. the action that the Customer has elected to take; and
- 31.8.4. if relevant, the date on which this Call Off Contract shall terminate.

32. GENERAL

- 32.1. Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under this Call Off Contract, and that this Call Off Contract is executed by its duly authorised representative.
- 32.2. This Call Off Contract contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into this Call-Off Contract on the basis of any representation that is not expressly incorporated into this Call Off Contract.
- 32.3. Nothing in this Clause excludes liability for fraud or fraudulent misrepresentation.
- 32.4. Any entire or partial waiver or relaxation of any of the terms and conditions of this Call Off Contract will be valid only if it is communicated to the other Party in writing, and expressly stated to be a waiver. A waiver of any right or remedy arising from a particular breach of this Call Off Contract will not constitute a waiver of any right or remedy arising from any other breach of the same Call Off Contract.
- 32.5. This Call Off Contract does not constitute or imply any partnership, joint venture, Supplier, fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Call Off Contract. Neither Party has, or has represented, any authority to make any commitments on the other Party's behalf.
- 32.6. Unless expressly stated in this Call Off Contract, all remedies available to either Party for breach of this Call Off Contract are cumulative and may be exercised concurrently or separately. The exercise of one remedy does not mean it has been selected to the exclusion of other remedies.
- 32.7. If any provision of this Call Off Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision will, to the extent required, be severed from this Call Off Contract. Any severance will not, so far as is possible, modify the remaining provisions. It will not in any way affect any other circumstances of or the validity or enforcement of this Call Off Contract.

33. DISPUTE RESOLUTION

- 33.1. The Parties shall resolve Disputes in accordance with the Dispute Resolution Procedure.
- 33.2. The Supplier shall continue to provide the Services in accordance with the terms of this Call Off Contract until a Dispute has been resolved.

34. GOVERNING LAW AND JURISDICTION

- 34.1. This Agreement will be governed by the laws of England and Wales.
- 34.2. Each Party submits to the exclusive jurisdiction of the courts of England and Wales and agrees that all disputes shall be conducted within England and Wales.

SCHEDULE 1 Definitions and Interpretation

1. INTERPRETATION

- 1.1. In this Call Off Contract, any references to numbered Clauses and schedules refer to those within this Call Off Contract unless specifically stated otherwise. If there is any conflict between this Call Off Contract, the Letter of Appointment, the provisions of the Framework Agreement and the Statements of Work(s), the conflict shall be resolved in accordance with the following order of precedence:
 - 1.1.1. the Framework Agreement, except Framework Schedule 9 (Tender)
 - 1.1.2. the Letter of Appointment (except the Supplier Proposal)
 - 1.1.3. the Call Off Contract Terms
 - 1.1.4. the Statement of Work
 - 1.1.5. the Supplier Proposal, and
 - 1.1.6. Framework Schedule 9 (Tender)
- 1.2. The definitions and interpretations used in this Call Off Contract are set out in this Schedule 1.
- 1.3. Definitions which are relevant and used only within a particular Clause or Schedule are defined in that Clause or Schedule.
- 1.4. Unless the context otherwise requires:
 - 1.4.1. words importing the singular meaning include where the context so admits the plural meaning and vice versa
 - 1.4.2. words importing the masculine include the feminine and the neuter and vice versa
 - 1.4.3. the words 'include', 'includes' 'including' 'for example' and 'in particular' and words of similar effect will not limit the general effect of the words which precede them
 - 1.4.4. references to any person will include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind
 - 1.4.5. references to any statute, regulation or other similar instrument mean a reference to the statute, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted
 - 1.4.6. headings are included in this Call Off Contract for ease of reference only and will not affect the interpretation or construction of this Call Off Contract
 - 1.4.7. If a capitalised expression does not have an interpretation in Call Off Schedule 1 (Definitions) or relevant Call Off Schedule, it shall have the meaning given to it in the Framework Agreement. If no meaning is given to it in the Framework Agreement, it shall be interpreted in accordance with the relevant market

sector/industry. Otherwise, it shall be interpreted in accordance with the dictionary meaning.

