

DATED 19<sup>th</sup> January 2026

- (1) **SOUTH WEST SMART APPLICATIONS LIMITED**
- (2) **FARA AS**

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**FRAMEWORK AWARD FORM SAM007**

**REGARDING RTPi CONTENT MANAGEMENT SYSTEMS, TICKET  
VENDING MACHINES, ELECTRONIC TICKET MACHINES,  
ACCESSIBLE RAIL INFORMATION AND SUPPORT UNITS, AND  
TRANSPORT AND DATA MANAGED SERVICES**

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**WITH ACKNOWLEDGEMENT TO**



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Commercial  
Service

# Framework Award Form

This Framework Award Form creates the Framework Contract SAM 007: NMPH Framework 7. It summarises the main features of the procurement and includes SAM and the Supplier's contact details.

|    |                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <b>SAM</b>                   | Smart Applications Management, the Trading Name of South West Smart Applications Ltd. Its registered address: 14 High Cross, Truro, Cornwall, TR1 2AJ.                                                                                                                                                                                                                                                                                                                        |
| 2. | <b>Supplier</b>              | <p>Name: <b>FARA AS</b></p> <p>Address: Falkenborgvegen 36A<br/>7044 Trondheim<br/>Norway</p> <p>Registration number: PYDX-5614-VZNV</p>                                                                                                                                                                                                                                                                                                                                      |
| 3. | <b>Framework Details</b>     | <p>This Framework Contract (SAM 007) has been entered into between SAM and the Supplier in respect of the Framework. The Framework was advertised in a Tender Notice published on the central digital platform with reference 2025/S 000-052884.</p> <p>This Framework is a framework within a scheme of an "Open Framework" within the meaning of section 49 of the Procurement Act 2023.</p> <p>The unique identifier (OCID) for this Framework is ocids-h6vhtk-058a27.</p> |
| 4. | <b>Framework Contract</b>    | This Framework Contract between SAM and the Supplier allows the Supplier to be considered for Call-Off Contracts to supply the Deliverables in Lot 1. The Supplier cannot deliver in any other Lot under this Framework Contract. Any references made to other Lots in this Framework Contract do not apply.                                                                                                                                                                  |
| 5. | <b>Deliverables</b>          | Lot 1: RTPi Content Management Systems (CMS) - The RTPi CMS Lot provides a supplier-agnostic Content Management System for Real Time Passenger Information, integrating with standards like GTFS, SIRI, BODS, and RSS.                                                                                                                                                                                                                                                        |
| 6. | <b>Framework Start Date</b>  | 20th January 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 7. | <b>Framework Expiry Date</b> | 19th January 2034                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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|-----|-------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8.  | <b>Framework Optional Extension Period</b>                                                      | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 9.  | <b>Order Procedure</b>                                                                          | <ul style="list-style-type: none"> <li>• Award Without Competition</li> <li>• Single Stage Competitive Selection</li> <li>• Two Stage Competitive Selection Process</li> <li>• Multi Stage Competitive Selection Process</li> </ul> <p>See Framework Schedule 7 (<i>Call-Off Award Procedure</i>) for definitions of the above term(s) and descriptions of the relevant processes.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 10. | <b>Framework Incorporated Terms</b><br>(together these documents form the "Framework Contract") | <p>The following documents are incorporated into the Framework Contract. Where numbers are missing we are not using these schedules. If the documents conflict, the following order of precedence applies:</p> <ol style="list-style-type: none"> <li>1. This Framework Award Form</li> <li>2. Any Framework Special Terms (see Section 11 'Framework Special Terms' in this Framework Award Form)</li> <li>3. SAM General Terms</li> <li>4. Joint Schedule 1 (<i>Definitions</i>)</li> <li>5. Joint Schedule 10 (<i>Processing Data</i>)</li> <li>6. The following Schedules for SAM 007 (In equal order of precedence):               <ul style="list-style-type: none"> <li>○ Framework Schedule 1 (<i>Specification</i>)</li> <li>○ Framework Schedule 3 (<i>Framework Prices</i>)</li> <li>○ Framework Schedule 4 (<i>Framework Management</i>)</li> <li>○ Framework Schedule 5 (<i>Management Charges and Information</i>)</li> <li>○ Framework Schedule 6 (<i>Order Form Template and Call-Off Schedules</i>) including the following template Call-Off Schedules:                   <ul style="list-style-type: none"> <li>▪ Call-Off Schedule 1 (<i>Intellectual Property Rights</i>)</li> <li>▪ Call-Off Schedule 2 (<i>Staff Transfer</i>)</li> <li>▪ Call-Off Schedule 3 (<i>Continuous Improvement</i>)</li> <li>▪ Call-Off Schedule 4 (Call-Off Tender)</li> <li>▪ Call-Off Schedule 5 (Pricing Details)</li> <li>▪ Call-Off Schedule 6 (ICT Services)</li> <li>▪ Call-Off Schedule 7 (Key Supplier Staff)</li> </ul> </li> </ul> </li> </ol> |

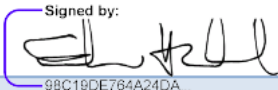
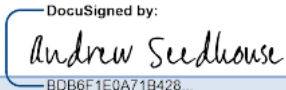
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|--|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | <ul style="list-style-type: none"> <li>▪ Call-Off Schedule 8 (Business Continuity and Disaster Recovery)</li> <li>▪ Call-Off Schedule 9 (Security)</li> <li>▪ Call-Off Schedule 10 (Exit Management)</li> <li>▪ Call-Off Schedule 11 (Installation Works)</li> <li>▪ Call-Off Schedule 12 (Clustering)</li> <li>▪ Call-Off Schedule 13 (Implementation Plan and Testing)</li> <li>▪ Call-Off Schedule 14 (Performance Levels)</li> <li>▪ Call-Off Schedule 15 (Call-Off Contract Management)</li> <li>▪ Call-Off Schedule 16 (Benchmarking)</li> <li>▪ Call-Off Schedule 17 (MOD Terms)</li> <li>▪ Call-Off Schedule 18 (Background Checks)</li> <li>▪ Call-Off Schedule 19 (Scottish Law)</li> <li>▪ Call-Off Schedule 20 (Call-Off Specification)</li> <li>▪ Call-Off Schedule 21 (Northern Ireland Law)</li> <li>▪ Call-Off Schedule 22 (Lease Terms)</li> <li>▪ Call-Off Schedule 23 (Orders from Welsh Buyers)</li> <li>▪ Call-Off Schedule 25 (<i>Additional Sustainability Requirements</i>)</li> <li>▪ Call-Off Schedule 26 (Carbon Reduction)</li> <li>▪ Call-Off Schedule 27 (Procuring Steel)]</li> <li>○ Framework Schedule 7 (<i>Call-Off Award Procedure</i>)</li> <li>○ Framework Schedule 8 (<i>Self Audit Certificate</i>)</li> <li>○ Framework Schedule 9 (Cyber Essentials Scheme)</li> <li>○ Joint Schedule 2 (<i>Variation Form</i>)</li> <li>○ Joint Schedule 3 (<i>Insurance Requirements</i>)</li> <li>○ Joint Schedule 4 (<i>Commercially Sensitive Information</i>)</li> <li>○ Joint Schedule 5 (<i>Sustainability</i>)</li> <li>○ Joint Schedule 6 (Key Subcontractors)</li> <li>○ Joint Schedule 7 (Financial Difficulties)</li> <li>○ Joint Schedule 8 (Guarantee)]</li> <li>○ Joint Schedule 9 (<i>Rectification Plan</i>)</li> </ul> <p>7. Framework Schedule 2 (<i>Framework Tender</i>) SAM 007 as long as any part of the Framework Tender that offers a better commercial position for SAM or Buyers (as decided by SAM) take precedence over the documents above.</p> |
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|     |                                              |                                                                                                                                                                                                                                                                                                                                                                  |
|-----|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11. | <b>Framework Special Terms</b>               | N/A                                                                                                                                                                                                                                                                                                                                                              |
| 12. | <b>Framework Prices</b>                      | Details in Framework Schedule 3 (Framework Prices)                                                                                                                                                                                                                                                                                                               |
| 13. | <b>Insurance</b>                             | Details in Annex of Joint Schedule 3 ( <i>Insurance Requirements</i> ).                                                                                                                                                                                                                                                                                          |
| 14. | <b>Cyber Essentials Certification</b>        | Details in Framework Schedule 9 (Cyber Essentials Scheme)                                                                                                                                                                                                                                                                                                        |
| 15. | <b>Intellectual Property Rights</b>          | Unless expressly stated otherwise in the Order Form, the terms of IPR Option A1 in Part A of Call-Off Schedule 1 (Intellectual Property Rights) shall apply to all Call-Off Contracts involving ICT Services and IPR Option B1 in Part B of Call-Off Schedule 1 (Intellectual Property Rights) shall apply to all Call-Off Contracts not involving ICT Services. |
| 16. | <b>Management Charge</b>                     | The Supplier will pay, excluding VAT, 3% of all the Charges for the Deliverables invoiced to the Buyer under all Call-Off Contracts.                                                                                                                                                                                                                             |
| 17. | <b>Supplier Framework Manager</b>            | <b>Name:</b> Thomas Bach Petersen<br><b>Role:</b> Chief Growth Officer<br>                                                                                                                                                                                                   |
| 18. | <b>Supplier Authorised Representative</b>    | Elin Ander Droschmeister<br>Chief Revenue Officer<br>                                                                                                                                                                                                                         |
| 19. | <b>Supplier Compliance Officer</b>           | Reinert Sannerud<br>Chief Compliance and Governance Officer<br>                                                                                                                                                                                                               |
| 20. | <b>Supplier Data Protection Officer</b>      | Albert Gartner<br>DPO<br>                                                                                                                                                                                                                                                     |
| 21. | <b>Data Protection / Cyber Liability Cap</b> | £10,000,000                                                                                                                                                                                                                                                                                                                                                      |

|     |                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 22. | <b>Supplier Marketing Contact</b>    | Elin Ander Droschmeister<br>Chief Revenue Officer<br>[REDACTED]<br>[REDACTED]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 23. | <b>Key Subcontractors</b>            | <p>A Consortium (name: Aurora Transit Alliance) has been formed for this Framework. It is comprised of FARA AS and Trapeze ITS UK Ltd. Both organisations are owned by Trapeze Switzerland GmbH.</p> <p>FARA AS is the Framework Owner, with Trapeze ITS UK Ltd recognised as a Subcontractor.</p> <p><b>Key Subcontractor 1</b></p> <p><b>Trapeze ITS UK Ltd.:</b> Brook Suite Bewley House Marshfield Road Chippenham Wiltshire, SN15 1JW United Kingdom</p> <p><b>Contact point:</b> Name: Chris Chinnapan Role: Director UK Bus and Coach<br/>[REDACTED]<br/>[REDACTED]</p> |
| 24. | <b>SAM Authorised Representative</b> | Ms Kate Davidson<br>Procurement & Marketing Manager<br>[REDACTED]<br>[REDACTED]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## Signatures

*Signatures below are copied from the Signed DocuSign version*

| For and on behalf of the Supplier: |                                                                                                                         | For and on behalf of SAM: |                                                                                                                              |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Signature:                         | <br>Signed by:<br>98C19DE764A24DA... | Signature:                | <br>DocuSigned by:<br>BDB6F1E0A71B428... |
| Name:                              | Satu Huuhtanen                                                                                                          | Name:                     | Dr Andrew Seedhouse                                                                                                          |
| Role:                              | CEO                                                                                                                     | Role:                     | Chairman                                                                                                                     |
| Date:                              | 21 January 2026                                                                                                         | Date:                     | 19 January 2026                                                                                                              |

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# SAM General Terms – SAM007

## 1. Definitions used in the contract

Interpret the Contract using Joint Schedule 1 (*Definitions*).

## 2. How the contract works

- 2.1 The Supplier is eligible for the award of Call-Off Contracts during the Framework Contract Period.
- 2.2 SAM does not guarantee the Supplier any exclusivity, quantity or value of work under the Framework Contract.
- 2.3 SAM has paid one penny to the Supplier legally to form the Framework Contract. The Supplier acknowledges this payment.
- 2.4 If the Buyer decides to buy Deliverables under the Framework Contract it must use Framework Schedule 7 (*Call-Off Award Procedure*) and must state its requirements using Framework Schedule 6 (*Order Form Template and Call-Off Schedules*). If allowed by the Procurement Act 2023 or any Regulations made under it, the Buyer can:
  - 2.4.1 make changes to Framework Schedule 6 (*Order Form Template and Call-Off Schedules*);
  - 2.4.2 create new Call-Off Schedules;
  - 2.4.3 exclude optional template Call-Off Schedules; and/or
  - 2.4.4 use Special Terms in the Order Form to add or change terms.
- 2.5 Each Call-Off Contract:
  - 2.5.1 is a separate Contract from the Framework Contract;
  - 2.5.2 is between a Supplier and a Buyer;
  - 2.5.3 includes the General Terms, Schedules and any other changes or referenced documents in the completed Order Form; and
  - 2.5.4 survives the termination of the Framework Contract.
- 2.6 Where the Supplier is approached by any Other Contracting Authority requesting Deliverables or substantially similar goods or services, the Supplier must tell them about this Framework Contract before accepting their order.

- 2.7 The Supplier acknowledges it has all the information required to perform its obligations under each Contract before entering into a Contract. When information is provided by a Relevant Authority no warranty of its accuracy is given to the Supplier.
- 2.8 The Supplier will not be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - 2.8.1 verify the accuracy of the Due Diligence Information; or
  - 2.8.2 properly perform its own adequate checks.
- 2.9 SAM and the Buyer will not be liable for errors, omissions or misrepresentation of any information.
- 2.10 The Supplier warrants and represents that all statements made and documents submitted to the Relevant Authority as part of the procurement of Deliverables were and remain true and accurate.

### **3. What needs to be delivered**

#### **3.1 All Deliverables**

3.1.1 The Supplier must provide Deliverables:

- (a) that comply with the Specification, the Framework Tender Response and, in relation to a Call-Off Contract, the Call-Off Tender (if there is one);
- (b) using reasonable skill and care;
- (c) using Good Industry Practice;
- (d) using its own policies, processes and internal quality control measures as long as they do not conflict with the Contract;
- (e) on the dates agreed; and
- (f) that comply with Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 1 year from Delivery against all obvious defects.

#### **3.2 Goods clauses**

3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin. All manufacturer warranties or equivalents covering the Goods must be assignable to the Buyer on request and for free.

- 3.2.2 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
- 3.2.3 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 3.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.5 The Supplier warrants that the Goods shall be:
- (a) of satisfactory quality (within the meaning of the Sale of Goods Act 1979);
  - (b) fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer; and
  - (c) free from defects in design, material and workmanship.
- 3.2.6 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.7 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.8 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.9 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.10 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.11 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- 3.2.12 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they do not conform with Clause 3. If the Supplier does not do this it will pay the Buyer's costs including repair or re-supply by a third party.

- 3.2.13 Without limiting any other remedies to which it may be entitled, the Buyer shall be entitled to exercise its rights under Clause 3.2.12 in relation to Goods that don't conform with Clause 3.2.5, for a reasonable period, regardless of whether the Goods have been accepted by the Buyer.
- 3.2.14 The Buyer will not be liable for any actions, claims or Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

### **3.3 Services clauses**

- 3.3.1 Late Delivery of the Services will be a Default of a Call-Off Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third-party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third-party suppliers.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to each Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.

- 3.3.7 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.8 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

#### **4. Pricing and payments**

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Order Form.
- 4.2 SAM must invoice the Supplier for the Management Charge and the Supplier must pay it using the process in Framework Schedule 5 (*Management Charges and Information*).
- 4.3 All Charges and the Management Charge:
  - 4.3.1 exclude VAT, which is payable on provision of a valid VAT invoice; and
  - 4.3.2 include all costs connected with the Supply of Deliverables.
- 4.4 The Buyer must pay the Supplier the Charges:
  - 4.4.1 before the end of the period of thirty (30) days beginning with:
    - (a) the day on which an invoice is received by the Buyer in respect of the sum; or
    - (b) if later, by the date on which the payment falls due in accordance with the invoice, subject to the invoice being verified by the Buyer as valid and undisputed; and
  - 4.4.2 in cleared funds using the payment method and details stated in the invoice or in the Order Form.
- 4.5 A Supplier invoice is only valid if it:
  - 4.5.1 includes the minimum required information set out in Section 68(9) of the Procurement Act 2023;
  - 4.5.2 includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer;
  - 4.5.3 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any); and

- 4.5.4 does not include any Management Charge (the Supplier must not charge the Buyer in any way for the Management Charge).
- 4.6 Where any invoice does not conform to the Buyer's requirements set out in Clause 4.5, or the Buyer disputes the invoice, the Buyer shall notify the Supplier without undue delay.
- 4.7 The Buyer shall accept for processing any electronic invoice that complies with the Electronic Invoice Standard, provided that it is valid and undisputed.
- 4.8 Where any invoice does not conform to the Buyer's requirements set out in this Clause 4, the Buyer shall notify the Supplier without undue delay and the Supplier shall promptly issue a replacement invoice which shall comply with such requirements.
- 4.9 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 4.10 The Supplier must ensure that all Subcontractors are paid, in full:
- 4.10.1 before the end of the period of thirty (30) days beginning with the day on which an invoice is received by the Supplier in respect of the sum; or
- 4.10.2 if later, by the date on which the payment falls due in accordance with the invoice,
- subject to the invoice being verified by the Supplier as valid and undisputed. If this does not happen, SAM or the Buyer can publish the details of the late payment or non-payment.
- 4.11 The Supplier has no right of set-off, counterclaim, discount or abatement unless they are ordered to do so by a court.

## **5. The Buyer's obligations to the Supplier**

- 5.1 If Supplier Non-Performance arises from an Authority Cause:
- 5.1.1 neither SAM nor the Buyer can terminate a Contract under Clause 13.3.1;
- 5.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from liability and Deductions under the Contract;
- 5.1.3 the Supplier is entitled to additional time needed to make the Delivery; and

- 5.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.
- 5.2 Clause 5.1 only applies if the Supplier:
  - 5.2.1 gives notice to the Party responsible for the Authority Cause within ten (10) Working Days of becoming aware;
  - 5.2.2 demonstrates that the Supplier Non-Performance only happened because of the Authority Cause; and
  - 5.2.3 has mitigated the impact of the Authority Cause.

## **6. Record keeping and reporting**

- 6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Order Form.
- 6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract:
  - 6.2.1 during the Contract Period;
  - 6.2.2 and for seven (7) years after the End Date; and
  - 6.2.3 in accordance with the UK GDPR, or the EU GDPR as the context requires,  
  
including the records and accounts stated in the definition of Audit in Joint Schedule 1 (*Definitions*).
- 6.3 The Relevant Authority or an Auditor can Audit the Supplier.
- 6.4 During an Audit, the Supplier must:
  - 6.4.1 allow the Relevant Authority or any Auditor access to their premises and the Relevant Authority will use reasonable endeavours to ensure that any Auditor:
    - (a) complies with the Supplier's operating procedures; and
    - (b) does not unreasonably disrupt the Supplier or its provision of the Deliverables.
- 6.5 During an Audit, the Supplier must provide information to the Relevant Authority or to the Auditor and reasonable co-operation at their request including access to:

- 6.5.1 all contract accounts and records of everything to do with the Contract (including providing copies where requested by the Relevant Authority or the Auditor);
  - 6.5.2 all other information within the permitted scope of the Audit;
  - 6.5.3 any Sites, equipment and the Supplier System used in the performance of the Contract; and
  - 6.5.4 the Supplier Staff.
- 6.6 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Relevant Authority's reasonable costs in connection with the Audit.
- 6.7 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
  - 6.7.1 correcting any identified Default;
  - 6.7.2 rectifying any error identified in a Financial Report; and
  - 6.7.3 repaying any Charges that the Buyer has overpaid.
- 6.8 Where the Audit of the Supplier is carried out by an Auditor, the Auditor shall be entitled to share any information obtained during the Audit with the Relevant Authority.
- 6.9 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
  - 6.9.1 tell the Relevant Authority and give reasons;
  - 6.9.2 propose corrective action; and
  - 6.9.3 provide a deadline for completing the corrective action.
- 6.10 At the end of each Contract Year, at its own expense, the Supplier will provide a report to the Buyer setting out a summary of the Supplier's compliance with Clause 4.10, such report to be certified by the Supplier Authorised Representative as being accurate and not misleading.

## **7. Supplier staff**

- 7.1 The Supplier Staff involved in the performance of each Contract must:
  - 7.1.1 be appropriately trained and qualified;



7.1.2 be vetted using:

- (a) Good Industry Practice and the staff vetting requirements set out in the Security Requirements (if any); or
- (b) where no other requirements are set out, the Baseline Personnel Security Standard; and

7.1.3 comply with all conduct requirements when on the Buyer's Premises.

7.2 Where a Buyer decides one of the Supplier's Staff is not suitable to work on a Contract, the Supplier must replace them with a suitably qualified alternative.

7.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.4 The Supplier indemnifies SAM and the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

7.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

7.6 The provisions of this Clause 7 are in addition to and not in substitution for the employment exit provisions of Call-Off Schedule 2 (*Staff Transfer*).

## **8. Supply Chain**

### **8.1 Appointing Subcontractors**

8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:

- (a) manage Subcontractors in accordance with Good Industry Practice;
- (b) comply with its obligations under the Contract; and
- (c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to the Contract to the Buyer or Replacement Supplier.

8.1.2 The Supplier must ensure that it does not at any time during the Contract Period enter into a Subcontract with:

- (a) any supplier that is on the debarment list on the basis of a mandatory exclusion ground within the meaning of the Procurement Act 2023 and associated Regulations; or
- (b) any supplier that is on the debarment list on the basis of a discretionary exclusion ground within the meaning of the Procurement Act 2023 and associated Regulations, unless the Supplier has obtained the Buyer's prior written consent to the appointment of the relevant proposed Subcontractor.

## **8.2 Mandatory provisions in Sub-Contracts**

- 8.2.1 If a Subcontractor is to be appointed under the Contract, then the Relevant Authority may, in accordance with Section 72 of the Procurement Act 2023, require that the Supplier enters into a legally binding arrangement with the proposed Subcontractor within such reasonable period after the Effective Date as may be specified by the Relevant Authority.
- 8.2.2 If the Supplier does not enter into a legally binding agreement in accordance with Clause 8.2.1 the Relevant Authority may:
  - (a) terminate the Contract and the consequences of termination set out in Clauses 13.4.1(b) to 13.4.1(g) shall apply; or
  - (b) require the Supplier to enter into a legally binding agreement with an alternate Subcontractor.
- 8.2.3 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of the Contract:
  - (a) where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or
  - (b) where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
    - (i) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social or employment Law;

- (ii) require that all Subcontractors are paid:
  - (A) before the end of the period of thirty (30) days beginning with the day on which an invoice is received by the Supplier or other party in respect of the sum; or
  - (B) if later, the date by which the payment falls due in accordance with the invoice,

subject to the invoice being validated by the party making payment as valid and undisputed invoice;
- (c) require the party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion and notify the Subcontractor without undue delay if it considers the invoice invalid or disputes the invoice; and
- (d) allow SAM or the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.

8.2.4 The Supplier must ensure that a term equivalent to Clause 8.2.3 is included in each Sub-Contract in its supply chain, such that each Subcontractor is obliged to include those terms in any of its own Sub-Contracts in the supply chain for the delivery of the Contract. References to the “Supplier” and “Subcontractor”, in Clause 8.2.3 are to be replaced with references to the respective Subcontractors who are parties to the relevant contract.

### 8.3 **When Sub-Contracts can be ended**

8.3.1 At the Buyer’s request, the Supplier must terminate any Sub-Contracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which isn’t pre-approved by the Relevant Authority in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 13.3;
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Relevant Authority; and/or

- (d) the Subcontractor fails to comply with its obligations in respect of environmental, social or employment Law.

#### **8.4 Ongoing responsibility of the Supplier**

- 8.4.1 The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

#### **8.5 Competitive terms**

- 8.5.1 If the Relevant Authority can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables, then the Relevant Authority may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.
- 8.5.2 If the Relevant Authority uses Clause 8.5.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

### **9. Rights and protection**

- 9.1 The Supplier warrants and represents that:
  - 9.1.1 it has full capacity and authority to enter into and to perform each Contract;
  - 9.1.2 each Contract is entered into by its authorised representative;
  - 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
  - 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform each Contract;
  - 9.1.5 it maintains all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under each Contract and for the Buyer to receive the Deliverables;

- 9.1.6 it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Contract;
  - 9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event; and
  - 9.1.8 it will comply with each Call-Off Contract.
- 9.2 The warranties and representations in Clauses 2.10 and 9.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 9.3 The Supplier indemnifies both SAM and each Buyer against each of the following:
  - 9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts the Contract; and
  - 9.3.2 non-payment by the Supplier of any tax or National Insurance.
- 9.4 All claims indemnified under the Contract must use Clause 29.
- 9.5 The description of any provision of the Contract as a warranty does not prevent SAM or a Buyer from exercising any termination right that it may have for Default of that clause by the Supplier.
- 9.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify SAM and each Buyer.
- 9.7 All third-party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

## **10. Intellectual Property Rights (IPRs)**

- 10.1 Each Party keeps ownership of its own Existing IPRs.
- 10.2 Where the Supplier or SAM acquires ownership of IPRs incorrectly under the Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.3 Neither the Supplier nor SAM has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 10 or otherwise agreed in writing.
- 10.4 Unless expressly stated otherwise in the relevant Order Form, the applicable IPR Option that is specified in the Framework Award Form shall apply under a Call-Off Contract.

- 10.5 If there is an IPR Claim, the Supplier indemnifies SAM and each Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and at the Relevant Authority's sole option, either:
- 10.6.1 obtain for the Relevant Authority the rights to continue using the relevant item without infringing any third party IPR; or
- 10.6.2 replace or modify the relevant item with substitutes that do not infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 10.7 If the Relevant Authority requires that the Supplier procures a licence in accordance with Clause 10.6.1 or to modify or replace an item pursuant to Clause 10.6.2, but this has not avoided or resolved the IPR Claim, then the Relevant Authority may terminate the Contract by written notice with immediate effect and the consequences of termination set out in Clause 13.4.1 shall apply.

## **11. Rectifying issues**

- 11.1 If there is a Notifiable Default, the Supplier must notify the Relevant Authority within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan, within ten (10) Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.
- 11.2 When the Relevant Authority receives a requested Rectification Plan it can either:
- 11.2.1 reject the Rectification Plan or revised Rectification Plan, giving reasons; or
- 11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- 11.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Relevant Authority:
- 11.3.1 will give reasonable grounds for its decision; and
- 11.3.2 may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

## **12. Escalating issues**

- 12.1 If the Supplier fails to:
- 12.1.1 submit a Rectification Plan, or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; or
  - 12.1.2 adhere to the timescales set out in the Rectification Plan,
- the Relevant Authority can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days' notice. The Relevant Authority will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.
- 12.2 The Escalation Meeting(s) will continue until the Relevant Authority is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting continues for more than five (5) Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.
- 12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Relevant Authority shall be entitled to terminate the Contract and the consequences of termination set out in Clauses 13.4.1 shall apply as if the Contract were terminated under Clause 13.3.

### **13. Ending the contract or any sub-contract**

#### **13.1 Contract Period**

- 13.1.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if terminated under this Clause 13 or if required by Law.
- 13.1.2 The Relevant Authority can extend the Contract for the Extension Period by giving the Supplier no less than three (3) Months' written notice before the Contract expires.

#### **13.2 Ending the contract without a reason**

- 13.2.1 SAM has the right to terminate the Framework Contract at any time without reason by giving the Supplier at least thirty (30) days' notice.
- 13.2.2 Each Buyer has the right to terminate their Call-Off Contract at any time without reason by giving the Supplier not less than ninety (90) days' written notice and if it is terminated Clause 13.5.3 applies.

#### **13.3 When SAM or the Buyer can end a contract**

13.3.1 If any of the following events happen, the Relevant Authority has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier and the consequences of termination in Clause 13.4.1 shall apply:

- (a) there is a Supplier Insolvency Event;
- (b) there is a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
- (c) the Buyer rejects a Rectification Plan or the Supplier does not provide a Rectification Plan within ten (10) days of the request;
- (d) there is any Material Default of the Contract;
- (e) there is any Material Default of any Joint Controller Agreement relating to any Contract;
- (f) there is a Default of Clauses 2.10, 12, 31 or Call-Off Schedule 6 (ICT Services) (where applicable);
- (g) there is a consistent repeated failure to meet the Framework Performance Measures in Framework Schedule 4 (Framework Management);
- (h) the performance of the Supplier causes a Critical KPI Failure to occur;
- (i) there is a Change of Control of the Supplier which is not pre-approved by the Relevant Authority in writing;
- (j) the Supplier or its Affiliates embarrass or bring SAM or the Buyer into disrepute or diminish the public trust in them;
- (k) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables;
- (l) the Supplier fails to comply with its obligations under Part D (Pensions) of Call-Off Schedule 2 (Staff Transfer);
- (m) in accordance with Section 78, and/or Section 79 (where applicable), of the Procurement Act 2023, and provided that the requirements of Section 78(7) of the Procurement Act 2023 have been met, where:



- (i) the Relevant Authority considers that the Contract was awarded or modified in material breach of the Procurement Act 2023 or Regulations under it;
  - (ii) the Supplier has, since the award of the Contract become an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023 and provided that the conditions in Section 78(8) (where applicable) of the Procurement Act 2023 have been met; and/or
  - (iii) any Subcontractor has, since the award of the Contract become an excluded supplier or excludable supplier as set out in Section 57 of the Procurement Act 2023 and provided that the conditions in Sections 78(3) to 78(8) of the Procurement Act 2023 have been met;
- (n) the Supplier fails to enter into a legally binding agreement with any Subcontractor in accordance with Section 72 of the Procurement Act 2023; and/or
- (o) where any Subcontractor has, since the award of the Contract, become an excluded supplier or excludable supplier as defined in Section 57 of the Procurement Act 2023, provided that prior to exercising its right of termination under this Clause 13.3.1(o) the Relevant Authority:
  - (i) has notified the Supplier of its intention to terminate under this Clause, and why the Relevant Authority has decided to terminate the Contract;
  - (ii) has given the Supplier reasonable opportunity to make representations about whether this Clause applies and the Relevant Authority's decision to terminate; and
  - (iii) has given the Supplier a reasonable opportunity to end its Sub-Contract with the excluded or excludable supplier, and if necessary, find an alternative Subcontractor.

13.3.2 SAM may terminate the Framework Contract if a Buyer terminates a Call-Off Contract for any of the reasons listed in Clause 13.3.1.

#### 13.4 What happens if the Contract ends

13.4.1 Where a Party terminates a Contract under any of Clauses 13.3.1 (excluding Clause 13.3.1(m)(i)), 13.3.2, 10.7, 12.3, 30.4 or 35.3 (where Clause 35.3.1 applies), Paragraph 7 of Part D of Call-Off Schedule 2 (*Staff Transfer*), Paragraph 2.2 of Call-Off Schedule 16 (*Benchmarking*) (where applicable), Paragraph 4.1 of Call-Off Schedule 24 (*Corporate Resolution Planning*) (where applicable), Paragraph 7 of Joint Schedule 7 (*Financial Difficulties*) (where applicable) or Paragraph 4.7 of Joint Schedule 5 (*Sustainability*) all of the following apply:

- (a) The Supplier is responsible for the Buyer's reasonable costs in procuring Replacement Deliverables for the rest of the Contract Period.
- (b) The Buyer's payment obligations under the terminated Contract stop immediately.
- (c) Accumulated rights of the Parties are not affected.
- (d) The Supplier must promptly repay to the Buyer all the Charges the Buyer has paid in advance in respect of Deliverables not provided by the Supplier as at the End Date.
- (e) The Supplier must promptly delete or return the Buyer's Data except where required to retain copies by Law other than Buyer's Data (i) that is Personal Data in respect of which the Supplier is a Controller; and (ii) in respect of which the Supplier has rights to hold the Buyer's Data independently of the Contract.
- (f) The Supplier must promptly return any of SAM or the Buyer's property provided under the terminated Contract.
- (g) The Supplier must, at no cost to SAM or the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

13.4.2 If a Party terminates a Contract under Clause 23.3 or the Relevant Authority terminates a Contract under Clause 13.3.1(m)(i) or under Clause 35.3 (where Clause 35.3.2 applies):

- (a) each Party must cover its own Losses; and
- (b) Clauses 13.4.1(b) to 13.4.1(g) apply.

