

Dynamic Purchasing System
Terms & Conditions (T&C) Call-Off Contract
PART 2
Schedule 4

For the Provision of
Mobile Preliminary Roads Drugs Testing Devices
(MPRDTD)

DPS Framework Period 31 May 2022 – 30 May 2027
Version 2

Document Control

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Update History

Version	Issue date	Reason for issue	Updated by
V1	December	Internal Note: Used NSOCC Terms and Conditions: Reviewed against previous Drugs Framework: Reviewed against TLT T&C	Barbara Smedley, Snr Commercial Manager

Scope of DPS Framework

The terms and conditions that shall apply to the provision of those goods and services delivered under this Dynamic Purchasing System, Call Off Contracts

Schedule 1 Specification (SOR)

Service Level Agreement (SLA) and Technical & Quality Standards

High level specification statement of requirements (SOR) as set out in the Dynamic Purchasing System (DPS) SSQ and Schedule 1 Specification and Technical and Quality Standards Annex 1 and Annex and agreed, accepted on completion of the DPS Framework Agreement

No changes to the Schedule 1 Statement of Requirements, Service Level Agreement unless agreed in writing with the Lead Contracting Authority for the DPS Framework.

No changes to the Schedule 1 Statement of Requirements Technical and Quality Standards Annex 1 and Annex 2 can be made unless agreed in writing by the Police Powers Unit, Home Office, Fry Building 2 Marsham Street, SWIP 4DF

LOT 1 Un-Powered Mobile Preliminary Roads Drug Testing Devices Single Use Disposable; with test cartridges designed to detect the presence of a specified drug or drug group in a sample of saliva and to provide an indication of the presence of the target drugs. (Unpowered – with no electrical power required)

And their associated consumables, equipment and accessories (Goods).
Also included in scope is the offer of training & technical support on the MPRDTD

LOT 2 Powered Mobile Preliminary Roads Drug Testing Devices the Re-Usable Handheld Devices; with test cartridges; designed to detect the presence of a specified drug or drug group in a sample of saliva and to provide an indication of the presence of the target drugs. (Powered – capable of being used from the mains electricity supply, a local generated electrical supply, internal batteries and or external batteries.

And their associated consumables, equipment, and accessories (Goods).

Also included in scope is the offer of training & technical support on the MPRDTD and where required any annual maintenance service on re-usable handheld devices (equipment) provided along with any periodic calibration tests and any repair services on equipment required by the Contracting Authority. (Services)

Term of DPS Framework Agreement

- 1.1 The DPS Framework will be 5 years and commence May 2022 with an estimated indicative (in aggregate) value between Eight million pounds to ten million pounds (£8,000,000.00 to £10,000,000.00) There is no guarantee of award of Call-Off Contracts for all or any of the indicative value.
- 1.2 This DPS will terminate on; May 2027 (although the fulfilment of any Orders placed by Call-Off Contract before that date, may occur after that date).
- 1.3 The Authority reserves the right to extend the DPS.
- 1.4 The Supplier acknowledges that each Contracting Authority is independently responsible for the conduct of its order for Call Off Contracts under the DPS Framework and that the Lead Authority (Dorset OPCC) is not responsible or accountable for and shall have no liability whatsoever in relation to:
 - 1.4.1 The conduct of other Contracting Authorities in relation to the Framework Agreement OR
 - 1.4.2 The performance or non performance of any Call-Off Contract between the Supplier and the Other Contracting Authorities entered into pursuant to the DPS Framework
- 1.5 This DPS Framework Agreement, Call-Off Contract constitutes the entire Contract and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
- 1.6 Each of the Parties acknowledge that entering into this Call-Off Contract from the DPS Framework, it does not rely on and shall make no remedy in respect of any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the ITT Award Form. Schedules and Terms and Conditions. The only remedy available to either Party of such, statements, representations, warranty or understanding shall be for breach of contract under the terms and conditions of the Call-Off Contract.

Schedule 2 Definitions and Interpretations

1. Definitions

In this Call-off Contract, the following words shall have the following meanings unless the context requires otherwise:

“Anti-slavery Policies”	Means our anti-slavery policies from time to time as notified to you;
“Authority’s Obligations”	means our further obligations, if any, referred to in the Call-Off Contract - PART 1 Key Provisions;
“Business Day”	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
“Change Control Process”	means the change control process, if any, referred to in the Key Provisions under ‘Variation’;
“Codes of Practice”	shall have the meaning given to the term in Clause 1.2 of Call-off Schedule 3;
“Commencement Date”	means the date of this Call-Off Contract;
“Confidential Information”	means information, data and material of any nature, which any Party may receive or obtain in connection with the conclusion and/or operation of the Call-Off Contract including any procurement process which is: (a) Personal Data or Sensitive Personal Data including without limitation which relates to any member of the public; (b) designated as confidential by either Party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or Policies and such other documents which you may obtain or have access to through our intranet;
“Contract”/“Call-off Contract”	means the award of contract resulting from a mini-competition from the DPS framework, the award noted at the front of this document and all schedules attached to the Award form of contract;
“Contracting Authority”	means any contracting authority as defined in regulation 2 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than us; To be known within these terms and conditions as the “Contracting Authority”
“Contract Manager”	means for us and for you the individuals specified in the Key Provisions or such other person notified by a Party to the other

	Party from time to time in accordance with Clause 7 of Call-off Schedule 4;
“Contract Price”	means the Price exclusive of VAT that is payable to you by us under the Call-Off Contract for the full and proper performance by you of your obligations under the Call-Off Contract;
“Contracting Authority”	Contracting Authority who has taken out a Call-Off Contract for the delivery of the good and service under the DPS
“Data Protection Legislation”	means, unless and until the GDPR is no longer directly applicable in the UK, (i) the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018;
“Data Protection Impact Assessment”	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
“Data Protection Schedule”	means the schedule containing the details of the data processing.
“Data Subject Access Request”	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
“DPA”	means the GDPR, the LED and any applicable national implementing Laws as amended from time to time including the DPA 2018 to the extent that it relates to processing of personal data and privacy and all other applicable Law about the processing of personal data and privacy.
“DPA 2018”	means the Data Protection Act 2018.
“Dispute Resolution Procedure”	means the process for resolving disputes as set out in Clause 19 of Call-off Schedule 4;
“Environmental Regulations”	shall have the meaning given to the term in Clause 1.2 of Call-off Schedule 3;
“eProcurement Guidance”	means the police eProcurement Strategy , if any, together with any further Guidance issued in connection with it;
“Equality Legislation”	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination and human rights as may be in force in England and Wales from time to time including, but not limited to, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of Less Favourable Treatment)

	Regulations 2002 (SI 2002/2034) and the Human Rights Act 1998;
“FOIA”	shall have the meaning given to the term in Clause 1.2 of Call-off Schedule 3;
“Force Majeure Event”	<p>means any event beyond the reasonable control of the Party in question to include, without limitation:</p> <p>(a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party’s ability to perform its obligations under this Contract;</p> <p>(b) acts of terrorism;</p> <p>(c) flood, storm or other natural disasters;</p> <p>(d) fire;</p> <p>(e) unavailability of public utilities and/or access to transport networks to the extent no diligent Supplier could reasonably have planned for such unavailability as part of its business continuity planning;</p> <p>(f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by you to comply with any relevant regulations, Laws or procedures (including such Laws or regulations relating to the payment of any duties or taxes) and subject to you having used all reasonable legal means to resist such requisition or impoundment;</p> <p>(g) compliance with any local Law or governmental order, rule, regulation or direction that could not have been reasonably foreseen, including, without limitation, under the Civil Contingencies Act 2004;</p> <p>(h) industrial action which affects the ability of you to supply the Goods and or Services, but which is not confined to the workforce of you or the workforce of any Sub-contractor of you; and</p> <p>(i) a failure in your or our supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties;</p>
“Framework Agreement”	Means the Dynamic Purchasing System Framework Agreement for Drugs Testing Devices and their consumables, accessories and services as entered into by the Supplier with the Police and Crime Commissioner for Dorset;
“Fraud”	means any offence under any Law in respect of fraud in relation to this Call-Off Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority (Contracting Authority);

“GDPR”	means the General Data Protection Regulation Data Protection Act 2018;
“Good Industry Practice”	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced Supplier and/or service provider engaged in the manufacture and/or supply of Goods and or Services similar to the Goods and or Services under the same or similar circumstances as those applicable to this Call-Off Contract; including in accordance with any codes of practice published by relevant trade associations;
“Goods”	means all goods, materials or items that you are required to supply to us under this Call-Off Contract for the drugs testing devices & consumables and accessories as detailed in the Schedule 1 Specification 1;
“Guidance”	means any applicable guidance, direction or determination and any policies, advice or industry alerts which apply to the Goods, to the extent that the same are published and publicly available or the existence or contents of them have been notified to you by us and/or any other regulator or competent body;
“Implementation Plan”	means the implementation plan, if any, referred to within the Supper Tender Submission Schedule 5; specific requirements
“Intellectual Property Rights”	means all patents, copyright, design rights, registered designs, trademarks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trademarks and registered designs;
“Insolvency Event”	<p>Where you are a company or limited liability partnership:</p> <p>(a) you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit inability to pay your debts or are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986;</p> <p>(b) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors other than for the sole purpose of a scheme for your solvent amalgamation with one or more other companies or your solvent reconstruction;</p> <p>(c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up other than for the sole purpose of a scheme for your solvent amalgamation with one or more other companies or your solvent reconstruction;</p> <p>(d) an application is made to court, or an order is made, for the appointment of an administrator over you, or if a notice</p>

	<p>of intention to appoint an administrator over you is given or if an administrator is appointed over you;</p> <p>(e) the holder of a qualifying floating charge over your assets has become entitled to appoint or has appointed an administrative receiver;</p> <p>(f) a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;</p> <p>(g) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;</p> <p>(h) any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in (a) to (g) (inclusive);</p> <p>(i) you suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of your business.</p> <p>Where you are a partnership:</p> <p>(j) have any partner to whom any of the foregoing clauses (a) to (i) apply; or</p> <p>(k) you suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of your business.</p> <p>Where you are an individual:</p> <p>(l) are deemed either unable to pay your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986;</p> <p>(m) you are the subject of a bankruptcy petition or order;</p> <p>(n) you suspend or cease, or threaten to suspend or cease, carrying on all or a substantial part of your business; or</p> <p>(o) you die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or become a patient under any mental health legislation.</p>
“Key Provisions”	means the key provisions set out in Call-off Schedule 1;
“Law”	<p>means any applicable legal requirements including, without limitation:</p> <p>(a) any applicable statute or proclamation or any delegated or subordinate legislation or regulation as applicable in England and Wales;</p> <p>(b) any applicable European Union directive, regulation, decision or law;</p>