1.5. In this Call Off Contract, the following terms have the following meanings:

Approval	Formal Approval from one Party to another, given in accordance with Clause 10.1 or 10.2.
Associates	A Party's employees, officers, agents, sub-contractors or authorised representatives.
Authorised Supplier Approver	Any personnel of the Supplier who have the authority to contractually bind the Supplier in all matters relating to this Call-Off Contract. They must be named in the applicable Statement of Work, and the Customer must be notified if they change.
Authorised Customer Approver	Any personnel of the Customer who have the authority to contractually bind the Customer in all matters relating to this Call-Off Contract. They must be named in the applicable Statement of Work, and the Supplier must be notified if they change.
Call Off Contract	This contract between the Customer and the Supplier (entered into under the provisions of the Framework Agreement), which consists of the terms set out in the Letter of Appointment, the Call-Off Terms, the Schedules and any Statement of Work.
Call Off Terms	The terms and conditions set out in this Call Off Contract including this Schedule 1 but not including any other Schedules or Statement of Work.
Central Government Body	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: Government Department; Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); Non-Ministerial Department; or Executive Supplier.
Change of Control	Change of Control has the same meaning as in section 416 of the Income and Corporation Taxes Act 1988.
Customer Affiliates	Any organisation associated with the Customer that will directly receive the benefit of the Services. Customer Affiliates must be named in a Statement of Work, or subsequently notified to the Supplier.
Customer Project Specification	The document containing the Customer's requirements issued as part of the Call Off Process set out in Section 3 of the Framework Agreement.
Customer Cause	A situation where the Customer does not fulfil its obligations in connection with this Call Off Contract (including its payment obligations), and as a consequence the Supplier is prevented from performing any of the agreed Services and/or providing any of the agreed Deliverables.

Customer Confidential Information	All Customer Data and any information that the Customer or CCS gives to Agencies that is designated as being confidential, or which ought to be reasonably be considered to be confidential (whether or not it is marked "confidential"). This may include information, however conveyed, that is politically or security sensitive and/or relates to the Customer's business, affairs, developments, trade secrets, Know-How, personnel and suppliers.
Customer Data	Data, text, drawings, diagrams, images or sounds (together with any database made up of any of these), including any Customer's Confidential Information, supplied to the Supplier by or on behalf of the Customer, or which the Supplier is required to generate, process, store or transmit in connection this Call Off Contract, and any Personal Data for which the Customer is the Data Controller.
Customer Materials	Any Customer Data, Customer equipment, computer systems, software, documents, copy, Intellectual Property Rights, artwork, logos and any other materials or information owned by or licensed to the Customer which are provided to the Supplier or its Associates by or on behalf of the Customer.
Confidential Information	The Customer's Confidential Information and/or the Supplier Confidential Information.
"Controller"	has the meaning given in the GDPR;
Contract Charges	All charges payable by the Customer for the Services provided under this Call Off Contract calculated in accordance with Framework Schedule 3 (Charges Structure) and the Letter of Appointment including all Approved costs properly incurred by the Customer including but not limited to all Expenses, disbursement, taxes, sub-contractor or third party costs, and fees.
Contracting Body	CCS, the Customer and any other bodies listed in the OJEU Notice.
Contract Year	A consecutive 12- month period during the Term commencing on the Effective Date or each anniversary thereof.

Data Protection Legislation	<p>the GDPR, the LED and any applicable national implementing Laws as amended from time to time;</p> <p>the DPA to the extent that it relates to processing of personal data and privacy;</p> <p>all applicable Law about the processing of personal data and privacy;</p>
“Data Subject Access Request”	<p>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;</p>
Default	<p>Any breach of the obligations of the Supplier (including but not limited failing to provide any Deliverables by any date set out in the applicable Statement of Work (or any other deadline agreed by the Parties in writing), and abandonment of this Call Off Contract in</p>