13.4.3 The following Clauses survive the termination or expiry of each Contract: 3.2.10, 4, 6, 7.4, 7.5, 10, 13.4, 13.5.3, 14, 17, 18, 19, 20, 21, 22, 23, 34.2.2, 38, 39, Joint Schedule 1 (*Definitions*) Framework Schedule 3 (*Charges*), Call-Off Schedule 2 (*Staff Transfer*), Call-Off Schedule 10 (*Exit Management*) (if used), Call-Off Schedule 1 (*Intellectual Property Rights*) and any Clauses and Schedules which are expressly or by implication intended to continue.

### **13.5 When the Supplier (and the Buyer) can end the Contract**

13.5.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate a Call-Off Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the annual Contract Value within thirty (30) days of the date of the Reminder Notice.

13.5.2 The Supplier also has a right to terminate the Contract in accordance with Clause 23.3 and 26.5.

13.5.3 Where the Buyer terminates the Contract under Clause 13.2.2 or the Supplier terminates the Contract under Clause 13.5.1 or 26.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and
- (c) Clauses 13.4.1(b) to 13.4.1(g) apply.

### **13.6 Partially ending and suspending the Contract**

13.6.1 Where SAM has the right to terminate the Framework Contract it can suspend the Supplier's ability to accept Orders (for any period) and the Supplier cannot enter into any new Call-Off Contracts during this period. If this happens, the Supplier must still meet its

obligations under any existing Call-Off Contracts that have already been signed.

13.6.2 Where SAM has the right to terminate a Framework Contract it is entitled to terminate all or part of it.

13.6.3 Where the Buyer has the right to terminate a Call-Off Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends a Contract it can provide the Deliverables itself or buy them from a third party.

13.6.4 The Relevant Authority can only partially terminate or suspend a Contract if the remaining parts of that Contract can still be used to effectively deliver the intended purpose.

13.6.5 The Parties must agree any necessary Variation required by Clause 13.6.4 using the Variation Procedure, but the Supplier may not either:

- (a) reject the Variation; or
- (b) increase the Charges, except where the right to partial termination is under Clause 13.2.

13.6.6 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 13.6.

#### **14. How much you can be held responsible for**

14.1 Each Party's total aggregate liability in each Contract Year under this Framework Contract (whether in tort, contract or otherwise) is no more than one million pounds (£1,000,000).

14.2 Each Party's total aggregate liability in each Contract Year under each Call-Off Contract (whether in tort, contract or otherwise) is no more than the greater of five million pounds (£5,000,000) or 150% of the Estimated Yearly Charges unless specified otherwise in the Call-Off Order Form.

14.3 No Party is liable to the other for:

14.3.1 any indirect Losses; or

14.3.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

14.4 In spite of Clauses 14.1 and 14.2, neither Party limits or excludes any of the following:

14.4.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

- 14.4.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
- 14.4.3 any liability that cannot be excluded or limited by Law; or
- 14.4.4 its obligation to pay the required Management Charge or Default Management Charge.
- 14.5 In spite of Clauses 14.1 and 14.2, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 9.3.2, 10.5, 15.3, 34.2.2 or Call-Off Schedule 2 (*Staff Transfer*) of a Contract or (if used) any of Call-Off Schedule 10 (*Exit Management*), or Call-Off Schedule 22 (*Lease Terms*).
- 14.6 In spite of Clause 14.1, the Buyer does not limit or exclude its liability for any indemnity given under Clause 7 or Call-Off Schedule 2 (*Staff Transfer*) of the Contract.
- 14.7 In spite of Clauses 14.1 and 14.2, but subject to Clauses 14.3 and 14.4, the Supplier's total aggregate liability in each Contract Year under each Contract under Clause 17.6.4 is no more than the Data Protection Liability Cap.
- 14.8 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with each Contract, including any indemnities.
- 14.9 When calculating the Supplier's liability under Clauses 14.1 or 14.2 the following items will not be taken into consideration:
  - 14.9.1 Deductions; and
  - 14.9.2 any items specified in Clauses 14.5 or 14.6.
- 14.10 If more than one Supplier is party to a Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of other Suppliers.

## **15. Obeying the law**

- 15.1 The Supplier shall comply with the provisions of Joint Schedule 5 (*Sustainability*).
- 15.2 To the extent that it arises as a result of a Default by the Supplier, the Supplier indemnifies the Relevant Authority against any fine or penalty incurred by the Relevant Authority pursuant to Law and any costs incurred

by the Relevant Authority in defending any proceedings which result in such fine or penalty.

- 15.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 15.1 and Clauses 30 to 35.

## **16. Insurance**

- 16.1 The Supplier must, at its own cost, obtain and maintain the Required Insurances in Joint Schedule 3 (Insurance Requirements) and any Additional Insurances in the Order Form.

## **17. Data protection and security**

- 17.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Joint Schedule 10 (Processing Data).
- 17.2 The Supplier must not remove any ownership or security notices in or relating to the Buyer's Data.
- 17.3 The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Buyer's Data, including back-up data, is a secure system that complies with the Security Requirements (if any) and otherwise as required by the Data Protection Legislation.
- 17.4 If at any time the Supplier suspects or has reason to believe that the Buyer's Data is corrupted, lost or sufficiently degraded, then the Supplier must notify the Relevant Authority and immediately suggest remedial action.
- 17.5 If the Buyer's Data is any of (i) corrupted, (ii) lost or (iii) sufficiently degraded, in each case as a result of the Supplier's Default, so as to be unusable the Relevant Authority may either or both:
- 17.5.1 tell the Supplier (at the Supplier's expense) to restore or get restored Buyer's Data as soon as practical but no later than five (5) Working Days from the date that the Relevant Authority receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or

17.5.2 restore the Buyer's Data itself or using a third party and shall be repaid by the Supplier any reasonable expenses incurred in doing so.

**17.6 The Supplier:**

17.6.1 must, subject to the Security Requirements (if any), provide the Relevant Authority with copies of Buyer's Data held by the Supplier or any Subcontractor in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;

17.6.2 must have documented processes to guarantee prompt availability of Buyer's Data if the Supplier stops trading;

17.6.3 must, subject to the Security Requirements (if any), securely erase all Buyer's Data and any copies held by the Supplier or a Subcontractor when asked to do so by SAM or the Buyer (and certify to the Buyer that it has done so) using a deletion method that ensures that even a determined expert using specialist techniques can recover only a small fraction of the data deleted, unless other than Buyer's Data in respect of which the Supplier is a Controller, or the Supplier has rights to hold the Buyer's Data independently of the Contract; and

17.6.4 indemnifies SAM and each Buyer against any and all Losses incurred if the Supplier breaches Clause 17 and/or any Data Protection Legislation.

**18. What you must keep confidential**

**18.1 Each Party must:**

18.1.1 keep all Confidential Information it receives confidential and secure;

18.1.2 not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under the Contract; and

18.1.3 immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

18.2 In spite of Clause 18.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- 18.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if, to the extent not prohibited by Law, the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
  - 18.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
  - 18.2.3 if the information was given to it by a third party without obligation of confidentiality;
  - 18.2.4 if the information was in the public domain at the time of the disclosure;
  - 18.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
  - 18.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;
  - 18.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
  - 18.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 18.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in the Contract by the persons to whom disclosure has been made.
- 18.4 SAM or the Buyer may disclose Confidential Information in any of the following cases:
- 18.4.1 on a confidential basis to the employees, agents, consultants and contractors of SAM or the Buyer;
  - 18.4.2 on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that SAM or the Buyer transfers or proposes to transfer all or any part of its business to;



- 18.4.3 if the Relevant Authority (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- 18.4.4 where requested by Parliament;
- 18.4.5 under Clauses 4.10 and 19; and
- 18.4.6 on a confidential basis under the audit rights in Clauses 6.3 to 6.8 (inclusive), under Call-Off Schedule 2 (*Staff Transfer*) and under Call-Off Schedule 10 (*Exit Management*) (if used).
- 18.5 For the purposes of Clauses 18.2 to 18.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 18.
- 18.6 Transparency Information and any information that is disclosed pursuant to Clause 19 is not Confidential Information.
- 18.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Relevant Authority and must use all reasonable endeavours to ensure that Supplier Staff do not either.

## **19. When you can share information**

- 19.1 The Supplier must tell the Relevant Authority within fortyeight (48) hours if it receives a Request For Information.
- 19.2 In accordance with a reasonable timetable and in any event within five (5) Working Days of the request from the Relevant Authority the Supplier must give SAM and each Buyer full co-operation and information needed so the Buyer can:
  - 19.2.1 publish the Transparency Information;
  - 19.2.2 comply with any Request for Information; and/or
  - 19.2.3 comply with any Environmental Information Regulations (EIR) request,

any such cooperation and/or information from the Supplier shall be provided at no additional cost.
- 19.3 To the extent that it is allowed and practicable to do so, the Relevant Authority will use reasonable endeavours to notify the Supplier of a Request for Information and may talk to the Supplier to help it decide whether to publish information under Clause 19, taking into account any agreed Commercially Sensitive Information set out in Joint Schedule 4

(Commercially Sensitive Information). However, the extent, content and format of the disclosure shall be decided by the Buyer, in its sole discretion.

**20. Invalid parts of the contract**

20.1 If any provision or part provision of a Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

**21. No other terms apply**

21.1 The provisions incorporated into each Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements, whether written or oral. No other provisions apply.

**22. Other people's rights in a contract**

22.1 The provisions of Clauses 4.10, 8.2.3 and 8.2.4, Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3, 3.1 and 3.3 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Call-Off 2 Schedule (*Staff Transfer*) and the provisions of the Exit Management Requirements that are expressly stated to be enforceable by a third party (together "Third Party Provisions") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "Third Party Beneficiary") and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 (CRTPA).

22.2 Subject to Clause 22.1, no third parties may use the CRTPA to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

22.3 Except for the provisions of Clauses 4.10, 8.2.3 and 8.2.4, no Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.

22.4 Any amendments or modifications to a Contract may be made, and any rights created under Clause 22.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

## **23. Circumstances beyond your control**

23.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under a Contract while the inability to perform continues, if it both:

23.1.1 provides a Force Majeure Notice to the other Party; and

23.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

23.2 Any failure or delay by the Supplier to perform its obligations under the Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.

23.3 Either Party can partially or fully terminate the affected Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for ninety (90) days continuously.

## **24. Relationships created by the contract**

24.1 The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **25. Giving up contract rights**

25.1 A partial or full waiver or relaxation of the terms of a Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **26. Transferring responsibilities**

26.1 The Supplier cannot assign, novate or in any other way dispose of the Contract or any part of a Contract without the Relevant Authority's written consent.

26.2 Subject to Joint Schedule 6 (*Key Subcontractors*), the Supplier cannot sub-contract the Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

- 26.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
- 26.2.2 the proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
- 26.2.3 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers;
- 26.2.4 the proposed Subcontractor employs unfit persons; and/or
- 26.2.5 the proposed Subcontractor is an excluded or excludable supplier within the meaning of the Procurement Act 2023 and any associated Regulations.
- 26.3 The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Relevant Authority.
- 26.4 When SAM or the Buyer uses its rights under Clause 26.3 the Supplier must enter into a novation agreement in the form that SAM or the Buyer specifies.
- 26.5 The Supplier can terminate a Contract novated under Clause 26.3 to a private sector body that is experiencing an Insolvency Event.
- 26.6 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 26.7 If the Relevant Authority asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
  - 26.7.1 their name;
  - 26.7.2 the scope of their appointment;
  - 26.7.3 the duration of their appointment;
  - 26.7.4 a copy of the Sub-Contract; and
  - 26.7.5 whether the Supplier considers that an exclusion ground within the meaning of the Procurement Act 2023 and any associated Regulations does or may apply to the Sub-contractor.

## **27. Changing the contract**

- 27.1 Either Party can request a Variation to the Contract which is only effective if agreed in writing and signed by both Parties.

- 27.2 The Supplier must provide an Impact Assessment either:
- 27.2.1 with the Variation Form, where the Supplier requests the Variation;  
or
  - 27.2.2 within the time limits included in a Variation Form requested by  
SAM or the Buyer.
- 27.3 If the Variation cannot be agreed or resolved by the Parties, SAM or the Buyer can either:
- 27.3.1 agree that the Contract continues without the Variation; or
  - 27.3.2 refer the Dispute to be resolved using Clause 38 (*Resolving Disputes*).
- 27.4 SAM and the Buyer are not required to accept a Variation request made by the Supplier.
- 27.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:
- 27.5.1 reasonably believes that the Variation would materially and adversely affect the risks to health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or
  - 27.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.
- 27.6 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Framework Prices or the Charges.
- 27.7 If there is a Specific Change in Law or one is likely to happen during the Contract Period the Supplier must give SAM and the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, Framework Prices or a Contract and provide evidence:
- 27.7.1 of how it has affected the Supplier's costs; and
  - 27.7.2 that the Supplier has kept costs as low as possible, including in Subcontractor costs.

- 27.8 Any change in the Framework Prices or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 27.1 to 27.4.

## **28. How to communicate about the Contract**

- 28.1 All notices under the Contract must be in writing and be served by e-mail unless it is not practicable to do so. An email is effective at 9.00am on the first Working Day after sending unless an error message is received.
- 28.2 If it is not practicable for a notice to be served by email in accordance with Clause 28.1, notices can be served by means of personal delivery or Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next Working Day service providing proof of delivery. If either of these options are used to serve a notice, such notices are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise, the notice is effective on the next Working Day.
- 28.3 Notices to SAM must be sent to the SAM Authorised Representative's address or e-mail address in the Framework Award Form.
- 28.4 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or e-mail address in the Order Form.
- 28.5 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **29. Dealing with claims**

- 29.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.
- 29.2 At the Indemnifier's cost the Beneficiary must both:
- 29.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
  - 29.2.2 give the Indemnifier reasonable assistance with the claim if requested.
- 29.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- 29.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that does not damage the Beneficiary's reputation.

- 29.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 29.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- 29.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
- 29.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or
- 29.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.

### **30. Exclusions**

- 30.1 During any Contract Period the Supplier shall notify SAM and the Buyer as soon as reasonably practicable if:
- 30.1.1 the Supplier considers that an exclusion ground within the Procurement Act 2023 and any associated Regulations applies to the Supplier, including where the Supplier is put on the debarment list or becomes an excluded or excludable supplier by virtue of any associated persons or subcontractors where information relating to such was provided under Section 28 of the Procurement Act 2023; and
- 30.1.2 there are any changes to the Supplier's associated persons within the meaning of the Procurement Act 2023.
- 30.2 If the Supplier notifies SAM and the Buyer in accordance with Clause 30.1.1 then the Supplier must promptly provide any information SAM and/or the Buyer reasonably requests in relation to the notification, including information to support an assessment of whether the circumstances giving rise to the exclusion ground are continuing or likely to occur again.
- 30.3 If the Supplier notifies SAM or the Buyer in accordance with Clause 30.1.2 then the Supplier must promptly provide any reasonable information requested by SAM and/or the Buyer in relation to the change to the Supplier's associated persons, including any information set out in the Procurement Regulations 2024.
- 30.4 The Relevant Authority may terminate the Contract if:

30.4.1 the Supplier has failed to provide notification under Clause 30.1.1 as soon as reasonably practicable after the Supplier become aware that an exclusion ground within the Procurement Act 2023 and any associated Regulations does or may apply to the Supplier;

30.4.2 the Supplier has failed to provide notification under Clause 30.1.2 as soon as reasonably practicable after the Supplier becoming aware of any changes to the Supplier's associated persons within the meaning of the Procurement Act 2023; or

30.4.3 any notification or information provided by the Supplier under Clause 30.1, 30.2 and/or 30.3 is incomplete, inaccurate or misleading,

and the consequences of termination set out in Clauses 13.4.1 shall apply.

30.5 Clause 30.4 is without prejudice to the Relevant Authority's rights to terminate the Contract in accordance with Clause 13.3.1(o).

### **31. Equality, diversity and human rights**

31.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:

31.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and

31.1.2 any other requirements and instructions which SAM or the Buyer reasonably imposes related to equality Law.

31.2 The Supplier must use all reasonable endeavours, and inform SAM or the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

### **32. Health and safety**

32.1 The Supplier must perform its obligations meeting the requirements of:

32.1.1 all applicable Law regarding health and safety; and

32.1.2 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.



- 32.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they are aware of at the Buyer Premises that relate to the performance of a Contract.

### **33. Environment**

- 33.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 33.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

### **34. Tax**

- 34.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. SAM and the Buyer cannot terminate a Contract where the Supplier has not paid a minor Tax or social security contribution.
- 34.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under a Call-Off Contract, the Supplier must both:
- 34.2.1 comply with the Income Tax (Earnings and Pensions) Act 2003, the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to income tax and National Insurance contributions (including IR35); and
- 34.2.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 34.3 At any time during the Contract Period, the Buyer may specify information that the Supplier must provide with regard to the Supplier, the Supplier Staff, the Workers, or the Supply Chain Intermediaries and set a deadline for responding, which:
- 34.3.1 demonstrates that the Supplier, Supplier Staff, Workers, or Supply Chain Intermediaries comply with the legislation specified in Clause 34.2.1, or why those requirements do not apply; and
- 34.3.2 assists with the Buyer's due diligence, compliance, reporting, or demonstrating its compliance with any of the legislation in Clause 34.2.1.

- 34.4 The Buyer may supply any information they receive from the Supplier under Clause 34.3 to HMRC for revenue collection and management and for audit purposes.
- 34.5 The Supplier must inform the Buyer as soon as reasonably practicable if there are any Workers or Supplier Staff providing services to the Buyer who are contracting, begin contracting, or stop contracting via an intermediary which meets one of conditions A-C set out in section 61N of the Income Tax (Earnings and Pensions) Act 2003 and/or Regulation 14 of the Social Security Contributions (Intermediaries) Regulations 2000.
- 34.6 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- 34.6.1 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 34.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- 34.6.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- 34.6.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers is not good enough to demonstrate how it complies with Clause 34.2 or confirms that the Worker is not complying with those requirements; and
- 34.6.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

### **35. Conflict of interest**

- 35.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or, potential Conflict of Interest.
- 35.2 The Supplier must promptly notify and provide details to SAM and each Buyer if an actual or potential or perceived Conflict of Interest happens or is expected to happen.
- 35.3 SAM and each Buyer will consider whether there are any reasonable steps that can be put in place to mitigate an actual, potential or perceived

Conflict of Interest. If, in the reasonable opinion of SAM or the Buyer, such steps do not or will not resolve an actual or potential Conflict of Interest, SAM or the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and, subject to Clause 35.4, where the reason for the unresolvable actual or potential Conflict of Interest is, in the reasonable opinion of the Buyer:

35.3.1 within the control of the Supplier, the whole of Clause 13.4.1 shall apply; or

35.3.2 outside of the control of the Supplier, Clauses 13.4.1(b) to 13.4.1(g) shall apply.

35.4 Where the Supplier has failed to notify SAM and the Buyer about an actual or potential Conflict of Interest and SAM and/or the Buyer terminates under Clause 35.3, the whole of Clause 13.4.1 shall apply.

### **36. Non-Solicitation**

36.1 Where the Supplier is providing all or part of a SAM Managed Service, the Supplier shall not, directly or indirectly, solicit, induce, or attempt to solicit or induce any Member of SAM with whom the Supplier had material contact as part of the SAM Managed Service, at any time up to the final six (6) months of the SAM Contract expiry, to divert their business from the Company.

### **37. Reporting a breach of the contract**

37.1 As soon as it is aware of it the Supplier and Supplier Staff must report to SAM or the Buyer any actual or suspected:

37.1.1 breach of Law;

37.1.2 Default of Clause 15.1; and

37.1.3 Default of Clauses 30 to 35.

37.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause 36.1 to the Buyer or a Prescribed Person.

### **38. Further Assurances**

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of the Contract.

### **39. Resolving disputes**

- 39.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty-eight (28) days of a written request from the other Party, meet in good faith to resolve the Dispute.
- 39.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 38.3 to 38.5.
- 39.3 Unless the Relevant Authority refers the Dispute to arbitration using Clause 38.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 39.3.1 determine the Dispute;
  - 39.3.2 grant interim remedies; and
  - 39.3.3 grant any other provisional or protective relief.
- 39.4 The Supplier agrees that the Relevant Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 39.5 The Relevant Authority has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 38.3, unless the Relevant Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 38.4.
- 39.6 The Supplier cannot suspend the performance of a Contract during any Dispute.

#### **40. Which law applies**

The Contract and any Disputes arising out of, or connected to it, are governed by English law.

# Framework Schedule 1 (Specification)

This Schedule sets out what SAM and our Buyers want.

The Supplier must only provide the Deliverables for the Lot that they have been appointed to.

For all Lots and/or Deliverables, the Supplier must help Buyers comply with any specific applicable Standards of the Buyer.

The Deliverables and any Standards set out below may be refined (to the extent permitted and set out in the Order Form) by a Buyer during a Competitive Selection Process to reflect its Deliverables requirements for entering a particular Call-Off Contract.

Our social value priorities

As per the Suppliers Tender submission (Framework Schedule 2) the Supplier must secure real social, environmental and economic benefits in line with social value legislation. To do this Suppliers need to be clear what the social value priorities are.

The Buyer can identify specific social value priorities at call-off.



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## Framework Schedule 2 (Framework Tender)

The Tender submission from FARA AS for Lot 1 on behalf of the wider Aurora Transit Alliance is embedded below, including any clarification questions and responses:



## Framework Schedule 3 (Framework Prices)

### 1. How Framework Prices are used to calculate Call-Off Charges

#### 1.1 The Framework Prices:

- 1.1.1 will be used as the basis for the Charges (and are maximums that the Supplier may charge) under each Call-Off Contract; and
- 1.1.2 cannot be increased except as in accordance with this Schedule.

#### 1.2 The Charges:

- 1.2.1 shall be calculated in accordance with the terms of the Call-Off Contract and in particular in accordance with the terms of the Order Form;
  - 1.2.2 cannot be increased except as specifically permitted by the Call-Off Contract and in particular shall only be subject to Indexation where specifically stated in the Order Form; and
  - 1.2.3 shall not be impacted by any change to the Framework Prices.
- 1.3 Any variation to the Charges payable under a Call-Off Contract must be agreed between the Supplier and the Buyer and implemented using the same procedure for altering Framework Prices in accordance with the provisions of this Framework Schedule 3

### 2. How Framework Prices are calculated

- 2.1 The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Framework Prices in Call-Off Contracts.

### 3. Are costs and expenses included in the Framework Prices

3.1 Except as expressly set out in Paragraph 4 below, or otherwise stated in the Order Form the Framework Prices shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

3.1.2 costs incurred prior to the commencement of any Call-Off Contract.

#### **4. When the Supplier can ask to change the Framework Prices**

4.1 The Framework Prices will be fixed for the first 1 year following the Framework Start Date (the date of expiry of such period is a "**Review Date**"). After this Framework Prices can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**").

4.2 The Supplier shall give SAM at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.

4.3 Any notice requesting an increase shall include:

4.3.1 a list of the Framework Prices to be reviewed;

4.3.2 for each Framework Price under review, written evidence of the justification for the requested increase.

4.4 SAM shall consider each request for a price increase. SAM may grant approval to an increase at its sole discretion.

4.5 Where SAM approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as SAM may determine at its sole discretion and Annex 1 shall be updated accordingly.

#### **5. Other events that allow the Supplier to change the Framework Prices**

5.1 The Framework Prices can also be varied (and Annex 1 will be updated accordingly) due to:

5.1.1 a Specific Change in Law in accordance with Clause 27 (*Changing the Contract*) of the General Terms;

- 5.1.2 a review in accordance with insurance requirements in Clause 16 (*Insurance*) of the General Terms;
- 5.1.3 a benchmarking review in accordance with Call-Off Schedule 16 (*Benchmarking*);
- 5.1.4 a request from the Supplier, which it can make at any time, to decrease the Framework Prices; and
- 5.1.5 indexation, where Annex 1 states that a particular Framework Price or any component is “subject to Indexation” in which event Paragraph 6 below shall apply.]

## **6. When the Framework Prices are linked to inflation**

- 6.1 Where the Framework Charges are stated to be "subject to Indexation" they shall be adjusted in line with changes in the Consumer Price Index (or indices) published by the Office of National Statistics or other reputable source (the “**Index**”) pursuant to Paragraph 6.4. All other costs, expenses, fees and charges shall not be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier.
- 6.2 Any costs, expenses, fees or charges charged by the Supplier to the Buyer in respect of Supplier Assets or Buyer Assets (including capital costs and installation, maintenance and support costs) which are incurred by the Supplier prior to the relevant adjustment date but which remain to be recovered through the Charges shall not be subject to adjustment under this Paragraph 6 and shall not be included in the relevant amount or sum for the purposes of Paragraph 6.1.
- 6.3 Framework Prices shall not be indexed during the first [**Insert:** number] years following the Framework Start Date.
- 6.4 Where Annex 1 states a Framework Price is subject to Indexation then it will be indexed on the date which is 1 year after the Framework Start Date to reflect the percentage change in the Index since the Framework Start Date. They shall be indexed on each following yearly anniversary to reflect the percentage change in the Index since the previous change.
- 6.5 Where the Index:
  - 6.5.1 used to carry out an indexation calculation is updated (for example due to it being provisional) then the indexation calculation shall also be updated unless SAM and the Supplier agree otherwise;



6.5.2 is no longer published, SAM and the Supplier shall agree an appropriate replacement index which shall cover to the maximum extent possible the same economic activities as the original index.]

## 7. When you will be reimbursed for travel and subsistence

7.1 Expenses shall only be recoverable where:

7.1.1 any agreed Time and Materials pricing mechanism is used; and

7.1.2 the Order Form states that recovery is permitted; and

7.1.3 they are Reimbursable Expenses and are supported by Supporting Documentation.

7.2 For the purposes of Paragraph 7.1 of this Schedule, a “**Time and Materials pricing mechanism**” means a pricing mechanism whereby the Buyer agrees to pay the Supplier based upon the work performed by the Supplier's Staff, and for materials used in the project, no matter how much work is required to complete the project. In the event that a Call-Off Contract uses this pricing mechanism the price shall be based upon the prices detailed in Annex 1 to Framework Schedule 3.

7.3 The Buyer shall provide a copy of their current expenses policy to the Supplier upon request.

## Annex 1: Rates and Prices



Lot 1 FARA Pricing  
Proforma

# Framework Schedule 4 (Framework Management)

## 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (*Definitions*):

"Supplier Framework Manager"

has the meaning given to it in Paragraph 3.1 of this Schedule; and

"Supplier Review Meetings"

has the meaning given to it in Paragraph 3.9 of this Schedule.

## 2. How SAM and the Supplier will work together

- 2.1 The successful delivery of this Contract will rely on the ability of the Supplier and SAM to develop a strategic relationship immediately following the conclusion of this Contract and maintaining this relationship throughout the Framework Contract Period.
- 2.2 To achieve this strategic relationship, there will be a requirement to adopt proactive framework management activities which will be informed by quality Management Information, and the sharing of information between the Supplier and SAM.
- 2.3 This Schedule outlines the general structures and management activities that the Parties shall follow during the Framework Contract Period.

## 3. Framework Management

### Framework Management Structure

- 3.1 The Supplier shall provide a suitably qualified nominated contact (the "Supplier Framework Manager") who will take overall responsibility for delivering the Goods and/or Services required within this Contract, as well as a suitably qualified deputy to act in their absence.
- 3.2 The Supplier shall put in place a structure to manage this Contract in accordance with Framework Schedule 1 (*Specification*) and the Framework Performance Measures.
- 3.3 A governance structure will be agreed between the Parties as soon as reasonably practicable following the Framework Start Date.
- 3.4 Following discussions between the Parties following the Framework Start Date, where requested by SAM the Supplier shall produce and issue to

SAM a draft supplier action plan (the "Supplier Action Plan"). SAM shall not unreasonably withhold or delay its agreement to the draft Supplier Action Plan. The Supplier Action Plan shall be agreed between the Parties and come into effect within two weeks from receipt by the Supplier of the draft Supplier Action Plan.

- 3.5 The Supplier Action Plan shall be maintained and updated on an ongoing basis by SAM. Any changes to the Supplier Action Plan shall be notified by SAM to the Supplier. The Supplier shall not unreasonably withhold its agreement to any changes to the Supplier Action Plan. Any such changes shall, unless SAM otherwise approves in writing, be agreed between the Parties and come into effect within two weeks from receipt by the Supplier of SAM's notification.
- 3.6 The Supplier agrees to comply with its obligations in the Supplier Action Plan as updated from time to time.
- 3.7 The Supplier shall comply with all requests from SAM in regard to compliance requirements as required including:
  - 3.7.1 Dun and Bradstreet risk failure score monitoring;
  - 3.7.2 regular evidence that the Required Insurances and Additional Insurances have been renewed and maintained;
  - 3.7.3 invoice payment performance; and
  - 3.7.4 verification of required accreditations & certifications.
- 3.8 Suppliers should participate in Competitive Selection Processes when identified as part of the final bidder list. Failure to bid on further competitions without an acceptable reason may result in the Supplier being suspended from the Framework, in accordance with Clause 13.6 (*Partially ending and suspending the contract*) of the General Terms, for a period as decided by SAM.

#### Supplier Review Meetings

- 3.9 Regular performance review meetings will take place at SAM's premises throughout the Framework Contract Period ("Supplier Review Meetings") at such times and frequencies as SAM determine from time to time (which are anticipated to be at least once a Month). The Parties shall be flexible about the timings of these meetings.
- 3.10 The Supplier Review Meetings will review the Supplier's performance under this Contract and, where applicable, the Supplier's adherence to

the Supplier Action Plan. The agenda for each Supplier Review Meeting shall be set by SAM and sent to the Supplier in advance.

- 3.11 SAM may ask the Supplier to discuss any instances known to the Supplier where any Other Contracting Authority decided not to use this Framework Contract for their order.
- 3.12 The Supplier Review Meetings shall be attended, as a minimum, by SAM Representative(s) and the Supplier Framework Manager.

#### 4. How the Supplier's Performance will be measured

- 4.1 The Supplier's performance will be measured by the following Framework Performance Measures ("FPM"):

| Framework Performance Measure (FPM)                                                                                       | FPM Target | Measured by                                                      |
|---------------------------------------------------------------------------------------------------------------------------|------------|------------------------------------------------------------------|
| <b>Description of Framework Performance Measure</b>                                                                       |            |                                                                  |
| MI returns: All MI returns to be returned to SAM by the 5th Working Day of each month or as otherwise agreed.             | 100        | Confirmation of receipt and time of receipt by the Supplier.     |
| All invoices to be paid within 30 calendar days of issue                                                                  | 100        | Confirmation of receipt and time of receipt by the Supplier.     |
| All suppliers to provide a copy of each completed call-off to SAM within 30 days of being signed by customer and supplier | 100        | Confirmation of receipt and time of receipt by the Supplier.     |
| Suppliers to report metrics for Social Value and Environment initiatives.                                                 | 100        | Metrics to be advised by SAM based on Suppliers Tender Response. |

- 4.2 The Supplier shall comply with the Framework Performance Measures and establish processes to monitor its performance against them and the Supplier's achievement of FPMs shall be reviewed during the Supplier Review Meetings.
- 4.3 SAM reserves the right to adjust, introduce new, or remove FPMs throughout the Framework Contract Period, however any significant changes to FPMs shall be agreed between SAM and the Supplier in accordance with the Variation Procedure.