	<p>(c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;</p> <p>(d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;</p> <p>(e) requirements set by any regulatory body as applicable in England and Wales;</p> <p>(f) any relevant code of practice as applicable in England and Wales; and</p> <p>(i) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);</p>
“Losses”	all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and Prices whether arising under Call-Off Contract or at Law;
“Material Breach”	A breach (including an anticipatory breach) that is either persistent in nature or is serious in the widest sense of having a serious effect on the benefit which a party would otherwise derive from a substantial portion of the Contract over the Term. In determining whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding
“Period of Insurance”	The start of the Call-Off Contract until 6 years following the end of the Call-Off Contract
“Participating Authority/Organisation”	Has the same meaning as Contracting Authority in the Framework Agreement & Call-Off Contract (that is - means the Lead Authority and any other contracting authority (as defined in regulation 2 of the Regulations) described in the FTS Notice.
“Party”	means either or both of us (as the context allows) or you, and Parties means all parties to the Call-Off Contract.
“Personal Data”	means personal data as defined in the Data Protection Legislation;
“Policies”	means our policies, rules and procedures as notified to you from time to time;
“Prohibited Acts”	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by us a financial or other advantage, to:</p> <p>(i) induce that person to perform improperly a relevant function or activity; or</p> <p>(ii) reward that person for improper performance of a relevant function or activity;</p>

	<p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Call-Off Contract;</p> <p>(c) committing any offence:</p> <p>(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);</p> <p>(ii) under the Law concerning fraudulent acts;</p> <p>(iii) defrauding, attempting to defraud or conspiring to defraud us.</p> <p>(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK.</p>
“Purchase Order”	means the purchase order required by our financial systems, if a purchase order is referred to in the Key Provisions;
“Required Insurances”	has the meaning given under Clause 12.1 of the Call-off Contract Schedule 4;
“Services”	Services provided in this DPS Framework are Training that can be provided on the Mobile Preliminary Roads Drugs Testing Devices, and Annual Maintenance Services and/or Repair to Mobile Preliminary Roads Drug Testing Devices capital equipment along with Calibration Testing of equipment
“Specification and Tender Response Document”	means the document set out in Call-Off Contract Schedule 5; Specific Statement of Requirements for the Contracting Authorities
“Suppliers Staff”	means all persons employed or engaged by you to perform your obligations under this Call-Off Contract including any Sub-contractors and person employed or engaged by such Sub-contractors;
Statement of Requirements (SOR)	The high-level specification set out in the DPS SSQ and Schedule 1 of the DPS outlining the minimum quality and technical standards required to supply the goods and services
“Sub-contract”	means a contract between two or more Suppliers, at any stage of remoteness from you in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Call-Off Contract;
“Sub-contractor”	means a party to a Sub-contract other than you;
“Supplier Personnel”	means any of your or your Sub-contractor’s employees, agents, consultants and/or Sub-contractors who is either partially or fully engaged in the performance of the Call-Off Contract;
“Term”	means the term as set out in the Key Provisions;

“VAT”	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.
“We” and “Us” and “Contracting Authority”	means the Contracting Authority named on the form of Call-Off Contract on the first page;
“You” and “Your” and “Supplier”	means the Supplier named on the form of Call-Off Contract on the first page;

- References to any statute or order shall include any statutory extension, modification or re-enactment, and any order, regulation, bye-law or other subordinate legislation.
- References to any legal entity shall include anybody that takes over responsibility for the functions of such entity.
- References in this Call-Off Contract to a “Schedule”, “Appendix”, and “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Call-Off Contract except where reference is made to a relevant provision of the DPS Framework Call-Off Contract.
- References in this Call-Off Contract to a day or to the calculation of timeframes are references to a calendar day unless expressly specified as a Business Day.
- Unless set out in DPS Framework Call-Off Contract Schedule 6 as a chargeable item and subject to Clause 27.6 of [Call-off Schedule 4](#), you shall bear the cost of complying with your obligations under this Call-Off Contract.
- The headings are for convenience only and shall not affect the interpretation of this Call-Off Contract.
- Words denoting the singular shall include the plural and vice versa.
- Where a term of this Call-Off Contract provides for a list of one or more items following the word “including” or “includes” then such list is not to be interpreted as an exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.
- Where there is a conflict between your responses to our requirements (your responses being set out in DPS Framework Schedule [2](#)) and any other part of this Call-Off Contract, such other part of this Call-Off Contract shall prevail.
- Where a document is required under this Call-Off Contract, the Parties may agree in writing that this shall be in electronic format only.
- There is an obligation on us to procure any course of action from any third party, this shall mean that we shall use our reasonable endeavour to procure such course of action from that third party.

Schedule 3 Information Governance Provisions

1 Confidentiality

- 1.1 In respect of any Confidential Information, it may receive directly or indirectly from the other Party ("**Discloser**") and subject always to the remainder of Clause 1 of this Call-off Schedule 3, each Party ("**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that:
- 1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date.
 - 1.1.2 the provisions of Clause 1 of this Call-off Schedule 3 shall not apply to any Confidential Information:
 - (i) which is in or enters the public domain other than by breach of this Call-Off Contract or other act or omissions of the Recipient.
 - (ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality.
 - (iii) which is authorised for disclosure by the prior written consent of the Discloser.
 - (iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or
 - (v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.
- 1.2 Nothing in Clause 1 of this Call-off Schedule 3 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("**FOIA**"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("**Codes of Practice**") or the Environmental Information Regulations 2004 ("**Environmental Regulations**").
- 1.3 We may disclose your Confidential Information:
- 1.3.1 on a confidential basis, to any Contracting Authority (the Parties agree that all Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Contracting

Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Contracting Authority).

- 1.3.2 on a confidential basis, to any consultant, Supplier or other person engaged by us and/or the Contracting Authority receiving such information.
- 1.3.3 to any relevant party for the purpose of the examination and certification of our accounts.
- 1.3.4 to any relevant party for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency, and effectiveness with which we have used our resources.
- 1.3.5 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirements; or
- 1.3.6 on a confidential basis to a proposed successor body in connection with any proposed or actual, assignment, novation or other disposal of rights, obligations, liabilities, or property in connection with this Call-Off Contract.

and for the purposes of this Call-Off Contract, references to disclosure "on a confidential basis" shall mean our making clear the confidential nature of such information and that it must not be further disclosed except in accordance with Law or this Clause 1.3 of this Call-off Schedule 3.

- 1.4 You may only disclose our Confidential Information, and any other information we provide you in relation to this Call-Off Contract, to your Staff or professional advisors who are directly involved in the performance of or advising on your obligations under this Call-Off Contract. You shall ensure that such Staff or professional advisors are aware of, and shall comply with, the obligations in Clause 1 of this Call-off Schedule 3 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at our written discretion, destroyed securely or returned to us when it is no longer required. You shall not, and shall ensure that the Staff do not, use any of our Confidential Information received otherwise than for the purposes of performing your obligations in this Call-Off Contract.
- 1.5 For the avoidance of doubt, save as required by Law or as otherwise set out in this Call-off Schedule 3, you shall not, without our prior written consent (such consent not to be unreasonably withheld or delayed), announce that you have entered into this Call-Off Contract and/or that you have been appointed as a Supplier to us and/or make any other announcements about this Call-Off Contract.
- 1.6 Clause 1 of this Call-off Schedule 3 shall remain in force:
 - 1.6.1 without limit in time in respect of Confidential Information which comprises Personal Data, Sensitive Personal Data or which relates to national security; and
 - 1.6.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Call-Off Contract unless otherwise agreed in writing by the Parties.

2 General Data Protection Regulations (GDPR)

- 2.1 For the purposes of this Clause 2.1, the terms “Controller”, “Data Controller”, “Data Processor”, “Data Protection Officer”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “Process”, “Processing” and “Processor” shall have the meaning prescribed under the DPA.
- 2.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 2 is in addition to, and does not relieve, remove or replace, a party’s obligations under the Data Protection Legislation 2018 Act.
- 2.3 The Supplier shall designate a data protection officer.
- 2.4 The Supplier shall procure that any of its Staff involved in the provision of a Call-Off Contract will duly observe all their obligations under the Data Protection Legislation which arise in connection with a Call-Off Contract
- 2.5 With relation to this Call-Off Contract the parties acknowledge that the Contracting Authority is the Data Controller, and the Supplier is the Data Processor
- 2.6 The Supplier shall provide all reasonable assistance to the Contracting Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Contracting Authority, include
 - 2.6.1 systematic description of the envisaged processing operations and the purpose of the processing.
 - 2.6.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services.
 - 2.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 2.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.7 The only processing that the Supplier is authorised to do is listed in the Data Protection Schedule by the Contracting Authority and may not be determined by the Supplier.
- 2.8 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under the Contract:
 - 2.8.1 process that Personal Data only in accordance with the Data Protection Schedule unless the Supplier is required to do otherwise by Law. If it is so required, the Supplier shall promptly notify the Contracting Authority before processing the Personal Data unless prohibited by Law
 - 2.8.2 ensure that it has in place Protective Measures which have been reviewed and approved by the Contracting Authority as appropriate to protect against a Data Loss Event having taken account of the:

- (i) nature of the data to be protected.
- (ii) harm that might result from a Data Loss Event.
- (iii) state of technological development; and
- (iv) cost of implementing any measures.

2.8.3 Ensure that

- (i) the Supplier Personnel do not process Personal Data except in accordance with the Contract (and in particular the Data Protection Schedule);
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Supplier's duties under these clauses
 - (B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Contracting Authority or as otherwise permitted by the Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

2.9 Not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained

2.10 at the written direction of the Contracting Authority, delete or return Personal Data (and any copies of it) to the Contracting Authority on termination of the Contract unless the Supplier is required by Law to retain the Personal Data.

2.11 Subject to clause 2.12 the Supplier shall notify the Contracting Authority immediately if it:

- 2.11.1 receives a Data Subject Access Request (or purported Data Subject Access Request)
- 2.11.2 receives a request to rectify, block or erase any Personal Data.
- 2.11.3 receives any other request, complaint or communication relating to either Party's obligations under the DPA.
- 2.11.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under the Contract.

- 2.11.5 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
 - 2.11.6 becomes aware of a Data Loss Event.
- 2.12 The Supplier's obligation to notify under clause 2.11 shall include the provision of further information to the Contracting Authority in phases, as details become available.
- 2.13 Taking into account the nature of the processing, the Supplier shall provide the Contracting Authority with full assistance in relation to either Party's obligations under DPA and any complaint, communication or request made under clause 2.11 (and insofar as possible within the timescales reasonably required by the Contracting Authority) including by promptly providing:
 - 2.13.1 the Contracting Authority with full details and copies of the complaint, communication or request
 - 2.13.2 such assistance as is reasonably requested by the Contracting Authority to enable the Contracting Authority to comply with a Data Subject Access Request within the relevant timescales set out in the DPA
 - 2.13.3 the Contracting Authority, at its request, with any Personal Data it holds in relation to a Data Subject
 - 2.13.4 such assistance as is requested by the Contracting Authority following any Data Loss Event
 - 2.13.5 such assistance as is requested by the Contracting Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Contracting Authority with the Information Commissioner's Office.
- 2.14 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause 2. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
 - 2.14.1 the Contracting Authority determines that the processing is not occasional
 - 2.14.2 the Contracting Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and (c) the Contracting Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.15 In the event that through any Default of the Supplier, data transmitted or processed in connection with a Call-Off Contract is either lost or sufficiently degraded as to be unusable, the Supplier shall be liable for the cost of reconstitution of that data and shall provide a full credit in respect of any charge levied for its transmission.
- 2.16 Data Retention the Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the Party for statutory compliance

purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

- 2.17 If financial penalties are imposed by the Information Commissioner on either the Contracting Authority or the Supplier for a Personal Data Breach ("Financial Penalties") then the following shall occur:
- 2.17.1 if in the view of the Information Commissioner, the Contracting Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Contracting Authority, its employees, agents, Suppliers (other than the Supplier) or systems and procedures controlled by the Contracting Authority, then the Contracting Authority shall be responsible for the payment of such Financial Penalties. In this case, the Contracting Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Contracting Authority and its third-party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation, and access to conduct a thorough audit of such Personal Data Breach:
 - 2.17.2 if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Contracting Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Contracting Authority and its auditors, on request and at the Supplier's sole cost, full cooperation, and access to conduct a thorough audit of such Personal Data Breach; or
 - 2.17.3 if no view as to responsibility is expressed by the Information Commissioner, then the Contracting Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. If the Parties do not agree such apportionment, then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 18 of the Terms and Conditions (Dispute Resolution).
- 2.18 If either the Contracting Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 2.19 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):
- 2.19.1 if the Contracting Authority is responsible for the relevant Personal Data Breach, then the Contracting Authority shall be responsible for the Claim Losses.