	breach of its terms) or any other default (including material Default), act, omission, negligence or statement of the Supplier, of its Sub-Contractors or any of its staff howsoever arising in connection with or in relation to the subject-matter of this Call Off Contract and in respect of which the Supplier is liable to the Customer.
Deliverables	The applied behavioural insights services that are to be provided as specified in a Statement of Work
Dispute	Any dispute, difference or question of interpretation arising out of or in connection with this Call Off Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Variation Procedure or any matter where this Call Off Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure.
Dispute Resolution Procedure	The dispute resolution procedure set out in Call Off Schedule 4 (Dispute Resolution Procedure).
“DPA”	means the Data Protection Act 2018 as amended from time to time;
Effective Date	The date this Call Off Contract starts, as set out in the Letter of Appointment.
Environmental Information Regulations or EIRs	The Environmental Information Regulations 2004 together with any related guidance and/or codes of practice issued by the Information Commissioner or relevant Government department.
Expenses	Reasonable travelling, hotel, subsistence and other expenses incurred by the Supplier in connection with the supply of Services and Deliverables, provided that such Expenses have either received the Customer 's prior Approval or are in accordance with any expenses policies which have been supplied to the Supplier and set out in the agreed Statement of Work.
Expiry Date	The date this Call Off Contract ends, as set out in the Letter of Appointment.
Extension Expiry Date	The latest date this Call Off Contract can end, as set out in the Letter of Appointment.
FOIA	The Freedom of Information Act 2000 as amended from time to time 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	Means: <ul style="list-style-type: none">• acts, events, omissions, happenings or non-happenings beyond the reasonable control of the affected Party• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare• fire, flood, any disaster and any failure or shortage of power or fuel• an industrial dispute affecting a third party for which a substitute third party is not reasonably available
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	<p>but does not mean</p> <ul style="list-style-type: none"> • any industrial dispute relating to the Supplier, its staff, or any other failure in the Supplier's (or a subcontractor's) supply chain • any event or occurrence which is attributable to the wilful act, neglect or failure to take reasonable precautions against the event or occurrence by the Party concerned, and • any failure of delay caused by a lack of funds
Framework Agreement	The framework agreement between Crown Commercial Service and the Supplier reference number: RM6004 referred to in the Letter of Appointment.
Framework Price(s)	The maximum charges the Supplier may charge as set out in Schedule 3 to the Framework Agreement.
Further Competition Procedure	The process of a Customer issuing a Project Specification and the Supplier submitting a proposal in response to such Project Specification, as set out in Framework Clause 3.10.
"GDPR"	means the General Data Protection Regulation (Regulation (EU) 2016/679)
Good Industry Practice	Standards, practices, methods and procedures conforming to the Law and the exercise of 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 within the relevant industry or business sector.
Guarantee	A deed of guarantee that may be required under this Call Off Contract in favour of the Customer in the form set out in Framework Schedule 9 (Guarantee) granted pursuant to Clause 3 (Call Off Guarantee).
Guarantor	The person, in the event that a Guarantee is required under this Call Off Contract, acceptable to the Customer to give a Guarantee.
Impact Assessment	The assessment to be carried out by a Party requesting a Variation in accordance with Clause 9.4.
Information	The same meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time

Insolvency Event	<p>Means, in respect of the Supplier [or Framework Guarantor (as applicable)]:</p> <ul style="list-style-type: none"> a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986; or b) a winding-up resolution is considered or passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or
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	<p>d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or</p> <p>f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</p> <p>h) where the Supplier is an individual or partnership, any event analogous to these listed in this definition occurs in relation to that individual or partnership; or</p> <p>i) any event analogous to these listed in this definition occurs under the law of any other jurisdiction.</p>
Intellectual Property Rights or IPR	<p>The following rights, wherever in the world enforceable, or such similar rights, which have equivalent effect, including all reversions and renewals and all applications for registration:</p> <ul style="list-style-type: none"> • any patents or patent applications • any trade marks (whether or not registered) • inventions, discoveries, utility models and improvements whether or not capable of protection by patent or registration • copyright or design rights (whether registered or unregistered) • database rights • performer's property rights as described in Part II of the Copyright Designs and Patents Act 1988 and any similar rights of performers anywhere in the world • any goodwill in any trade or service name, trading style or get-up and • any and all other intellectual or proprietary rights
Key Individuals	<p>Individuals named by the Supplier in the Letter or Appointment or Statement of Work as having a major responsibility for delivering the Services.</p>
Law	<p>Any law, subordinate legislation, bye-law, enforceable right, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier has to comply.</p>
"LED"	<p>means the Law Enforcement Directive (Directive (EU) 2016/680)</p>

Letter of Appointment	The Letter of Appointment, substantially in the form set out in Framework Schedule 4, signed by both Parties and dated on the Effective Date.
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Losses	Any losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses) to either Party subject to Clause 18.1 and 18.2.
Malicious Software	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.
Materials	Any material protected by Intellectual Property Rights.
Moral Rights	All rights described in Part I, Chapter IV of the Copyright Designs and Patents act 1988 and any similar rights of authors anywhere in the world.
New Expiry Date	Has the meaning given to it in Clause 2.3
Personal Data	has the meaning given in the GDPR;
“Personal Data Breach”	has the meaning given in the GDPR;
“Processor”	has the meaning given in the GDPR;
Prohibited Act	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Customer or CCS a financial or other advantage to:</p> <ol style="list-style-type: none"> a) induce that person to perform improperly a relevant function or activity b) reward that person for improper performance of a relevant function or activity c) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; d) commit any offence: <ul style="list-style-type: none"> • under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or • under legislation or common law concerning fraudulent acts; or • defrauding, attempting to defraud or conspiring to defraud the Customer ; or • any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK;
Project	Any project(s) agreed between the Parties from time to time by which the Supplier is to perform the Services which are the subject of this Call Off Contract and supply Deliverables to the Customer as more fully described in the applicable Statement of Work;