- 4.4 SAM reserves the right to use and publish the performance of the Supplier against the FPMs without restriction.

**5. What the Supplier must do to measure their performance**

- 5.1 The Supplier shall cooperate in good faith with SAM to develop efficiency tracking performance measures for this Contract. This shall include the following (but this list is not exhaustive and may be developed during the Framework Contract Period):
- 5.1.1 tracking reductions in product volumes and product costs, in order to demonstrate that Buyers are consuming less and buying more smartly;
  - 5.1.2 developing additional FPMs to ensure that this Contract supports the emerging target operating model across central government (particularly in line with centralised sourcing and category management, procurement delivery centres and payment processing systems and shared service centres).
- 5.2 The metrics that are to be implemented to measure efficiency shall be developed and agreed between SAM and the Supplier. Such metrics shall be incorporated into the list of FPMs set out in this Schedule.
- 5.3 The ongoing progress and development of the efficiency tracking performance measures shall be reported through framework management activities as outlined in this Schedule.

**6. What to do if SAM and the Supplier can't agree about the performance**

- 6.1 In the event that SAM and the Supplier are unable to agree the performance score for any FPM during a Supplier Review Meeting, the disputed score shall be recorded and the matter shall be referred to SAM Authorised Representative and the Supplier Authorised Representative in order to determine the best course of action to resolve the matter (which may involve organising an ad-hoc meeting to discuss the performance issue specifically).
- 6.2 In cases where SAM Authorised Representative and the Supplier Authorised Representative fail to reach a solution within a reasonable period of time, the matter shall be referred to the Dispute Resolution Procedure.

## **7. Marketing**

- 7.1 The Supplier shall ensure that a person is appointed as Supplier Marketing Contact who shall be responsible for the marketing obligations of the Supplier in relation to this Contract.

### **How the Supplier must contribute to SAM publications**

- 7.2 The Supplier shall supply current information relating to the Goods and/or Services it offers for inclusion in SAM marketing materials when required by SAM from time to time.
- 7.3 Such information shall be provided in such form and at such time as SAM may request.
- 7.4 Failure to comply with the provisions of Paragraphs 7.2 and 7.3 may result in the Supplier's exclusion from the use of such marketing materials.

### **What Suppliers can say in its own publications**

- 7.5 All marketing materials produced by the Supplier in relation to this Framework shall at all times comply with the SAM branding guidance, which will be supplied upon request.
- 7.6 The Supplier will periodically update and revise its marketing materials to ensure ongoing compliance.
- 7.7 The Supplier shall regularly review the content of any information which appears on its website and which relates to each Contract and ensure that such information is up to date at all times.
- 7.8 The Supplier shall obtain all appropriate approvals prior to publishing any content in relation to a Contract with that Party using any media, including on any electronic medium, and the Supplier will ensure that such content is regularly maintained and updated. In the event that the Supplier fails to maintain or update the content, SAM or the relevant Buyer may give the Supplier notice to rectify the failure and if the failure is not rectified to its reasonable satisfaction within one (1) Month of receipt of such notice, shall have the right to remove such content itself or require that the Supplier immediately arranges the removal of such content.

## **8. Where SAM might oversee parts of the Call-Off Contracts**

- 8.1 SAM shall have oversight of certain processes which are operated under Call-Off Contracts. Such oversight shall be provided in relation to the operation of the following Schedules in each Call-Off Contract:

- 8.1.1 Call-Off Schedule 3 (Continuous Improvement);
  - 8.1.2 Call-Off Schedule 8 (Business Continuity and Disaster Recovery);
  - 8.1.3 the applicable Security Schedule; and
  - 8.1.4 Call-Off Schedule 16 (Benchmarking),
- (the "**Supported Schedules**")

#### **How the Supplier must support SAM involvement**

- 8.2 The Supplier shall co-operate as reasonably required by SAM in relation to the Supported Schedules including:
  - 8.2.1 provision of information;
  - 8.2.2 allowing SAM to act as agent for the Buyers under the Supported Schedules for such matters as SAM may notify to the Supplier from time to time; and
  - 8.2.3 such other matters as SAM may notify to the Supplier from time to time.

#### **Where SAM might manage the process for Buyers collectively**

- 8.3 In addition to general oversight as referred to above the following specific oversight shall apply to the individual Supported Schedules:
  - 8.3.1 Call-Off Schedule 3 (*Continuous Improvement*) - the Supplier shall:
    - (a) adopt a policy of continuous improvement in relation to the Deliverables;
    - (b) create, maintain and update a continuous improvement plan for improving the provision of the Deliverables and/or reducing the Charges and, where requested by SAM, incorporate any improvement identified in accordance with the Variation Procedure.
  - 8.3.2 Call-Off Schedule 8 (*Business Continuity and Disaster Recovery*) - the Supplier shall:
    - (a) create and hold a template BCDR plan that can be used by each Buyer and shall make it available to SAM so that it can be published to potential Buyers; and
    - (b) notify SAM in the event of the invocation or potential invocation of any BCDR plan and the Supplier shall provide

such support as SAM may reasonably require to co-ordinate the application of BCDR plans across all Call Off Contracts.

8.3.3 the applicable Security Schedule - the Supplier shall:

- (a) create and hold a template Security Management Plan that can be used by each Buyer and shall make it available to SAM so that it can be published to potential Buyers; and
- (b) notify SAM in the event of breach of any Security Management Plan and the Supplier shall provide such support as SAM may reasonably require to co-ordinate the application of Security Management Plans across all Call Off Contracts.



# Framework Schedule 5 (Management Charges and Information)

## 1. How to provide management information to SAM

- 1.1 The Supplier shall, at no charge, provide timely, full, accurate and complete MI Reports to SAM which incorporate the data, in the correct format, required by the MI Reporting Template and such guidance that SAM may issue from time to time.
- 1.2 The initial **MI Reporting Template** is set out in the Annex to this Schedule and SAM may change it from time to time (including the data required and/or format) and issue a replacement version. SAM shall give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used. The Supplier may not make any amendment to the current MI Reporting Template without the prior Approval of SAM.

## 2. Reporting period

- 2.1 **MI Reports** must be completed and returned to SAM by the fifth working day of every month during the Framework Contract Period and thereafter until all transactions relating to Call-Off Contracts have permanently ceased. If at any point there is a period of a month where no reportable transactions occur, then a declaration must be made confirming no business has been conducted, in place of data submission.
- 2.2 In a MI Report, the Supplier should report contract data that is one month in arrears. For example, if an invoice is raised for October but the work was actually completed in September, the Supplier must report the invoice in October's MI Report and not September's. Each Order received by the Supplier must be reported only once, i.e. when the Order is received.

## 3. Submitting the information

- 3.1 MI Reports shall be completed electronically and sent to SAM on agreed dates.
- 3.2 MI Reports must be completed in pounds sterling unless SAM has given prior written consent to the use of another currency.
- 3.3 SAM may reasonably require that MI Reports be submitted by an alternative means such as email.

- 3.4 Where requested by SAM, the Supplier shall provide Management Information to a Buyer as specified by SAM.
- 3.5 The Supplier shall:
  - 3.5.1 promptly after the Framework Start Date provide an e-mail and/or postal address to which SAM will send invoices for the Management Charge and monthly statements relating to the invoicing of the Management Charge;
  - 3.5.2 promptly after the Framework Start Date provide at least one contact name and contact details for the purposes of queries relating to either Management Information or invoicing; and
  - 3.5.3 immediately notify SAM of any changes to the details previously provided to SAM under this Paragraph 3.4.

#### **4. How SAM can use the Management Information**

- 4.1 The Supplier grants SAM a non-exclusive, transferable, perpetual, irrevocable, royalty free licence to:
  - 4.1.1 use and to share with any Buyer, Other Contracting Authority and Relevant Person; and/or
  - 4.1.2 publish (subject to any information that is exempt from disclosure in accordance with the provisions of FOIA, being redacted),  
  
any Management Information supplied to SAM for SAM' normal operational activities including administering this Contract and/or all Call-Off Contracts, monitoring public sector expenditure, identifying savings or potential savings and planning future procurement activity.
- 4.2 SAM may consult with the Supplier to inform its decision to publish information. However, SAM shall retain absolute discretion regarding the extent, content and format of any disclosure.
- 4.3 Following receipt of the completed MI Report, SAM shall invoice the Supplier for the Management Charge payable for the Month to which the MI report relates.

#### **5. Paying the Management Charge**

- 5.1 The Management Charge excludes VAT which is payable on provision of a valid VAT invoice.

- 5.2 The Supplier shall pay SAM the Management Charge (and other charges payable in accordance with this Schedule) in cleared funds within 30 days of receipt by the Supplier of an undisputed invoice to such bank or building society account set out in the invoice.

**6. What happens if the Management Charge is not paid?**

- 6.1 Payment of undisputed and valid SAM invoices should be completed within thirty (30) days. SAM may take action on outstanding invoices by:
- 6.1.1 issuing the supplier with reminders that an invoice payment is due and/or overdue;
  - 6.1.2 charging statutory interest and charges on overdue invoices, as per the Late Payment of Commercial Debts (Interest) Act 1998;
  - 6.1.3 suspending the Supplier from the Framework Contract until such time that overdue invoices are paid; and/or
  - 6.1.4 terminating the Contract.

**7. What happens if the Management Information is wrong?**

- 7.1 If the Supplier or SAM identify error(s) and/or omission(s) in historic MI Report(s), the Supplier must provide corrected MI report(s) to SAM on or before the date when the next MI Report is due. Corrections may be either in the form of an addendum to the next MI submission, or a resubmission of existing historic returns, at the discretion of SAM.
- 7.2 Following an **MI Failure**, SAM may issue reminders to the Supplier and require the Supplier to correctly complete the MI Report. The Supplier shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.

**Meetings**

- 7.3 The Supplier agrees to attend meetings between the Parties in person to discuss the circumstances of any MI Failure(s) at the request of SAM. If SAM requests such a meeting the Supplier shall propose and document measures as part of a Rectification Plan to ensure that the MI Failure(s) are corrected and do not occur in the future.

**Admin fees**

- 7.4 If, in any rolling three (3) Month period, two (2) or more MI Failures occur, the Supplier acknowledges and agrees that SAM shall have the right to

invoice the Supplier Admin Fee(s) with respect to any MI Failures as they arise in subsequent Months.

- 7.5 The Supplier acknowledges and agrees that the Admin Fees are a fair reflection of the additional costs incurred by SAM as a result of the Supplier failing to provide Management Information as required by this Contract.

**8. What happens if Management Information Reports are not provided?**

- 8.1 If two (2) MI Reports are not provided in any rolling six (6) month period then an **MI Default** shall be deemed to have occurred and SAM shall be entitled to:
- 8.1.1 charge and the Supplier shall pay a "**Default Management Charge**" in respect of the Months in which the MI Default occurred and subsequent Months in which they continue, calculated in accordance with Paragraph 8.2; and/or
  - 8.1.2 suspend the Supplier from the agreement until such time that deficient MI reports(s) are rectified; and/or
  - 8.1.3 terminate the Contract.
- 8.2 The Default Management Charge shall be the higher of:
- 8.2.1 the average Management Charge paid or payable by the Supplier in the previous six (6) Month period or, if the MI Default occurred within less than six (6) months from the commencement date of the first Call-Off Contract, in the whole period preceding the date on which the MI Default occurred; or
  - 8.2.2 the sum of five hundred pounds (£500).
- 8.3 If the Supplier provides sufficient Management Information to rectify any MI Default(s) to the satisfaction of SAM and the Management Information demonstrates that:
- 8.3.1 the Supplier has overpaid the Management Charge as a result of the application of the Default Management Charge then the Supplier shall be entitled to a refund of the overpayment, net of any Admin Fees where applicable; or
  - 8.3.2 the Supplier has underpaid the Management Charge during the period when a Default Management Charge was applied, then SAM shall be entitled to immediate payment of the balance as a debt together with interest.

## **9. How long do I have to claim any credit note raised against the Management Charge?**

- 9.1 Should a credit note be raised by SAM as a result of an amendment to an original MI Report, then the Supplier shall be entitled to apply (up to the value of the credit note) any credit note issued by SAM against subsequent payments of the Management Charges that are due by the Supplier, provided that the credit note can only be applied against Management Charges that fall due for payment by the Supplier within 12 months of the date the credit note was issued by SAM.
- 9.2 If SAM issues a credit note to the Supplier pursuant to Paragraph 9.1 but there is a £0 balance on the Supplier's account in terms of outstanding Management Charges due to SAM, the Supplier will instead be offered a refund equivalent to the value of the open credit note(s).
- 9.3 If any credit note is not applied by the Supplier within the 12 month period referred to in Paragraph 9.1, or a refund is not accepted by the Supplier pursuant to Paragraph 9.2, it will be cancelled by SAM, and SAM will have no responsibility or liability to issue a new credit note or otherwise to refund the associated credit value to the Supplier.

## **Annex: MI Reporting Template**

A minimum standard template is embedded below.



MI Reporting  
Template.xlsx

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

### Order Form

CALL-OFF REFERENCE: **[Insert]** Buyer's contract reference number]

THE BUYER: **[Insert]** Buyer's name]

BUYER ADDRESS **[Insert]** business address]

THE SUPPLIER: **[Insert]** name of Supplier]

SUPPLIER ADDRESS: **[Insert]** registered address (if registered)]

REGISTRY: **[Insert]** name of register, eg "Companies House"]

REGISTRATION NUMBER: **[Insert]** registration number (if registered)]

**[Buyer Guidance: This Order Form, when completed and executed by both Parties, forms a Call-Off Contract. A Call-Off Contract can be completed and executed using an equivalent document or electronic purchase order system.**

**If an electronic purchasing system is used instead of signing as a hard-copy, text below must be copied into the electronic order form starting from 'APPLICABLE FRAMEWORK CONTRACT' and up to, but not including, the Signature block**

**It is essential that if you, as the Buyer, add to or amend any aspect of any Call-Off Schedule, then you must send the updated Schedule with the Order Form to the Supplier]**

#### APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated **[Insert]** date of issue].

The unique identifier (OCID) for this Framework is **[Insert: the unique identifier (OCID) for the Framework]**].

It's issued under the Framework with the reference number SAM 007 for the provision of RTPi Content Management Systems, Ticket Vending Machines, Electronic Ticket Machines, Accessible Rail Information and Support Units, and Transport and Data Managed Services.

CALL-OFF LOT(S):

**[Insert]** the relevant lot numbers **or insert** Not applicable]

## CALL-OFF INCORPORATED TERMS

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

1. This Order Form including the Call-Off Special Terms.
2. Joint Schedule 1 (*Definitions and Interpretation*) SAM 007
3. Framework Special Terms **[Buyer Guidance:** This will incorporate all of the Framework Special Terms into the Call-Off Contract. This will need to be amended to specify which are included if it is anticipated that some will be excluded. **Remove** this guidance too.]
4. SAM General Terms.
5. The following Schedules in equal order of precedence:

**[Category Guidance: Delete any highlighted Schedule that is not listed in the final Framework Award Form. Add any Joint or Call-Off Schedules that have been added to the final Framework Award Form. You must ensure that all schedules in this list are available to Buyers on the SAM web site, as finalised at Framework award.]**

**[Buyer Guidance: delete any highlighted Schedules that you do not need for this Call-Off Contract. Add any additional Schedule needed, providing it is within scope of the framework agreement. Remove any highlighting remaining before finalising this Order Form. Remove this guidance too.]**

- Joint Schedules for **[Insert framework reference number]**
  - Joint Schedule 2 (Variation Form)
  - Joint Schedule 3 (Insurance Requirements)
  - Joint Schedule 4 (Commercially Sensitive Information)
  - Joint Schedule 5 (Sustainability)
  - **[Joint Schedule 6 (Key Subcontractors)]**
  - **[Joint Schedule 7 (Financial Difficulties)]**
  - **[Joint Schedule 8 (Guarantee)]**
  - Joint Schedule 9 (Rectification Plan)
  - Joint Schedule 10 (Processing Data)

- Call-Off Schedules for **[Insert Call-Off reference number]**
  - Call-Off Schedule 1 (Intellectual Property Rights)
  - Call-Off Schedule 2 (Staff Transfer)
  - Call-Off Schedule 3 (Continuous Improvement)
  - **[Call-Off Schedule 5 (Pricing Details)]**
  - **[Call-Off Schedule 6 (ICT Services)]**
  - **[Call-Off Schedule 7 (Key Supplier Staff)]**
  - **[Call-Off Schedule 8 (Business Continuity and Disaster Recovery)]**
  - **[Call-Off Schedule 9A (Security: Short Form)]**
  - **[Call-Off Schedule 9B (Security: Consultancy)]**
  - **[Call-Off Schedule 9C (Security: Development)]**
  - **[Call-Off Schedule 9D (Security: Supplier-led Assurance)]**
  - **[Call-Off Schedule 9E (Security: Buyer-led Assurance)]**
  - **[Call-Off Schedule 10 (Exit Management)]**
  - **[Call-Off Schedule 11 (Installation Works)]**
  - **[Call-Off Schedule 12 (Clustering)]**
  - **[Call-Off Schedule 13 (Implementation Plan and Testing)]**
  - **[Call-Off Schedule 14 (Performance Levels)]**
  - **[Call-Off Schedule 15 (Call-Off Contract Management)]**
  - **[Call-Off Schedule 16 (Benchmarking)]**
  - **[Call-Off Schedule 17 (MOD Terms)]**
  - **[Call-Off Schedule 18 (Background Checks)]**
  - **[Call-Off Schedule 19 (Scottish Law)]**
  - **[Call-Off Schedule 20 (Call-Off Specification)]**
  - **[Call-Off Schedule 21 (Northern Ireland Law)]**
  - **[Call-Off Schedule 22 (Lease Terms)]**
  - **[Call-Off Schedule 23 (Orders from Welsh Buyers)]**
  - **[Call-Off Schedule 25 (Additional Sustainability Requirements)]**
  - **[Call-Off Schedule 26 (Carbon Reduction)]**
  - **[Call-Off Schedule 27 (Procuring Steel)]**
- 6. **[Call-Off Schedule 4 (Call-Off Tender) as long as any parts of the Call-Off Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.]**

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



## CALL-OFF SPECIAL TERMS

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

**[Insert terms to revise or supplement General Terms, Joint Schedules, Call Off Schedules; or none]**

|                  |   |
|------------------|---|
| [Special Term 1  | ] |
| [Special Term 2. | ] |
| [Special Term 3. | ] |
| [None]           |   |

CALL-OFF START DATE: **[Insert Day Month Year]**

CALL-OFF EXPIRY DATE: **[Insert Day Month Year]**

CALL-OFF INITIAL PERIOD: **[Insert Years, Months]**

## CALL-OFF DELIVERABLES

**[Buyer Guidance: Complete option A or, if Deliverables are too complex for this form, use option B and Call-Off Schedule 20 instead. Delete the option that is not used.]**

**[Option A:** [Name of Deliverable][Quantity][Delivery date][Details]]

**[Option B:** See details in Call-Off Schedule 20 (Call-Off Specification)]

## CALL-OFF CHARGES

**[Buyer Guidance: Use option A or, if charging model is too complex to detail in this form or must be embedded, use option B and Call-Off Schedule 5 instead. Delete the option that is not used.]**

**[Option A: Insert** the Charges for the Deliverables]

**[Option B:** See details in Call-Off Schedule 5 (Pricing Details)]

**[Delete** if not used: All changes to the Charges must use procedures that are equivalent to those in Paragraphs 4, 5 and 6 (if used) in Framework Schedule 3 (Framework Prices)]

**[Delete** if by Award Without Competition or if not otherwise used: The Charges will not be impacted by any change to the Framework Prices. The Charges can only be changed by agreement in writing between the Buyer and the Supplier because of:

- **[Indexation]**
- **[Specific Change in Law]**
- **[Benchmarking using Call-Off Schedule 16 (Benchmarking)]**

## REIMBURSABLE EXPENSES

**[Insert None or insert Recoverable as stated in the Framework Contract]**

## PAYMENT METHOD

**[Insert payment method(s) and necessary details]**

## BUYER'S INVOICE ADDRESS:

**[Insert name]**

**[Insert role]**

**[Insert email address]**

**[Insert address]**

## BUYER'S AUTHORISED REPRESENTATIVE

**[Insert name]**

**[Insert role]**

**[Insert email address]**

**[Insert address]**

## PROGRESS REPORT FREQUENCY

**[Insert report frequency: E.g. on the first Working Day of each calendar month. See Clause 6.1 of the General Terms]**

## PROGRESS MEETING FREQUENCY

**[Insert meeting frequency: E.g. quarterly on the first Working Day of each quarter. See Clause 6.1 of the General Terms]**

## INTELLECTUAL PROPERTY RIGHTS

In accordance with Clause 10.4 of the General Terms, the IPR Option that is applicable to this Call-Off Contract is set out in the Framework Award Form.

**[Or Insert The Buyer wishes to amend the IPR Option to [insert preferred IPR Option]]**

***[Buyer Guidance: you can change the IPR Option from the "default" IPR Option set out in the Framework Award Form where you have made an appropriate risk assessment and sought the necessary management approvals. If you wish to view alternative options available, see details in Call-off Schedule 1 (Intellectual Property Rights). Should you wish to proceed with amending the "default" IPR Option, indicate your preferred IPR Option above]***

## MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract is stated in Clause 14.2 of the General Terms.

***[Buyer Guidance: You can change the cap on liability in Clause 14.2 where you have made an appropriate risk assessment and sought the necessary management approvals. Unlimited liability is not permitted]***

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is **[Insert Estimated Charges in the first 12 months of the Contract. The Buyer must always provide a figure here]**

## BUYER'S ENVIRONMENTAL POLICY

**[Insert details]** [Document name] [version] [date] [available online at:]

**or insert:** [Appended at Call-Off Schedule X]

See Clause 33 of the General Terms]

## ADDITIONAL INSURANCES

**[Insert Not applicable OR**

**or insert** details of Additional Insurances required in accordance with Joint Schedule 3 (Insurance Requirements)]

## COMMERCIALLY SENSITIVE INFORMATION

**[Insert Not applicable or insert Supplier's Commercially Sensitive Information]**

## KEY SUBCONTRACTOR(S)

**[Insert name (registered name if registered)]**

## GUARANTEE

**[Insert Not applicable**

**or insert** The Supplier must have a Call-Off Guarantor to guarantee their performance using the form in Joint Schedule 8 (*Guarantee*)

**or insert** There's a guarantee of the Supplier's performance provided for all Call-Off Contracts entered under the Framework Contract]

## ICT POLICY (IF APPLICABLE)

**[Insert details]** [Document name] [version] [date] [available online at:]

**[For the purposes of Call-Off Schedule 6 (ICT Services) Supplier [is/is not] required to comply with the ICT Policy.]**

**[Guidance: this is relevant for the ICT Services Schedule, if used (see Call-Off Schedule 6). Delete or mark as "Not Used" if not relevant.]**

## QUALITY PLANS

**[Insert Not applicable] OR**

**[If Call-Off Schedule 6 (ICT Services) is used and Quality Plans are to be provided by the Supplier, insert timescales To be provided within X [weeks][months] of the Call-Off Contract Start Date]**

**[Buyer guidance: Please refer to Paragraph 6 of Call-Off Schedule 6 (ICT Services)]**

## MAINTENANCE OF THE ICT ENVIRONMENT

**[Insert Not applicable] OR**

**[If Call-Off Schedule 6 (ICT Services) is used and Maintenance Schedule is to be provided by the Supplier, insert confirmation Maintenance Schedule to be provided by the Supplier [YES][NO]**

**[Buyer Guidance: please refer to Paragraph 8 of Call-Off Schedule 6 (ICT Services)]**

## KEY STAFF AND KEY ROLES

**[Insert name]**

**[Insert role]**

**[Insert email address]**

**[Insert address]**

**[Insert contract details]**

## BUYER'S SECURITY REQUIREMENTS AND ICT POLICY

### SECURITY REQUIREMENTS (IF APPLICABLE)

**[Buyer Guidance: Buyers may include their own security requirements in the Call-Off Order Form, or use one of the optional Security Schedules listed below. See the separate Guidance Document (<https://www.security.gov.uk/policy-and-guidance/contracting-securely/>) about when to use an optional Security Schedule, and what version of the Security Schedule is most appropriate. Buyers can only choose one of the following Security Schedules, which will need to be completed (in line with the Buyer guidance set out in each document) and then referred to in the Call-Off Order Form below. If there are no specific Security Requirements under the Call-Off Contract, include the relevant optional wording below]**

**[There are no Security Requirements for the purposes of this Call-Off Contract] OR  
[The Security Requirements for this Call-Off Contract are set out in: **[Buyer Guidance: Only include one of the following]****

- **Call-Off Schedule 9A (Security: Short Form) [OR]**
- **Call-Off Schedule 9B (Security: Consultancy) [OR]**
- **Call-Off Schedule 9C (Security: Development) [OR]**
- **Call-Off Schedule 9D (Security: Supplier-led Assurance) [OR]**
- **Call-Off Schedule 9E (Security: Buyer-led Assurance) [OR]**
- **The following document(s): [Insert details [Document name] [version] [date] [available online at: [insert address]]. [Buyer Guidance: Where the Supplier will store and process data in the cloud, or use cloud platforms to build and host your services, you should consider requiring the Supplier to (i) document; and (ii) provide on Buyer request how they comply with the 14 Cloud Security Principles available at: <https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles>, both for their own Supplier system and for any cloud services they use.]**

The Buyer's staff vetting requirements are: (i) as set out in the Security Schedule (if used); or (ii) if a Security Schedule is not used, the vetting requirements set out in this Order Form, which are: **[Insert requirements, and whether this is to apply to all Supplier Staff (which includes Subcontractor staff), or only a limited subset of staff]]**; or (iii) if a Security Schedule is not used and there are no vetting requirements specified in the Order Form, Supplier Staff are to have Baseline Personnel Security Standard. **[Buyer Guidance: If the Buyer is not using a Security Schedule and it wants Supplier/Subcontractor staff, or some of these staff, to be subject to a specific type of vetting, the Buyer will need to list the requirements here. The Buyer will need to specify whether it wants this to apply to all Supplier/Subcontractor staff, or just a subset of these (see the specific definitions of "Subcontractor" and "Supplier Staff" in the Security Schedules for an example of what these might be). If the Buyer is not using a Security Schedule and does not want Supplier/Subcontractor Staff to be subject to vetting, the Buyer should also specify that here – otherwise all Supplier Staff (which includes Subcontractor staff) will need to have Baseline Personnel Security Standard.]**

## VIRTUAL LIBRARY

The Supplier shall create the Virtual Library [in accordance with the timescale set out in Paragraph 2 of Call-Off Schedule 10 (Exit Management)][within **[Insert period]** of the **[Effective Date]/[Start Date]**].

## SERVICE CREDITS

**[Insert Not applicable] OR**

**[or insert Service Credits will accrue in accordance with Call-Off Schedule 14 (Performance Levels).**

The Service Credit Cap is: **[Insert £value]**.

The Service Period is: **[Insert duration: one Month]**

A Critical KPI Failure is: **[Buyer to define]**

#### SUPPLIER'S AUTHORISED REPRESENTATIVE

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

#### SUPPLIER'S CONTRACT MANAGER

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

#### SOCIAL VALUE COMMITMENT

[Insert Not applicable or insert The Supplier agrees, in providing the Deliverables and performing its obligations under the Call-Off Contract, that it will comply with the social value commitments in Call-Off Schedule 4 (*Call-Off Tender*) and report on the Social Value KPIs as required by Call-Off Schedule 14 (*Performance Levels*) (if used)]

| For and on behalf of the Supplier: |  | For and on behalf of the Buyer: |  |
|------------------------------------|--|---------------------------------|--|
| Signature:                         |  | Signature:                      |  |
| Name:                              |  | Name:                           |  |
| Role:                              |  | Role:                           |  |
| Date:                              |  | Date:                           |  |

**[Buyer Guidance: execution by seal / deed where required by the Buyer]**

# Call-Off Schedule 1 (Intellectual Property Rights)

## 1. Introduction

- 1.1 This Schedule sets out the IPR Options available to the Buyer under a Call-Off Contract.
- 1.2 Part A of this Schedule sets out the IPR Options that can apply where ICT Services **do not** form part of the Deliverables,



Part A Intellectual  
Property Rights – No

and Part B of this Schedule sets out the IPR Options that can apply where ICT Services **do** form part of the Deliverables.



Part B Intellectual  
Property Rights (ICT S

Only one IPR Option can apply under a Call-Off Contract.

- 1.3 The Buyer and the Supplier acknowledge and agree that the terms of the relevant IPR Option set out in the Framework Award Form (or, if different, the relevant IPR Option set out in the Order Form) shall apply to the Call-Off Contract.

**[Category Guidance: If you feel it appropriate to limit the IPR Options available to Buyers under the Part you have chosen, be sure to delete those that will not be used. Each IPR Option is self-contained and as such, there will be no other impact throughout the contract drafting. Delete this guidance once actioned. Decide whether Part A or Part B apply and remove the other from the Order. ]**

## Annex 1: New IPR And Specially Written Software

| Name of New IPR | Details |
|-----------------|---------|
|                 |         |
|                 |         |

| Name of Specially Written Software | Details |
|------------------------------------|---------|
|                                    |         |
|                                    |         |

**[Guidance: The Buyer should make clear to Suppliers that the New IPR and Specially Written Software which must be recorded in this Annex does not include all forms of IPR which may be created by the Supplier and the Supplier Staff during the completion of their obligations under this Contract. This may need to be updated throughout the life of this Contract. Only New IPR and Specially Written Software which is part of the Deliverables, or is necessary for the use of the Deliverables by the Buyer, or as part of the Buyer's ownership of IPR (depending on which IPR Option in this Schedule is chosen) will need to be recorded here. IPR such as email communications or documents which do not form part of the Deliverables need not be recorded in this Annex.]**

## Annex 2: Form of Confidentiality Undertaking

### CONFIDENTIALITY AGREEMENT

**THIS AGREEMENT** is made on [date] 20

#### **BETWEEN:**

- (1) [insert name] of [insert address] (the “**Sub-licensee**”); and
- (2) [insert name] of [insert address] (the “**Supplier**” and together with the Supplier, the “**Parties**”).

#### **WHEREAS:**

- (A) [insert name of Buyer] (the “**Buyer**”) and the Supplier are party to a contract dated [insert date] (the “**Contract**”) for the provision by the Supplier of [insert brief description of services] to the Buyer.
- (B) The Buyer wishes to grant a sub-licence to the Sub-licensee in respect of certain software and intellectual property rights licensed to the Buyer pursuant to the Contract (the “**Sub-licence**”).
- (C) It is a requirement of the Contract that, before the Buyer grants such sub-licence to the Sub-licensee, the Sub-licensee execute a confidentiality agreement in favour of the Supplier in or substantially in the form of this Agreement to protect the Confidential Information of the Buyer.