- 2.19.2 if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and
- 2.19.3 if responsibility for the relevant Personal Data Breach is unclear, then the Contracting Authority and the Supplier shall be responsible for the Claim Losses equally.
- 2.20 Nothing in either Clause 2.16 or Clause 2.17 shall preclude the Contracting Authority and the Supplier reaching any other agreement, including by way of compromise with a third-party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Contracting Authority
- 2.21 The Parties agree to take account of any guidance issued by the Information Commissioner (IOC) and/or any relevant Government Body. The Contracting Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Call-Off Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Government Body.

3 Freedom of Information and Transparency

- 3.1 The Parties acknowledge the duties of Contracting Authorities under the FOIA, Codes of Practice and Environmental Regulations and shall give one another all reasonable assistance as appropriate or necessary to enable compliance with those duties.
- 3.2 You shall assist and cooperate with us to enable us to comply with our disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. You agree:
 - 3.2.1 that this Call-Off Contract and any recorded information held by you on our behalf for the purposes of this Call-Off Contract are subject to our obligations and commitments under the FOIA, Codes of Practice and Environmental Regulations.
 - 3.2.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for us.
 - 3.2.3 that where you receive a request for information under the FOIA, Codes of Practice and Environmental Regulations and you yourself are subject to the FOIA, Codes of Practice and Environmental Regulations you will liaise with us as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to us.
 - 3.2.4 that where you receive a request for information under the FOIA, Codes of Practice and Environmental Regulations and you are not yourself subject to the FOIA, Codes of Practice and Environmental Regulations, you will not

respond to that request (unless directed to do so by us) and will promptly (and in any event within two (2) Business Days) transfer the request to us.

- 3.2.5 that we, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA, and regulation 16 of the Environmental Regulations, may disclose information concerning you and this Call-Off Contract; and
- 3.2.6 to assist us in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA and providing copies of all information requested by us within five (5) Business Days of that request and without charge.
- 3.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations, the content of this Call-Off Contract is not Confidential Information.
- 3.4 Notwithstanding any other term of this Call-Off Contract, you consent to the publication of this Call-Off Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations.
- 3.5 In preparing a copy of this Call-Off Contract for publication under Clause 3.4 of this Call-off Schedule 3, we may consult with you to inform decision making regarding any redactions but the final decision in relation to the redaction of information will be at our absolute discretion.
- 3.6 You shall assist and cooperate with us to enable us to publish this Call-Off Contract.
- 3.7 Where any information is held by any of your Sub-contractors in connection with this Call-Off Contract, you shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 3 of this Call-off Schedule 3, as if such Sub-contractor were you.
- 3.8 Transparency Reports: The Supplier recognises that the Contracting Authority is subject to Elected Local Policing Bodies (Specified Information) Order 2011 (as amended) and relevant transparency obligations imposed by the UK Government from time to time. The Supplier shall comply in order to assist the Contracting Authority with its compliance with its transparency obligations.
- 3.9 Transparency Reports: Without prejudice to the Supplier's reporting requirements set out in the Call-Off Contract, Supplier shall submit to the Contracting Authority for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports as required by the Contracting Authority.
- 3.10 Transparency Reports can include but is not limited to MI on the Supplier, DPS Framework Performance: Prices: Sub-contractors: Technical: Performance Management.

- 3.11 If the Contracting Authority rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Contracting Authority. If the Parties fail to agree on a draft Transparency Report the Contracting Authority shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 3.12 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Contracting Authority as reasonably required.

4 Information Security & Data Protection Breach

- 4.1 Without limitation to any other information governance requirements set out in this Call-off Schedule 2 or Schedule 3, you shall:
- 4.1.1 notify us promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any information security breaches or near misses (including without limitation any potential or actual breaches of confidentiality or actual information security breaches); and
 - 4.1.2 providing the Contracting Authority and its advisors with sufficient information and in a timescale, which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation; within 48 hours the following particulars:
 - (i) the nature of the Personal Data Breach.
 - (ii) the nature of Personal Data affected.
 - (iii) the categories and number of Data Subjects concerned.
 - (iv) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained.
 - (v) measures taken or proposed to be taken to address the Personal Data Breach; and
 - (vi) describe the likely consequences of the Personal Data Breach.
 - 4.1.3 fully cooperate with any audits or investigations relating to information security and any Data Protection Impact assessments undertaken by us and shall provide full information as may be reasonably requested by us in relation to such audits, investigations, and assessments
 - 4.1.4 and maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of UK GDPR.
- 4.2 Where required in accordance with the Schedule 1 Specification and Call-Off Contract Specific Requirements (Schedule 5) Tender Response Document, you will ensure that you put in place and maintain an information security management plan appropriate to this Call-Off Contract and the obligations placed on you under this Call-Off Contract. You shall ensure that such plan is consistent with any relevant Policies, Guidance, Good Industry Practice and with any relevant quality standards as may be set out in the Key Provisions and/or the Schedule 1 Specification) and Schedule 5 Tender Response Document.

- 4.3 Where required in accordance with the Specification, you shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Schedule 1 Specification.
- 4.4 Before allowing any Sub-processor to process any Personal Data related to the Contract, the Supplier must:
- 4.4.1 notify the Contracting Authority in writing of the intended Sub-processor and processing
 - 4.4.2 obtain the written consent of the Contracting Authority
 - 4.4.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause E1 such that they apply to the Sub-processor; and
 - 4.4.4 provide the Contracting Authority with such information regarding the Sub-processor as the Contracting Authority may reasonably require.
 - 4.4.5 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
 - 4.4.6 The Contracting Authority may, at any time on not less than 30 Working Days' notice, revise this clause 2 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).
 - 4.4.7 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Contracting Authority may on not less than 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.
 - 4.4.8 The provision of this Clause shall apply during the Contract Period and indefinitely after its expiry.
 - 4.4.9 The Supplier shall fully indemnify the Contracting Authority and Chief Constable against any actions, claims, loss, proceedings, demands, damages, charges or other costs (including legal costs and disbursements on a solicitor own client basis) arising from any breach of any provision of this clause.

Schedule 4 – General Terms and Conditions

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1 Supply of Goods and Associated Services

- 1.1 You shall supply the Goods and the associated Services that we order under this Call-Off Contract:
 - 1.1.1 promptly and in any event within any time limits we specify in this Call-Off Contract;
 - 1.1.2 in accordance with all other provisions of this Call-Off Contract;
 - 1.1.3 using reasonable skill and care;
 - 1.1.4 in accordance with any quality assurance standards set out in the Key Provisions and/or specifications; Schedule 1: MPRDTD Statement of Requirements (SO) Technical & Quality Standards Annex 1 and Annex 2
 - 1.1.5 in accordance with the Law;
 - 1.1.6 in accordance with the highest level of care, skill and diligence in accordance with best practice in your industry, profession or trade;
 - 1.1.7 in accordance with the Policies; and
 - 1.1.8 in a professional and courteous manner and in co-operation with us and our instructions.
- 1.2 Immediately following the Commencement Date, you shall carry out all implementation activities fully in accordance with the Implementation Plan. If this is an outline plan, you shall, as part of implementation, develop it into a full plan and agree it with us.
- 1.3 The Goods shall be new, conform to any sample you have provided us, comply with any specification set out in this Call-Off Contract and any applicable manufacturers' specifications.
- 1.4 You shall ensure that you obtain and maintain at all times all relevant consents, authorisations, licences, and accreditations needed to supply the Goods and or Services.
- 1.5 You shall co-operate fully with us by responding to or reporting all incidents involving the Goods and or Services and respond promptly to any queries we may have in this respect. If you, or any regulatory body, issue a quality, performance or safety related notice or alert relating to the Goods or their use, you shall promptly provide us with a copy, and comply, free of charge, with any further requests for information or co-operation we may make.

- 1.6 We shall have the right to enter your premises and the premises of any of your sub-Suppliers to:
- 1.6.1 inspect the manufacturing facilities and the equipment you or any of your sub-contractors use to manufacture the Goods; and
 - 1.6.2 inspect and take samples of the raw materials, the packaging and the Goods.
- 1.7 We shall carry out inspections under Clause 1.6 of this Call-off Schedule 4 during business hours on reasonable notice to you.
- 1.8 If following an inspection, we consider that the Goods are not or are not likely to be as warranted under Clause 1.1 of this Call-off Schedule 4, we shall let you know, and you shall do whatever is necessary to ensure that the Goods are or will be as warranted under Clause 1.1. We reserve the right to re-conduct inspections and take further samples after you have carried out your remedial actions.
- 1.9 You shall be deemed to have examined the requirements of the DPS Framework Agreement and Call-off contract and to have satisfied yourself that you will be able to fulfil the obligations contained within them.

2 Delivery of the Goods and passing of risk and ownership in the Goods

- 2.1 You shall meet any delivery timescales, dates and instructions we may require in the Specification and Tender Response Document, a Purchase Order or agreed with us in writing in respect to the delivery of Goods and or Services.
- 2.2 Delivery of Goods shall be complete when we have unloaded and accepted them, and you shall include with the Goods a delivery note containing our address, any order number, and a description of the Goods.
- 2.3 We may refuse to accept part deliveries and/or deliveries of Goods and or Services outside of the agreed delivery times/dates unless agreed with you in advance. If we do refuse, you shall be responsible for all costs associated with re-delivery.
- 2.4 You shall be responsible for all licenses and costs associated with the delivery of the Goods and or Services to the delivery location and unloading at that location, including obtaining all import and export licenses, and any duties or taxes for which we may be accountable in the case of Goods supplied from outside the United Kingdom.
- 2.5 Risk in the Goods shall pass to us upon delivery of the Goods as specified in this Call-Off Contract or, in the case of Goods which require you to install them, when that installation process is complete. You shall be liable for the acts or omissions of any carrier or installer of Goods.
- 2.6 Ownership of the Goods shall pass to us on delivery.
- 2.7 All the tools, equipment and materials you need to perform your obligations under this Call-Off Contract shall be and remain at your sole risk, whether or not they are situated at a delivery location.

- 2.8 Time is of the essence as to any delivery dates in respect of the Goods and or Services under this Call-Off Contract, and if you fail to meet any such delivery date, this shall be deemed to be a breach incapable of remedy for the purposes of these Call-off Contract terms and conditions.