Project Commencement Date	The date a Project will start, as set out in the relevant Statement of Work.
Project Completion Date	The date by which a Project is to be completed, as set out in the relevant Statement of Work.
Project Notice Period	The period of notice for cancellation of a Project as set out in the Statement of Work.
Project Term	The period during which the Services for each Project will be provided as specified in the applicable Statement of Work.
“Protective Measures”	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;
Purchase Order Number	The order number set out in the Letter of Appointment.
Rate Card	The Supplier’s rate card set out in Framework Schedule 3.
Records	The accounts and information maintained by the Supplier related to the operation and delivery of this Call Off Contract, including all expenditure which is reimbursable by the Customer, as are necessary for the provision of management information and to enable the Customer to conduct an audit as set out in Clause 21.
Rectification Plan	The rectification plan pursuant to the Rectification Plan Process.
Rectification Plan Process	The process set out in Clauses 5.8 to 5.14.
Regulations	The Public Contracts Regulations 2015.
Relevant Requirements	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;
Request for Information	A request for information or an apparent request relating to this Call Off Contract or the provision of the Services or an apparent request for such information under the FOIA or the EIRs.
Schedule	Any Schedule attached to this Call Off Contract.
Services	The Services to be supplied by the Supplier under this Call Off Contract and in accordance with Framework Section 2, as set out in the relevant Statement of Work. This includes the provision of Deliverables.
Special Terms	Any terms specifically designated as varying these Call Off Terms or the terms of any schedule, as set out in the applicable Statement of Work.

Standards	Any: <ul style="list-style-type: none">standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;
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	<ul style="list-style-type: none"> standards detailed in the specification in Framework Section 2 (Services and Key Performance Indicators);] standards detailed by the Customer in the Letter of Appointment and any Statement of Work or agreed between the Parties from time to time; relevant Government codes of practice and guidance applicable from time to time.
Statement of Work	One or more documents describing the relevant Project(s) as agreed and signed by the parties. Typically comprises both the Customer Project Specification and the Supplier's Proposal (whether agreed as part of a further competition or during the Term of this Call Off Contract).
Sub-Contract	A contract entered into between the Supplier and a Sub-Contractor.
Sub-Contractor	Any person or Supplier appointed by the Supplier to provide elements of the Services on behalf of the Supplier to the Customer.
"Sub-processor"	any third party appointed to process Personal Data on behalf of the Supplier related to this agreement;
Supplier Affiliate	Any company, partnership or other entity which at any time directly or indirectly controls, is controlled by or is under common control with the Supplier, including as a subsidiary, parent or holding company.
Supplier Confidential Information	Any information that the Supplier gives to CCS or to Customer's that is designated as being confidential, or which ought to be reasonably be considered to be confidential (whether or not it is marked "confidential"). This may include information, however it is conveyed, that relates to the Supplier's business, affairs, developments, trade secrets, Know-How, personnel and suppliers including all IPRs.
Supplier Materials	Those Materials specifically created by any officers, employees, sub-contractors or freelancers of the Supplier for the purposes of a Project, whether or not these materials are incorporated into Deliverables during the Term. (Includes any Materials adapted, modified or derived from the Customer Materials).
Supplier Proprietary Materials	Software (including all programming code in object and source code form), methodology, know-how and processes and Materials in relation to which the Intellectual Property Rights are owned by (or licensed to) the Supplier and which: <ul style="list-style-type: none"> were in existence prior to the date on which it is intended to use them for a Project; or are created by or for the Supplier outside of a Project and which are intended to be reused across its business.
Supplier Proposal	The Supplier's solution in response to the Customer's Project Specification, as set out in the Letter of Appointment.