#### **IT IS AGREED as follows:**

##### **1 Interpretation**



1.1 In this Agreement, unless the context otherwise requires:

**“Confidential Information”** means:

- (a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Buyer to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:
  - (i) the Supplier; or
  - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;
- (b) the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-licence together with build information, relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Supplier to the Buyer pursuant to or in connection with the Sub-licence;
- (c) other Information provided by the Buyer pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee’s attention or into the Sub-licensee’s possession in connection with the Sub-licence; and
- (d) Information derived from any of the above, but not including any Information that:
- (e) was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Buyer;
- (f) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or

- (g) was independently developed without access to the Information;

**“Information”**

means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

**“Sub-licence”**

has the meaning given to that expression in recital (B) to this Agreement.

1.2 In this Agreement:

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

**2. Confidentiality Obligations**

2.1 In consideration of the Buyer entering into the Sub-licence, the Sub-licensee shall:

- 2.1.1 treat all Confidential Information as secret and confidential;
- 2.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- 2.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or except as expressly set out in this Agreement;

- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom;
- 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- 2.1.6 immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- 2.1.7 upon the expiry or termination of the Sub-licence:
  - (a) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
  - (b) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any computer, word processor, voicemail system or any other device; and
  - (c) make no further use of any Confidential Information.

### 3. Permitted Disclosures

- 3.1 The Sub-licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:
  - 3.1.1 reasonably need to receive the Confidential Information in connection with the Sub-licence; and
  - 3.1.2 have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and
  - 3.1.3 have agreed to terms similar to those in this Agreement.
- 3.2 The Sub-licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub-licensee.
- 3.3 Before making a disclosure pursuant to Clause **Error! Reference source not found.**, the Sub-licensee shall, if the circumstances permit:
  - 3.3.1 notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
  - 3.3.2 ask the court or other public body to treat the Confidential Information as confidential.

#### **4. General**

- 4.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.
- 4.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
  - 4.2.1 to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;
  - 4.2.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
  - 4.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub-licence.
- 4.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 4.4 Without prejudice to any other rights or remedies that the Supplier may have, the Sub-licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub-licensee of any of the provisions of this Agreement. Accordingly, the Sub-licensee acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 4.5 The maximum liability of the Sub-licensee to the Supplier for any breach of this Agreement shall be limited to ten million pounds (£10,000,000).
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.
- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 4.8 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## 5 Notices

5.1 Any notice to be given under this Agreement (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause **Error! Reference source not found.**.

5.2 Any Notice:

5.2.1 if to be given to the Supplier shall be sent to:

[Address]

Attention: [Contact name and/or position, e.g. “The Finance Director”]

5.2.2 if to be given to the Sub-licensee shall be sent to:

[Name of Organisation]

[Address]

Attention: [ ]

## 6. Governing law

6.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.

6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

**IN WITNESS** of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

**For and on behalf of** [name of Supplier]

Signature:

Date:

Name:

Position:

**For and on behalf of** [name of Sub-Licensee]

Signature:

Date:

Name:

Position:

## Call-Off Schedule 2 (Staff Transfer)

If applicable, then the following Terms shall be updated and incorporated:



Staff Transfer Terms

## Call-Off Schedule 3 (Continuous Improvement)

### 1. Buyer's Rights

- 1.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (Framework Management), the Buyer may give SAM the right to enforce the Buyer's rights under this Schedule.

### 2. Supplier's Obligations

- 2.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 2.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 2.3 In addition to Paragraph 2.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of the Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
  - 2.3.1 identifying the emergence of relevant new and evolving technologies;
  - 2.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply

- chain efficiencies, reduction in energy consumption and methods of sale);
- 2.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
  - 2.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 2.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within one hundred (100) Working Days of the first Order or six (6) Months following the Effective Date, whichever is earlier.
  - 2.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of the Contract.
  - 2.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
  - 2.7 If the Buyer wishes to incorporate any improvement into the Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer or SAM.
  - 2.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 2.5:
    - 2.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
    - 2.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.

- 2.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 2.3.
- 2.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 2.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 2.12 At any time during the Contract Period of the Call-Off Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.



## Call-Off Schedule 4 (Call Off Tender)

***[Buyer Guidance: After a competitive selection process, if the Supplier's bid has additional things that you would like included in the contract, insert the Supplier's bid here.]***

***[Insert Call-Off Tender Here]***

## Call-Off Schedule 5 (Pricing Details)

***[Buyer Guidance: This Schedule should be used to show further detailed pricing information, in addition to the pricing in the Order Form]***

## Call-Off Schedule 6 (ICT Services)

### 1. Definitions

- 1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|                                |                                                                                                                                                                                                                                                                                                                |
|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>"Buyer Software"</b>        | any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;                                                                                                                                                           |
| <b>"Emergency Maintenance"</b> | ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;                                                                              |
| <b>"ICT Environment"</b>       | the Buyer System and the Supplier System;                                                                                                                                                                                                                                                                      |
| <b>"Licensed Software"</b>     | all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Call Off Contract, including any COTS Software;                                                                                                          |
| <b>"Maintenance Schedule"</b>  | has the meaning given to it in Paragraph 8 of this Schedule;                                                                                                                                                                                                                                                   |
| <b>"New Release"</b>           | an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item; |
| <b>"Operating Environment"</b> | the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:                                                                                                                                                                        |

- (a) the Deliverables are (or are to be) provided; or
- (b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; or
- (c) where any part of the Supplier System is situated;

**"Permitted Maintenance"** has the meaning given to it in Paragraph 8.2 of this Schedule;

**"Quality Plans"** has the meaning given to it in Paragraph 6.1 of this Schedule; and

**"Sites"** has the meaning given to it in Joint Schedule 1 (Definitions), and for the purposes of this Call Off Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place.

## **2. When this Schedule should be used**

- 2.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Deliverables.

## **3. Buyer due diligence requirement**

- 3.1. The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following;
  - 3.1.1. suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;
  - 3.1.2. operating processes and procedures and the working methods of the Buyer;
  - 3.1.3. ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
  - 3.1.4. existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under the Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.

- 3.2. The Supplier confirms that it has advised the Buyer in writing of:
  - 3.2.1. each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
  - 3.2.2. the actions needed to remedy each such unsuitable aspect; and
  - 3.2.3. a timetable for and the costs of those actions.

#### **4. Licensed software warranty**

- 4.1. The Supplier represents and warrants that:
  - 4.1.1. it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under the Contract including the receipt of the Deliverables by the Buyer;
  - 4.1.2. all components of the Specially Written Software shall:
    - 4.1.2.1. be free from material design and programming errors;
    - 4.1.2.2. perform in all material respects in accordance with the relevant specifications contained in Call Off Schedule 14 (Performance Levels) and Documentation; and
    - 4.1.2.3. not infringe any IPR.

#### **5. Provision of ICT Services**

- 5.1. The Supplier shall:
  - 5.1.1. ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or upgrade;
  - 5.1.2. ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
  - 5.1.3. ensure that the Supplier System will be free of all encumbrances;

- 5.1.4. ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with the Contract; and
- 5.1.5. minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables.

## **6. Standards and Quality Requirements**

- 6.1. The Supplier shall develop, in the timescales specified in the Order Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2. The Supplier shall seek Approval (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by the Contract.
- 6.3. Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans. Any Variation to the Quality Plans shall be agreed in accordance with the Variation Procedure.
- 6.4. The Supplier shall ensure that the Supplier Staff shall at all times during the Call-Off Contract Period:
  - 6.4.1. be appropriately experienced, qualified and trained to supply the Deliverables in accordance with the Contract;
  - 6.4.2. apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
  - 6.4.3. obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.

## **7. ICT Audit**

- 7.1. The Supplier shall allow any auditor access to the Supplier premises to:
  - 7.1.1. inspect the ICT Environment and the wider service delivery environment (or any part of them);

- 7.1.2. review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing; and
- 7.1.3. review the Supplier's quality management systems including all relevant Quality Plans.

## **8. Maintenance of the ICT Environment**

- 8.1. If specified by the Buyer in the Order Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
- 8.2. Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 8.3. The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance.
- 8.4. The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.

## **9. [Supplier-furnished Terms]**

**[Buyer Guidance: Buyer will need to consider whether or not to add some wording stating that the Contract's terms prevail in the event of any inconsistency, even if there is a statement to the contrary effect in the Supplier-furnished terms.]**

**9.1.** In the case of any conflict or inconsistency between any Supplier-furnished terms set out in Paragraphs 9.3 to 9.4 and the terms of the Contract, the Contract shall prevail to the extent of any conflict or inconsistency.

**9.2.** Paragraph 9.1 applies even where there is a statement to the contrary effect in any Supplier-furnished terms.

### **9.3. Software as a service terms**

**9.3.1.** Additional terms for provision of a Software as a service solution are detailed in [insert reference to relevant Schedule].

**9.4. *Software support & maintenance terms***

**9.4.1.** Additional terms for provision of Software support & maintenance services are detailed in [insert reference to relevant Schedule]]

## Call-Off Schedule 7 (Key Supplier Staff)

### 1. Key Supplier Staff

- 1.1 The Order Form lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date.
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on parental leave or long-term sick leave; or
  - 1.4.3 the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;



- 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
  - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom they have replaced.
- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.
- 1.7 The provisions of this Call-Off Schedule 7 (*Key Supplier Staff*) are in addition to and not in substitution for the employment exit provisions of Call-Off Schedule 2 (*Staff Transfer*).

# Call-Off Schedule 8 (Business Continuity and Disaster Recovery)

## 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|                            |                                                                                                            |
|----------------------------|------------------------------------------------------------------------------------------------------------|
| "BCDR Plan"                | has the meaning given to it in Paragraph 2.2 of this Schedule;                                             |
| "Business Continuity Plan" | has the meaning given to it in Paragraph 2.3.2 of this Schedule;                                           |
| "Disaster Recovery Plan"   | has the meaning given to it in Paragraph 2.3.3 of this Schedule;                                           |
| "Related Supplier"         | any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time; |
| "Review Report"            | has the meaning given to it in Paragraph 6.3 of this Schedule; and                                         |
| "Supplier's Proposals"     | has the meaning given to it in Paragraph 6.3 of this Schedule.                                             |

## 2. BCDR Plan

2.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (*Framework Management*), SAM shall have the right to enforce the Buyer's rights under this Schedule.

2.2 Within forty (40) Working Days of the Effective Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:

2.2.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and

2.2.2 the recovery of the Deliverables in the event of a Disaster.

- 2.3 The BCDR Plan shall be divided into the following sections:
- 2.3.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
  - 2.3.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and
  - 2.3.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); [and.
  - 2.3.4 Section 4 which shall relate to an Insolvency Event of the Supplier, and Key-Subcontractors and/or any Supplier Group member (the "**Insolvency Continuity Plan**").]
- 2.4 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

### 3. **General Principles of the BCDR Plan (Section 1)**

- 3.1 Section 1 of the BCDR Plan shall:
- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
  - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
  - 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
  - 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Suppliers in each case as notified to the Supplier by the Buyer from time to time;
  - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
  - 3.1.6 contain a risk analysis, including:

- (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
    - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
    - (c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
    - (d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
    - (e) a business impact analysis of different anticipated failures or disruptions;
  - 3.1.7 provide for documentation of processes, including business processes, and procedures;
  - 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
  - 3.1.9 identify the procedures for reverting to "normal service";
  - 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
  - 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan;
  - 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans;
  - 3.1.13 contain an obligation upon the Supplier to liaise with the Buyer and (at the Buyer's request) any Related Supplier with respect to issues concerning insolvency continuity where applicable; and
  - 3.1.14 detail how the BCDR Plan links and interoperates with any overarching and/or connected insolvency continuity plan of the Buyer and any of its other Related Suppliers in each case as notified to the Supplier by the Buyer from time to time.
- 3.2 The BCDR Plan shall be designed so as to ensure that:

- 3.2.1 the Deliverables are provided in accordance with the Contract at all times during and after the invocation of the BCDR Plan;
- 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
- 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
- 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Framework Performance Measures (FPMs) or Key Performance Indicators, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any Default by the Supplier of the Contract.

#### **4. Business Continuity (Section 2)**

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
  - 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
  - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
  - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
  - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
  - 4.2.3 specify any applicable Framework Performance Measures (FPMs) and/or Key Performance Indicators with respect to the provision of

the business continuity Services and details of any agreed relaxation to the Key Performance Indicators in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and

4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

## **5. Disaster Recovery (Section 3)**

5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.

5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:

5.2.1 loss of access to the Buyer Premises;

5.2.2 loss of utilities to the Buyer Premises;

5.2.3 loss of the Supplier's helpdesk or CAFM system;

5.2.4 loss of a Subcontractor;

5.2.5 emergency notification and escalation process;

5.2.6 contact lists;

5.2.7 staff training and awareness;

5.2.8 BCDR Plan testing;

5.2.9 post implementation review process;

5.2.10 any applicable Framework Performance Measures (FPMs) and/or Key Performance Indicators with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Framework Performance Measures (FPMs) and/or Key Performance Indicators in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;

5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;

5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and

5.2.13 testing and management arrangements.

## **6. Review and changing the BCDR Plan**

6.1 The Supplier shall review the BCDR Plan:

6.1.1 on a regular basis and as a minimum once every six (6) Months;

6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 8; and

6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.

6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.

6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its

submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

## **7. Testing the BCDR Plan**

- 7.1 The Supplier shall test the BCDR Plan:
- 7.1.1 regularly and in any event not less than once in every Contract Year;
  - 7.1.2 in the event of any major reconfiguration of the Deliverables;
  - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
- 7.5.1 the outcome of the test;
  - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and



7.5.3 the Supplier's proposals for remedying any such failures.

7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

## **8. Invoking the BCDR Plan**

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

## **9. Circumstances beyond your control**

The Supplier shall not be entitled to relief under Clause 23 (Circumstances beyond your control) of the General Terms if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

## **10. Insolvency Continuity Plan (Section 4)**

10.1 The Insolvency Continuity Plan shall be designed by the Supplier to permit continuity of the business operations of the Buyer supported by the Deliverables through continued provision of the Deliverables following an Insolvency Event of the Supplier, any Key Sub-contractor and/or any Supplier Group member with, as far as reasonably possible, minimal adverse impact.

10.2 The Insolvency Continuity Plan shall include the following:

10.2.1 communication strategies which are designed to minimise the potential disruption to the provision of the Deliverables, including key contact details in respect of the supply chain and key contact details for operational and contract Supplier Staff, Key Subcontractor personnel and Supplier Group member personnel;

10.2.2 identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the Supplier, Key Subcontractors and Supplier Group members where failure of those dependencies could reasonably have an adverse impact on the Deliverables;

10.2.3 plans to manage and mitigate identified risks;

- 10.2.4 details of the roles and responsibilities of the Supplier, Key Subcontractors and/or Supplier Group members to minimise and mitigate the effects of an Insolvency Event of such persons on the Deliverables;
- 10.2.5 details of the recovery team to be put in place by the Supplier (which may include representatives of the Supplier, Key Subcontractors and Supplier Group members); and
- 10.2.6 sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an Insolvency Event of the Supplier.
- 10.3 Paragraph 3.1.6(c) is amended with the addition of the following words at the end of the Paragraph:

as may be more fully described in the Insolvency Continuity Plan
- 10.4 Add new Paragraph 3.1.15:

3.1.15 set out how the business continuity and disaster recovery elements of the BCDR Plan link to the Insolvency Continuity Plan, and how the Insolvency Continuity Plan links to the business continuity and disaster recovery elements of the BCDR Plan;
- 10.5 Add new Paragraph 8.2:

8.2 The Insolvency Continuity Plan element of the BCDR Plan, including any linked elements in other parts of the BCDR Plan, shall be invoked by the Supplier:

  - 8.2.1 where an Insolvency Event of a Key Sub-contractor and/or Supplier Group member (other than the Supplier) could reasonably be expected to adversely affect delivery of the Deliverables; and/or
  - 8.2.2 where there is an Insolvency Event of the Supplier and the insolvency arrangements enable the Supplier to invoke the plan.

## Call-Off Schedule 9 Security

Buyers may include their own security requirements in the Call-Off Order Form, or use one of the optional Security Schedules listed below. See the separate Guidance Document (<https://www.security.gov.uk/policy-and-guidance/contracting-securely/>) about when to use an optional Security Schedule, and what version of the Security Schedule is most appropriate. Buyers can only choose one of the following Security Schedules, which will need to be completed (in line with the Buyer guidance set out in each document) and then referred to in the Call-Off Order Form:

- Call-Off Schedule 9A (Security: Short Form)



Call-Off Schedule 9A  
(Security Short Form)

- Call-Off Schedule 9B (Security: Consultancy)



Call-Off Schedule 9B  
(Security Consultancy)

- Call-Off Schedule 9C (Security: Development)



Call-Off Schedule C  
(Security Development)

- Call-Off Schedule 9D (Security: Supplier-led Assurance)



Call-Off Schedule 9D  
(Security Supplier-led)

- Call-Off Schedule 9E (Security: Buyer-led Assurance)



Call-Off Schedule 9E  
(Security Buyer-led Assurance)

Please note that certain information will need to be populated/confirmed by Buyers within the provisions of this Schedule in order to reflect the Buyer's own specific policies/requirements – the relevant provisions are highlighted in yellow.

# Call-Off Schedule 10 (Exit Management)

## 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

- "Buyer Property"** the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with the Contract;
- "Ethical Wall Agreement"** an ethical wall agreement in a form similar to the draft ethical wall agreement set out at Annex 2;
- "Exclusive Assets"** Supplier Assets used exclusively by the Supplier [or a Key Subcontractor] in the provision of the Deliverables;
- "Exit Information"** has the meaning given to it in Paragraph 3.1 of this Schedule;
- "Exit Manager"** the person appointed by each Party to manage their respective obligations under this Schedule;
- "Exit Plan"** has the meaning given to it in Paragraph 4.1 of this Schedule;
- "Net Book Value"** the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Framework Tender or Call-Off Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
- "Non-Exclusive Assets"** those Supplier Assets used by the Supplier [or a Key Subcontractor] in connection with the Deliverables but which are also used by the Supplier [or Key Subcontractor] for other purposes;
- "Replacement Goods"** any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods

|                                        |                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                        | following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;                                                                                                                                                                                                                |
| <b>"Replacement Services"</b>          | any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;                                                                       |
| <b>"Termination Assistance"</b>        | the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;                                                                                                                                                        |
| <b>"Termination Assistance Notice"</b> | has the meaning given to it in Paragraph 5.1 of this Schedule;                                                                                                                                                                                                                                                             |
| <b>"Third Party Software"</b>          | Software which is proprietary to any third party (other than an Affiliate of the Supplier) or any Open Source which in any case is, will be or is proposed to be used by the Supplier for the purposes of providing the Services;                                                                                          |
| <b>"Transferable Assets"</b>           | Exclusive Assets which are capable of legal transfer to the Buyer;                                                                                                                                                                                                                                                         |
| <b>"Transferable Contracts"</b>        | Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation; |
| <b>"Transferring Assets"</b>           | has the meaning given to it in Paragraph 8.2.1 of this Schedule;                                                                                                                                                                                                                                                           |
| <b>"Transferring Contracts"</b>        | has the meaning given to it in Paragraph 8.2.3 of this Schedule; and                                                                                                                                                                                                                                                       |
| <b>"Virtual Library"</b>               | the data repository hosted by the Supplier containing the accurate information about the Contract and the Deliverables in                                                                                                                                                                                                  |

accordance with Paragraph 2.2 of this Schedule.

**2. Supplier must always be prepared for contract exit**

- 2.1 The Supplier shall within thirty (30) days from the Effective Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
- 2.2 During the Contract Period, the Supplier shall within thirty (30) days from the Effective Date (or such other period as is specified in the Order Form) create and maintain a Virtual Library containing:
  - 2.2.1 a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
  - 2.2.2 create and maintain a configuration database detailing the technical infrastructure, a schedule of the IPRs (consistent with Annex 1 of Call-Off Schedule 1 (Intellectual Property)) which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Call-Off Schedule 7 (Business Continuity and Disaster Recovery) or Joint Schedule 7 (Financial Difficulties) and operating procedures through which the Supplier provides the Deliverables and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in the Contract and is readily accessible by the Buyer at all times. All information contained in the Virtual Library should be maintained and kept up to date in accordance with the time period set out in the Order Form.
- 2.3 The Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Call-Off Schedule 2 (*Staff Transfer*)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1 and 1.2 of Part E of Call-Off Schedule 2 (*Staff Transfer*).
- 2.4 The Supplier shall:

- 2.4.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and
- 2.4.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.
- 2.5 Each Party shall appoint an Exit Manager within three (3) Months of the Effective Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of the Contract.

### **3. Assisting re-competition for Deliverables**

- 3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any tender notice or associated tender documents and/or to facilitate any potential Replacement Suppliers undertaking due diligence, including, without limitation, such information as is required to be provided under Call-Off Schedule 2 (Staff Transfer) (the "Exit Information").
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable or within such other time limits as may be specified within the Contract and notify the Buyer within five (5) Working Days , or such other time limits as may be specified within the Contract, of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an

informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

- 3.5 The Buyer may require the Supplier to enter into the Ethical Wall Agreement at any point during a re-tendering or contemplated re-tendering of the Deliverables or any part of the Deliverables.
- 3.6 If required to enter into the Ethical Wall Agreement, the Supplier will return a signed copy of the Ethical Wall Agreement within 10 Working Days of receipt. The Supplier's costs of entering into the Ethical Wall Agreement will be borne solely by the Supplier.

#### **4. Exit Plan**

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "**Exit Plan**").
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
  - 4.3.1 how the Exit Information is obtained;
  - 4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under the Contract;
  - 4.3.3 the management structure to be employed during the Termination Assistance Period;
  - 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
  - 4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
  - 4.3.6 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;



- 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
  - 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
  - 4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;
  - 4.3.10 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
  - 4.3.11 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
  - 4.3.12 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
  - 4.3.13 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
  - 4.3.14 proposals for the disposal of any redundant Deliverables and materials;
  - 4.3.15 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
  - 4.3.16 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4 Any charges payable as a result of the Supplier providing Termination Assistance shall, if applicable, be calculated and charged in accordance with Framework Schedule 3 (Framework Prices). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance Services.
- 4.5 The Supplier shall:

4.5.1 maintain and update the Exit Plan:

- (a) no less frequently than every six (6) months throughout the Contract Period; and
- (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
- (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
- (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and

4.5.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.

4.6 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for the Contract.

4.7 A version of an Exit Plan agreed between the Parties shall not be superseded by any draft submitted by the Supplier, even where there is a statement to the contrary in any Supplier-furnished draft.

## 5. Termination Assistance

5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 the start date and initial period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.

- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
- 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and
- 5.2.2 the Buyer shall notify the Supplier of any such extension no later than twenty (20) Working Days prior to the date on which the Termination Assistance Period is otherwise due to expire.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## **6. Termination Assistance Period**

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under the Contract and, if required by the Buyer, provide the Termination Assistance;
- 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
- 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
- 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Framework Performance Measures (FPMs) or Key Performance Indicators, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under the Contract;

- 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
  - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Key Performance Indicators, the Parties shall vary the relevant Key Performance Indicators and/or the applicable Service Credits accordingly.

## **7. Obligations when the contract is terminated**

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
  - 7.2.1 cease to use the Buyer's Data other than Buyer's Data (i) that is Personal Data in respect of which the Supplier is a Controller; and (ii) in respect of which the Supplier has rights to hold the Buyer's Data independently of the Contract;
  - 7.2.2 vacate any Buyer Premises;
  - 7.2.3 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;
  - 7.2.4 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
  - (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.
- 7.3 Except where the Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

## **8. Assets, Sub-contracts and Software**

- 8.1 Following notice of termination of the Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
  - 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
  - 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:
  - 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
  - 8.2.2 which, if any, of:
    - (a) the Exclusive Assets that are not Transferable Assets; and
    - (b) the Non-Exclusive Assets,the Buyer and/or the Replacement Supplier requires the continued use of; and
  - 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
  - 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
  - 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
  - 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
  - 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract.

**9. No charges**

- 9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

**10. Dividing the bills**

- 10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:
- 10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;
- 10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
- 10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

**11. Third Party Rights**

- 11.1 Clause 22.1 (*Other people's rights in a contract*) of the General Terms shall apply to Paragraphs 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of this Schedule, which are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.

## Annex 1: Scope of Termination Assistance

### 1. Scope of Termination Assistance

- 1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
  - 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
  - 1.1.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
  - 1.1.3 providing details of work volumes and staffing requirements over the twelve (12) Months immediately prior to the commencement of Termination Assistance;
  - 1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of twelve (12) Months after the Termination Assistance Period;
  - 1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
  - 1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
  - 1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
  - 1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;
  - 1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;



- 1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Buyer's Data to the Buyer and/or the Replacement Supplier;
- 1.1.11 providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding six (6) Months afterwards for the purpose of the smooth transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:
- (a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
  - (b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;
- 1.1.12 knowledge transfer services, including:
- (a) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Buyer and/or the Replacement Supplier (acting reasonably);
  - (b) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;
  - (c) providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;

- (d) providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and
- (e) allowing the Buyer and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions,

and any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

1.2 The Supplier will:

- 1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.12 for agreement by the Buyer at the time of termination or expiry of the Contract; and
- 1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.7, providing skills and expertise of a suitable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.

1.4 The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1.1.11 shall include:

- 1.4.1 copies of up-to-date procedures and operations manuals;
- 1.4.2 product information;
- 1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and

1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule,

and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:

- (a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
- (b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and

1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

## Annex 2: Draft Ethical Wall Agreement

**Buyer Guidance:** This guidance note is for Buyers that are wider public sector bodies and are not a Central Government Body. The Ethical Wall Agreement set out in Annex 2 below has been designed for use by Central Government Bodies. Any Buyer that are not Central Government Bodies will need to review and update the Buyer details section, the definitions and Clause 5 (Assignment and Novation) of the Draft Ethical Wall Agreement in Annex 2 to reflect their own particular status as a wider public sector body



Draft Ethical Wall  
Agreement

## Call-Off Schedule 11 (Installation Works)

### **1. When this Schedule should be used**

- 1.1. This Schedule is designed to provide additional provisions necessary to facilitate the provision of Deliverables requiring installation by the Supplier.

### **2. How things must be installed**

- 2.1. Where the Supplier reasonably believes, it has completed the Installation Works it shall notify the Buyer in writing. Following receipt of such notice, the Buyer shall inspect the Installation Works and shall, by giving written notice to the Supplier:
  - 2.1.1. accept the Installation Works; or
  - 2.1.2. reject the Installation Works and provide reasons to the Supplier if, in the Buyer's reasonable opinion, the Installation Works do not meet the requirements set out in the Order Form (or elsewhere in the Contract).
- 2.2. If the Buyer rejects the Installation Works in accordance with Paragraph 2.1.2, the Supplier shall immediately rectify or remedy any defects and if, in the Buyer's reasonable opinion, the Installation Works do not, within five (5) Working Days of such rectification or remedy, meet the requirements set out in the Order Form (or elsewhere in the Contract), the Buyer may terminate the Contract for Material Default.
- 2.3. The Installation Works shall be deemed to be completed when the Supplier receives a notice issued by the Buyer in accordance with Paragraph 2.1.1. Notwithstanding the acceptance of any Installation Works in accordance with Paragraph 2.1.1, the Supplier shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the specification in the Order Form (or elsewhere in the Contract). No rights of estoppel or waiver shall arise as a result of the acceptance by the Buyer of the Installation Works.
- 2.4. Throughout the Contract Period, the Supplier shall have at all times all licences, approvals and consents necessary to enable the Supplier and the Supplier Staff to carry out the Installation Works.

## Call-Off Schedule 12 (Clustering)

### 1. When you should use this Schedule

- 1.1 This Schedule is required where various Other Contracting Authorities want to join with the Buyer to efficiently contract collectively under a single Call-Off Contract rather than as separate individual Buyers under separate Call-Off Contracts.

### 2. Definitions

- 2.1 “**Cluster Members**” means a person named as such in the Annex A to this Schedule which shall be incorporated into the Order Form.

### 3. Cluster Members benefits under the Contract

- 3.1 The Buyer has entered into the Call-Off Contract both for its own benefit and for the benefit the Cluster Members.
- 3.2 The Cluster Members who are to benefit under the Call-Off Contract are identified in Annex A to this Schedule which shall be included into Order Form.
- 3.3 Cluster Members shall have all of the rights granted to the Buyer under a Call-Off Contract as if they had been parties to the Call-Off Contract themselves. Accordingly, where the context requires in order to assure the Cluster Members rights and benefits under a Call-Off Contract, and unless the Buyer otherwise specifies, references to the Buyer in a Call-Off Contract (including those references to a Party which are intended to relate to the Buyer) shall be deemed to include a reference to the Cluster Members.
- 3.4 Each of the Cluster Members will be a third party beneficiary for the purposes of the CRTPA and may enforce the relevant provisions of a Call-Off Contract pursuant to CRTPA.
- 3.5 The Parties to a Call-Off Contract may in accordance with its provisions vary, terminate or rescind that Call-Off Contract or any part of it, without the consent of any Cluster Member.
- 3.6 The enforcement rights granted to Cluster Members under Paragraph 3.4 are subject to the following provisions:
  - 3.6.1 the Buyer may enforce any provision of a Call-Off Contract on behalf of a Cluster Member;

- 3.6.2 any claim from a Cluster Member under the CRTPA to enforce a Call-Off Contract shall be brought by the Buyer if reasonably practicable for the Buyer and Cluster Member to do so;
- 3.6.3 the Buyer will ensure that Cluster Members comply with the Dispute Resolution Procedure in respect of any Disputes that involve a Cluster Member; and
- 3.6.4 in respect of any claim(s) to enforce a Call-Off Contract made by the Buyer on behalf of a Cluster Member and to any claim(s) to enforce a Call-Off Contract made by a Cluster Member acting on its own behalf ("**Cluster Member claims**"):
  - (a) any exclusions of the Supplier's liability in the Call-Off Contract shall apply, where applicable, to any Cluster Member claims; and
  - (b) any financial limits on the Supplier's liability in the Call-Off Contract shall apply on a per-Cluster Member basis in respect of the Supplier's liability for any Cluster Member claims, and not on an aggregate basis across all Cluster Members.
- 3.7 Other terms and conditions applicable to the provision of the Deliverables to any Cluster Member are as follows:
  - 3.7.1 if a Cluster Member needs to comply with an obligation or responsibility of the Buyer to allow the Supplier to provide the Deliverables, the Buyer will remain responsible for this compliance, but compliance by the Cluster Member will be deemed to be compliance by the Buyer; and
  - 3.7.2 to the extent that a Cluster Member receives the benefit of the Services, the term "Buyer's Data" will be deemed to extend to any data of the Cluster Member.
- 3.8 Notwithstanding that Cluster Members shall each receive the same Services from the Supplier the following adjustments will apply in relation to how the Call-Off Contract will operate in relation to the Buyer and Cluster Members:
  - 3.8.1 Services will be provided by the Supplier to each Cluster Member and Buyer separately;
  - 3.8.2 the Supplier's obligation in regards to reporting will be owed to each Cluster Member and Buyer separately;

- 3.8.3 the Buyer and Cluster Members shall be entitled to separate invoices in respect of the provision of Deliverables;
- 3.8.4 the separate invoices will correlate to the Deliverables provided to the respective Buyer and Cluster Members;
- 3.8.5 the Charges to be paid for the Deliverables shall be calculated on a per Cluster Member and Buyer basis and each Cluster Member and the Buyer shall be responsible for paying their respective Charges;
- 3.8.6 the Key Performance Indicators and corresponding Service Credits will be calculated in respect of each Cluster Member and Buyer, and they will be reported and deducted against Charges due by each respective Cluster Member and Buyer; and
- 3.8.7 such further adjustments as the Buyer and each Cluster Member may notify to the Supplier from time to time.