3 Inspection, Rejection, Return and Recall of the Goods

- 3.1 We won't be deemed to have accepted any Goods unless we've had a reasonable time to inspect them following delivery, or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent to us.
- 3.2 If any Goods delivered to us don't comply with Clause 1.1 of this Call-off Schedule 4, or don't conform with the terms of this Call-Off Contract in some other way, then, without limiting any other right or remedy that we may have, we may reject the Goods and: shall be entitled to avail itself of any or one or more of the following remedies at its discretion whether or not any part of the Goods and or Services have been accepted by the Contracting Authority.
- 3.2.1 Following a report to the Supplier of a problem with the devices the Supplier will acknowledge the issue raised within 24 hours of receiving the report from the Contracting Authority and, thereafter follow
- 3.2.2 Collect from the Contracting Authority and replace, like for like any devices, consumables, equipment or associated items received damaged/faulty within 48 hours of notification of said condition, at the Suppliers expense.
- 3.2.3 Where under warranty the Supplier is required to repair or replace them, at the Suppliers risk and expense, within 5 (five) Business Days of being asked to do so; or
- 3.2.4 Where out of warranty but equipment is in need of repair, to offer quote of cost of repair to the Contracting Authority and seek approval in writing before progressing with a repair of equipment out of warranty period.
- 3.2.5 require you to repay the Price of the rejected Goods in full (whether or not we have previously required you to repair or replace the rejected Goods); and
- 3.2.6 claim damages for any other costs, expenses or losses resulting from your delivery of Goods and or Services that do not conform with the terms of this Call-Off Contract.
- 3.2.7 to rescind a purchase order
- 3.2.8 to reject the Goods and or Services (in whole or part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for Good and or service so returned shall be paid forthwith by the Supplier
- 3.2.9 To refuse to accept any further deliveries of Goods and or Services but without any liability to the Contracting Authority

- 3.3 Cumulative Remedies, except as otherwise expressly provided by the Call-Off Contract, all remedies available to either Party for the Breach of a Call-Off Contract are cumulative and may be exercised concurrently or separately and the exercises of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 3.4 Our rights and remedies under this Clause 3 are in addition to the rights and remedies available to us in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into this Call-Off Contract in accordance with any obligations implied by Section 12 or 14 of the Sale of Goods Act 1979 OR Section 2 of the Supply of Goods and Services Act 1982.
- 3.5 The terms of this Call-Off Contract shall apply to any repaired or replacement Goods you supply.
- 3.6 If you fail to promptly repair or replace rejected Goods in accordance with Clause 3.2.1 of this Call-off Contract Schedule 4 we may, without affecting our rights under Clause 3.2.3 of this Call-off Contract Schedule 4, obtain substitute products from a third-party Supplier, or have the rejected Goods repaired by a third party, and you shall reimburse us for the costs we incur in doing so.

4 Training & Training Materials of Drugs Devices

- 4.1 The Supplier to provide to the Contracting Authority Training Workshops as agreed with the Contracting Authority.
- 4.2 The Supplier to provide to the Contracting Authority Training Manuals and User Guides as free of charge and to update such guides as required to keep up to date and relevant to the Drugs Devices being used under this DPS Call-Off Contract
- 4.3 This should be comprehensive and cover all aspects of the use of the drug testing process.

5 Suppliers Status and Supplier Staff

- 5.1 Suppliers Status, at all times during the Call-Off Contract the Supplier shall be an independent Supplier and nothing in the Call-Off Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the parties and accordingly, neither Party shall be authorised to act in the name of or on behalf of or otherwise bind the other Party save as expressly permitted by the terms of contract
- 5.2 You shall be responsible for obtaining and maintaining all licences, authorisations, consents or permits (statutory requirements) required to the performance of this DPS framework agreement and any Call-Off Contract.
- 5.3 Subject to the requirements of this Call-Off Contract and any Law, you shall be entirely responsible for the employment and conditions of service of Staff, and you shall ensure that such conditions of employment are consistent with your obligations under this Call-Off Contract.

- 5.4 You shall engage sufficient Staff to ensure that you comply with your obligations under this Call-Off Contract. This shall include, but not be limited to, you are providing a sufficient reserve of trained and competent Staff to supply the Goods and or Services during Staff holidays or absence.
- 5.5 You shall:
- 5.5.1 employ only those Staff who are careful, skilled and experienced in the duties required of them;
 - 5.5.2 ensure that every member of Staff is properly and sufficiently trained and instructed;
 - 5.5.3 ensure all Staff have the qualifications to carry out their duties; and
 - 5.5.4 maintain throughout the Term all appropriate licences and registrations with any relevant bodies (at your expense) in respect of the Staff and ensure that they comply with such registration, professional development and training requirements appropriate to their role.
- 5.6 We may, by written notice to you, refuse to admit onto, or withdraw permission to remain in the Premises and Locations, any member of the Staff whose admission or continued presence would, in our reasonable opinion, be undesirable.
- 5.7 At our written request, you shall provide a list of the names and addresses of all persons who may carry out work pursuant to this Call-Off Contract, specifying the capacities in which they are concerned with the Call-Off Contract and giving such other particulars as we may reasonably request.
- 5.8 If and when we request, you shall procure (in respect of your Staff) from each person identified by the request a signed statement that they understand that the Official Secrets Acts 1911 to 1989 applies to them both during the carrying out and after expiry or termination of the Call-Off Contract.
- 5.9 Staff working on this Call-Off Contract are to be vetted in accordance with Non-Police Personnel Vetting (NPPV) as it may be varied from time to time. No Staff will be permitted to enter Premises or Locations without the appropriate vetting clearance.
- 5.10 You shall complete the authentication procedure in respect of all Staff employed in the execution of the Call-Off Contract prior to NPPV being initiated.
- 5.11 You shall arrange for the completion of the Police Security Vetting and subsequent review forms required to facilitate NPPV enquiries. All completed forms must be sent to the Warwickshire Police Vetting Unit.
- 5.12 Information identified about the Staff and/or their associates during the vetting process cannot be shared with you.
- 5.13 Vetting clearances are reviewed periodically but can be reviewed at an earlier stage if information comes to light and/or there is a material change in an individual's personal circumstances.
- 5.14 Changes may impact on individuals' suitability to hold clearance. Consequently, our Contract Manager must be informed, in writing, of any changes in respect of an applicant's personal circumstances. Such changes include, but are not limited to,

spouse/partner, address(es) and/or criminal convictions. Failure to comply may result in vetting clearance being withdrawn.

- 5.15 We reserve the right to reject any of the Staff without giving any reason or explanation. We also reserve the right to remove vetting clearance and/or withdraw permission to remain on their Premises or Locations from any of the Staff at any time during the lifetime of the Call-Off Contract without giving any reason or explanation.
- 5.16 Our decision as to whether any person is not to become involved in or is to be removed from involvement in the performance of this Call-Off Contract and as to whether you have furnished the information, or taken steps required, shall be final and conclusive.
- 5.17 If we give you notice that any person is not to become involved in, or is to be removed from involvement in, the performance of this Call-Off Contract, you shall take all reasonable steps to comply with such notice and if required by us, you shall replace any person removed with another suitably qualified person and ensure that all equipment, keys, swipe cards, passes and other items provided for the purpose of performing their role issued to the person removed is surrendered. We shall in no circumstances be liable to either you or a member of Staff in respect of any liability, loss or damage occasioned by such refusal or removal and you shall indemnify us against any claim made by such Staff.
- 5.18 If you fail to comply with the provisions of this Clause 5 of Call-off Schedule 4, we (and our decision shall be final and conclusive) may decide that such failure is prejudicial to our interests and if you do not comply within a reasonable time of written notice the Call-Off Contract may be terminated provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to us.
- 5.19 Authentication is fundamental to all levels of force and National Security Vetting must be completed before any other enquiries are initiated. Identity can be verified by physically checking a range of appropriate documentation e.g., passport or other official photo ID together with utility bills, bank statement etc as we in our absolute discretion determine. Verification of nationality and immigration status, including entitlement to undertake the work in question, is essential. Comprehensive summary guidance for employers is available electronically from the UK Visa & Immigration website at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>.
- 5.20 You shall ensure that your Staff engaged on the Premises and Locations comply with such Policies (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises or Locations.
- 5.21 You acknowledge that we shall be free to search any member of Staff and shall procure that the Staff co-operate fully with us for these purposes. You shall also ensure that all of your Staff carry out their duties and act while on the Premises and Locations or while providing the Services in an orderly and appropriate manner, having regard to the nature of their duties and that they shall at all times be dressed appropriately in view of their job category and the Services they are to provide.
- 5.22 You shall ensure that only such of your Staff as have been authorised by us be permitted access to the Premises and Locations, information or assets or otherwise have any involvement in the provision of the Services.

- 5.23 Those persons authorised to carry out work in respect of the Call-Off Contract may, at our discretion, be issued with a photo pass confirming their identity. You shall ensure, at your own cost, that all relevant persons attend any location as we shall direct for the issue of such photo passes.
- 5.24 Where the photo passes are required:
- 5.24.1 You shall issue an authenticated photo pass to each person authorised to carry out work in respect of the Call-Off Contract and required to have access to the relevant Premises or Locations in order to do so and shall provide a second copy of each photo pass for our retention;
 - 5.24.2 You shall retrieve and destroy photo passes from any person that ceases to be authorised to carry out work in relation to the Call-Off Contract or to require access to the relevant Premises or Locations in order to do so;
 - 5.24.3 photo passes will be valid for a period of 3 years or such shorter period as we may direct and in order, we may be assured of the continuing suitability of staff to be employed in relation to the Call-Off Contract you shall ensure that completed security questionnaires are submitted in respect of relevant staff not less than 6 weeks before the expiry of any existing pass.
- 5.25 We reserve the right to make a charge for any of the vetting or other security procedures that we may carry out under this Clause 5 of Call-off Schedule 4.

6 Authority obligations

- 6.1 Subject to your supplying the Goods and or Services in accordance with this Call-off Contract, we will pay you for the Goods and or Services in accordance with Clause 8 of this Call-off Contract Schedule 4.
- 6.2 We shall, as appropriate, provide copies of or give you access to such of the Policies that are relevant to the supply of the Goods and or Services
- 6.3 We shall comply with our Authority Obligations, as may be referred to in the Key Provisions.
- 6.4 We shall provide you with any reasonable and proportionate cooperation so that you can comply with your obligations under this Call-Off Contract. You shall at all times provide us with reasonable advance written notification of any such cooperation necessary in circumstances where such cooperation will require us to plan for and/or allocate specific resources in order to provide such cooperation.

7 Contract Management and Management Information (MI)

- 7.1 The Parties shall each appoint and retain a Contract Manager who shall be the Parties' respective primary points of contact for matters arising under this Call-Off Contract. If a Party wishes to replace its Contract Manager, it shall promptly inform the other Parties in writing of the name and contact details for the new Contract Manager. Any Contract Manager appointed shall be of sufficient seniority and experience to be able to make decisions on the day-to-day operation of the Call-Off Contract
- 7.2 Each Party shall ensure that its representatives including its Contract Manager shall attend Call-Off Contract review meetings on a regular basis and shall ensure that those

attending such meetings have authority to make decisions regarding the day-to-day operation of the Call-Off Contract.