Tender	The tender submitted by the Supplier in response to the Invitation to Tender and set out at Framework Schedule 10 (Call Off Tender).
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Term	The period from the Effective Date to the earlier of: <ul style="list-style-type: none"> • the Expiry Date or New Expiry Date; and • any date of termination
Territory	The United Kingdom, unless specified otherwise in the applicable Statement of Work. Publication and marketing on globally accessible mediums such as the internet shall not mean that the Territory is deemed to be worldwide.
Third Party Materials	Any Materials used in the Deliverables which are either commissioned by the Supplier from third parties or which have already been created by a third party and the Supplier proposes to use. Excludes software which is owned or licensed by a third party.
Transparency Principles	The principles set out at www.gov.uk/government/publications/transparency-of-suppliers-and-government-to-the-public detailing the requirement for the proactive release of contract information under the Government's transparency commitment.
Transparency Reports	The information relating to the Services and performance of this Call Off Contract which the Supplier is required to provide to the CCS in accordance with its reporting requirements.
Variation	A change in this Call Off Contract that is formally agreed by both Parties, as detailed in Clause 10.2.
Variation Form	The template form to process and record variations to this Call Off Contract as set out at Schedule 5.
Worker	Any Supplier personnel to whom the Customer considers Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) applies See https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees
Working Day	Any day other than a Saturday, Sunday or public holiday in England and Wales.

**SCHEDULE 2
Statement of Work-**

This Statement of Work is issued under and in accordance with the Call Off Contract entered into between the parties dated Thursday, 2nd April 2020.

Project:	CR20029 - National Minimum Wage Email Nudge Trials
Project start Date:	The contract start date is Tuesday, 31 st March 2020 and shall expire on Tuesday, 20 th June 2020 (or if break clause is initiated).
Notice period for cancellation:	Notice period for cancellation is 30 days.
Services & Deliverables:	Highlighted within the RM6004 – Letter of Appointment; set out in Section 2, Part B (Specification) of the Call Off Agreement and refined by: The Customer’s Project Specification attached at Appendix A and the Supplier’s Proposal attached at Appendix B.
Contract Charges:	Annex 1 – Contract Charges; £35,000.00 Excluding VAT.
Special Terms:	GDPR – Annex A BREAK CLAUSE Contract review point - After stages 1 -2 there should be a break clause. At this stage BEIS reserves the right to terminate the project. Bidders must clearly signal this break clause within their pricing and proposed methodology.
Authorised Supplier Approver:	Supplier Contact – ██████████
Authorised Customer Approver:	Project Manager – ██████████

Signed by:.....

by (print name).....

As Supplier Authorised Approver for and on behalf of
Behavioural Insights Ltd

Date.....05/04/2020.....

Signed by

by (print name)

As Customer Authorised Approver for and on behalf of
**Department for Business, Energy and Industrial
Strategy**

Date...02/04/2020.....

**SCHEDULE 3:
STAFF TRANSFER**

1. DEFINITIONS

In this Call Off Schedule 3, the following definitions shall apply:

“Admission Agreement”	The agreement to be entered into by which the Supplier agrees to participate in the Schemes as amended from time to time;
“Eligible Employee”	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Agreement;
“Employee Liabilities”	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:</p> <ul style="list-style-type: none">(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;(b) unfair, wrongful or constructive dismissal compensation;(c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;(d) compensation for less favourable treatment of part-time workers or fixed term employees;(e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;(f) employment claims whether in tort, contract or statute or otherwise; <p>any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;</p>

“Fair Deal Employees”	those Transferring Customer Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal and any Transferring Former Supplier Employees who originally transferred pursuant to a Relevant Transfer under the Employment Regulations (or the predecessor legislation to the Employment Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal;
“Former Supplier”	an Supplier supplying services to the Customer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such Supplier (or any sub-contractor of any such sub-contractor);
“New Fair Deal”	the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October 2013;
“Notified Sub-Contractor”	a Sub-Contractor identified in the Annex to this Call Off Schedule 3 to whom Transferring Customer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
“Replacement Sub-Contractor”	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
“Relevant Transfer”	a transfer of employment to which the Employment Regulations applies;
“Relevant Transfer Date”	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
“Schemes”	the Principal Civil Service Pension Scheme available to employees of the civil service and employees of bodies under the Superannuation Act 1972, as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme; and the 2015 New Scheme (with effect from a date to be notified to the Supplier by the Minister for the Cabinet Office);
“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
“Service Transfer Date”	the date of a Service Transfer;
“Staffing Information”	in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Customer may reasonably request (subject to all