## Annex A – Cluster Members

The Deliverables shall also be provided for the benefit of the following Cluster Members:

| Name of Cluster Member | Services to be provided | Duration | Special Terms |
|------------------------|-------------------------|----------|---------------|
| [ ]                    | [ ]                     | [ ]      | [ ]           |
| [ ]                    | [ ]                     | [ ]      | [ ]           |
| [ ]                    | [ ]                     | [ ]      | [ ]           |
| [ ]                    | [ ]                     | [ ]      | [ ]           |

# Call-Off Schedule 13 (Implementation Plan and Testing)

## Part A - Implementation

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**"Delay"**

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

**"Deliverable Item"** an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;

**"Implementation Period"** has the meaning given to it in Paragraph 7.1; and

**"Milestone Payment"** a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone.

### 2. Agreeing and following the Implementation Plan

- 2.1 A draft of the Implementation Plan is set out in the Annex to this Schedule. The Supplier shall provide a further draft Implementation Plan 5 days after the Call-Off Contract Effective Date.

- 2.2 The draft Implementation Plan:

2.2.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require; and



- 2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 2.3 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 2.4 The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.
- 2.5 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Buyer on such performance.

### **3. Reviewing and changing the Implementation Plan**

- 3.1 Subject to Paragraph 3.3, the Supplier shall keep the Implementation Plan under review in accordance with the Buyer's instructions and ensure that it is updated on a regular basis.
- 3.2 The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
- 3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
- 3.4 Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Supplier to comply with the Implementation Plan shall be a Material Default.

### **4. Security requirements before the Start Date**

- 4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Call-Off Start Date. The Supplier shall ensure that this is reflected in the Implementation Plan.
- 4.2 The Supplier shall ensure that all Supplier Staff do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.

- 4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff in accordance with the Buyer's requirements.
- 4.4 The Supplier shall provide the names of all Supplier Staff and inform the Buyer of any alterations and additions as they take place throughout the Call-Off Contract Period.
- 4.5 The Supplier shall ensure that all Supplier Staff requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.
- 4.6 If a property requires Supplier Staff to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.

## **5. What to do if there is a Delay**

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
  - 5.1.1 notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
  - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
  - 5.1.3 comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
  - 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

## **6. Compensation for a Delay**

- 6.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:
  - 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be

suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;

6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:

- (a) the Buyer is also entitled to or does terminate the Contract pursuant to Clause 13.3 (When SAM or the Buyer can end a contract) of the General Terms; or
- (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;

6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the earlier of (i) the date when the Milestone is Achieved and (ii) the end of the Delay Period Limit;

6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and

6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 14 (How much you can be held responsible for) of the General Terms.

## **7. Implementation Plan**

7.1 The Implementation Period will be up to a twelve (12) Month period or as defined by the Buyer, but no less than 12 weeks.

7.2 During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Call-Off Start Date or as otherwise formally agreed with the Buyer. The Supplier's full service obligations shall formally be assumed on the Call-Off Start Date as set out in Order Form.

7.3 In accordance with the Implementation Plan, the Supplier shall:

7.3.1 work cooperatively and in partnership with the Buyer, incumbent supplier, and other Framework Supplier(s), where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;

- 7.3.2 work with the incumbent supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
  - 7.3.3 liaise with the incumbent supplier to enable the full completion of the Implementation Period activities; and
  - 7.3.4 produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 7.4 The Implementation Plan will include detail stating:
- 7.4.1 how the Supplier will work with the incumbent supplier and the Buyer Authorised Representative to capture and load up information such as asset data; and
  - 7.4.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
- 7.5 In addition, the Supplier shall:
- 7.5.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;
  - 7.5.2 mobilise all the Services specified in the Specification within the Call-Off Contract;
  - 7.5.3 produce an Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:
    - (a) the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and
    - (b) the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to

the Buyer, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 7.5.4 manage and report progress against the Implementation Plan;
- 7.5.5 construct and maintain an Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
- 7.5.6 attend progress meetings (frequency of such meetings shall be as set out in the Order Form) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier; and
- 7.5.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent supplier and the Supplier.

## Annex 1: Implementation Plan

The Implementation Plan is set out below and the Milestones to be Achieved are identified below:

| Milestone                                                                                                                                                                                                                    | Deliverable Items | Duration | Milestone Date | Buyer Responsibilities | Milestone Payments | Delay Payments |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|----------|----------------|------------------------|--------------------|----------------|
| [ ]                                                                                                                                                                                                                          | [ ]               | [ ]      | [ ]            | [ ]                    | [ ]                | [ ]            |
| The Milestones will be Achieved in accordance with this Call-Off Schedule 13:<br><i>(Implementation Plan and Testing)</i><br>For the purposes of Paragraph 6.1.2(b) the Delay Period Limit shall be [insert number of days]. |                   |          |                |                        |                    |                |

## Part B - Testing

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|                                    |                                                                                                                                                                                     |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>"Component"</b>                 | any constituent parts of the Deliverables;                                                                                                                                          |
| <b>"Material Test Issue"</b>       | a Test Issue of Severity Level 1 or Severity Level 2;                                                                                                                               |
| <b>"Satisfaction Certificate"</b>  | a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria; |
| <b>"Severity Level"</b>            | the level of severity of a Test Issue, the criteria for which are described in Annex 1;                                                                                             |
| <b>"Test Issue Management Log"</b> | a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;                                                                                      |
| <b>"Test Issue Threshold"</b>      | in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;   |
| <b>"Test Reports"</b>              | the reports to be produced by the Supplier setting out the results of Tests;                                                                                                        |
| <b>"Test Specification"</b>        | the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;       |
| <b>"Test Strategy"</b>             | a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;                                                                                       |

|                                |                                                                                                                |
|--------------------------------|----------------------------------------------------------------------------------------------------------------|
| <b>"Test Success Criteria"</b> | in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule; |
| <b>"Test Witness"</b>          | any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and                                |
| <b>"Testing Procedures"</b>    | the applicable testing procedures and Test Success Criteria set out in this Schedule.                          |

## **2. How testing should work**

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 2.2 The Supplier shall not submit any Deliverable for Testing:
  - 2.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
  - 2.2.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
  - 2.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 2.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 2.4 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

## **3. Planning for testing**

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Effective Date but in any case, no later than twenty (20) Working Days after the Effective Date.
- 3.2 The final Test Strategy shall include:
  - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
  - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;

- 3.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
- 3.2.4 the procedure to be followed to sign off each Test;
- 3.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;
- 3.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;
- 3.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;
- 3.2.8 the technical environments required to support the Tests; and
- 3.2.9 the procedure for managing the configuration of the Test environments.

#### **4. Preparing for Testing**

- 4.1 The Supplier shall develop Test Plans for the relevant Testing as specified in the Implementation Plan and submit these for Approval as soon as practicable but in any case, no later than twenty (20) Working Days prior to the date of the relevant Test.
- 4.2 Each Test Plan shall include as a minimum:
  - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
  - 4.2.2 a detailed procedure for the Tests to be carried out.
- 4.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.

#### **5. Passing Testing**

- 5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.



## **6. How Deliverables will be tested**

- 6.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
- 6.2 Each Test Specification shall include as a minimum:
  - 6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;
  - 6.2.2 a plan to make the resources available for Testing;
  - 6.2.3 Test scripts;
  - 6.2.4 Test pre-requisites and the mechanism for measuring them; and
  - 6.2.5 expected Test results, including:
    - (a) a mechanism to be used to capture and record Test results; and
    - (b) a method to process the Test results to establish their content.

## **7. Performing the tests**

- 7.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 7.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
- 7.3 The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.
- 7.4 The Buyer may raise and close Test Issues during the Test witnessing process.
- 7.5 The Supplier shall provide to the Buyer in relation to each Test:
  - 7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and

- 7.5.2 the final Test Report within 5 Working Days of completion of Testing.
- 7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
  - 7.6.1 an overview of the Testing conducted;
  - 7.6.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
  - 7.6.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
  - 7.6.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
  - 7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 7.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 7.9 If the Supplier successfully completes the requisite Tests, the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with the Contract.

## **8. Discovering Problems**

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent

the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Buyer upon request.

- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

## **9. Test witnessing**

- 9.1 The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 9.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 9.3 The Test Witnesses:
- 9.3.1 shall actively review the Test documentation;
  - 9.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
  - 9.3.3 shall not be involved in the execution of any Test;
  - 9.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
  - 9.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
  - 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 9.4 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

## **10. Auditing the quality of the test**

- 10.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "Testing Quality Audit") subject to the provisions set out in the agreed Quality Plan.
- 10.2 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 10.3 The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 10.4 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 10.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 10.6 In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

## **11. Outcome of the testing**

- 11.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 11.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
  - 11.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
  - 11.2.2 the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
  - 11.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer's other

rights and remedies, such failure shall constitute a Material Default.

- 11.3 The Buyer shall be entitled, without prejudice to any other rights and remedies that it has under the Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.
- 11.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
  - 11.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
  - 11.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 11.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments) of the General Terms.
- 11.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
- 11.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 11.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer's other rights and remedies, such failure shall constitute a Material Default.
- 11.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
  - 11.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification

Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer's report pursuant to Paragraph 10.5); and

11.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

## **12. Risk**

12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:

12.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or

12.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

## Annex 1: Test Issues – Severity Levels

### 1. Severity 1 Error

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

### 2. Severity 2 Error

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

### 3. Severity 3 Error

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

but for which, as reasonably determined by the Buyer, there is a practicable workaround available.

### 4. Severity 4 Error

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

### 5. Severity 5 Error

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

## Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

### Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Call-Off Contract**") [insert Call-Off Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [insert Buyer name] ("**Buyer**") and [insert Supplier name] ("**Supplier**") dated [insert Call-Off Effective Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in the Call-Off Contract.

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

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments) of the General Terms].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]



# Call-Off Schedule 14 (Performance Levels)

## 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**"Critical KPI Failure"** has the meaning given to it in the Order Form;

**"KPI Failure"** a failure to meet the KPI Performance Measure in respect of a Key Performance Indicator;

**"KPI Performance Measure"** shall be as set out against the relevant Key Performance Indicator in the Annex to Part A of this Schedule;

**"KPI Threshold"** shall be as set out against the relevant Key Performance Indicators in the Annex to Part A of this Schedule;

**"Measurement Period"** in relation to a Key Performance Indicator, the period over which the Supplier's performance is measured as set out against the relevant Key Performance Indicator in the Annex to Part A of this Schedule;

**"Performance Monitoring Reports"** has the meaning given in Paragraph 1.2 of Part B of this Schedule; and

**"Performance Review Meetings"** has the meaning given in Paragraph 1.3 of Part B of this Schedule;

**"Service Credits"** any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Key Performance Indicators; and

**"Service Credit Cap"** has the meaning given to it in the Order Form;

## 2. What happens if you don't meet the Key Performance Indicators

2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the KPI Performance Measure for each Key Performance Indicator.

- 2.2 The Supplier acknowledges that any KPI Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any KPI Performance Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a KPI Failure except where:
- 2.4.1 the Supplier has over the previous twelve (12) Month period exceeded the Service Credit Cap; and/or
- 2.4.2 the KPI Failure:
- (a) exceeds the relevant KPI Threshold;
  - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
  - (c) results in the corruption or loss of any Buyer's Data (in which case the indemnity in Clause 17.6.4 of the General Terms and any or all of the other provisions of Clause 17.4 and 17.5 and/or 17.6 of the General Terms may apply); and/or
  - (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
- 2.4.3 the Buyer is also entitled to or does terminate the Contract pursuant to Clause 13.3 (When SAM and the Buyer can end a contract) of the General Terms.

### **3. Critical KPI Failure**

On the occurrence of a Critical KPI Failure:

- 3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical KPI Failure**"),

provided that the operation of this Paragraph 3 shall be without prejudice to the right of the Buyer to terminate the Contract and/or to claim damages from the Supplier for Material Default.

## **Part A: Key Performance Indicators and Service Credits**

### **1. Key Performance Indicators**

If the level of performance of the Supplier:

1.1 is likely to or fails to meet any KPI Performance Measure; or

1.2 is likely to cause or causes a Critical KPI Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a KPI Failure or Critical KPI Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a KPI Failure has occurred, deduct the applicable Service Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical KPI Failure has occurred, exercise its right to Compensation for Critical KPI Failure (including the right to terminate for Material Default and the consequences of termination in Clause 13.4.1 of the General Terms shall apply).

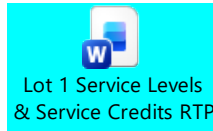
### **2. Service Credits**

2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

## **Annex A to Part A: Key Performance Indicators and Service Credits Table**

The Service Levels for Lot 1 are as detailed within Appendix D of the F7 Lot 1 Section of the Technical Requirements Document (See Framework Schedule 1: Specification) and as embedded below:



### **Key Performance Indicators (“KPIs”) and the Procurement Act 2023**

The Procurement Act 2023 and the Procurement Regulations 2024 set out important provisions for contracts with an estimated value of more than £5 million as follows:

- Section 52(1) of the Procurement Act 2023 requires a Buyer to set at least 3 KPIs unless it considers that KPIs will not appropriately assess a supplier’s performance.
- Section 52(3) of the Procurement Act 2023 requires Buyers to publish all of the KPIs set under section 52(1). In most cases, Buyers will satisfy this by complying with the obligation in section 53(3) of the of the Procurement Act 2023 which says they must publish a copy of any contract with an estimated value of more than £5 million.
- In respect of contract details notices under the Procurement Regulations 2024:
  - o Regulation 32(2)(r) and regulation 35(2)(a) provides that a Buyer must include a description of the 3 KPIs the Buyer regards, at the time the contract details notice is published, as most material to performance of the contract obligations.
  - o Regulation 32(2)(s) and regulation 35(2)(a) instructs Buyers who have deemed KPIs not appropriate for assessing the performance of their contract, to explain why. Section 71(2) of the Procurement Act 2023 requires a Buyer to assess and publish performance against the KPIs at least once in every period of twelve months throughout the life of the contract, and on termination of the contract.
- In respect of contract performance notices under the Procurement Regulations 2024:

- o Regulation 39(4)(d) and (e) provide that a Buyer must include a description of the 3 KPIs that it regards as most material to performance of the contract obligations at the time the contract performance notice is published and a statement that the notice is being used to set out the Buyer's assessment of performance against those 3 KPIs.
- It is worth noting that a Social Value KPI may be one included as one of these 3 KPIs reported in the contract detail notice, and contract performance notices, should a Buyer regard it as most material to performance of the contract at the time.

It is possible that the KPIs selected as the top 3 may change throughout the life of the contract, meaning that those appearing in future contract performance notices may be different to those published at the time of contract award and within the contract details notice.

Buyers should note the exemptions in sections 94 and 99 of the Procurement Act 2023. If a Buyer withholds information under section 94 of the Procurement Act 2023, it must publish the fact that the information is being withheld and which sub-section of section 94 it is being withheld under.

These obligations (and applicable exemptions) on publishing KPIs have been incorporated into the defined term of "Transparency Information" within this contract, and it is expected that performance against any KPIs set under the contract can be published. Buyers should refer to the KPI guidance published on Gov.uk (<https://www.gov.uk/government/publications/procurement-act-2023-guidance-documents-manage-phase/guidance-key-performance-indicators-html>) for further information.

## **Part B: Performance Monitoring**

### **1. Performance Monitoring and Performance Review**

- 1.1 Within twenty (20) Working Days of the Effective Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Key Performance Indicators will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process agreed pursuant to Paragraph 1.1 of Part B of this Schedule and with such frequency as shall be agreed between the Parties pursuant to Paragraph

1.1 to enable the Buyer to assess the Supplier's performance against each Key Performance Indicator in each Measurement Period. The Performance Monitoring Reports shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:

- 1.2.1 for each Key Performance Indicator, the actual performance achieved against the KPI Performance Measure for the relevant Service Period and, where a Measurement Period has ended in the period covered by the Performance Monitoring Report, the most recently ended Measurement Period;
- 1.2.2 a summary of all failures to achieve Key Performance Indicators that occurred during that Service Period;
- 1.2.3 details of any Critical KPI Failures;
- 1.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
- 1.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Key Performance Indicators to which the Service Credits relate; and
- 1.2.6 such other details as the Buyer may reasonably require from time to time.

1.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:

- 1.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
- 1.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
- 1.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.

- 1.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 1.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.
- 1.6 The relevant table in the Annex to Part A of this Schedule describes how the levels of performance under the KPI Performance Measures will be mapped to the performance ratings prescribed under Regulation 39(5) of the Procurement Regulations 2024. The mapping set out in that table will be applied by the Buyer when publishing relevant Transparency Information relating to the Key Performance Indicators and/or the Supplier's performance against the relevant KPIs pursuant to Section 52(3) and/or Section 71(2) of the Procurement Act 2023 and the associated Regulations.
- 1.7 The Supplier acknowledges and agrees that, each time the Buyer conducts an assessment of the Supplier's performance against a Key Performance Indicator, the Buyer may publish information as required by Law in relation to that assessment.

## **2. Satisfaction Surveys**

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

# Call-Off Schedule 15 (Call-Off Contract Management)

## 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|                                   |                                                                              |
|-----------------------------------|------------------------------------------------------------------------------|
| <b>"Operational Board"</b>        | the board established in accordance with Paragraph 4.1 of this Schedule; and |
| <b>"Supplier Project Manager"</b> | the manager appointed in accordance with Paragraph 2.1 of this Schedule.     |

## 2. Project Management

- 2.1 The Supplier and the Buyer shall each appoint a project manager (in the case of the Supplier, such person being the **"Supplier Project Manager"**) for the purposes of the Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of the Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

## 3. Role of the Supplier Project Manager

- 3.1 The Supplier Project Manager shall be:
- 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
  - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Supplier Project Manager's responsibilities and obligations;
  - 3.1.3 able to cancel any delegation and recommence the position themselves; and
  - 3.1.4 replaced only after the Buyer has received notification of the proposed change.



- 3.2 The Buyer may provide revised instructions to the Supplier Project Manager in regards to the Contract and it will be the Supplier Project Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier Project Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

#### **4. Role of the Operational Board**

- 4.1 The Operational Board shall be established by the Buyer for the purposes of the Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in the Order Form.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under the Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

#### **5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Call-Off Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
  - 5.2.1 the identification and management of risks;

- 5.2.2 the identification and management of issues; and
- 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Call-Off Contract which the Buyer and the Supplier have identified.

## Annex 1: Contract Boards

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

***[Buyer Guidance: Details of additional boards to be inserted.]***

# Call-Off Schedule 16 (Benchmarking)

## 1. When you should use this Schedule

- 1.1 The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.
- 1.2 This Schedule sets to ensure the Contract represents value for money throughout and that the Buyer may terminate the Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in Paragraph 2 of this Schedule.
- 1.3 Amounts payable under this Schedule shall not fall with the definition of a Cost.

## 2. Benchmarking

- 2.1 How benchmarking works
  - 2.1.1 The Buyer and the Supplier recognise that, where specified in Framework Schedule 4 (*Framework Management*), the Buyer may give SAM the right to enforce the Buyer's rights under this Schedule.
  - 2.1.2 The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.
  - 2.1.3 The Buyer shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Effective Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
  - 2.1.4 The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
  - 2.1.5 The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing.
  - 2.1.6 Upon its request for a Benchmark Review the Buyer shall nominate a benchmarker. The Supplier must approve the nomination within ten (10) Working Days unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Buyer may propose an alternative benchmarker.

If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.

- 2.1.7 The cost of a benchmarker shall be borne by the Buyer (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Supplier and the relevant portion shall be reimbursed by the Buyer.

## **2.2 Benchmarking Process**

- 2.2.1 The benchmarker shall produce and send to the Buyer, for Approval, a draft plan for the Benchmark Review which must include:
- (a) a proposed cost and timetable for the Benchmark Review;
  - (b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
  - (c) a description of how the benchmarker will scope and identify the Comparison Group.
- 2.2.2 The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.
- 2.2.3 The Buyer must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Supplier whether it approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.

- 2.2.4 Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its agreement to the draft plan.
- 2.2.5 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.

## **2.3 Benchmarking Report**

- 2.3.1 For the purposes of this Schedule "**Benchmarking Report**" shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule.
- 2.3.2 The benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:
- (a) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
  - (b) if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
  - (c) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.
- 2.3.3 The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Buyer in accordance with the Variation Procedure.

## Call-Off Schedule 17 (MOD Terms)

Not Applicable

## Call-Off Schedule 18 (Background Checks)

### When you should use this Schedule.

This Schedule should be used where Supplier Staff involved in the performance of this Contract will, or is likely to, have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care.

### 1. Definitions

In this schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

|                              |                                                                                                                                                                                                                                                                                                 |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>"Relevant Conviction"</b> | for the purposes of this Call-Off Schedule 18 (Background Checks) any conviction listed in Annex 1 to this Schedule; and                                                                                                                                                                        |
| <b>"Relevant Role"</b>       | an activity involved in the performance of the Contract in which the individual performing that role will, or is likely to, have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, as notified by the Buyer to the Supplier. |

### 2. Relationship with other provisions in Contract

- 2.1 The provisions of this Call-Off Schedule 18 (*Background Checks*) apply in addition to any other provisions of the Contract relating to the vetting of Supplier Staff.

### 3. Relevant Convictions and inappropriate records

- 3.1 The Supplier must not, and must ensure that Sub-contractors do not, engage a member of the Supplier Staff in a Relevant Role without Approval where that member of the Supplier Staff:
- 3.1.1 discloses that they have a Relevant Conviction, or is found to have any Relevant Convictions (whether as a result of a police check or

through the procedure of the Disclosure and Barring Service (DBS) or otherwise); or

3.1.2 is found to have an inappropriate records following the completion of the checks required under Paragraph 3.2.

3.2 The Supplier must, and must ensure that Subcontractors, in respect of each member of the Supplier Staff who performs a Relevant Role:

3.2.1 carry out a check with the records held by the Department for Education (DfE);

3.2.2 Conduct thorough questioning regarding any Relevant Convictions; and

3.2.3 ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS).

## Annex 1 – Relevant Convictions

[Insert Relevant Convictions here]

## Call-Off Schedule 19 (Scottish Law)

Where Schedules refer to legislative requirements or Central Government policy that do not apply in Scotland, where this Schedule is used, Buyers may wish to take legal advice on amendments that may be required to the Schedules to reflect Scots Law and Scottish Government policy. For example, in Joint Schedule 5 (Sustainability) certain legislative and policy requirements do not apply in Scotland.

### 1. When you should use this Schedule

- 1.1 This Call-Off Schedule 19 may be included to adapt the General Terms and Schedules so that the Call-Off Contract is under Scottish Law.

### 2. Changes to the General Terms

#### 2.1 Clause 4 (*Pricing and Payments*):

- 2.1.1 Clause 4.4 – The Clause shall be deleted and replaced with "The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the invoice or in the Award Form."

- 2.1.2 Clauses 4.5.1 and 4.6 – Each Clause shall be deleted and replaced with "Not used".

- 2.1.3 Clause 4.10 – The Clause shall be deleted and replaced with "The Supplier must ensure that all Subcontractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment."

- 2.2 Clause 6.12 (*Record keeping and reporting*) – The Clause shall be deleted and replaced with "Not used".

#### 2.3 Clause 8 (*Supply Chain*):

##### 2.3.1 Clause 8.1 (*Appointing Subcontractors*):

- (a) Clause 8.1.1(c) – "assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to the Contract to the Buyer or a Replacement Supplier." shall be replaced by "novate, transfer or enter into assignation of its rights and/or obligations under the



Sub-Contract that relate exclusively to the Contract to the Buyer or a Replacement Supplier.”.

- (b) Clause 8.1.2 – The Clause shall be deleted and replaced with "Not used".

2.3.2 Clause 8.2 (*Mandatory provisions in Sub-Contracts*):

- (a) Each of Clauses 8.2.1 and 8.2.2 shall be deleted and replaced with "Not used".
- (b) Clause 8.2.3(b)(ii) shall be deleted and replaced with "require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and".
- (c) Clause 8.2.3(b)(iii) shall be deleted in its entirety and replaced with "Not used".
- (d) Clause 8.2.4 shall be deleted and replaced with "Not used".

2.4 Clause 9 (*Rights and protection*):

- 2.4.1 Clause 9.7 – “All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer’s benefit by the Supplier for free.” shall be replaced by “The Supplier must enter into assignation of all third party warranties and indemnities covering the Deliverables for the Buyer’s benefit for free.”.

2.5 Clause 22 (*Other people’s rights in a contract*):

2.5.1 Clause 22.1 shall be amended as follows:

- (a) "Contracts (Rights of Third Parties) Act 1999 ("**CRTPA**")" shall be replaced by "Contract (Third Party Rights) (Scotland) Act 2017 ("**CTPRSA**")".
- (b) The reference to "Clauses 4.10, 8.2.3 and 8.2.4" shall be deleted.

2.5.2 Clause 22.2 – References to "CRTPA" shall be replaced by "CTPRSA".

2.5.3 Clause 22.3 – "Except for the provisions of Clauses 4.10, 8.2.3 and 8.2.4, no Third Party Beneficiary may enforce," shall be deleted and replaced with "No Third Party Beneficiary may enforce,".

2.6 Clause 26 (*Transferring responsibilities*):

- 2.6.1 Clause 26.1 – “The Supplier cannot assign, novate or in any other way dispose of the Contract or any part of a Contract without the Relevant Authority's written consent.” shall be replaced by “The Supplier cannot enter into assignation, novation or any other way of disposition of the Contract or any part of a Contract without the Relevant Authority's written consent.”.
- 2.6.2 Clause 26.2 – “The Relevant Authority can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Relevant Authority.” shall be replaced by “The Relevant Authority can enter into assignation, novation or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Relevant Authority.”.
- 2.7 Clause 38 (*Resolving Disputes*):
- 2.7.1 Clause 38.2 – add the following wording: “The governing law and jurisdiction provisions of CEDR’s Model Mediation Agreement shall be deemed to be amended to refer to the laws of Scotland and the Court of Session.”
- 2.7.2 Clause 38.3 - The term “Courts of England and Wales” shall be amended to read “*Court of Session*”
- 2.7.3 Clause 38.4 – Conduct of Arbitration.
- (a) The words “under the London Court of International Arbitration rules current at the time of the Dispute” shall be deleted.
  - (b) The seat or legal place of the arbitration shall be amended so that it takes place in “Edinburgh” as opposed to “London”.
  - (c) Add the following wording “The arbitration shall be conducted in accordance with the Arbitration (Scotland) Act 2010 subject to disapplication in whole or in part of any of the default rules of the Scottish Arbitration Rules comprising Schedule 1 to that Act as the Parties may agree.”
- 2.8 Clause 39 (*Which Laws apply*) – the words “*English Law*” shall be replaced by “*the Law of Scotland*”.

### 3. Changes to the Joint Schedules

3.1 Joint Schedule 1 (*Definitions*) shall be amended as follows:

- 3.1.1 Part (f) of the definition of “Auditor” shall be replaced by “successors or any party that of any of the above that have entered into assignation with any party listed above”.
- 3.1.2 The definition of “CRTPA” shall be replaced by “CTPRSA” the Contract (Third Party Rights) (Scotland) Act 2017”.
- 3.1.3 The definition of EIR shall be amended to add "or the Environmental Information (Scotland) Regulations 2004".
- 3.1.4 In the definition of “Dispute” the reference to “*English law*” shall be replaced by “*the Law of Scotland*” and the reference to the “*English courts*” shall be replaced by the “*courts of Scotland*”.
- 3.1.5 The definition of FOIA shall be amended to add, after "the Freedom of Information Act 2000" the words "or the Freedom of Information (Scotland) Act 2002".
- 3.1.6 In the definition of “Insolvency Event” – the word “Assignment” replaced by “Assignation”.
- 3.1.7 Part (d) of the definition of "Insolvency Event" will be deleted and replaced with "that person has been served with a charge for payment which has expired, and a creditor has been granted an attachment order by a court, which is executed in relation to the property of that person, or such other process is enforced or pursued against the whole or any part of that person’s property". In part (f) of the definition, (f)(iv) will be deleted in its entirety.
- 3.1.8 In part (a) of the definition of “Intellectual Property Rights” the words “Know-How” and “trade secrets” refer to pre-existing know-how and trade secrets only.
- 3.1.9 In the definition of “Losses” the word “tort” shall be replaced with “*delict*”.
- 3.1.10 The definition of "Transparency Information" shall be deleted and replaced with the following wording:

"means:

  - (a) any information permitted or required to be published by the Public Contract (Scotland) Regulations 2015 or Scottish Procurement Policy Notes, subject to any exemptions set

out in the Public Contract (Scotland) Regulations 2015, Section 94 of the Procurement Act 2023 and any regulations published under it or Scottish Procurement Policy Notes (as applicable) which shall be determined by the Buyer taking into account Joint Schedule 4 (*Commercially Sensitive Information*);

- (b) any information about the Contract, including the content of the Contract requested and required to be disclosed under FOIA or the EIRs, and any changes to the Contract agreed from time to time, subject to any relevant exemptions, which shall be determined by the Buyer taking into account Joint Schedule 4 (*Commercially Sensitive Information*); and
- (c) any information which is published in accordance with guidance issued by the Scottish Ministers, from time to time;"

**[Guidance: If the Buyer wishes to publish or disclose any other information into the public domain which isn't currently included in the definition of "Transparency Information" above, the Buyer must add a description of such information into the definition. For example, this would be required if the Buyer is choosing to publish information relating to the performance of the Supplier against any KPI or publish any information contained in any Performance Monitoring Reports (in which case the Buyer should also take into account the Commercially Sensitive Information listed in Joint Schedule 4 (Commercially Sensitive Information) (if any)).]**

3.1.11 In the definition of "Working Day" the words "or public holiday in England and Wales" shall be replaced by "when banks in Edinburgh are open for business".

3.2 Joint Schedule 4 (*Commercially Sensitive Information*) shall be amended as follows:

3.2.1 Paragraph 1.1 – "or under any PPN" shall be deleted and replaced with "or under any relevant Scottish Procurement Policy Note".

3.2.2 Paragraph 1.3 shall be deleted and replaced as follows: "Without prejudice to the Relevant Authority's obligation to disclose

information in accordance with the FOIA, the EIRs, any Scottish Procurement Policy Note or Clause 19 (When you can share information), the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA , the EIRs, any Scottish Procurement Policy Note or Section 94 of the Procurement Act 2023 and any regulations published under it, to the following information

| <b>No.</b> | <b>Date</b>          | <b>Item(s)</b>          | <b>Duration of Confidentiality</b> |
|------------|----------------------|-------------------------|------------------------------------|
|            | <b>[insert date]</b> | <b>[insert details]</b> | <b>[insert duration]</b>           |

3.3 Joint Schedule 6 (*Key Subcontractors*): Where Joint Schedule 6 (*Key Subcontractors*) is selected, Paragraph 1 (*Restrictions on certain subcontractors*) shall be amended as follows:

3.3.1 Paragraph 1.6.2 – The reference to "CRTPA" shall be deleted and replaced with "CTPRSA".

3.3.2 Paragraph 1.6.4 shall be replaced by “a provision enabling the Supplier to enter into assignation, novation or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to SAM and/or the Buyer;”.

3.4 Joint Schedule 8 (*Guarantee*): Where a Guarantee is selected, the following provisions of Joint Schedule 8 (*Guarantee*) shall be amended as follows:

3.4.1 Throughout the whole Schedule and Annex 1 – Form of Guarantee delete all references to “deed of Guarantee” merely express as “Guarantee”.