- 7.3 Two weeks prior to each review meeting, you shall provide us with a written Call-Off Contract management information (MI) report regarding the supply of the Goods and or Services and the operation of this Call-Off Contract which shall contain such information as we may reasonably require.
- 7.4 The detailed level of Contract Management Information and frequency of MI reports as documented in the Service Level Agreement and any specific MI requests as outlined in the ITT Award Form as specific to the Contracting Authority.
- 7.5 National Contract Management Information Reports to be issued to the Authority as and when required highlighting the national information in relation to the performance of the DPS, such as but not limited to spend and volume data by Contracting Authority.

8 Call-Off Contract Prices for Goods and Services

- 8.1 The Call-Off Contract Price shall be calculated as set out in Schedule 6 of the ITT Submission
- 8.2 Unless otherwise stated in Schedule 6 of the Call-Off Contract Price:
 - 8.2.1 shall remain fixed during the Term; and
 - 8.2.2 in respect of the Goods and or Services, is the entire Price payable by us to you in respect of the provision of the Goods and or Services and includes, without limitation:
 - (i) packaging, packing materials, addressing, labelling, loading, delivery to and unloading at the delivery location, all appropriate tax (excluding VAT) and duty, any installation costs and associated works, the costs of all associated documentation and information supplied or made accessible to us in any media, and any training in relation to the use, storage, handling or operation of the Goods;
 - (ii) any royalties, licence fees or similar expenses in respect of the making, use or exercise by you of any Intellectual Property Rights for the purposes of performing this Call-Off Contract, and any licence rights granted to us in accordance with Clause 10 of this Call-off Schedule 4; and
 - (iii) costs and expenses in relation to supplies and materials used by you or any third party in the manufacture of the Goods, and any other costs you incur in association with the manufacture, supply or installation of the Goods; and
- 8.3 all payments due shall be invoiced and made in pounds sterling (£).
- 8.4 The payment profile shall be monthly in arrears.
- 8.5 All invoices must quote a valid Purchase Order number to ensure efficient processing of invoices. The Contracting Authority accept no responsibility for the non-payment of invoices not complying with these requirements.

- 8.6 Payment terms shall be strictly 30 days from receipt provided the invoice is valid and undisputed.
- 8.7 Where we raise a query with respect to an invoice, we will liaise with you and agree a resolution within thirty (30) days of the query being raised. If we are unable to agree a resolution, the query shall be referred to dispute resolution in accordance with Clause 19 of this Call-off Schedule 4. We won't be in breach of any of our payment obligations under this Call-off Contract in relation to any queried or disputed invoice sums unless the process referred to in this Clause 8.3 of this Call-off Schedule 4 has been followed, and it has been determined that the queried or disputed invoice amount is properly due to you and we have then failed to pay it within a reasonable period following such determination.
- 8.8 You shall pay us any service credits that may become due in accordance with the provisions of the ITT mini-competition and outlined in the ITT Award Order Form Schedule 8 Service Credits
- 8.9 We reserve the right to set-off:
- 8.9.1 any monies due to you from us, as against any monies due to us from you, under this Call-Off Contract; and
- 8.5.2 any monies due to us from you, as against any monies due to you from us, under this Call-Off Contract.

9 Warranties

- 9.1 You warrant and undertake that:
- 9.1.1 the Goods and or Services shall be suitable for the purposes referred to in the Specification and Tender Response Document, shall be of satisfactory quality, fit for their intended purpose and shall comply with the standards and requirements set out in this Call-Off Contract and the Schedule 1 Specification, Statement of Requirements (SOR) Technical & Quality Standards and Service Level Agreement (SLA).
- 9.1.2 unless we otherwise confirm in writing (to include, without limitation, as part of the Specification and Tender Response Document), you shall ensure that the Goods comply with requirements five (5) to nine (9), as set out in Annex 1 of the Cabinet Office Procurement Policy Note – Implementing Article 6 of the Energy Efficiency Directive (Action Note 07/14 3rd June 2014), to the extent such requirements apply to the relevant Goods;
- 9.1.3 you shall ensure that prior to delivery to us, the Goods are manufactured, stored and/or distributed using reasonable skill and care and in accordance with Good Industry Practice;
- 9.1.4 you have, or the manufacturer of the Goods has, manufacturing and warehousing capacity sufficient to comply with your obligations under this Call-Off Contract;

- 9.1.5 you shall ensure sufficient stock levels to comply with your obligations under this Call-Off Contract;
- 9.1.6 you shall ensure that the transport and delivery of the Goods mean that they are delivered in good and useable condition;
- 9.1.7 you shall not make any significant changes to the Goods without our prior written consent;
- 9.1.8 our receipt of the Goods and use of the Goods and/or deliverables or of any other item or information supplied or made available to us will not infringe any third-party rights, to include without limitation any Intellectual Property Rights;
- 9.1.9 you shall comply with all Law, Guidance and Policies in so far as is relevant to the supply of the Goods and or Services.
- 9.1.10 you shall supply the Goods and or Services using reasonable skill and care and in accordance with Good Industry Practice and shall fulfil all requirements of this Call-Off Contract using appropriately skilled, trained and experienced staff.
- 9.1.11 you shall use Good Industry Practice to ensure that any information and communications technology systems and/or related hardware and/or software you use are free from corrupt data, viruses, worms and any other computer programs or code which might cause harm or disruption to our information and communications technology systems;
- 9.1.12 all information included within your responses to any documents issued to us as part of the procurement relating to the award of this Call-Off Contract (to include, without limitation, as referred to in the Specification and Tender Response Document and LOT Prices) and all accompanying materials is accurate.
- 9.1.13 you have the right and authority to enter into this Call-Off Contract and the capability and capacity to fulfil your obligations under this Call-Off Contract.
- 9.1.14 you are a properly constituted entity, and you are fully empowered by the terms of your constitutional documents to enter into and to carry out your obligations under this Call-Off Contract and the documents referred to in this Call-Off Contract.
- 9.1.15 you have taken all necessary actions to authorise the execution of and performance of your obligations under this Call-Off Contract before such execution.
- 9.1.16 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect your financial condition, business or operations.
- 9.1.17 there are no material agreements existing to which you are a party which prevent you from entering into or complying with this Call-Off Contract.

- 9.1.18 you have and will continue to have the capacity, funding and cash flow to meet all your obligations under this Call-Off Contract; and
- 9.1.19 you have satisfied yourself as to the nature and extent of the risks assumed by you under this Call-Off Contract and have gathered all information necessary to perform your obligations under this Call-Off Contract and all other obligations assumed by you.
- 9.2 You agree to use reasonable endeavours to assign to us upon request the benefit of any warranty, guarantee or similar right, which you have against any third-party manufacturer or Supplier of the Goods in full or part.
- 9.3 You warrant and undertake to us that you shall comply with any eProcurement Guidance as it may apply to you and shall carry out all reasonable acts required of you to enable us to comply with such eProcurement Guidance.
- 9.4 You further warrant and undertake to us that you shall inform us in writing immediately upon becoming aware that any of the warranties set out in Clause 9 of this Call-off Schedule 4 have been breached or there is a risk that any warranties may be breached.
- 9.5 Any warranties provided under this Call-Off Contract are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.

10 Intellectual Property

- 10.1 Unless specified otherwise in the Specification and Tender Response Document, you hereby grant us, for the life of the use of Goods by us, an irrevocable, royalty-free, non-exclusive licence of any Intellectual Property Rights required for the purposes of receiving and using, and to the extent necessary to receive and use, the Goods (to include any associated technical or other documentation and information supplied or made accessible to us in any media) in accordance with this Call-Off Contract.
- 10.2 In addition to Clause 8.2.2 (ii) and Clause 9.1.8 Clause 10.1. all Intellectual Property Rights provided to the Supplier by the Authority and/or Chief Constable if applicable shall remain the Authority's and or Chief Constables property absolutely.

11 Liability

- 11.1 Subject to Clauses 11.3 and 11.4, the Supplier's total aggregate liability in each Call-Off Contract Year under the Call-Off Contract (whether in tort, Call-Off Contract or otherwise) is no more than £250,000 or 150% of the Estimated Yearly Prices (if greater than £250,000) excluding liabilities for Data Protection Breach set out in Schedule 3 Clause 2; unless specified otherwise in the Call-Off Contract Award Form.
- 11.2 No Party is liable to the other for:
- 11.2.1 Any indirect Losses;
- 11.2.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 11.3 Notwithstanding Clause 11.1, neither Party limits or excludes any of the following:

- 11.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Sub-contractors;
 - 11.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
 - 11.3.3 any liability that cannot be excluded or limited by Law.
- 11.4 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 11.5 When calculating the Supplier's liability under Clause 11.1 the following items will not be taken into consideration:
- 11.5.1 Deductions;
 - 11.5.2 any items specified in Clause 11.3
- 11.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.
- 11.7 The Contracting Authority liability for all defaults resulting in loss of or damage to the Supplier including damage to Supplier property or assets (including technical infrastructure, Assets or equipment) of the Supplier shall in no event exceed £250,000 (two hundred and fifty thousand pounds) (subject to indexation).
- 11.8 The Supplier will indemnify the Contracting Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Contracting Authority at any time in respect of a Suppliers failure to account for or to pay any VAT relating to payments made to the Supplier under the Call-Off Contract. Any amounts due under this clause shall be paid by the Supplier to the Contracting Authority not less than five Working Days before the date on which the tax or other liability is payable by Contracting Authority.
- 11.9 The Contracting Authority shall not be liable to compensate the Supplier for any claim, loss or damage under the Riot (Compensation) Act 2016, unless such damage was caused by the negligence of the Contracting Authority.

12 Insurance

- 12.1 You shall, at your own cost, effect and maintain with a reputable insurance company a policy or policies of insurance providing the following levels of cover as a minimum: for the performance and the duration of this DPS Framework and any resulting Call-Off Contracts:
- 12.1.1 public liability insurance with a limit of indemnity of not less than £5,000,000 in relation to any one claim or series of claims in the period of insurance;
 - 12.1.2 employer's liability insurance with a limit of indemnity of not less than £5,000,000 in relation to any one claim or series of claims in the period of insurance; and
 - 12.1.3 product liability insurance of not less than £5,000,000 in relation to any one claim or series of claims in the period of insurance;

12.1.4 Professional Indemnity Insurance cover of not less than £5,000 000 for any one or series of claims that may arise; in the period of insurance

12.1.5 Cyber Essentials Liability Insurance Cover of not less then £5,000,000 for any one or series of claims that may arise in the period of insurance.

(the “**Required Insurances**”) in respect of all risks which may be incurred by you, arising out of your performance of the Call-Off Contract, including death or personal injury, loss of or damage to property or any other loss.

12.2 Details of such insurance including copies of the relevant policies and copy certificates or equivalent shall be made available to us on request. We may request that such details be annexed to a letter addressed to you from your brokers in such form as shall be agreed together with receipts or other evidence of payment of the latest premiums due under those policies.

12.3 If, for whatever reason, you fail to obtain and/or maintain the Required Insurances, we may make alternative arrangements to protect our interests and shall be entitled to recover the cost of such arrangements from you.

12.4 You shall notify us as soon as practicable when you become aware of any fact, circumstance or matter which has or might permit any insurer to cancel, rescind, suspend or void any insurance or claim in whole or in part.

12.5 The terms of any insurance or the amount of cover shall not relieve you of any liabilities under the Call-Off Contract.

12.6 You shall ensure that such insurance will cover post-termination liabilities when such a claim is made no later than 6 years after the expiry or termination of this Call-Off Contract.