3.4.2 The following provisions of Joint Schedule 8 (*Guarantee*), Annex 1 - Form of Guarantee shall be amended as follows:

- (a) WHEREAS (B) “deed” replaced by “contract”
- (b) Clause 1.5 shall be replaced by “references to a person are to be construed to include that the Guarantee has person's that it may enter into assignation with or transferees or successors in title, whether direct or indirect;”

- (c) Clause 4.1 Delete references to “England and Wales” when referring to addresses.
- (d) Clause 12 – the word “assignment” shall be amended to “assignation”.
- (e) Clause 14 – “Contract (Rights of Third Parties) Act 1999” shall be amended to “Contract (Third Party Rights) (Scotland) Act 2017”.
- (f) Clause 16 Governing Law (add “and Jurisdiction”). References to “Courts of England” to be replaced by “Courts of Scotland”. References to “English” to be replaced by “Scottish”. References to “England and Wales” to be replaced by “Scotland”.
- (g) Alter execution strip to read as follows:

**IN WITNESS WHEREOF** these presents consisting of this and the preceding [---] pages, together with the schedule in [---] parts [and plan], are executed as follows:

**SUBSCRIBED** for and on behalf of [NAME OF COMPANY] by [a director][the secretary][an authorised signatory] in the presence of a witness on the [DATE] day of [MONTH][YEAR] at [PLACE OF SUBSCRIPTION]:

Signature

Name (block capitals)

[Director][Secretary]

[Authorised Signatory]

Witness signature

Witness name (block capitals)

Witness address

#### 4. Changes to Call-Off Schedules

4.1 Call-Off Schedule 1 (*Intellectual Property Rights*) shall be amended as follows:

- 4.1.1 Throughout the whole Schedule delete all references to "assignment" and replace with "assignation".
- 4.1.2 Throughout the whole Schedule delete all references to "assign in writing" and replace with "enter into an assignation in writing".
- 4.1.3 Throughout the whole Schedule delete all references to "must promptly assign to the Buyer" and replace with "must promptly enter into an assignation to the Buyer".

**[Guidance: The Form of Confidentiality Undertaking in Annex 2 of Call-Off Schedule 1 (*Intellectual Property Rights*) is governed by, and reflects, English Law. Buyers will need to consider if this is suitable for the procurement. Buyers will need to update the Form of Confidentiality Undertaking if it intends for a different governing law to apply to the Form of Confidentiality Undertaking, such as the laws of Scotland.]**

4.2 Call-Off Schedule 2 (Staff Transfer) shall be amended as follows:

- 4.2.1 Part D (Pensions), Paragraph 1 – definition of "Best Value Direction" shall be deleted and replaced with "the statutory guidance published by the Scottish Government on 10 August 2006 under section 52 of the Local Government in Scotland Act 2003 on 'The treatment of employment issues when exercising a power to enter into a contract;".
- 4.2.2 Part D (Pensions), Paragraph 6 (Other people's rights) – references to "CRTPA" shall be replaced with "CTPRSA".

**[Buyer Guidance: The pension schemes referenced in Part D of Call-Off Schedule 2 (Staff Transfer) may not apply where this Schedule is used. Buyers may wish to take advice as to whether these provisions are appropriate, or an alternative is required.]**

4.3 Call-Off Schedule 6 (*ICT Services*): Where Call-Off Schedule 6 (*ICT Services*) is selected, it shall be amended so that Paragraph 3.1.4 (*Buyer due diligence requirement*) shall be replaced by "existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, entered into assignation with or

managed by the Supplier under the Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.”

4.4 Call-Off Schedule 10 (*Exit Management*): Where Call-Off Schedule 10 (*Exit Management*) is selected, it shall be amended as follows:

4.4.1 Paragraph 2.4.2 (Supplier must always be prepared for contract exit) shall be amended to read “procure that all licences for Third Party Software and all Sub-Contracts shall be able to enter into assignation and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.”.

4.4.2 Throughout the whole Schedule delete all references to "assignment" and replace with "assignation".

4.4.3 Paragraph 8.2.3 (*Assets, Sub-contracts and Software*): “...the Buyer requires to be assigned or novated to the Buyer...” shall be replaced by “the Buyer requires an assignation to be entered into or novated to the Buyer...”.

4.4.4 Paragraph 8.6 shall be replaced by “The Supplier shall as soon as reasonably practicable enter into an assignation or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignation.”.

4.4.5 Paragraph 8.7.2 shall be replaced by “once a Transferring Contract is novated or an assignation entered into with the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.”.

4.4.6 Paragraph 8.9 shall be replaced by “The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is as a result of assignation or novation to the Buyer (and/or Replacement



Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (*Other people's rights in a contract*) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CTPRSA.”.

4.4.7 Paragraph 11: "CRTPA" shall be replaced with "CTPRSA".

4.4.8 Paragraph 1.4.4 of Annex 1 (*Scope of Termination Assistance*) shall be replaced by “key support contact details for third party supplier personnel under contracts which are to be novated or an assignment entered into to the Buyer pursuant to this Schedule,”.

4.5 Call-Off Schedule 12 (*Clustering*) – Where Cluster Members want to join with the Buyer to contract collectively under the Call-Off Contract, the following provisions of Call-Off Schedule 12 (*Clustering*) will be amended as follows:

4.5.1 Paragraph 3.4 shall be amended to read "Each of the Service Recipients will acquire a third-party right for the purposes of the CTPRSA and may enforce the relevant provisions of the Contract pursuant to CTPRSA".

4.5.2 Paragraph 3.6.2 shall be amended so that reference to "CRTPA" is replaced with "CTPRSA".

4.6 Call-Off Schedule 14 (*Performance Levels*): Where Call-Off Schedule 14 (*Performance Levels*) is selected shall be amended as follows:

4.6.1 Paragraph 1.1 (Definitions) – definition of "Measurement Period" shall be deleted and replaced with "Not used".

4.6.2 Paragraph 2 (*What happens if you don't meet the Key Performance Indicators*):

(a) Paragraph 2.3 – "to enable the Buyer to Assess the Supplier's performance against each Key Performance Indicator in each Measurement Period" shall be deleted.

(b) Paragraph 2.4.2(b) – The Paragraph shall be deleted and replaced with "has arisen due to a Prohibited Act or wilful Default by the Supplier".

4.6.3 Annex to Part A (*Key Performance Indicators and Service Credits Table*) of Call-Off Schedule 14 (*Performance Levels*):

- (a) Guidance – The Guidance headed "Key Performance Indicators ("KPIs") and the Procurement Act 2023" and "Commercial Playbooks and KPIs" shall be deleted.
- (b) Service Credits Table – The table headed "Key Performance Indicators (KPIs)" shall be deleted in its entirety and replaced with the table below.

| Key Performance Indicators (KPIs)               |                     |                           |               |                                                                                            |
|-------------------------------------------------|---------------------|---------------------------|---------------|--------------------------------------------------------------------------------------------|
| Key Performance Indicator Performance Criterion | Key Indicator       | KPI Performance Measure   | KPI Threshold | Service Credit for each Service Period                                                     |
| [Accurate and timely billing of Buyer           | Accuracy /Timelines | at least 98% at all times | [ ]           | 0.5% Service Credit gained for each percentage under the specified KPI Performance Measure |
| Access to Buyer support                         | Availability        | at least 98% at all times | [ ]           | 0.5% Service Credit gained for each percentage under the specified KPI Performance Measure |
| [Social Value KPI 1]                            | [ ]                 | [ ]                       | [ ]           | [ ]                                                                                        |
| [Social Value KPI 2]                            | [ ]                 | [ ]                       | [ ]           | [ ]                                                                                        |
| [Social Value KPI 3]                            | [ ]                 | [ ]                       | [ ]           | [ ]                                                                                        |

- (c) Guidance – delete Guidance and table with heading "Mapping of levels of performance under the KPI Performance Measures to ratings under Regulation 29(5) of the Procurement Regulations 2024".

4.6.4 Part B: Performance Monitoring of Schedule 14 (*Performance Levels*), Paragraph 1 (*Performance Monitoring and Performance Review*):

- (a) Paragraph 1.2 – "The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process agreed pursuant to Paragraph 1.1 of Part B of this Schedule and with such frequency as shall be agreed between the Parties pursuant to Paragraph 1.1 to enable the Buyer to assess the Supplier's performance against each Key Performance Indicator in each Measurement Period. The Performance Monitoring Reports shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:" shall be deleted and replaced with "The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to Paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:".
- (b) Paragraph 1.2.1 shall be deleted and replaced with "for each Key Performance Indicator, the actual performance achieved over the Key Performance Indicator for the relevant Service Period;".
- (c) Paragraph 1.6 shall be deleted and replaced with "Not used".
- (d) Paragraph 1.7 shall be deleted and replaced with "Not used".

4.7 Call-Off Schedule 22 (*Lease Terms*): Where Call-Off Schedule 22 (*Lease Terms*) is selected, it shall be amended so that Paragraph 8.5 (Limits of Use) shall be replaced by "The Buyer must not allow to exist any lien, assignation nor mortgage pledge or otherwise deal with the Equipment in a manner inconsistent with either the Supplier's interest or the Owner's interest in the Equipment.".

**[Buyer Guidance: Insert any other amendments to the Call-Off Schedules where Scottish Law applies]**

## **5. All Schedules**

- 5.1 The following wording shall be read into each of the Schedules to the Contract, before Paragraph 1: "This is a schedule referred to in the foregoing agreement between [name of party] and [name of party] dated [date].".

## **6. References to Legislation**

- 6.1 Subject to Paragraph 6.2, where legislation applicable to England and Wales only is expressly mentioned in the Call-Off Contract it shall have the effect of substituting the equivalent legislation applicable in Scotland.
- 6.2 References to the Procurement Act 2023 (and any Regulations made under it) that are applicable to "devolved Scottish authorities" (as that term is defined in the Procurement Act 2023) pursuant to Section 115A of the Procurement Act 2023 shall have effect notwithstanding the terms of Paragraph 6.1.

## Call-Off Schedule 20 (Call-Off Specification)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyer under this Call-Off Contract.

**[Insert the Specification and detailed Buyer requirements]**

# Call-Off Schedule 21 (Northern Ireland Law)

## 1. When you should use this Schedule

- 1.1. This Call-Off Schedule 21 may be included to adapt the General Terms and Schedules so that the Call-Off Contract is under Northern Ireland Law.

## 2. Changes to the General Terms

### 2.1 Clause 31 (*Equality, diversity and human rights*)

- 2.1.1 Clause 31.1(a) substitute the following wording: “protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, religious belief or political opinion, disability, sexual orientation, pregnancy, maternity, age or otherwise; and”
- 2.1.2 Clause 31.2 substitute the following wording: “The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Northern Ireland Human Rights Commission (or any successor organisation) when working on the Contract.”

### 2.2 Clause 38 (*Resolving Disputes*)

- 2.2.1 Clause 38.2: substitute the following wording: “If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Dispute Resolution Service (DRS) (administered by the Law Society of Northern Ireland) Code of Practice current time at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by DRS. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 38.3 to 38.5”.
- 2.2.2 Clause 38.3: the term “Courts of England and Wales” shall be amended to read “Courts of Northern Ireland”.
- 2.2.3 Clause 38.4: the seat or legal place of the arbitration shall be amended, so that it takes place in Belfast as opposed to London.
- 2.2 Clause 39 (*Which laws applies*): the term “English Law” shall be replaced with “the Law of Northern Ireland”.

### **3. Changes to the Joint Schedules**

#### **3.1 Joint Schedule 1 (*Definitions*)**

- 3.1.1 “Dispute”: reference to “English law” and “English Courts” to be replaced with “the law of Northern Ireland” and “the courts of Northern Ireland”.
- 3.1.2 “Employment Regulations” substitute the following wording: “the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced and/or the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006 as amended or replaced;”.
- 3.1.3 “Equality and Human Rights Commission”: replace with “The Northern Ireland Human Rights Commission” and substitute definition with: “the Northern Ireland body named as such as may be renamed or replaced by an equivalent body from time to time;”.
- 3.1.4 “Insolvency Event”: reference to section 123 of the Insolvency Act 1986 to be replaced with article 103 of the Insolvency (Northern Ireland) Order 1989, reference to section 222 of the Insolvency Act 1986 to be replaced with article 186 of the Insolvency (Northern Ireland) Order 1989, and reference to a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 to be replaced with Part 1A (inserted by the Corporate Insolvency and Governance Act 2020) of the Insolvency (Northern Ireland) Order 1989.
- 3.1.5 “Prescribed Person” substitute the following wording “a list of prescribed persons to which a whistleblower may make a disclosure is contained within Appendix 1 to the Guide to the Public Interest Disclosure (Northern Ireland) Order 1998;”.
- 3.1.6 “Working Day”: reference to “England and Wales” replaced by “Northern Ireland”.

#### **3.2 Joint Schedule 5 (*Sustainability*)**

- 3.2.1 Paragraph 2.1 substitute the following wording: “In addition to the applicable equality and anti-discrimination legal obligations in Northern Ireland, the Supplier shall support the Buyer in fulfilling its obligations to promote equality of treatment under Section 75 of the Northern Ireland Act 1998 and in a way that seeks to:”.

- 3.2.2 Paragraph 2.1.1 substitute the following wording: “eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Employment Equality (Age) Regulations (Northern Ireland) 2006, Employment Equality (Repeal of Retirement Age) Regulations (Northern Ireland) 2011, The Disability Discrimination Act 1995 (Amendment) Regulations (Northern Ireland) 2004, Sex Discrimination (Northern Ireland) Order 1976 (as amended), Equal Pay Act (Northern Ireland) 1970, Sex Discrimination (Gender Reassignment) Regulations (Northern Ireland) 1999, Race Relations (Northern Ireland) Order 1997, Fair Employment and Treatment (Northern Ireland) Order 1998, Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 and the Civil Partnership Act 2004;”.
- 3.2.3 Paragraph 2.1.2. substitute the following wording: “good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, religious belief or political opinion, sex, sexual orientation, and marriage and civil partnership) and those who do not share it;”.
- 3.2.4 Paragraph 7.1 and 7.2 substitute the wording: "NOT USED".
- 3.3 In Annex 1 to Joint Schedule 8 (*Guarantee*)
- 3.3.1 Clause 4.1: Delete references to “England and Wales” when referring to addresses.
- 3.3.2 Clause 16: change title to Governing Law and Jurisdiction”; references to “Courts of England” to be replaced by “Courts of Northern Ireland”, references to “English law” to be replaced by the “the laws of Northern Ireland”.
- 3.3.3 Clause 16.4: substitute Guidance Note with the following wording:  
***[Buyer Guidance: Include the above provision when dealing with the appointment of a Northern Irish process agent by a non-Northern Irish incorporated Guarantor]***
- 3.3.4 Clause 16.5 substitute the following wording: “[The Guarantor hereby irrevocably designates, appoints and empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in Northern Ireland] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of



process and any other legal summons in Northern Ireland for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]"

#### 4. Changes to the Call-Off Schedules

##### 4.1 Call-Off Schedule 2 (*Staff Transfer*)

**[Guidance: The pension schemes referenced in Part D of Schedule 7 may not apply where this Schedule is used. Buyers may wish to take advice as to whether these provisions are appropriate, or an alternative is required.]**

##### 4.1.1 Paragraph 1 (*Definitions*)

###### (a) "Employee Liability":

- in limb c), substitute the following wording:  
"compensation for discrimination on grounds of sex, race, disability, age, religion or belief, religious belief or political opinion, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;"
- in limb g), substitute the following wording "any investigation by the Northern Ireland Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;"

##### 4.1.2 Part A: Staff Transfer at the Start Date - Transferring Employees from the Buyer to the Supplier

- ###### (a) Paragraph 2.6.1(a) substitute the following wording:
- "any claim for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, religious belief or political opinion, or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or".

- (b) Paragraph 6.1.1 substitute the following wording:  
“the requirements of Part 1 of the Pensions (No 2) Act (Northern Ireland) 2008, article 235 of the Pensions (Northern Ireland) Order 2005 and the Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005 for all transferring staff; and”.

#### 4.1.3 Part B: Staff Transfer at the Start Date - Transfer from a Former Supplier on Re-procurement

- (a) Paragraph 2.7.1(a)(i) substitute the following wording: “for discrimination, including on the grounds of race, sex, disability, age, gender re-assignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, or religious belief or political opinion; or”.
- (b) Paragraph 7.1.1 substitute the following wording: “the requirements of Part 1 of the Pensions (No 2) Act (Northern Ireland) 2008, article 235 of the Pensions (Northern Ireland) Order 2005 and the Transfer of Employment (Pension Protection) Regulations (Northern Ireland) 2005 for all transferring staff; and”.

#### 4.1.4 Part C: No Staff Transfer on the Start Date

- (a) Paragraph 1.8.1(a)(i) substitute the following wording: “for discrimination including on the grounds of sex, race, disability, age, gender re-assignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, religious belief or political opinion;”.

#### 4.1.5 Part D: Pensions

- (a) Paragraph 10.3.2: reference to section 75 and section 75A of the Pensions Act 1995 to be replaced with article 75 and article 75A of the Pensions (Northern Ireland) Order 1975.
- (b) Paragraph 11.3.2: reference to sections 75 and 75A of the Pensions Act 1995 to be replaced with articles 75 and 75A of the Pensions (Northern Ireland) Order 1975 respectively.

#### 4.1.6 Part E: Staff Transfer on Exit

- (a) Paragraph 1.7.7 substitute the following wording: “a complete copy of the information required to meet the

minimum record keeping requirements under the Working Time Regulations (Northern Ireland) 2016 and the National Minimum Wage Regulations 2015; and”

- (b) Paragraph 2.9.1(a)(i) substitute the following wording: “discrimination, including on the grounds of sex, race, disability, age, gender re-assignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, religious belief or political opinion; or”.
- (c) Annex E2: Staffing Information (Pensions) substitute the following wording: “Is the scheme an occupational pension scheme as defined in the Pension Schemes (Northern Ireland) Act 1993?”.

#### 4.2 Call-Off Schedule 18 (*Background Checks*)

- 4.2.1 Paragraph 3.2(c) substitute the following wording: “conduct an “Enhanced” Access NI Check,”.

## Call-Off Schedule 22 (Lease Terms)

**[Should a Buyer seek to Lease rather than Purchase Services or Goods, and the Supplier supports such an approach, then the following Terms will be updated and inserted here:]**



## Call-Off Schedule 23 (Orders from Welsh Buyers)

### 1. When you should use this Schedule

- 1.1. This Call-Off Schedule 23 may be included to adapt the General Terms and Schedules so that the Call-Off Contract covers additional requirements required of a Supplier when an Order is placed by a SAM Member in Wales.

Future Generations Act (Wales) - Well-being of Future Generations (Wales) Act 2015 (<https://www.legislation.gov.uk/anaw/2015/2/contents>)

Welsh Language Act (Wales)

The Welsh Language Act 1993 (the 1993 Act)

(<https://www.legislation.gov.uk/ukpga/1993/38/contents?lang=en>)

The Welsh Language (Wales) Measure 2011

(<https://www.legislation.gov.uk/mwa/2011/1/contents?lang=en>)

## Call-Off Schedule 25 (Additional Sustainability Requirements)

Not Used.

## Call-Off Schedule 26 (Carbon Reduction)

***[Guidance: This schedule will need to be included in your contract if PPN 006 (Taking account of Carbon Reduction Plans) applies to your agreement. You will also need to apply Paragraph 5.2 to 5.4 of Joint Schedule 5 (Sustainability). The content of this Call-off Schedule 26 (Carbon Reduction), is based on PPN 006 (Carbon Reduction Contract Schedule) which aims to support the intent and implementation of PPN 006. If PPN 006 does not apply, then this Schedule (26) and related content in Joint Schedule 5 (Sustainability) can be deleted.]***



Carbon Reduction  
Terms

# Call-Off Schedule 27 (Procuring Steel)

Not Used.

## Framework Schedule 7 (Call-Off Award Procedure)

### Part 1: Order Procedure

#### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**"Award Without Competition "**

the award of a Call-Off Contract without holding a Competitive Selection Process;

**"Competitive Selection Process"**

a Single Stage Competitive Selection Process, a Two Stage Competitive Selection Process or a Multi Stage Competitive Selection Process;

**"Conditions of Participation"**

the conditions of participation (if any) that are specified by the Buyer pursuant to Section 46 of the Procurement Act 2023 in respect of a Competitive Selection Process;

**"Electronic Auction"**

a part of a Competitive Selection Process that involves the use of electronic means for the presentation by Framework Suppliers of either new prices, or new values for quantifiable non-price elements of the relevant tender related to the relevant award criteria, or both, resulting in a ranking or re-ranking of tenders;

**"Multi Stage Competitive Selection Process"**

the multi stage competitive selection process for award of a Call-Off Contract set out in Paragraph 9 of this Schedule;

**"Open Framework"**

an open framework within the meaning of Section 49 of the Procurement Act 2023;

**"Single Stage Competitive Selection Process"**

the single stage competitive selection process for award of a Call-Off Contract set out in Paragraph 7 of this Schedule;

**"Supplier Tender Data"**

those parts of (and/or information contained within) the Framework Tender Response that SAM determines (acting reasonably, but in its sole discretion) a Buyer would reasonably require access to in order to complete the assessment referred to in Paragraph 6.1.2. Such information may include, without limitation, information about the Supplier's solution for provision of the relevant Deliverables, pricing information, service descriptions/commitments and catalogue content; and

**"Two Stage Competitive Selection Process"**

the two stage competitive selection process for award of a Call-Off Contract set out in Paragraph 8 of this Schedule.

**2. How a Call-Off Contract is awarded**

- 2.1 If a potential Buyer decides to source Deliverables through the Framework then it will award its Deliverables in accordance with this Schedule and the requirements of the Procurement Act 2023 and any Regulations made under it.
- 2.2 If the potential Buyer can determine that:
  - 2.2.1 the objective mechanism for supplier selection set out in Annex A (*Award Without Competition: Objective mechanism for supplier selection*) permits the Buyer to make an Award Without Competition to a particular Framework Supplier;
  - 2.2.2 its Deliverables can be met by the relevant Framework Supplier's catalogues and description of the Deliverables as set out in Framework Schedule 1 (*Specification*) and the Supplier Tender Data; and
  - 2.2.3 the core terms of the proposed Call-Off Contract are laid down in the Framework Contract,

then the Buyer may award a Call-Off Contract in accordance with the Award Without Competition procedure set out in Paragraph 6 below.

- 2.3 In circumstances where only one Framework Supplier is party to the Framework (or, where applicable, the relevant lot of the Framework), then the Buyer may award a Call-Off Contract in accordance with the Award Without Competition procedure set out in Paragraph 6, with the exception that Paragraph 6.1.2 shall not apply.
- 2.4 Except where the Buyer is entitled to award a Call-Off Contract in accordance with the Award Without Competition procedure pursuant to Paragraph 2.2 or 2.3, the Buyer must award any Call-Off Contract in accordance with one of the Competitive Selection Processes set out in Paragraph 7, Paragraph 8 and Paragraph 9 below.
- 2.5 Where the Framework is part of a scheme of frameworks under an Open Framework:
  - 2.5.1 unless the Framework is the final framework in the scheme of an Open Framework, any process for the award of a Call-Off Contract under this Schedule that is ongoing at the point of expiry of the Framework can continue, and the Buyer can award the Call-Off Contract under the Framework, despite the expiry of the Framework; and
  - 2.5.2 if the Framework is the final framework in the scheme of an Open Framework, any process for the award of a Call-Off Contract under this Schedule must be completed, and the Call-Off Contract must be entered into with the Supplier, before the expiry of the Framework.

### **3. No requirement to award**

- 3.1 Notwithstanding the fact that the Buyer has followed a Call-Off Procedure for the award of a Call-Off Contract as set out in this Schedule, the Supplier acknowledges and agrees that the Buyer shall be entitled at all times to decline to make an award for its Deliverables and that nothing in the Framework Contract shall oblige the Buyer to award any Call-Off Contract.

### **4. Who is responsible for the award**

- 4.1 The Supplier acknowledges that the Buyer is independently responsible for the conduct of its award of Call-Off Contracts under the Framework Contract and that SAM is not responsible or accountable for and shall have no liability whatsoever, except where it is the Buyer, in relation to:

- 4.1.1 the conduct of the Buyer in relation to the formulation of its required Deliverables and/or the process to award any Call-Off Contract under this Schedule;
- 4.1.2 the conduct of the Buyer in relation to any Call-Off Contract; and/or
- 4.1.3 the performance or non-performance of any Call-Off Contract(s) between the Supplier and Buyer entered into pursuant to the Framework Contract.

## **5. Awarding and creating a Call-Off Contract**

- 5.1 Subject to the terms of this Schedule, a Buyer may award a Call-Off Contract with the Supplier by sending (including electronically) a signed order form substantially in the form (as may be amended or refined by the Buyer in accordance with the relevant terms of this Schedule) of the Order Form Template set out in Framework Schedule 6 (Order Form Template and Call-Off Schedules).
- 5.2 The Parties agree that any document or communication (including any document or communication in the apparent form of a Call-Off Contract) which is not as described in this Paragraph 5 shall not constitute a Call-Off Contract under the Framework.
- 5.3 On receipt of an order form as described in Paragraph 5.1 from a Buyer the Supplier shall accept the Call-Off Contract by promptly signing and returning (including by electronic means) a copy of the order form to the Buyer concerned.
- 5.4 On receipt of the countersigned Order Form from the Supplier, the Buyer shall send (including by electronic means) a written notice of receipt to the Supplier within two (2) Working Days and the Call-Off Contract shall be formed with effect from the Call-Off Start Date stated in the Order Form.

## **6 How an Award Without Competition works**

- 6.1 Subject to Paragraph 2.2 and 2.3 above, if the Buyer is awarding a Call-Off Contract under the Framework without holding a Competitive Selection Process the Buyer shall:
  - 6.1.1 develop a clear Statement of Requirements;
  - 6.1.2 apply the Award Without Competition criteria (as set out in Annex A (Award Without Competition: Objective mechanism for supplier selection)) to the Framework Suppliers' catalogues and



description of the Deliverables as set out in Framework Schedule 1 (Specification) and the Supplier Tender Data for all Framework Suppliers capable of meeting the Statement of Requirements in order to establish which Framework Supplier provides the solution that (a) satisfies the Buyer's requirements, and (b) best satisfies the Award Without Competition criteria as set out in Annex A (Award Without Competition: Objective mechanism for supplier selection);

6.1.3 determine if the Framework Supplier is an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023; and only proceed with the award if the Supplier is not an excluded supplier; and

6.1.4 on the basis set out above, award the Call-Off Contract to the successful Framework Supplier in accordance with Paragraph 5 above.

## **7. How a Single Stage Competitive Selection Process works**

### **What the Buyer has to do**

7.1 The Buyer awarding a Call-Off Contract under the Framework through a Single Stage Competitive Selection Process shall:

7.1.1 develop a Statement of Requirements setting out its requirements for the Deliverables;

7.1.2 identify (i) (where applicable) the relevant lot of the Framework that applies to the required Deliverables and (ii) all of the Framework Suppliers that are eligible to be awarded a Call-Off Contract in respect of the required Deliverables (which, where applicable, will only be the Frameworks Suppliers appointed under the identified lot). All of the Framework Suppliers identified pursuant to this Paragraph 7.1.2 must be invited to submit a tender pursuant to Paragraph 7.1.4;

7.1.3 amend or refine the Deliverables to reflect its requirements by using the Order Form only to the extent permitted by and in accordance with the requirements of the Procurement Act 2023 and any regulations made under it;

7.1.4 invite tenders by conducting a Single Stage Competitive Selection Process for its Deliverables in accordance with the Procurement Act 2023 and any Regulations made under it and in particular:

- (a) if an Electronic Auction is to be held, the Buyer shall notify the Framework Suppliers identified in accordance with Paragraph 7.1.2 and shall conduct the Single Stage Competitive Selection Process in accordance with the procedures set out in Paragraph 7; or
- (b) if an Electronic Auction is not used, the Buyer shall:
  - (i) if Conditions of Participation are used, include any Conditions of Participation, set in accordance with Section 46 of the Procurement Act 2023, in its invitation to Framework Suppliers;
  - (ii) invite the Framework Suppliers identified in accordance with Paragraph 7.1.2 to submit a tender in writing for each proposed Call-Off Contract to be awarded by giving written notice by email to the relevant Framework Supplier representative of each Framework Supplier;
  - (iii) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed Call-Off Contract and the time needed to submit tenders; and
  - (iv) keep each tender confidential until the time limit set out for the return of tenders has expired;

7.1.5 following receipt of tenders:

7.1.5.1 determine if any identified Framework Supplier is an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023; and

7.1.5.2 exclude from participating further any excluded Framework Suppliers, and determine if it will exclude from participating further any excludable Framework Suppliers in accordance with the Procurement Act 2023;

- 7.1.6 if Conditions of Participation are used, assess which Framework Suppliers satisfy the Conditions of Participation set, and exclude any Framework Suppliers who do not satisfy one or more of those Conditions of Participation;
- 7.1.7 apply the Single Stage Competitive Selection Process Award Criteria (set out in Annex B) to the remaining Framework Suppliers' compliant tenders submitted through the Single Stage Competitive Selection Process as the basis of its decision to award a Call-Off Contract for its Deliverables;
- 7.1.8 on the basis set out above, award its Call-Off Contract to the successful Framework Supplier in accordance with Paragraph 5. The Call-Off Contract shall:
  - (a) state the Deliverables;
  - (b) state the tender submitted by the successful Framework Supplier;
  - (c) state the charges payable for the Deliverables in accordance with the tender submitted by the successful Framework Supplier; and
  - (d) incorporate the terms of the Order Form and Contract (as may be amended or refined by the Buyer in accordance with Paragraph 7.1.3 above) applicable to the Deliverables; and
- 7.1.9 provide unsuccessful Framework Suppliers with written feedback in relation to the reasons why their tenders were unsuccessful.

#### **What the Supplier has to do**

- 7.2 The Supplier shall in writing, by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 7.1.4 above, provide the Buyer with either:
  - 7.2.1 a statement to the effect that it does not wish to tender in relation to the Deliverables; or
  - 7.2.2 the full details of its tender made in respect of the relevant Statement of Requirements. In the event that the Supplier submits such a tender, it should include, as a minimum:

- (a) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier;
  - (b) a brief summary, in the email (followed by a confirmation letter), stating that the Supplier is bidding for the Statement of Requirements;
  - (c) a proposal covering the Deliverables;
  - (d) CVs of key staff – as a minimum any lead consultant, with others, as considered appropriate along with required staff levels (if necessary); and
  - (e) confirmation of discounts applicable to the Deliverables, as referenced in Framework Schedule 3 (Framework Prices) (if applicable).
- 7.3 The Supplier shall ensure that any prices submitted in relation to a Single Stage Competitive Selection Process held pursuant to this Paragraph 7 shall be based on the charging structure and take into account any discount to which the Buyer may be entitled as set out in Framework Schedule 3 (Framework Prices).
- 7.4 The Supplier agrees that:
  - 7.4.1 its failure to respond by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 7.1.4 above will be treated as a statement to the effect that it does not wish to tender in relation to the Deliverables;
  - 7.4.2 all tenders submitted by the Supplier in relation to a Single Stage Competitive Selection Process held pursuant to this Paragraph 7 shall remain open for acceptance by the Buyer for ninety (90) Working Days (or such other period specified in the invitation to tender issued by the Buyer in accordance with the Call-Off Procedure); and
  - 7.4.3 all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
    - (a) communicate to any person other than the person inviting these tenders the amount or approximate amount of the

tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and

- (b) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

## 8. How a Two Stage Competitive Selection Process works

### What the Buyer has to do – First Stage

#### 8.1 The Buyer awarding a Call-Off Contract under the Framework through a Two Stage Competitive Selection Process shall:

- 8.1.1 develop a Statement of Requirements setting out its requirements for the Deliverables;
- 8.1.2 identify (i) (where applicable) the relevant lot of the Framework that applies to the required Deliverables and (ii) all of the Framework Suppliers that are eligible to be awarded a Call-Off Contract in respect of the required Deliverables (which, where applicable, will only be the Frameworks Suppliers appointed under the identified lot). All of the Framework Suppliers identified pursuant to this Paragraph 8.1.2 must be invited to participate in the Competitive Selection Process pursuant to Paragraph 8.1.4;
- 8.1.3 amend or refine the Deliverables to reflect its requirements by using the Order Form only to the extent permitted by and in accordance with the requirements of the Procurement Act 2023 and any Regulations made under it;
- 8.1.4 invite the Framework Suppliers identified in accordance with Paragraph 8.1.2 to submit a request to participate in accordance with the Procurement Act 2023 and any Regulations made under it and in particular:
  - 8.1.4.1 invite the Framework Suppliers identified in accordance with Paragraph 8.1.2 to submit a request to participate for each proposed Call-Off Contract to be awarded by giving written notice by email to the relevant Framework Supplier representative of each Framework Supplier;
  - 8.1.4.2 set a time limit for the receipt by it of requests to participate which takes into account factors such as the

complexity of the subject matter of the proposed Call-Off Contract and the time needed to submit requests to participate; and

8.1.4.3 include in its request to participate document any Conditions of Participation set in accordance with Section 46 of the Procurement Act 2023 which the Framework Suppliers must meet in order to proceed to the next stage of the Two Stage Competitive Selection Process;

8.1.5 following receipt of requests to participate:

8.1.5.1 determine if any identified Framework Supplier is an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023; and

8.1.5.2 exclude from participating further any excluded Framework Suppliers, and determine if it will exclude from participating further any excludable Framework Suppliers in accordance with the Procurement Act 2023 and any Regulations made under it;

8.1.6 assess which Framework Suppliers satisfy the Conditions of Participation set by applying the process described in its invitation to participate document to select the Framework Suppliers invited to submit tenders, and exclude any Framework Suppliers who do not satisfy one or more of those Conditions of Participation; and

8.1.7 provide unsuccessful Framework Suppliers with written feedback in relation to the reasons why their requests to participate were unsuccessful.