12.7 You shall notify us as soon as reasonably practicable of any significant claim or proceedings brought against you, which may be subject to a relevant indemnity or insurance claim.

13 Term and Termination & Early Termination

13.1 This Call-Off Contract shall commence on the “Commencement Date” and, unless terminated earlier in accordance with the terms of this Call-Off Contract or the Law, shall continue until the end of the Term “Expiry Date”.

13.2 Under a DPS Framework, there is no option to extend a Call-Off Contract beyond the agreed Expiry date noted in the Award Form PART 1

13.3 A Call-Off Contract can however extend beyond the life of the DPS framework if this was advertised within the mini competition. A Call-Off Contract from a DPS framework does not need to be coterminous with the DPS Framework period.

13.4 The Contracting Authority may terminate the Call-Off Contract by giving written notice to the Supplier with immediate effect if the DPS Framework Agreement is terminated for any reason whatsoever.

- 13.5 We may terminate this Call-Off Contract in whole or part with immediate effect by serving written notice on you in the following circumstances:
- 13.5.1 you are in Material Breach of any obligation under this Call-Off Contract and that breach is not capable of remedy to our satisfaction.
 - 13.5.2 you are in Material Breach of any obligation under this Call-Off Contract and that breach is capable of remedy, but you fail to remedy such breach to our satisfaction within the time limit that we specify to you in writing.
 - 13.5.3 if there is an Insolvency Event.
 - 13.5.4 if there is a change of control of your organisation within the meaning of section 1124 of the Corporation Tax Act 2010.
 - 13.5.5 you purport to assign, Sub-contract, novate, create a trust in or otherwise dispose of this Call-Off Contract in breach of Clause 24.
 - 13.5.6 if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply; or
 - 13.5.7 pursuant to and in accordance with the Key Provisions and Clauses 22.2, 22.4, 23.3 and 26.6 of this Call-off Schedule 4; or
 - 13.5.8 where there is a material detrimental change in the financial standing and or the credit rating (Experian) of the Supplier which adversely impacts on the Suppliers ability to supply Goods or Services under the DPS Framework Agreement and resulting Call-Off Contract(s).
 - 13.5.9 if any other circumstances specified in the Key Provisions.
- 13.6 We may terminate this Call-Off Contract in accordance with the provisions of Clauses 20 (Force Majeure), 22 (Conflicts of Interest and Prevention of Fraud) or 26 (Prohibited Acts) of this Call-off Schedule 4.
- 13.7 If we terminate this Call-Off Contract for cause under Clause 13.4 of this Call-off Schedule 4, such termination shall be at no loss or cost to us, and you hereby indemnify us against any such losses or costs which we may suffer as a result of any such termination for clause.
- 13.8 Break, we shall have the right to terminate this Call-Off Contract at any time by giving three (3) months' written notice to the Supplier.

14 Consequences of Expiry or Early Termination of this Call-Off Contract

- 14.1 Subject to the provision set out in Clause 14.2 and 14.3 of this Call-off Schedule 4, upon expiry or earlier termination of this Call-Off Contract, we agree to pay you for:
- 14.1.1 the Goods and or Services which you have supplied, and we have not rejected in accordance with this Call-Off Contract prior to the expiry or earlier termination of this Call-Off Contract; and
- 14.2 The expiry or earlier termination of this Call-Off Contract for whatever reason shall not affect any of the Parties' rights or obligations which accrued prior to such expiry or earlier termination.
- 14.3 The expiry or earlier termination of this Call-Off Contract shall not affect any obligations, which expressly or by implication, are intended to come into or continue in force on or after such expiry or earlier termination.
- 14.4 You shall cooperate fully with us or, as the case may be, any replacement Supplier during any re-procurement and handover period prior to and following the expiry or earlier termination of this Call-Off Contract. This cooperation shall extend to providing access to all information relevant to the operation of this Call-Off Contract, as we reasonably require to, achieve a fair and transparent re-procurement and/or an effective transition without disruption to routine operational requirements.
- 14.5 You shall continue to fulfil all obligations under the DPS Framework & Call-Off Contracts during the termination period until the date of expiry or other such date and set out in the Exit Management Plan is reached.
- 14.6 Within thirty (30) working days of the date of termination of the Call-Off Contract, the Supplier shall return to the Contracting Authority any data and Confidential Information belonging to the Contracting Authority that is in the Suppliers possession, power or control, either in its current format or a format nominated by the Contracting Authority.
- 14.7 The Contracting Authority shall be entitled to require access to data or information arising from the provision of the Goods and or Services from the Supplier until the latest of:
- 14.7.1 The expiry of a period of twelve (12) months following termination or expiry of the DPS Framework agreement or
- 14.7.2 The expiry of a period of three (3) months following the date on which the Supplier ceases to provide Goods and or Services under any Call Off Contract.
- 14.8 The provisions of Schedule 3 and Schedule 4 Clauses 5,7,9,12,13,14,18,21, and 22 shall survive the termination date or expiry of the DPS Framework, together with any other provision which is either expressed to or by implication is intended to survive termination.
- 14.9 Where the Contracting Authority is "Terminating" a Call-Off Contract, Appendix C Termination Notice to be completed.
- 14.10 This should also then ensure the Exit Management Plan is outlined in Appendix D Exit Management Plan Template, which the Supplier and Contracting Authority must

comply with during the Term and/or in relation to any expiry or early termination of any Call-off Contract.

15 Technical Support and Customer Service

- 15.1 The Supplier(s) must provide a full range of technical specification documents to support the Contracting Authority, where requested.
- 15.2 The Supplier(s) must provide a full range of Contracting Authority and technical support by email or phone where, without limitation:
- 15.3 The Supplier(s) will provide technical support for DTD users, between the hours of 7am and 5pm Monday to Friday excluding Bank holidays. The Contracting Authority may explore technical support options outside of these hours within their specific statement of requirements at ITT stage.
- 15.4 As a minimum the Supplier will be able to provide immediate advice on the following aspects;
- i. kit operation;
 - ii. product failure;
 - iii. specificity/product interference; and
 - iv. interpretation of results

16 Packaging, identification, end of use and coding requirements

- 16.1 You will comply with all obligations imposed on you by Law relevant to the Goods in relation to packaging, identification, and obligations following end of use by us.
- 16.2 Unless otherwise specified in the Specification and the Supplier Tender Submission, or otherwise agreed with us in writing, the Goods shall be securely packed in trade packages of a type normally used by you for commercial deliveries of the same or similar goods either in retail or in bulk quantities within the United Kingdom.
- 16.3 Unless otherwise (a) specified in the Specification and Tender Response Document; (b) agreed with us in writing; or (c) required to comply with any regulatory requirements, the following details shall be shown on the outside of every package:
- 16.3.1 a description of the Goods which shall include, without limitation, the weight of the Goods where available and any order number allocated to the Goods by us and/or you;
 - 16.3.2 the quantity in the package where available;
 - 16.3.3 any special directions for storage;
 - 16.3.4 the expiry date of the contents where applicable;
 - 16.3.5 the batch number; and
 - 16.3.6 your name and address and the name and address of the manufacturer.
- 16.4 All Goods that customarily bear any mark, tab, brand, label, serial numbers or other device indicating place of origin, inspection by any government or other body or

standard of quality must be delivered with all the said marks, tabs, brands, labels, serial numbers or other devices intact. Without prejudice to the generality of the foregoing, you shall label all Goods supplied to us, and the packaging of such Goods, to highlight environmental and safety information as required by applicable Law.

- 16.5 Unless otherwise set out in the Specification and Tender Response Document or agreed with us in writing, you shall collect without charge any returnable containers (including pallets) within twenty-one (21) days of the date of the relevant delivery. Empty containers not so removed may be returned by us at your expense or otherwise disposed of at our discretion. You shall credit us in full for any containers for which you have been charged upon their collection or return.

17 Corporate Social Responsibility Sustainable development (CSR)

- 17.1 You shall comply in all material respects with applicable environmental, social and labour Law requirements in force from time to time in relation to the Goods supplied. Without prejudice to the generality of the foregoing, you shall:

17.1.1 comply with all Policies and/or procedures and requirements set out in the Specification and Tender Response Document in relation to any stated environmental, social and labour requirements, characteristics and impacts of the Goods and your supply chain;

17.1.2 maintain relevant policy statements documenting your significant labour, social and environmental aspects as relevant to the Goods being supplied and provided and as proportionate to the nature and scale of your business operations; and

17.1.3 maintain plans and procedures that support the commitments made as part of your significant labour, social and environmental policies, as referred to at, Clause 17.1.2 of this Call-off Schedule 4.

- 17.2 You shall meet our reasonable requests for information evidencing your compliance with the provisions of Clause 17 of this Call-off Schedule 4.

18 Change Management Variation

- 18.1 Either Party can request a Variation to the Call-Off Contract which is only effective if agreed in writing and signed by both Parties. All non-administrative Variations must be approved in writing by the Authority and the "Contracting Authority".

- 18.2 Where either Party requests a Variation, the Supplier must provide an Impact Assessment either:

18.2.1 with the Variation Form, where the Supplier requests the Variation; or

18.2.2 within the time limits included in a Variation Form, where the Contracting Authority requests the Variation.

- 18.3 The Contracting Authority must review and agree the Variation Form and the Impact Assessment.

- 18.4 If the Variation to the Call-Off Contract cannot be agreed or resolved by the Parties, the Contracting Authority can either:

- 18.4.1 agree that the Call-Off Contract continues without the Variation;
- 18.4.2 terminate the affected Call-Off Contract, unless the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them;
- 18.4.3 refer the Dispute to be resolved (Resolving Disputes).
- 18.5 If the non-administrative Variation is agreed by the Authority, both Parties will sign the Variation Form.
- 18.6 Neither the Authority nor the Contracting Authority is not required to accept a Variation request made by the Supplier.
- 18.7 Where the Supplier can demonstrate that a variation is made to the Pricing Schedule 6; the Contracting Authority will require evidence from the Supplier to support any such request for change.
- 18.8 The Contracting Authority may require the Supplier to meet and discuss any such changes to Schedule 6.
- 18.9 In the event the Contracting Authority and the Supplier cannot agree to the changes to Schedule 6 Pricing the Contracting Authority may.
 - 18.9.1 Withdraw/reject the variation or
 - 18.9.2 Propose an amendment to the variation
 - 18.9.3 Seek further mediation from the Authority
 - 18.9.4 Where there is no agreement; both parties would follow the Dispute Resolution Process and or Agree to early termination process.
- 18.10 Where the Change in the Suppliers Pricing Schedule is agreed by the Contracting Authority, the Contracting Authority will notify the Supplier in writing.
- 18.11 Any change in the Prices or relief from the Supplier's obligations because of a Specific Change in Law must be implemented in accordance with the provisions set out in Clauses 18.1 to 18.4.

19 Dispute resolution

- 19.1 During any dispute, including a dispute as to the validity of this Call-Off Contract, you agree to continue your performance of the provisions of the Call-Off Contract (unless we request in writing that you stop).
- 19.2 In the case of a dispute arising out of or in connection with this Call-Off Contract, the Parties shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the dispute and follow the procedure set out in Clause 19.3 of this Call-off Schedule 4 as the first stage in the Dispute Resolution Procedure.
- 19.3 If any dispute arises out of the Call-Off Contract either Party may serve a notice on the other Party to commence formal resolution of the dispute. The Parties shall first seek to resolve the dispute by escalation in accordance with the management levels as set

out in Clause 5 of the Key Provisions. Respective representatives at each level, as set out in Clause 5 of the Key Provisions, shall have five (5) Business Days at each level during which they will use their reasonable endeavours to resolve the dispute before escalating the matter to the next level until all levels have been exhausted. Level 1 will commence on the date of service of the dispute notice. The final level of the escalation process shall be deemed exhausted on the expiry of five (5) Business Days following escalation to that level unless otherwise agreed by the Parties in writing.

- 19.4 If the procedure set out in Clause 19.3 of this Call-off Schedule 4 above has been exhausted and fails to resolve such dispute, as part of the Dispute Resolution Procedure, the Parties will attempt to settle it by mediation. The Parties shall, acting reasonably, attempt to agree upon a mediator. In the event that the Parties fail to agree a mediator within five (5) Business Days following the exhaustion of all levels of the escalation procedure at Clause 19.3 of this Call-off Schedule 4, the Centre for Effective Dispute Resolution, London shall nominate and confirm the chosen mediator.
- 19.5 The mediation shall start within twenty-eight (28) days of their confirmation or at such other time as may be agreed by the Parties in writing. Neither Party will terminate mediation until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour or one Party has failed to participate in the mediation process. After this time, either Party may terminate the mediation process by notification to the other Party (such notification may be verbal provided that it is followed up by written confirmation). The Parties will cooperate with any person appointed as mediator providing them with such information and other assistance as they shall require and will pay their costs, as they shall determine, or in the absence of such determination such costs will be shared equally.
- 19.6 Nothing in this Call-Off Contract shall prevent:
- 19.6.1 our taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the supply of the Goods and or Services.
 - 19.6.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates
 - 19.6.3 to the safety of the public or the security of Confidential Information, pending resolution of the relevant dispute in accordance with the Dispute Resolution Procedure.
- 19.7 Clause 19 of this Call-off Schedule 4 shall survive the expiry of or earlier termination of this Call-Off Contract for any reason.

20 Force majeure and Business Continuity

- 20.1 Subject to Clause 20.2 of this Call-off Schedule 4 neither you nor we shall be liable to the other for any failure to perform all or any of our respective obligations under this Call-Off Contract nor liable to the other Party or Parties for any loss or damage arising out of the failure to perform our respective obligations to the extent only that such performance is rendered impossible by a Force Majeure Event.
- 20.2 You shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 20 (and we won't consider you to be in default or liable for breach of any obligations under this Call-Off Contract) if:

- 20.2.1 the Force Majeure Event does not arise directly or indirectly as a result of your wilful or negligent act or default; and
 - 20.2.2 you have complied with the procedural requirements set out in Clause 20 of this Call-off Schedule 4.
- 20.3 Where a Party is (or claims to be) affected by a Force Majeure Event it shall use reasonable endeavours to mitigate the consequences of such a Force Majeure Event upon the performance of its obligations under this Call-Off Contract, and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.
- 20.4 You will maintain a written business continuity plan in respect to your obligations under this Call-Off Contract and supply us with a copy of this from time to time upon our request.
- 20.5 Where the Force Majeure Event affects your ability to perform part of your obligations under the Call-Off Contract, you shall still perform the parts of the Call-Off Contract that aren't affected.
- 20.6 If either Party is prevented or delayed in the performance of its obligations under this Call-Off Contract by a Force Majeure Event, that Party shall as soon as reasonably practicably serve notice in writing on the other Party specifying the nature and extent of the relevant circumstances
- 20.7 Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for such time after they end as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.
- 20.8 The Party claiming relief shall notify the other in writing as soon as the consequences of the Force Majeure Event have ceased and when performance of its affected obligations can be resumed.
- 20.9 If you are prevented from performance of your obligations as a result of a Force Majeure Event, we may at any time if the Force Majeure Event carries on for thirty (30) days or more, terminate this Call-Off Contract on serving you with written notice.
- 20.10 Following such termination in accordance with Clause 20.8 of this Call-off Schedule 4 and subject to Clause 20.10 of this Call-off Schedule 4, neither Party shall have any liability to the other.
- 20.11 Any rights and liabilities of a Party which have accrued prior to such termination in accordance with Clause 20.8 of this Call-off Schedule 4 shall continue in full force and effect unless otherwise specified in this Call-Off Contract.

21 Records Retention and Right of Audit

- 21.1 Subject to any statutory requirement and Clause 21.4 of this Call-off Schedule 4, you shall keep secure and maintain for the Term and six (6) years afterwards, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to this Call-Off Contract.
- 21.2 We shall have the right to audit your compliance with this Call-Off Contract and you shall permit or procure permission for us or our authorised representative to have access to any premises and facilities, books and records we may reasonably require provided this is during normal business hours and we have given you at least five (5) Business Days' advance written notice.
- 21.3 Should you Sub-contract any of your obligations under this Call-Off Contract, we shall have the right to audit and inspect such third party. You shall procure permission for us or our authorised representative to have access to any premises and facilities, books and records used in the performance of your Sub-contracted obligations, during normal business hours and our having given advance written notice of no less than five (5) Business Days. You shall cooperate with such audit and inspection and accompany us or our authorised representative if requested.
- 21.4 You shall grant us or our authorised representative, such access to those records as we or they may reasonably require in order to check your compliance with this Call-Off Contract for the purposes of:
- 21.4.1 the examination and certification of our accounts; or
- 21.4.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which we have used our resources.
- 21.5 The Comptroller and Auditor General may examine such documents as they may reasonably require which are owned, held or otherwise within your control and may require you to provide such oral and/or written explanations as they consider necessary. Clause 21 of this Call-off Schedule 4 does not constitute a requirement or agreement for the examination, certification or inspection of your accounts under sections 6(3)(d) and 6(5) of the National Audit Act 1983.
- 21.6 You will provide us, our representatives, and any regulatory body with reasonable cooperation in relation to any audit, review, investigation, or enquiry carried out.
- 21.7 All quality assessments, for example but not limited to; calibration certificates, batch quality test certificates to be made available to the Contracting Authority or Authority as requested.
- 21.8 You shall provide all reasonable information as we may reasonably request to evidence your compliance with the requirements of this Call-Off Contract.

22 Conflicts of Interest and the Prevention of Fraud

- 22.1 You shall take appropriate steps to ensure that neither you nor any Staff are placed in a position where, in our reasonable opinion, there is or may be an actual conflict, or a

potential conflict, between your financial or personal interests and the duties you owe us under this Call-Off Contract. You will disclose to us full particulars of any such conflict of interest which may arise.

- 22.2 We reserve the right to terminate this Call-Off Contract immediately by notice in writing and/or to take such other steps we deem necessary where, in our reasonable opinion, there is or may be an actual conflict, or a potential conflict, between your financial or personal interests and the duties you owe us under this Call-Off Contract. Our actions under this Clause 22.2 of this Call-off Schedule 4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to us.
- 22.3 You shall take all reasonable steps to prevent Fraud by Staff and your organisation (including your owners, members and directors). You shall notify us immediately if you have reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 22.4 If you or your Staff commit Fraud, we may terminate this Call-Off Contract and recover from you the amount of any direct loss we have suffered resulting from the termination.

23 Equality and human rights; Modern Slavery

- 23.1 You shall:
- 23.1.1 ensure that you will not unlawfully discriminate within the meaning and scope of any law enactment or order or regulation to discriminate in employment
 - 23.1.2 you do not, whether as employer, a Supplier of Goods and or Services, engage in any act or omission that would contravene the Equality Legislation or any of our equality Policies, and
 - 23.1.3 you comply with all your obligations as an employer, a Supplier of Goods and or Services as set out in the Equality Legislation and take reasonable endeavours to ensure your Staff do not unlawfully discriminate within the meaning of the Equality Legislation and our Policies.
 - 23.1.4 in the management of your affairs and the development of your equality and diversity policies, cooperate with us in light of our obligations to comply with our statutory equality duties whether under the Equality Act 2010, our Policies or otherwise. You shall take such reasonable and proportionate steps as we consider appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age; and
 - 23.1.5 you shall impose on all your Sub-contractors and Suppliers, obligations substantially similar to those imposed on you by Clause 23 of this Call-off Schedule 4.
- 23.2 You shall meet reasonable requests by us for information evidencing your compliance with the provisions of Clause 23 of this Call-off Schedule 4.
- 23.3 In performing your obligations under the Call-Off Contract, you shall:
- 23.3.1 comply with all applicable anti-slavery and human trafficking Laws from time to time in force including but not limited to the Modern Slavery Act 2015; and

- 23.3.2 comply with the Anti-slavery Policy; and
 - 23.3.3 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
 - 23.3.4 include in your Call-Off Contracts with your Sub-contractors and Suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this Clause 23.3 of this Call-off Schedule 4 and we shall be entitled to terminate this Call-Off Contract for any breach of this Clause 23.3.
- 23.4 You represent and warrant that:
- 23.4.1 Your responses to our slavery and human trafficking due diligence questionnaire are complete and accurate; and
 - 23.4.2 Neither you or your Staff:
 - (i) has been convicted of any offence involving slavery and human trafficking; and
 - (ii) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 23.5 You shall implement due diligence procedures for your Sub-contractors and Suppliers to ensure that there is no slavery or human trafficking in your supply chains.
- 23.6 In order to help us reach a decision on a proposed subcontract, you shall provide us with any information that we may reasonably require about the proposed Sub-contractor.
- 23.7 If we agree that you may subcontract your obligations, you shall implement an appropriate system of due diligence and audit for your Sub-contractors that is designed to ensure their compliance with the Anti-slavery Policy.
- 23.8 You will notify us as soon as you become aware of:
- (a) any breach, or potential breach, of the Anti-slavery Policy; or
 - (b) any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Call-Off Contract.
- 23.9 You shall prepare and deliver to us, on request, a slavery and human trafficking report setting out the steps you have taken to ensure that slavery and human trafficking is not taking place in any of your supply chains or in any part of your business.
- 23.10 You shall:
- (a) maintain a complete set of records to trace the supply chain of all Goods and or Services provided to us in connection with this Call-Off Contract; and

(b) permit us and our third-party representatives, on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this Clause 23.10 of Call-off Schedule 4 to have access to and take copies of your records and any other information and to meet with your Staff to audit your compliance with your obligations; and

(c) implement annual audits of your compliance with the Anti-slavery Policy, either directly or through a third-party auditor. You shall implement a system of training for your employees and those of your sub-contractors to ensure compliance with the Anti-slavery Policy.

23.11 You shall keep a record of all training offered and completed by your Staff to ensure compliance with the Anti-slavery Policy and shall make a copy of the record available to us on request.

24 Notice

24.1 Except as otherwise expressly provided within the Terms and Conditions, no notice or other communication from one Party to the other shall have any validity to the Call-Off Contract unless made in writing (NOTICE) by or on behalf of the Party sending the communication; and seeking the approval/acceptance of the other Party.

24.2 Any notice required to be given by either Party under this Call-Off Contract shall be in writing quoting the date of the Call-Off Contract and shall be delivered by hand or sent by prepaid first class recorded, or by secure email with PDF Soft copy of the notice; delivery to the person referred to in the Key Provisions or such other person as a Party may have nominated in writing from time to time.