### **What the Supplier has to do – First Stage**

8.2 The Supplier shall in writing, by the time and date specified by the Buyer following an invitation to participate pursuant to Paragraph 8.1.4 above, provide the Buyer with either:

8.2.1 a statement to the effect that it does not wish to participate in relation to the Deliverables; or

8.2.2 its full response to the Buyer's invitation to participate. In the event that the Supplier submits such a request, it should include, as a minimum:

- (a) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier;
- (b) a brief summary, in the email (followed by a confirmation letter), stating that the Supplier is requesting to participate for the Statement of Requirements; and
- (c) a proposal covering the Supplier's satisfaction of the Conditions of Participation set.

#### What the Buyer has to do – Second Stage

8.3 Following the Buyer's assessment of those Suppliers who remain capable of supplying the Deliverable following the first stage of the Two Stage Competitive Selection Process as set out in Paragraphs 8.1 and 8.2, the Buyer awarding a Call-Off Contract under the Framework through a Two Stage Competitive Selection Process shall:

8.3.1 invite tenders from the remaining Framework Suppliers and in particular:

- (a) if an Electronic Auction is to be held, the Buyer shall notify the remaining Framework Suppliers and shall conduct the Two Stage Competitive Selection Process in accordance with the procedures set out in this Paragraph 8.3; or
- (b) if an Electronic Auction is not used, the Buyer shall:
  - (i) invite the remaining Framework Suppliers to submit a tender in writing for each proposed Call-Off Contract to be awarded by giving written notice by email to the relevant Framework Supplier representative of each Framework Supplier;
  - (ii) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed Call-Off Contract and the time needed to submit tenders; and
  - (iii) keep each tender confidential until the time limit set out for the return of tenders has expired;

8.3.2 apply the Two Stage Competitive Selection Process Award Criteria (set out in Annex C) to the remaining Framework Suppliers' compliant tenders submitted through the Two Stage Competitive

Selection Process as the basis of its decision to award a Call-Off Contract for its Deliverables;

8.3.3 on the basis set out above, award its Call-Off Contract to the successful Framework Supplier in accordance with Paragraph 5. The Call-Off Contract shall:

- (a) state the Deliverables;
- (b) state the tender submitted by the successful Framework Supplier;
- (c) state the charges payable for the Deliverables in accordance with the tender submitted by the successful Framework Supplier; and
- (d) incorporate the terms of the Order Form and Contract (as may be amended or refined by the Buyer in accordance with Paragraph 8.1.3 above) applicable to the Deliverables; and

8.3.4 provide unsuccessful Framework Suppliers with written feedback in relation to the reasons why their tenders were unsuccessful.

#### **What the Supplier has to do – Second Stage**

8.4 The Supplier shall in writing, by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 8.3.1 above, provide the Buyer with either:

8.4.1 a statement to the effect that it does not wish to tender in relation to the Deliverables; or

8.4.2 the full details of its tender made in respect of the relevant Statement of Requirements. In the event that the Supplier submits such a tender, it should include, as a minimum:

- (a) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier;
- (b) a brief summary, in the email (followed by a confirmation letter), stating that the Supplier is bidding for the Statement of Requirements;
- (c) a proposal covering the Deliverables;



- (d) CVs of key staff – as a minimum any lead consultant, with others, as considered appropriate along with required staff levels (if necessary); and
  - (e) confirmation of discounts applicable to the Deliverables, as referenced in Framework Schedule 3 (*Framework Prices*) (if applicable).
- 8.5 The Supplier shall ensure that any prices submitted in relation to a Two Stage Competitive Selection Process held pursuant to this Paragraph 8 shall be based on the charging structure and take into account any discount to which the Buyer may be entitled as set out in Framework Schedule 3 (*Framework Prices*).
- 8.6 The Supplier agrees that:
  - 8.6.1 its failure to respond by the time and date specified by the Buyer following a request to participate pursuant to Paragraph 8.1.4 above or an invitation to tender pursuant to Paragraph 8.3.1 above will be treated as a statement to the effect that it does not wish to participate or tender in relation to the Deliverables;
  - 8.6.2 all tenders submitted by the Supplier in relation to a Two Stage Competitive Selection Process held pursuant to this Paragraph 8 shall remain open for acceptance by the Buyer for ninety (90) Working Days (or such other period specified in the invitation to tender issued by the Buyer in accordance with the Call-Off Procedure); and
  - 8.6.3 all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
    - (a) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and
    - (b) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

## **9. How a Multi Stage Competitive Selection Process works**

### **The Buyer's Procedure for Running a Multi Stage Competitive Selection Process**

- 9.1 The Buyer awarding a Call-Off Contract under the Framework through a Multi Stage Competitive Selection Process shall:
- 9.1.1 undertake the mandatory modular stages (as set out in Paragraph 9.3 and 9.10) and may choose to undertake one or more of the optional modular stages set out below;
  - 9.1.2 determine the sequencing of each modular stage for their Multi Stage Competitive Selection Process;
  - 9.1.3 set out in their tender pack to Framework Suppliers the detail of each stage, including the purpose of each stage and the part that stage will play in the award decision, if any. If a modular stage is being used to reduce the number of Framework Suppliers that progress to a subsequent stage in the Multi Stage Competitive Selection Process, then how that stage will be used to select the Framework Suppliers that progress to the next stage must be expressly stated in the tender pack (including the assessment method and criteria to be used to evaluate price and quality at any modular stage(s)), which must be based on the Multi Stage Competitive Selection Process Award Criteria (Annex D), together with a timetable for the procedure);
  - 9.1.4 run their Multi Stage Competitive Selection Process in compliance with the Procurement Act 2023 and any regulation made under it, the procedure set out in this Schedule and the information set out in their tender pack; and
  - 9.1.5 only proceed with a Multi Stage Competitive Selection Process if they are satisfied that the Multi Stage Competitive Selection Process designed for awarding their Call-Off Contract is compliant with the Procurement Act 2023 and any regulations made under it, having considered and determined that their chosen procedure is a proportionate means of assessing tenders having regard to the nature, complexity and cost of the Call-Off Contract and having had regard to the Procurement Objectives set out at Section 12 of the Procurement Act 2023 and any regulations made under it.
- 9.2 The Buyer shall notify unsuccessful Framework Suppliers and provide unsuccessful Framework Suppliers with written feedback.

## **Module 1 - Initial Mandatory Stages of a Multi Stage Competitive Selection Process**

### **9.3 The Buyer shall:**

- 9.3.1 develop a Statement of Requirements setting out its requirements for the Deliverables;
- 9.3.2 identify (i) (where applicable) the relevant lot of the Framework that applies to the required Deliverables and (ii) all of the Framework Suppliers that are eligible to be awarded a Call-Off Contract in respect of the required Deliverables (which, where applicable, will only be the Frameworks Suppliers appointed under the identified lot). All of the Framework Suppliers identified pursuant to this Paragraph 9.3.2 must be sent a tender pack pursuant to Paragraph 9.3.4;
- 9.3.3 amend or refine the Deliverables to reflect its requirements by using the Order Form only to the extent permitted by and in accordance with the requirements of the Procurement Act 2023 and any regulations made under it;
- 9.3.4 send out its tender pack by giving written notice by email to the relevant Framework Supplier representative of each Framework Supplier identified in accordance with Paragraph 9.3.2; and
- 9.3.5 following receipt of requests to participate or requests to tender, whichever is earlier depending on the Multi Stage Competitive Selection Process designed, determine if any identified Framework Supplier is an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023 and exclude from participating further any excluded Framework Suppliers, and determine if it will exclude from participating further any excludable Framework Suppliers in accordance with the Procurement Act 2023 and any Regulations made under it.

## **Module 2 - Conditions of Participation Assessment (Optional)**

### **9.4 If a Buyer chooses to undertake a Conditions of Participation stage:-**

#### **9.4.1. The Buyer shall:**

- (a) include in its tender pack any Conditions of Participation set in accordance with Section 46 of the Procurement Act

2023, which the Framework Suppliers must meet in order to proceed to the next stage; and

- (b) undertake an assessment of the Framework Suppliers' responses by applying the process described in its tender pack to select the Framework Suppliers invited to participate in the next stage of the Multi Stage Competitive Selection Process.

9.4.2 The Buyer may exclude any Framework Supplier that does not satisfy a Condition of Participation from participating in, or progressing as part of, the Multi Stage Competitive Selection Process, or the Buyer may allow the Framework Supplier to continue in the process while the Framework Supplier seeks to meet the Conditions of Participation before the Call-Off Contract is awarded.

9.4.3 A Framework Supplier must satisfy the Conditions of Participation in order to be awarded a Call-Off Contract.

### **Module 3 - Tendering Stage (Optional)**

9.5 If a Buyer chooses to undertake an additional tendering stage:-

9.5.1 The Buyer shall:

- (a) invite the Framework Suppliers remaining in the competition to submit a tender in writing for each proposed Call-Off Contract to be awarded;
- (b) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed Call-Off Contract and the time needed to submit tenders; and
- (c) keep each tender confidential until the time limit set out for the return of tenders has expired.

9.5.2 The Supplier shall in writing, by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 9.5.1 above, provide the Buyer with either:

- (a) a statement to the effect that it does not wish to tender in relation to the Deliverables; or
- (b) the full details of its tender made in respect of the relevant Statement of Requirements.

9.5.3 The Supplier shall ensure that any prices submitted in relation to a Multi Stage Competitive Selection Process held pursuant to this Paragraph 9 shall be based on the charging structure and take into account any discount to which the Buyer may be entitled as set out in Framework Schedule 3 (Framework Prices).

9.5.4 The Supplier agrees that:

- (a) its failure to respond by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 9.5.1 above will be treated as a statement to the effect that it does not wish to tender in relation to the Deliverables;
- (b) all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
  - (i) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and
  - (ii) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

9.5.5 The Buyer shall follow their procedure for undertaking the tendering stage as set out in their tender pack (for example Buyers may choose to use a tendering stage to reduce the number of Framework Suppliers that go through to the next stage or Buyers may use a tendering stage as an opportunity to provide feedback to Framework Suppliers to enable them to produce higher quality tenders in a subsequent or final tendering round).

#### **Module 4 - Presentation/Demonstration Stage (Optional)**

9.6 If the Buyer chooses to undertake a presentation/demonstration stage:-

9.6.1 The Buyer shall:

- (a) follow their procedure for the presentation/demonstration stage, as set out in the tender pack;
- (b) specify in their tender pack, as a minimum:
  - (i) which topics the Framework Suppliers will be asked to present on/demonstrate;
  - (ii) the purpose of the presentations/demonstrations; and
  - (iii) whether certain Framework Supplier personnel are required to be present and whether these will be the same personnel who will be involved in the delivery of the Deliverables.

9.6.2 The Supplier shall attend the presentation/demonstration meeting in accordance with the requirements set out in the tender pack.

#### **Module 5 – Site Visit Stage (Optional)**

9.7 If the Buyer chooses to incorporate a site visit stage:-

9.7.1 The Buyer shall:

- (a) follow their procedure for the site visit stage, as set out in the tender pack; and
- (b) specify in their tender pack, as a minimum:
  - (i) whether the site visit is at the Buyer or Framework Supplier's premises;
  - (ii) the purpose of the site visit,
  - (iii) when the agendas for site visit meetings will be released; and
  - (iv) how to get the best out of the site visit from both the Buyer's and the Framework Suppliers' perspective.

9.7.2 The Supplier shall attend the site visit in accordance with the requirements set out in the tender pack.

#### **Module 6 – Dialogue Stage (Optional)**

9.8 If the Buyer chooses to undertake a dialogue stage:-

9.8.1 The Buyer shall:

- (a) follow their procedure for the dialogue stage, as set out in the tender pack; and
- (b) specify in their tender pack, as a minimum:
  - (i) the topics to be discussed and why these cannot be covered via written correspondence;
  - (ii) whether the Statement of Requirements may be updated as a result of the dialogue stage, and if so, the process for the Buyer re-issuing the Statement of Requirements to all participating Framework Suppliers;
  - (iii) when the agendas for the dialogue meetings will be released; and
  - (iv) how to get the best out of the dialogue meetings from both the Buyer's and the Framework Suppliers' perspective.

9.8.2 The Supplier shall attend any dialogue meetings in accordance with the requirements set out in the tender pack.

## **Module 7 – Negotiation Stage (Optional)**

9.9 If the Buyer chooses to undertake a negotiation stage:-

9.9.1 The Buyer shall:

- (a) follow their procedure for the negotiation stage, as set out in the tender pack; and
- (b) specify in their tender pack, as a minimum:
  - (i) the topics to be discussed and why these cannot be covered via written correspondence;
  - (ii) when the agendas for the negotiation meetings will be released; and
  - (iii) how to get the best out of the negotiation meetings from both the Buyer's and the Framework Suppliers' perspective.

9.9.2 The Supplier shall attend any negotiation meetings in accordance with the requirements set out in the tender pack.

## **Module 8 - Final Mandatory Tendering Stage**

9.10 The Buyer shall undertake the final mandatory tendering stage for all Call-Off Contracts awarded following the Multi Stage Competitive Selection Process as follows:-

9.10.1 The Buyer shall invite tenders from the remaining Framework Suppliers and in particular:

- (a) if an Electronic Auction is to be held, the Buyer shall notify the remaining Framework Suppliers and shall conduct the final tendering stage in accordance with the procedure set out in this Paragraph 9.10; or
- (b) if an Electronic Auction is not used, the Buyer shall:
  - (i) invite the remaining Framework Suppliers to submit a tender in writing for each proposed Call-Off Contract to be awarded by giving written notice by email to the relevant Framework Supplier representatives of each remaining Framework Supplier;
  - (ii) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed Call-Off Contract and the time needed to submit tenders; and
  - (iii) keep each tender confidential until the time limit set out for the return of tenders has expired.

9.10.2 The Supplier shall in writing, by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 9.10.1 above, provide the Buyer with either:

- (a) a statement to the effect that it does not wish to tender in relation to the Deliverables; or
- (b) the full details of its tender made in respect of the relevant Statement of Requirements. In the event that the Supplier submits such a tender, it should include, as a minimum:
  - (i) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier;



- (ii) a brief summary, in the email (followed by a confirmation letter), stating that the Supplier is bidding for the Statement of Requirements;
- (iii) a proposal covering the Deliverables;
- (iv) CVs of key staff – as a minimum any lead consultant, with others, as considered appropriate along with required staff levels (if necessary); and
- (v) confirmation of discounts applicable to the Deliverables, as referenced in Framework Schedule 3 (Framework Prices) (if applicable).

9.10.3 The Supplier shall ensure that any prices submitted in relation to a Multi Stage Competitive Selection Process held pursuant to this Paragraph 9 shall be based on the charging structure and take into account any discount to which the Buyer may be entitled as set out in Framework Schedule 3 (Framework Prices).

9.10.4 The Supplier agrees that:

- (a) its failure to respond by the time and date specified by the Buyer following an invitation to tender pursuant to Paragraph 9.10.1 above will be treated as a statement to the effect that it does not wish to tender in relation to the Deliverables;
- (b) all tenders submitted by the Supplier in relation to a Multi Stage Competitive Selection Process held pursuant to this Paragraph 9.10 shall remain open for acceptance by the Buyer for ninety (90) Working Days (or such other period specified in the tender pack issued by the Buyer in accordance with the Call-Off Procedure); and
- (c) all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
  - (i) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the approximate amount of the

tender was necessary to obtain quotations required for the preparation of the tender; and

- (ii) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

9.10.5 The Buyer shall apply the Multi Stage Competitive Selection Process Award Criteria (set out at Annex D) to the Suppliers' compliant final tenders submitted through the Multi Stage Competitive Selection Process as the basis of its decision to award a Call-Off Contract for its Deliverables.

9.10.6 The Buyer shall, on the basis set out above, award its Call-Off Contract to the successful Supplier in accordance with Paragraph 5. The Call-Off Contract shall:

- (a) state the Deliverables;
- (b) state the tender submitted by the successful Framework Supplier;
- (c) state the charges payable for the Deliverables in accordance with the tender submitted by the successful Framework Supplier; and
- (d) incorporate the terms of the Order Form and Contract (as may be amended or refined by the Buyer in accordance with Paragraph 9.3.2 above) applicable to the Deliverables.

9.10.7 The Buyer shall provide unsuccessful Framework Suppliers with written feedback in relation to the reasons why their tenders were unsuccessful.

## **10. How Electronic Auctions work (Optional)**

10.1 The Buyer shall be entitled to include an Electronic Auction in the relevant Competitive Selection Process in accordance with the rules laid down by the Buyer and the Procurement Act 2023 and any Regulations made under it.

10.2 Where Buyer wishes to undertake an Electronic Auction then before undertaking it, the Buyer will make an initial full evaluation of all tenders received in response to its Statement of Requirements. The Buyer will then invite to the Electronic Auction only those tenders that are

admissible in accordance with the Procurement Act 2023 and any regulations made under it. The invitation shall be accompanied by the outcome of the full initial evaluation of the relevant tenders.

10.3 The Buyer will inform the Framework Suppliers of the specification for the Electronic Auction which shall include:

10.3.1 the information to be provided at the Electronic Auction, which must be expressed in figures or percentages of the specified quantifiable features;

10.3.2 the mathematical formula to be used to determine automatic ranking of tenders on the basis of new prices and/or new values submitted;

10.3.3 any limits on the values which may be submitted;

10.3.4 a description of any information which will be made available to Suppliers in the course of the Electronic Auction, and when it will be made available to them;

10.3.5 the conditions under which Framework Suppliers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;

10.3.6 relevant information concerning the electronic equipment used and the arrangements and technical specification for connection;

10.3.7 subject to Paragraph 10.4, the date and time of the start of the Electronic Auction; and

10.3.8 details of when and how the Electronic Auction will close.

10.4 The Electronic Auction may not start sooner than two (2) Working Days after the date on which the specification for the Electronic Auction has been issued.

10.5 Throughout each phase of the Electronic Auction the Buyer will communicate to all Framework Suppliers sufficient information to enable them to ascertain their relative ranking.

10.6 The Supplier acknowledges and agrees that:

10.6.1 the Buyer and its officers, servants, agents, group companies, assignees and customers (including SAM) do not guarantee that its access to the Electronic Auction will be uninterrupted or error-free;

- 10.6.2 its access to the Electronic Auction may occasionally be restricted to allow for repairs or maintenance; and
- 10.6.3 it will comply with all such rules that may be imposed by the Buyer in relation to the operation of the Electronic Auction.
- 10.7 The Buyer will close the Electronic Auction on the basis of:
  - 10.7.1 a date and time fixed in advance;
  - 10.7.2 when no new prices or values meeting the minimum differences required pursuant to Paragraph 10.3 have been received within the prescribed elapsed time period; or
  - 10.7.3 when all the phases have been completed.

## **11. Awarding and creating an Exempt Call-Off Contract**

- 11.1 Paragraph 2 above shall not apply to an Exempt Buyer.
- 11.2 If a potential Exempt Buyer decides to source Deliverables through this Framework Contract, it will award an Exempt Call-Off Contract for Deliverables in accordance with the relevant Call-Off Procedure in this Schedule chosen by the potential Exempt Buyer as modified by this Paragraph 11 and in accordance with any legal requirements applicable to that potential Exempt Buyer.
- 11.3 A potential Exempt Buyer may award an Exempt Call-Off Contract under this Framework Contract by way of an Award Without Competition in accordance with Paragraph 6 above as modified by Paragraph 11.4 below or through a Competitive Selection Process in accordance with Paragraph 7, 8 or 9 as modified by Paragraph 11.5 below.
- 11.4 Notwithstanding the procedure set out in Paragraph 6 above, if the potential Exempt Buyer can determine that:
  - 11.4.1 its Deliverables can be met by a Framework Supplier's catalogues and description of the Deliverables as set out in Framework Schedule 1 (Specification) and the Supplier Tender Data; and
  - 11.4.2 the Supplier will accept any required Exempt Procurement Amendments,then the Exempt Buyer may award an Exempt Call-Off Contract to that Supplier in accordance with Paragraph 5 above.
- 11.5 If the potential Exempt Buyer requires the Supplier to develop proposals or a solution in respect of Deliverables, then the potential Exempt Buyer

may at its discretion use a Competitive Selection Process set out in Paragraph 7, 8 or 9 above as modified by this Paragraph 11.5. In that case, references to “the Procurement Act 2023 and any regulations made under it” in Paragraphs 7, 8 and 9 above shall be read as references to “any legal requirements applicable to that potential Exempt Buyer”, and the Exempt Buyer shall be permitted to modify the Competitive Selection Process in accordance with any legal requirements applicable to the Exempt Buyer.

- 11.6 Paragraphs 11.1 to 11.5 above are without prejudice to an Exempt Buyer’s ability to make such further modifications to the Call-Off Procedure as it considers necessary and in accordance with any legal requirements applicable to that potential Exempt Buyer.

## **Part 2: Award Criteria**

12. This Part 2 lays out the objective mechanism for supplier selection for Award Without Competition (Annex A), for Single Stage Competitive Selection Process (Annex B), for Two Stage Competitive Selection Process (Annex C) and for Multi Stage Competitive Selection Process (Annex D) in accordance with the Call-Off Procedure.
13. A Call-Off Contract may be awarded on the basis of the solution that (a) satisfies the Buyer’s requirements, and (b) best satisfies the award criteria (as set out in this Part 2) relevant to the Call-Off Procedure being used.

## Annex A: Award Without Competition: Objective mechanism for supplier selection

The following objective mechanism for supplier selection shall apply to the award of a Call-Off Contract using an Award Without Competition procedure.

**[Category Guidance: Table below to be populated to set out the award criteria and range of weightings that are to be applied under an Award Without Competition procedure. Please note that only award criteria that have been applied by SAM at the Framework level when evaluating Framework Tenders can be included in this table.]**

**[Buyer Guidance: Buyers must apply the award criteria set out in the table below and cannot apply any new award criteria. Please note that Buyers will be responsible for setting the weightings for the award criteria (within the relevant weighting ranges that are specified in the table).]**

| Criteria                                                                                                          | Relative weighting percentage |
|-------------------------------------------------------------------------------------------------------------------|-------------------------------|
| [Price (life cycle costs, cost effectiveness & price; price and running costs)]                                   | [ ]                           |
| [Technical merit; coverage, network capacity and performance as specified in relevant service levels]             | [ ]                           |
| [Help desk, account management function and assurance of supply of a range of devices and good value accessories] | [ ]                           |
| [Environmental characteristics]                                                                                   | [ ]                           |
| [Quality (including delivery time, sales service, good value, accessories, service fitness for purpose)]          | [ ]                           |

## Annex B: Single Stage Competitive Selection Process Award Criteria

The following criteria and weightings shall apply to the evaluation of tenders received through the Single Stage Competitive Selection Process:

**[Category Guidance: Table below to be populated to set out the award criteria and range of weightings that are to be applied under a Single Stage Competitive Award Process. Please note that only award criteria that have been applied by SAM at the Framework level when evaluating Framework Tenders can be included in this table, albeit the award criteria can be refined in accordance with Section 46(8) of the Procurement Act 2023.]**

**[Buyer Guidance: Buyers must apply the award criteria set out in the table below and cannot apply any new award criteria. Please note that Buyers will be responsible for setting the weightings for the award criteria (within the relevant weighting ranges that are specified in the table).]**

| Criteria                                                                                                                                                                                                                                                                                                                                       | Relative weighting percentage                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>[Category Guidance: assessment must be based on one or more of the award criteria used to assess tenders when the framework was awarded, although the award criteria used may be refined (for example, additional sub-criteria may be included or the criteria explained further).]</b>                                                     | <b>[Category Guidance: where weighting is not possible for objective reasons, list the criteria in decreasing order of importance, amend the column heading to read 'Rank order of importance where 1 = most important, 2 = second most important etc.'. The figure 1 must be in the top row, running down to the least important in the bottom row.]</b> |
| <p><b>[Quality]</b></p> <p><b>[Which consists of the following criteria:</b></p> <p><input type="checkbox"/> <b>[Added Value / Innovation]</b></p> <p><input type="checkbox"/> <b>[Social Value]</b></p> <p><input type="checkbox"/> <b>[Approach To Delivery Of The Services]</b></p> <p><input type="checkbox"/> <b>[Implementation]</b></p> | <b>[ ]</b>                                                                                                                                                                                                                                                                                                                                                |

|                                            |     |
|--------------------------------------------|-----|
| [Use Of Supply Chain / Partners]           |     |
| [Cost effectiveness]                       | [ ] |
| [Technical merit]                          | [ ] |
| [Technical assistance]                     | [ ] |
| [After sales service]                      | [ ] |
| [Price]                                    | [ ] |
| [Aesthetic and functional characteristics] | [ ] |
| [Running costs]                            | [ ] |
| [Environmental characteristics]            | [ ] |
| [Delivery date and delivery period]        | [ ] |
| [Period of completion]                     | [ ] |



## Annex C: Two Stage Competitive Selection Process Award Criteria

The following criteria and weightings shall apply to the evaluation of tenders received through the Two Stage Competitive Selection Process:

**[Category Guidance: Table below to be populated to set out the award criteria and range of weightings that are to be applied under a Two Stage Competitive Award Process. Please note that only award criteria that have been applied by SAM at the Framework level when evaluating Framework Tenders can be included in this table, albeit the award criteria can be refined in accordance with Section 46(8) of the Procurement Act 2023.]**

**[Buyer Guidance: Buyers must apply the award criteria set out in the table below and cannot apply any new award criteria. Please note that Buyers will be responsible for setting the weightings for the award criteria (within the relevant weighting ranges that are specified in the table).]**

| Criteria                                                                                                                                                                                                                                                                                                                                                                                        | Relative weighting percentage                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>[Category Guidance: assessment must be based on one or more of the award criteria used to assess tenders when the framework was awarded, although the award criteria used may be refined (for example, additional sub-criteria may be included or the criteria explained further).]</b></p>                                                                                               | <p><b>[Category Guidance: where weighting is not possible for objective reasons, list the criteria in decreasing order of importance, amend the column heading to read 'Rank order of importance where 1 = most important, 2 = second most important etc.'. The figure 1 must be in the top row, running down to the least important in the bottom row.]</b></p> |
| <p><b>[Quality]</b></p> <p><b>[Which consists of the following criteria:</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <b>[Added Value / Innovation]</b></li> <li><input type="checkbox"/> <b>[Social Value]</b></li> <li><input type="checkbox"/> <b>[Approach To Delivery Of The Services]</b></li> <li><input type="checkbox"/> <b>[Implementation]</b></li> </ul> | <p><b>[ ]</b></p>                                                                                                                                                                                                                                                                                                                                                |

|                                            |     |
|--------------------------------------------|-----|
| [Use Of Supply Chain / Partners]           |     |
| [Cost effectiveness]                       | [ ] |
| [Technical merit]                          | [ ] |
| [Technical assistance]                     | [ ] |
| [After sales service]                      | [ ] |
| [Price]                                    | [ ] |
| [Aesthetic and functional characteristics] | [ ] |
| [Running costs]                            | [ ] |
| [Environmental characteristics]            | [ ] |
| [Delivery date and delivery period]        | [ ] |
| [Period of completion]                     | [ ] |

## Annex D: Multi Stage Competitive Selection Process Award Criteria

The following criteria and weightings shall apply to the evaluation of tenders received through the Multi Stage Competitive Selection Process:

**[Category Guidance: Table below to be populated to set out the award criteria and range of weightings that are to be applied under a Multi Stage Competitive Award Process. Please note that only award criteria that have been applied by SAM at the Framework level when evaluating Framework Tenders can be included in this table, albeit the award criteria can be refined in accordance with Section 46(8) of the Procurement Act 2023.]**

**[Buyer Guidance: Buyers must apply the award criteria set out in the table below and cannot apply any new award criteria. Please note that Buyers will be responsible for setting the weightings for the award criteria (within the relevant weighting ranges that are specified in the table).]**

| Criteria                                                                                                                                                                                                                                                                                                                    | Relative weighting percentage                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>[Category Guidance: assessment must be based on one or more of the award criteria used to assess tenders when the framework was awarded, although the award criteria used may be refined (for example, additional sub-criteria may be included or the criteria explained further).]</b>                                  | <b>[Category Guidance: where weighting is not possible for objective reasons, list the criteria in decreasing order of importance, amend the column heading to read 'Rank order of importance where 1 = most important, 2 = second most important etc.'. The figure 1 must be in the top row, running down to the least important in the bottom row.]</b> |
| <b>[Quality]</b><br><br><b>[Which consists of the following criteria:</b><br><br><input type="checkbox"/> <b>[Added Value / Innovation]</b><br><input type="checkbox"/> <b>[Social Value]</b><br><input type="checkbox"/> <b>[Approach To Delivery Of The Services]</b><br><input type="checkbox"/> <b>[Implementation]</b> | <b>[ ]</b>                                                                                                                                                                                                                                                                                                                                                |

|                                            |     |
|--------------------------------------------|-----|
| [Use Of Supply Chain / Partners]           |     |
| [Cost effectiveness]                       | [ ] |
| [Technical merit]                          | [ ] |
| [Technical assistance]                     | [ ] |
| [After sales service]                      | [ ] |
| [Price]                                    | [ ] |
| [Aesthetic and functional characteristics] | [ ] |
| [Running costs]                            | [ ] |
| [Environmental characteristics]            | [ ] |
| [Delivery date and delivery period]        | [ ] |
| [Period of completion]                     | [ ] |

## Framework Schedule 8 (Self Audit Certificate)

Not Used.