24.3 A notice shall be treated as having been received:

24.3.1 if delivered by hand within normal business hours when so delivered or, if delivered by hand outside normal business hours, at the next start of normal business hours; or

24.3.2 if sent by first class recorded delivery mail on a normal Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or

24.3.3 If sent over secure email within 4 hours, where not returned as undelivered.

24.4 The other Party on receiving a NOTICE should acknowledge a response within 4 working days.

24.5 Both Parties should then agree a reasonable time to review, discuss and agree any requirements pertaining to the NOTICE following the Change Variation Process and ensuring any NOTICE is only validated where both parties agree and accept in writing.

25 Assignment, Novation and Sub-contracting

- 25.1 You shall not, except where Clause 25.2 of this Call-off Schedule 4 applies, assign, Sub-Call-Off Contract, novate, create a trust in, or in any other way dispose of the whole or any part of this Call-Off Contract without our prior written consent such consent not to be unreasonably withheld or delayed. If you Sub-contract any of your obligations under this Call-Off Contract, every act or omission of the Sub-contractor shall for the purposes of this Call-Off Contract be deemed to be your act or omission and you shall be liable to us as if such act or omission had been committed or omitted by you.
- 25.2 Any authority given by us for you to Sub-contract any of your obligations under this Call-Off Contract shall not impose any duty on us to enquire as to their competency. You shall ensure that any authorised Sub-contractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such Sub-contractor are fully in accordance with this Call-Off Contract.
- 25.3 You shall pay any undisputed sums which are due from you to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed. Where we pay your valid and undisputed invoices earlier than thirty (30) days from verification in accordance with any applicable government prompt payment targets, you shall use your reasonable endeavours to pay your relevant Sub-contractors within a comparable timeframe from verifying that an invoice is valid and undisputed.
- 25.4 We shall upon written request have the right to review any Sub-contract you enter into in respect of the supply of the Goods and or Services and you shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from us. For the avoidance of doubt, you shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.
- 25.5 We may at any time transfer, assign, novate, sub-contract or otherwise dispose of our rights and obligations under this Call-Off Contract or any part of this Call-Off Contract and you warrant that you will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal. If we novate this Call-Off Contract to anybody that is not a Contracting Authority, from the effective date of such novation, the party assuming our position shall not further transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Call-Off Contract or any part of this Call-Off Contract without your prior written consent, such consent not to be unreasonably withheld or delayed.

26 Prohibited Acts

- 26.1 You represent and warrant that neither you, nor to the best of your knowledge, any of the Staff (or anyone acting on their behalf) have at any time prior to the Commencement Date:
- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or Call-Off Contracts on the grounds of a Prohibited Act.
- 26.2 You shall not during the term of this Call-Off Contract:
 - (a) commit a Prohibited Act; and/or
 - (b) do or suffer anything to be done which would cause us or any of our employees, consultants, Suppliers, sub-contractors, or agents to contravene any of the Bribery Act or otherwise incur any liability in relation to the Bribery Act.
- 26.3 You shall during the term of this Call-Off Contract:
 - (a) establish, maintain, and enforce, and require that your Sub-contractors establish, maintain, and enforce, policies and procedures which are adequate to ensure compliance with the Bribery Act and prevent the occurrence of a Prohibited Act; and
 - (b) keep appropriate records of your compliance with your obligations under Clause 26.3(a) of Call-off Schedule 4 and make such records available to us on request.
- 26.4 You shall immediately notify us in writing if you become aware of any breach of Clause 26.1 and/or 26.2 of this Call-off Schedule 4 or have reason to believe that you or any of your Staff have:
 - (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act.
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurements or Call-Off Contracts on the grounds of a Prohibited Act; and/or
 - (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Call-Off Contract or otherwise suspects that any person or Party directly or indirectly connected with this Call-Off Contract has committed or attempted to commit a Prohibited Act.
- 26.5 If you notify us under Clause 26.4 of this Call-off Schedule 4, you shall respond promptly to our enquiries, co-operate with any investigation, and allow us to audit any books, records and/or any other relevant documentation in accordance with Clause 21 of this Call-off Schedule 4.
- 26.6 If you are in default under Clause 26.1 and/or 26.2 of this Call-off Schedule 4, we may by notice:
 - (a) require you to remove from performance of this Call-Off Contract any of your Staff whose acts or omissions have caused the Default; or

(b) immediately terminate this Call-Off Contract.

26.7 Any notice served by us under Clause 26.6 of this Call-off Schedule 4 shall specify the nature of the Prohibited Act, the identity of the party who we believe has committed the Prohibited Act and the action that we have elected to take (including, where relevant, the date on which this Call-Off Contract shall terminate).

26.8 notwithstanding Clause 19 of this Call-off Schedule 4, any dispute relating to:

(i) the interpretation of Clause 26 of this Call-off Schedule 4; or

(ii) the amount or value of any gift, consideration or commission,

shall be determined by us, acting reasonably, and the decision shall be final and conclusive.

27 General

27.1 Each of the Parties is independent of the other and nothing contained in this Call-Off Contract shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right or authority to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of this Call-Off Contract.

27.2 Failure or delay by either Party to exercise an option or right conferred by this Call-Off Contract shall not of itself constitute a waiver of such option or right.

27.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of this Call-Off Contract or to exercise any right or remedy consequent upon such breach shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.

27.4 Any provision of this Call-Off Contract which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Call-Off Contract and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. If any provision of this Call-Off Contract is so declared the Parties shall amend that provision in such reasonable manner and in good faith as achieving the intention of the Parties without illegality or at our discretion it may be severed from this Call-Off Contract. (Severability)

27.5 Each Party acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of this Call-Off Contract and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the other Party for any misrepresentation or undertaking (whether made carelessly or not) or for breach of any warranty unless the representation, undertaking or warranty relied upon is set out in this Call-Off Contract or unless such representation, undertaking or warranty was made fraudulently.

27.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Call-Off Contract including all costs, legal fees and other expenses so incurred.

- 27.7 The rights and remedies provided in this Call-Off Contract are cumulative and not exclusive of any rights or remedies provided by Law or by any other Call-Off Contract or document. In this Clause 27.7 of this Call-off Schedule 4, right includes any power, privilege, remedy, or proprietary or security interest.
- 27.8 Unless otherwise expressly stated in this Call-Off Contract, a person who is not a party to this Call-Off Contract shall have no right to enforce any terms of it which confer a benefit on such person except that a Successor and/or a Third Party may directly enforce any indemnities or other rights provided to it under this Call-Off Contract. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Call-Off Contract.
- 27.9 This Call-Off Contract, any Variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Call-Off Contract or any Variation to this Call-Off Contract, contain the entire understanding between you and us relating to the supply of the Goods and or Services to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in this Call-Off Contract. Nothing in this Call-Off Contract seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers set out in the procurement documentation leading to the award of this Call-Off Contract shall form part of this Call-Off Contract.
- 27.10 This Call-Off Contract, and any dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the Laws of England and Wales.
- 27.11 All written and oral communications and all written material referred to under this Call-Off Contract shall be in English.

28 The Contracts Rights of Third Parties Act 1999

- 28.1 Save as provided as rights within the DPS Framework Agreement and Call Off Terms and Conditions for the benefits of Contracting Authorities, a person who is not party to the DPS Framework Agreement (Third Party) has no right to enforce any term of this DPS Framework Agreement under the provision of the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act. If the Parties rescind this DPS Framework Agreement or vary any of its terms in accordance with the relevant provisions of this DPS Framework Agreement, such rescissions or Variations will not require the consent of any Third Party.

29 Publicity

- 29.1 Unless otherwise directed by us, you shall not make any press announcements or publicise this Call-off Contract in any way without our prior written consent.
- 29.2 We shall be entitled to publicise this Call-off contract in accordance with any legal obligation on us or otherwise.
- 29.3 You shall not use the Contracting Authority or Authority's name or logo, crest or brand on any promotional or marketing materials or announcements of orders without prior written permission, unless such disclosure is made pursuant to a court order or

required by applicable Law in which case it shall promptly notify the Contracting Authority and Authority.

- 29.4 Each Party acknowledges to the other that nothing in the DPS Framework either expressly or by implication constitutes an endorsement of any Goods or Services of the other Party and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.
- 29.5 You shall not do anything that may damage our reputation or bring the reputation of the Contracting Authority or Authority into disrepute.
- 29.6 You shall notify the Contracting Authority in writing as soon as reasonably practicable and in any Reputational Concern Event (RCE), within 5 working days of being aware of the RCE.

30 Health and Safety

- 30.1 You will perform your obligations under this Call-Off Contract in accordance with all applicable Law regarding health and safety.
- 30.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards of which it becomes aware, and which relate to or arise in connection with the performance of the Call-Off Contract. The Supplier shall instruct the Staff to adopt any necessary associated safety measures to manage any such material health and safety hazards.
- 30.3 The Supplier represents and warrants to the Authority that all necessary tests and examinations have been made or will be made prior to delivery of goods to ensure that they do not present a risk to health and safety.

31 Management of Risk

- 31.1 It shall be a condition of the Call-Off Contract that the Supplier shall continuously monitor the supply chain for any emerging risks. Where the Supplier identifies such an emerging risk that has the potential to effect the execution of the Call-Off Contract in any way whatsoever, then the Supplier shall immediately notify the Contracting Authority and Authority in writing, clearly identifying the risk, the potential implications for the Contracting Authority and the actions that may be taken to eliminate or mitigate such risk.
- 31.2 In consultation with the Supplier, the Contracting Authority and Authority shall agree the course of action that shall be taken in relation to the risk identified.
- 31.3 No additional costs shall be added to the Call-Off Contract as a result of any risk and subsequent action unless agreed in writing by the Contracting Authority following clause 18 Contract Change Variation process.

32 Change in Law

- 32.1 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter.
- 32.2 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 Prices.
- 32.3 If there is a Specific Change in Law where the effect of that Specific Change in Law on the Goods and Services is known at the Commencement Date whether by publication of a Bill, as part of a Government Consultation paper, a draft Statutory Instrument; the Supplier is not entitled to ask for an increase to the Prices.
- 32.4 Where a Specific Change in Law happen during the Call-Off Contract Period, the Supplier must give the Contracting Authority 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, the Prices or the Call-Off Contract and provide evidence:
- 32.4.1 Whether any Variation is required to the Goods and or Service, Prices or the Call-Off Contract
- 32.4.2 Where any relief from compliance with the Suppliers obligations is required including any obligation to achieve any milestones or meet any service level requirements at any time.
- 32.5 As soon as practicable after any notification in accordance with Clause 32.4 the Parties shall discuss and agree the matters referred to in that clause and any ways in which the Supplier can mitigate the effect of the Specific Change of Law, including:
- 32.5.1 Providing evidence that the Supplier has minimized any increase in costs or maximised any reduction in costs, including in respect of the costs of sub-contractors
- 32.5.2 Demonstrated that a foreseeable Specific Chang in Law had been considered by the Supplier before it occurred
- 32.5.3 Giving evidence as to how the Specific Change in Law has affected the Price and
- 32.5.4 Demonstrating that the expenditure that has been avoided has been considered in the amending the Price.
- 32.6 The Contracting Authority will review and consider the request but reserves the right to decline or accept such changes to the Price.
- 32.7 Any increase in Price or relief from the Suppliers obligations agreed by the Parties pursuant to this clause 32.4 to 32.5 shall be implemented in accordance with clause 18 Change Management Variation