## Framework Schedule 9 (Cyber Essentials Scheme)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

**"Cyber Essentials Scheme"**

the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at:  
<https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>;

**"Cyber Essentials Basic Certificate"**

the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;

**"Cyber Essentials Certificate"**

a Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate or a written statement that equivalent controls are in place through other means, verified by a technically competent and independent third party which must be an Information Assurance for Small and Medium Enterprises (IASME) registered certification body to be provided by the Supplier as set out in the Framework Award Form;

**"Cyber Essential Scheme Data"**

sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and

## **"Cyber Essentials Plus Certificate"**

the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

## **2. What Certification do you need**

- 2.1 Where the Framework Award Form requires that the Supplier provide a Cyber Essentials Certificate prior to Framework Commencement Date the Supplier shall provide a valid Cyber Essentials Certificate to SAM. Where the Supplier fails to comply with this Paragraph it shall be prohibited from commencing the provision of Deliverables under any Contract until such time as the Supplier has evidenced to SAM its compliance with this Paragraph 2.1.
- 2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during the Contract Period of any Call-Off Contract the Supplier shall deliver to SAM evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.
- 2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data after the Start Date of the first Call-Off Contract but before the end of the Framework Contract Period or Contract Period of the last Call-Off Contract, the Supplier shall deliver to SAM evidence of:
  - 2.3.1 a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and
  - 2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.
- 2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), SAM reserves the right to terminate the Contract for Material Default and the consequences of termination in Clause 13.4.1 of the General Terms shall apply.
- 2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Scheme Data require the Subcontractor to provide a valid Cyber Essentials Certificate, at the equivalent level to that held by the Supplier. The Supplier cannot require the Subcontractor to

commence the provision of Deliverables under the Sub-Contract until the Subcontractor has evidenced to the Supplier that it holds a valid Cyber Essentials Certificate.

- 2.6 This Schedule shall survive termination or expiry of the Contract and each and any Call-Off Contract.

## Joint Schedule 1 (Definitions)

The Definitions applicable to this Framework Award are embedded below:



The SAM Technical Glossary of Terms also applicable to this Framework Award are embedded below:



## Joint Schedule 2 (Variation Form)

This form is to be used in order to change a Contract in accordance with Clause 27 (Changing the Contract) of the General Terms.

| Contract Details                               |                                                                                                                                                                                                      |                           |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| This variation is between:                     | <b>[delete]</b> as applicable: SAM / Buyer] (" <b>SAM</b> " " <b>the Buyer</b> ")<br>And<br><b>[insert]</b> name of Supplier] (" <b>the Supplier</b> ")                                              |                           |
| Contract name:                                 | <b>[insert]</b> name of contract to be changed] (" <b>the Contract</b> ")                                                                                                                            |                           |
| Contract reference number:                     | <b>[insert]</b> contract reference number]                                                                                                                                                           |                           |
| Details of Proposed Variation                  |                                                                                                                                                                                                      |                           |
| Variation initiated by:                        | <b>[delete]</b> as applicable: SAM/Buyer/Supplier]                                                                                                                                                   |                           |
| Variation number:                              | <b>[insert]</b> variation number]                                                                                                                                                                    |                           |
| Date variation is raised:                      | <b>[insert]</b> date]                                                                                                                                                                                |                           |
| Proposed variation                             |                                                                                                                                                                                                      |                           |
| Reason for the variation:                      | <b>[insert]</b> reason]                                                                                                                                                                              |                           |
| An Impact Assessment shall be provided within: | <b>[insert]</b> number] days                                                                                                                                                                         |                           |
| Impact of Variation                            |                                                                                                                                                                                                      |                           |
| Likely impact of the proposed variation:       | <b>[Supplier to insert]</b> assessment of impact]                                                                                                                                                    |                           |
| Outcome of Variation                           |                                                                                                                                                                                                      |                           |
| Contract variation:                            | The Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li><b>[SAM/Buyer to insert]</b> original Clauses or Paragraphs to be varied and the changed clause]</li> </ul> |                           |
| Financial variation:                           | <b>[Original]/[Current]</b><br>Contract Value:                                                                                                                                                       | £ <b>[insert]</b> amount] |



|  |                                   |                           |
|--|-----------------------------------|---------------------------|
|  | Additional cost due to Variation: | £ <b>[insert]</b> amount] |
|  | New Contract value:               | £ <b>[insert]</b> amount] |

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by [delete as applicable: SAM / Buyer]
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the [delete as applicable: SAM / Buyer]

Signature .....

Date .....

Name (in Capitals) .....

Address .....

.....

.....

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature .....

Date .....

Name (in Capitals) .....

Address .....

.....

.....

## Joint Schedule 3 (Insurance Requirements)

### 1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule, any additional insurances required under a Call-Off Contract (specified in the applicable Order Form) ("**Additional Insurances**") and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than:
  - 1.1.1 the Effective Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
  - 1.1.2 the Call-Off Contract Effective Date in respect of the Additional Insurances.
- 1.2 The Insurances shall be:
  - 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex to this Schedule which shall be maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Relevant Authority shall be indemnified in respect of claims made against the Relevant Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### 2. How to manage the insurance

- 2.1 Without limiting the other provisions of the Contract, the Supplier shall:

- 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
- 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
- 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### **3. What happens if you aren't insured**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Relevant Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

### **4. Evidence of insurance you must provide**

The Supplier shall upon the Effective Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Relevant Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

### **5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained for the minimum limit of indemnity for the periods specified in this Schedule.
- 5.2 Where the Supplier intends to claim under any of the Insurances for any matters that are not related to the Deliverables and/or the Contract, the Supplier shall, where such claim is likely to result in the level of cover available under any of the Insurances being reduced below the minimum

limit of indemnity specified in this Schedule, promptly notify the Relevant Authority and provide details of its proposed solution for maintaining the minimum limit of indemnity specified in this Schedule.

## **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Relevant Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Relevant Authority (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

## **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or each Contract for which it may be entitled to claim under any of the Insurances. In the event that the Relevant Authority receives a claim relating to or arising out of a Contract or the Deliverables, the Supplier shall co-operate with the Relevant Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Relevant Authority is the claimant party, the Supplier shall give the Relevant Authority notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or the Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Relevant Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover

from the Relevant Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of the Contract or otherwise.

### Annex: Required Insurances

1. The Supplier shall hold the following [standard] insurance cover from the Effective Date in accordance with this Schedule:
  - 1.1 professional indemnity insurance with cover (for a single event or a series of related events and in the aggregate) of not less than five million pounds (£5,000,000);
  - 1.2 public liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than two million pounds (£2,000,000) prior to the first Order becoming effective, and not less than five million pounds (£5,000,000) from the first Order becoming effective;
  - 1.3 employers' liability insurance [with cover (for a single event or a series of related events and in the aggregate) of not less than] five million pounds (£5,000,000);
  - 1.4 (where relevant) product liability insurance with an indemnity limit of at least £5,000,000 (five million pounds), and
  - 1.5 (where relevant) cyber liability insurance including data protection liability cover with an indemnity limit of at least £10,000,000 (ten million pounds), and

## Joint Schedule 4 (Commercially Sensitive Information)

### 1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs or under any PPN as well as any information that would be considered sensitive commercial information under Section 94 of the Procurement Act 2023.
- 1.2 Where possible, the Parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule applies in the table below and in the Order Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Relevant Authority's obligation to disclose information in accordance with the FOIA, the EIRs, any PPN, the Procurement Act 2023 and any Regulations made under it, or Clause 19 (When you can share information) of the General Terms, the Relevant Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA, the EIRs, any PPN or Section 94 of the Procurement Act 2023 and any Regulations published under it, to the following information:

| No. | Date          | Item(s)          | Duration of Confidentiality |
|-----|---------------|------------------|-----------------------------|
|     | [insert date] | [insert details] | [insert duration]           |

# Joint Schedule 5 (Sustainability)

## 1. Definitions

### **"Carbon Footprint"**

the sum of GHG Emissions from an individual, product, organisation or country, measured in tonnes of carbon dioxide-equivalent (t CO<sub>2</sub>e);

### **"Carbon Reduction Plan"**

a Carbon Reduction Plan in response to PPN 006;

### **"Emissions Reduction"**

the reduction of GHG Emissions from a product, service, contract, organisation or country;

### **"Government Net Zero Target"**

the 2050 target date by which the UK government has committed to achieve Net Zero, pursuant to the Climate Change Act 2008 (2050 Target Amendment) Order 2019;

### **"Modern Slavery Assessment Tool"**

the modern slavery risk identification and management tool which can be found online at: <https://supplierregistration.cabinetoffice.gov.uk/msat>;

### **"Modern Slavery Helpline"**

the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700; [and]

### **"Net Zero"**

Net Zero is a state in which the amount of GHG Emissions released into the atmosphere are balanced by the amount of GHG Emissions removed;

### **"Supplier Net Zero Target"**

the date by which the Supplier commits to achieve Net Zero;

### **"Supply Chain Map"**

details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least:

- (a) the name, registered office and company registration number of each entity in the supply chain;
- (b) the function of each entity in the supply chain; and
- (c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain.

## **2. Public Sector Equality Duty**

2.1 In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality Duty applies, the Supplier shall support SAM and the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:

2.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

2.1.2 advance:

- (a) equality of opportunity and
- (b) good relations,  
  
between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

## **3. Employment Law**

The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

## **4. Modern Slavery**

4.1 The Supplier:

4.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;



- 4.1.2 shall not require any Supplier Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
- 4.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 4.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- 4.1.5 shall make reasonable enquires to ensure that its officers, employees and Supplier Staff have not been convicted of slavery or human trafficking offenses anywhere around the world;
- 4.1.6 shall have and maintain throughout the Contract Period its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 4.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
- 4.1.8 shall prepare and deliver to SAM and the Buyer, an annual slavery and human trafficking report (in respect of which a statement under Section 54 of the Modern Slavery Act 2015 would be sufficient) setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph 4;
- 4.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 4.1.10 shall not use or allow child or slave labour to be used by its Subcontractors; and
- 4.1.11 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to SAM, the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies.

- 4.2 Without prejudice to SAM' and the Buyer's rights under Paragraph 4.7, if the Supplier, SAM and/or the Buyer identifies any occurrence of modern slavery connected to the Contract, the Supplier shall comply with any request of SAM or the Buyer to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance to PPN 009 (Tackling Modern Slavery in Government Supply Chains).
- 4.3 If the Supplier notifies SAM or the Buyer pursuant to Paragraph 4.1.11 it shall respond promptly to SAM' or Buyer's enquiries, co-operate with any investigation, and allow the SAM or the Buyer to audit any books, records and/or any other relevant documentation in accordance with the Contract.
- 4.4 The Supplier shall comply with any request by SAM or the Buyer to complete the Modern Slavery Assessment Tool or an alternative assessment required by SAM or the Buyer within sixty (60) days of such request.
- 4.5 The Supplier shall comply with any request by SAM or the Buyer to provide a Supply Chain Map within fourteen (14) days of such request.
- 4.6 The Supplier shall comply with any request by SAM or the Buyer to provide a copy of any reports of any Subcontractor regarding any or all of workplace conditions, working or employment practices and recruitment practices within fourteen (14) days of such request.
- 4.7 If the Supplier is in Default under any provision of this Paragraph 4, SAM and the Buyer may by notice:
- 4.7.1 require the Supplier to remove from performance of the Contract any Subcontractor, Supplier Staff or other persons associated with it whose acts or omissions have caused the Default; or
- 4.7.2 immediately terminate the Contract under Clause 13.3 (When SAM or the Buyer can end a contract) of the General Terms and the consequences of termination set out in Clause 13.4.1 of the General Terms shall apply.

## **5. Environmental Requirements**

- 5.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 5.2 Paragraphs 5.3 to 5.6 shall apply to: all lots of the Framework.

- 5.3 The Supplier shall, through best endeavours, ensure that their environmental impact is minimised throughout the delivery of the Contract.
- 5.4 The Supplier acknowledges and understands the Government Net Zero Target. Accordingly, the Supplier shall:
- 5.4.1 set a Supplier Net Zero Target with a target achievement date the same as or earlier than the Government Net Zero Target;
  - 5.4.2 maintain its Carbon Reduction Plan; and
  - 5.4.3 provide details of steps it is taking as an organisation to reduce its Carbon Footprint in the form of Emissions Reduction initiatives.
- 5.5 The Supplier commits to delivering the Contract in line with its published Carbon Reduction Plan, and to support the achievement of the Supplier Net Zero Target and the Government Net Zero Target.
- 5.6 Without prejudice to its other rights under the Contract, in the event that the Supplier fails to comply with its obligations in Paragraph 5.4, the Relevant Authority reserves the right to:
- 5.6.1 invoke the Rectification Plan Process; and/or
  - 5.6.2 immediately terminate the Contract for Material Default under Clause 13.3 (When SAM or the Buyer can end a contract) of the General Terms and the consequences of termination set out in Clause 13.4.1 of the General Terms shall apply.

## **6. Government Buying Standards**

- 6.1 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:
- <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

## **7. Supplier Code of Conduct**

- 7.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:
- [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1163536/Supplier\\_Code\\_of\\_Conduct\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf)
- 7.2 The Buyer expects to meet, and expects the Supplier and its Subcontractors to meet, the standards set out in that Code.

7.3 The Supplier acknowledges that the Buyer may have additional requirements in relation to corporate social responsibility. The Buyer expects that the Supplier and its Subcontractors will comply with such corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time.

## **8. Reporting**

The Supplier shall comply with reasonable requests by SAM and the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1 to 7 of this Schedule above within fourteen (14) days of such request.

## Joint Schedule 6 (Key Subcontractors)

### 1. Restrictions on certain subcontractors

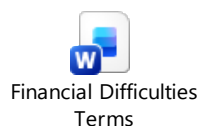
- 1.1 The Supplier is entitled to sub-contract its obligations under the Framework Contract to the Key Subcontractors set out in the Framework Award Form.
- 1.2 The Supplier is entitled to sub-contract its obligations under a Call-Off Contract to Key Subcontractors listed in the Framework Award Form who are specifically nominated in the Order Form.
- 1.3 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-Contract or replace a Key Subcontractor, it must obtain the prior written consent of SAM and the Buyer and the Supplier shall, at the time of requesting such consent, provide SAM and the Buyer with the information detailed in Paragraph 1.4. The decision of SAM and the Buyer to consent or not will not be unreasonably withheld or delayed. Where SAM consents to the appointment of a new Key Subcontractor then they will be added to section 23 of the Framework Award Form. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Order Form. SAM and the Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.3.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.3.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers;
  - 1.3.3 the proposed Key Subcontractor employs unfit persons; and/or
  - 1.3.4 the proposed Key Subcontractor is an excluded or excludable supplier within the meaning of the Procurement Act 2023 and any associated Regulations.
- 1.4 The Supplier shall provide SAM and the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.4.1 the proposed Key Subcontractor's name, registered office and company registration number;

- 1.4.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.4.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the SAM and the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.4.4 for SAM, the Key Sub-Contract price expressed as a percentage of the total projected Framework Price over the Framework Contract Period;
  - 1.4.5 for the Buyer, the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Call-Off Contract Period;
  - 1.4.6 (where applicable) Credit Rating Threshold (as defined in Joint Schedule 7 (Financial Distress)) of the Key Subcontractor; and
  - 1.4.7 whether the Supplier considers that an exclusion ground within the meaning of the Procurement Act 2023 and any associated Regulations does or may apply to the proposed Key Subcontractor.
- 1.5 If requested by SAM and/or the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.4, the Supplier shall also provide:
- 1.5.1 a copy of the proposed Key Sub-Contract; and
  - 1.5.2 any further information reasonably requested by SAM and/or the Buyer.
- 1.6 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
- 1.6.1 provisions which will enable the Supplier to discharge its obligations under the Contracts;
  - 1.6.2 a right under CRTPA for SAM and the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon SAM and the Buyer respectively;
  - 1.6.3 a provision enabling SAM and the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.6.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to SAM and/or the Buyer;

- 1.6.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Framework Contract in respect of:
- (a) the data protection requirements set out in Clause 17 (Data protection and security) of the General Terms;
  - (b) the FOIA and other access request requirements set out in Clause 19 (When you can share information) of the General Terms;
  - (c) the obligation not to embarrass SAM or the Buyer or otherwise bring SAM or the Buyer into disrepute;
  - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
  - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting) of the General Terms;
- 1.6.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on SAM and the Buyer under Clauses 13.3 (When SAM or the Buyer can end the contract) and 13.4 (What happens if the contract ends) of the Contract; and
- 1.6.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of SAM and the Buyer.
- 1.7 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the prior written consent of SAM and the Buyer, which shall not be unreasonably withheld or delayed.

## Joint Schedule 7 (Financial Difficulties)

Where required, the financial difficulties Schedule as embedded below will be included within this Schedule.



## Joint Schedule 8 (Guarantee)

Where the financial evaluation has indicated the need for a Deed of Guarantee, the Deed of Guarantee Requirements as embedded below will be included within this Schedule.



## Joint Schedule 9 (Rectification Plan)

| Request for [Revised] Rectification Plan                 |                                                                                                      |       |  |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------|-------|--|
| Details of the Default:                                  | [Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate] |       |  |
| Deadline for receiving the [Revised] Rectification Plan: | [add] date (minimum 10 days from request)]                                                           |       |  |
| Signed by [SAM/Buyer] :                                  |                                                                                                      | Date: |  |
| Supplier [Revised] Rectification Plan                    |                                                                                                      |       |  |
| Cause of the Default                                     | [add] cause]                                                                                         |       |  |
| Anticipated impact assessment:                           | [add] impact]                                                                                        |       |  |



|                                                 |                                                                                                                                                                                                                                                                                                                                                                      |                  |  |
|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--|
| Actual effect of Default:                       | <b>[add effect]</b>                                                                                                                                                                                                                                                                                                                                                  |                  |  |
| Steps to be taken to rectification:             | <b>Steps</b>                                                                                                                                                                                                                                                                                                                                                         | <b>Timescale</b> |  |
|                                                 | 1.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | 2.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | 3.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | 4.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | <b>[...]</b>                                                                                                                                                                                                                                                                                                                                                         | <b>[date]</b>    |  |
| Timescale for complete Rectification of Default | <b>[X]</b> Working Days                                                                                                                                                                                                                                                                                                                                              |                  |  |
| Steps taken to prevent recurrence of Default    | <b>Steps</b>                                                                                                                                                                                                                                                                                                                                                         | <b>Timescale</b> |  |
|                                                 | 1.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | 2.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | 3.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | 4.                                                                                                                                                                                                                                                                                                                                                                   | <b>[date]</b>    |  |
|                                                 | <b>[...]</b>                                                                                                                                                                                                                                                                                                                                                         | <b>[date]</b>    |  |
| Signed by the Supplier:                         |                                                                                                                                                                                                                                                                                                                                                                      | Date:            |  |
| <b>Review of Rectification Plan [SAM/Buyer]</b> |                                                                                                                                                                                                                                                                                                                                                                      |                  |  |
| Outcome of review                               | <b>[Plan Accepted] [Plan Rejected] [Revised Plan Requested]</b>                                                                                                                                                                                                                                                                                                      |                  |  |
| Reasons for Rejection (if applicable)           | <b>[add reason(s), for example the [Revised] Plan is insufficiently detailed to be capable of proper evaluation, the [Revised] Plan will take too long to complete, the [Revised] Plan does not prevent a reoccurrence of the Notifiable Default, the [Revised] Plan will rectify the Notifiable Default but in a manner which is unacceptable to SAM/the Buyer]</b> |                  |  |
| Signed by <b>[SAM/Buyer]</b>                    |                                                                                                                                                                                                                                                                                                                                                                      | Date:            |  |

## Joint Schedule 10 (Processing Data)

The Buyer will be the Controller, and the Supplier the Processor in the vast majority of cases. If the Buyer believes another data processing scenario applies, such as the Parties being Joint or Independent Controllers, the Buyer must speak to its data protection team or Data Protection Officer. Making the Supplier a Controller over Buyer information can create risks for the Buyer, and the Buyer must make sure it understands the consequences of this.

### 1. Definitions

In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

#### **“Independent Controller”**

a party which is a Controller of the same Personal Data as the other Party and there is an element of joint control with regards to that Personal Data;

#### **“Joint Control”**

where two (2) or more Controllers jointly determine the purposes and means of Processing;

#### **“Processor Personnel”**

all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract.

### 2. Status of the Controller

2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

2.1.1 “Controller” in respect of the other Party who is “Processor”;

2.1.2 “Processor” in respect of the other Party who is “Controller”;

2.1.3 “Joint Controller” with the other Party;

2.1.4 “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (Processing Personal Data) which scenario they think shall apply in each situation.

### **3. Where one Party is Controller and the other Party its Processor**

- 3.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (Processing Personal Data) by the Controller or further provided in writing by the Controller and may not be determined by the Processor.
- 3.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 3.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
  - 3.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
  - 3.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;
  - 3.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 3.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data; and
  - 3.3.5 providing assurance that the measures referred to in Paragraph 3.3.4 comply with the Security Requirements (if any).
- 3.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
  - 3.4.1 process that Personal Data only in accordance with Annex 1 (Processing Personal Data) or as further provided in writing by the Controller, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;

3.4.2 ensure that it has in place Protective Measures including in the case of the Supplier the measures set out in this Joint Schedule 10 (Processing Data), Clause 17.3 of the General Terms and the Security Requirements (if any), which the Controller may reasonably reject (including, where applicable in accordance with its rights of rejection under those provisions) but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:

- (a) nature of the data to be protected;
- (b) harm that might result from a Data Loss Event;
- (c) state of technological development; and
- (d) cost of implementing any measures.

3.4.3 ensure that:

- (a) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (Processing Personal Data)) and the Controller's further written instructions;
- (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
  - (i) are subject to any staff vetting required by this Contract, including the Security Requirements (if any);
  - (ii) are aware of and comply with the Processor's duties under this Joint Schedule 10, the Security Requirements (if any) and Clauses 17 (Data protection), 18 (What you must keep confidential) and 19 (When you can share information) of the General Terms;
  - (iii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
  - (iv) 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 Controller or as otherwise permitted by the Contract; and

- (v) have undergone adequate training in the use, care, protection and handling of Personal Data (including any training required by the Security Requirements (if any));

3.4.4 not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- (a) the destination country (and if applicable the entity receiving the Personal Data) has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74 of the DPA 2018) and/or Article 45 of the EU GDPR (where applicable), provided that if the destination country of a transfer is the United States:
  - (i) the Supplier shall ensure that prior to the transfer of any Personal Data to the United States relying on this adequacy (including to any United States-based Subcontractors and/or Subprocessors), the Supplier (and/or the applicable Subcontractor and/or Subprocessor) must be self-certified and continue to be self-certified on the US Data Privacy Framework;
  - (ii) the Supplier shall notify the Buyer immediately if there are any, or there are reasonable grounds to believe there may be any, changes in respect of their and/or their Subcontractor's or Subprocessor's position on the US Data Privacy Framework (for example if that entity ceases to be certified or is at risk of being so, or there is a strong likelihood of a competent court finding the US Data Privacy Framework unlawful), and the Supplier must then take all appropriate steps to remedy the certification and/or put in place alternative data transfer mechanisms in compliance with this Paragraph 3.4.4(a); and
  - (iii) in the event that the Supplier (and/or the applicable Subcontractor or Subprocessor):

- (A) ceases to be certified on the US Data Privacy Framework and the Supplier does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 3.4.4(a);
- (B) the US Data Privacy Framework is no longer available and the Supplier does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 3.4.4(a); and/or
- (C) fails to notify the Buyer of any changes to its certification status in accordance with Paragraph 3.4.4(a)(ii) above,

the Buyer shall have the right to terminate this Contract with immediate effect; or

- (b) the Controller and/or the Processor have provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:

- (i) where the transfer is subject to UK GDPR;
  - (A) the International Data Transfer Agreement (“issued by the Information Commissioner under s119A(1) of the DPA 2018 (the “IDTA”); or
  - (B) the European Commission’s Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (“EU SCCs”) together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the “Addendum”), as published by the Information Commissioner’s Office from time

to time under section 119A(1) of the DPA 2018; and/or

- (ii) where the transfer is subject to EU GDPR, the EU SCCs,

as well as any additional measures being determined by the Controller being implemented by the importing party;

- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
- (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and

3.4.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

3.5 Subject to Paragraph 3.6 of this Joint Schedule 10, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:

3.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);

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

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

3.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;

3.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

3.5.6 becomes aware of a Data Loss Event.

- 3.6 The Processor's obligation to notify under Paragraph 3.5 of this Joint Schedule 10 shall include the provision of further information to the Controller, as details become available.
- 3.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 3.5 of this Joint Schedule 10 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 3.7.1 the Controller with full details and copies of the complaint, communication or request;
  - 3.7.2 such assistance as is reasonably requested by the Controller to enable the it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 3.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 3.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
  - 3.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 3.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 10. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 3.8.1 the Controller determines that the Processing is not occasional;
  - 3.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - 3.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 3.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.



- 3.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 3.11 Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- 3.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
  - 3.11.2 obtain the written consent of the Controller;
  - 3.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Joint Schedule 10 such that they apply to the Subprocessor; and
  - 3.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 3.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 3.13 The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 10 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 the Contract).
- 3.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office, any relevant Central Government Body and/or any other regulatory authority. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office, relevant Central Government Body and/or any other regulatory authority.

#### **4. Where the Parties are Joint Controllers of Personal Data**

In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 and hold a Joint Controllers Agreement.

#### **5. Independent Controllers of Personal Data**

- 5.1 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the

applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.

- 5.2 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 5.3 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 5.2 of this Joint Schedule 10 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 5.4 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
- 5.5 The Parties shall only provide Personal Data to each other:
  - 5.5.1 to the extent necessary to perform their respective obligations under the Contract;
  - 5.5.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects:
    - (a) where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
      - (i) the destination country (and if applicable the entity receiving the Personal Data) has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable), provided that if the destination country of a transfer is the United States:
        - (A) the Supplier shall ensure that prior to the transfer of any Personal Data to the United States relying on this adequacy (including to any United States-based Subcontractors and/or Subprocessors), the Supplier (and/or the applicable Subcontractor and/or

Subprocessor) must be self-certified and continue to be self-certified on the US Data Privacy Framework;

- (B) the Supplier shall notify the Buyer immediately if there are any, or there are reasonable grounds to believe there may be any, changes in respect of their and/or their Subcontractor's or Subprocessor's position on the US Data Privacy Framework (for example if that entity ceases to be certified or is at risk of being so, or there is a strong likelihood of a competent court finding the US Data Privacy Framework unlawful), and the Supplier must then take all appropriate steps to remedy the certification and/or put in place alternative data transfer mechanisms in compliance with this Paragraph 5.5.2(a)(i); and
- (C) in the event that the Supplier (and/or the applicable Subcontractor or Subprocessor):
  - (1) ceases to be certified on the US Data Privacy Framework and the Supplier does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 5.5.2(a)(i);
  - (2) the US Data Privacy Framework is no longer available and the Supplier does not put in place the alternative data transfer mechanisms required for compliance with this Paragraph 5.5.2(a)(i); and/or
  - (3) fails to notify the Buyer of any changes to its certification status in accordance with Paragraph 5.5.2(a)(i)(B) above,

the Buyer shall have the right to terminate this Contract with immediate effect; or

- (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include:
  - (i) where the transfer is subject to UK GDPR:
    - (A) the International Data Transfer Agreement (the "IDTA") ""as published by the Information Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
    - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "EU SCCs"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "Addendum") as published by the Information Commissioner's Office from time to time; and/or
  - (ii) where the transfer is subject to EU GDPR, the EU SCCs,  
  
as well as any additional measures determined by the Controller being implemented by the importing party;
- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the transferring Party 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 non-transferring Party in meeting its obligations); and

- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

4.5.4 where it has recorded it in Annex 1 (Processing Personal Data).

- 5.6 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 5.7 A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 5.8 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
  - 5.8.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
  - 5.8.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    - (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    - (b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the

request or correspondence in the timeframes specified by Data Protection Legislation.

- 5.9 Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- 5.9.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
  - 5.9.2 implement any measures necessary to restore the security of any compromised Personal Data;
  - 5.9.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - 5.9.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 5.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (Processing Personal Data).
- 5.11 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (Processing Personal Data).
- 5.12 Notwithstanding the general application of Paragraphs 3.1 to 3.14 of this Joint Schedule 10 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 5.2 to 5.12 of this Joint Schedule 10.

## Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Relevant Authority at its absolute discretion.

1.1 The contact details of the Relevant Authority's Data Protection Officer are:

Dr Andrew Seedhouse  
Smart Applications Management



1.2 The contact details of the Supplier's Data Protection Officer are:

Albert Gartner, DPO,



1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.

1.4 Any such further instructions shall be incorporated into this Annex.

| Description                                                             | Details                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Identity of Controller and Processor for each Category of Personal Data | <p><b>The Relevant Authority is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"><li>• <b>Any Lot 1 data</b></li></ul> <p><b>The Supplier is Controller and the Relevant Authority is Processor</b></p> <p>The Parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the Controller and the Relevant Authority is the Processor in accordance with Paragraph 2 of the following Personal Data:</p> <ul style="list-style-type: none"><li>• <b>[Insert the scope of Personal Data which the purposes and means of the Processing by the Relevant Authority is determined by the Supplier]</b></li></ul> <p><b>The Parties are Joint Controllers</b></p> <p>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</p> |

|                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                       | <ul style="list-style-type: none"> <li>• <b>[Insert the scope of Personal Data which the purposes and means of the Processing is determined by the both Parties together]</b></li> </ul> <p><b>The Parties are Independent Controllers of Personal Data</b></p> <p><i>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> <li>• <i>Personally identifiable information of Supplier Staff for which the Supplier is the Controller,</i></li> <li>• <i>Personally identifiable information of any directors, officers, employees, agents, consultants and contractors of Relevant Authority (excluding the Supplier Staff) engaged in the performance of the Relevant Authority's duties under the Contract) for which the Relevant Authority is the Controller,</i></li> <li>• <b>[Insert the scope of other Personal Data provided by one Party who is Controller to the other Party who will separately determine the nature and purposes of its Processing the Personal Data on receipt e.g. where (1) the Supplier has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Relevant Authority cannot dictate the way in which Personal Data is processed by the Supplier, or (3) where the Supplier comes to the transaction with Personal Data for which it is already Controller for use by the Relevant Authority]</b></li> </ul> <p><b>[Guidance where multiple relationships have been identified above, please address the below rows in the table for in respect of each relationship identified]</b></p> |
| Subject matter of the Processing      | <p><b>[Insert This should be a high level, short description of what the processing is about i.e. its subject matter of the contract.</b></p> <p>Example: The processing is needed in order to ensure that the Processor can effectively deliver the contract to provide [insert description of relevant service]. ]</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| Duration of the Processing            | <p><b>[Insert Clearly set out the duration of the Processing including dates]</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Nature and purposes of the Processing | <p><b>[Insert Please be as specific as possible but make sure that you cover all intended purposes.</b></p> <p>The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |



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|                                                                                                                                                                                                                                                                                                                             | The purpose might include: employment processing, statutory obligation, recruitment assessment etc]                                                                                                                                                                    |
| Type of Personal Data                                                                                                                                                                                                                                                                                                       | [Insert Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]                                                                                                                                             |
| Categories of Data Subject                                                                                                                                                                                                                                                                                                  | [Insert Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]                                                           |
| Plan for return and destruction of the data once the Processing is complete<br><br>UNLESS requirement under law to preserve that type of data                                                                                                                                                                               | [Insert Describe how long the data will be retained for, how it be returned or destroyed]                                                                                                                                                                              |
| Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway                                                                                                                                                                          | [Insert Clearly identify each location, explain where geographically personal data may be stored or accessed from. Explain the legal gateway you are relying on to export the data e.g. adequacy decision, EU SSAM, UK IDTA. Annex any SSAM or IDTA to this contract]] |
| Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under the Contract against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event (noting that any Protective Measures are to be in accordance | [Insert Please be as specific as possible. Any Protective Measures must be in accordance with the Security Requirements.]                                                                                                                                              |

|                                 |  |
|---------------------------------|--|
| with any Security Requirements) |  |
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