



Crown Commercial Service

G-Cloud 12 Call-Off Contract

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THIS CALL-OFF CONTRACT is made the 1 day of August 2022”

Part A: Order Form

Buyers must use this template order form as the basis for all call-off contracts and must refrain from accepting a supplier’s prepopulated version unless it has been carefully checked against template drafting.

Digital Marketplace service ID number	922085249202379 (BE / Reg) 227203589489185 (ICT Service Desk) 230256990348576 (AGL LG CRM) 248107826126766 (AGL Cloud Brokerage)
Call-Off Contract reference	FHDC Core Technology Platform 2.0
Call-Off Contract title	FHDC Arcus Government Platform
Call-Off Contract description	The District Council of Folkestone and Hythe Salesforce Platform including 3rd party licences
Start date	1st October 2022
Expiry date	30th September 2026
Call-Off Contract value	£715,314.12 for the initial 2 year (24 month) term Year 1 £357,657.06 Year 2 £357,657.06 year 3 optional extension £375,539.91 Year 4 optional extension £394,316.91 (Contract is 2+1+1) All figures EXCL. VAT
Charging method	BACS
Purchase order number	TBC

This Order Form is issued under the G-Cloud 12 Framework Agreement (RM1557.12).

Buyers can use this Order Form to specify their G-Cloud service requirements when placing an Order.

The Order Form cannot be used to alter existing terms or add any extra terms that materially change the Deliverables offered by the Supplier and defined in the Application.

There are terms in the Call-Off Contract that may be defined in the Order Form. These are identified in the contract with square brackets.

From the Buyer	The District Council of Folkestone and Hythe Buyer's main address: Civic Centre, Castle Hill Ave, Folkestone Kent CT20 2QY 01303 853000
To the Supplier	Arcus Global Ltd. 01223 811941 Future Business Centre Kings Hedges Road Cambridge CB4 2HY Company number - 06946606
Together the 'Parties'	

Principal contact details

For the Buyer:	Title: ICT & Digital Lead Specialist Name: [REDACTED] Email: [REDACTED]@folkestone-hythe.gov.uk Phone: [REDACTED]
For the Supplier:	Title: Sales & Marketing Director Name: [REDACTED] Email: [REDACTED]@arcusglobal.com Phone: [REDACTED]

Call-Off Contract term

Start date	This Call-Off Contract Starts on 1st October 2022 and is valid for up to 48 months , should the Buyer exercise its right to extend the Contract beyond the initial term of 24 months, for up to two further periods of 12 months. [The date and number of days or months is subject to clause 1.2 in Part B below.]
Ending (termination)	<p>The notice period for the Supplier needed for Ending the Call-Off Contract is at least 90 Working Days from the date of written notice for undisputed sums (as per clause 18.6).</p> <p>This contract is not subject to termination without cause (Clause 18.1 shall not apply)</p>
Extension period	Up to x2 12 month periods after the initial term

Buyer contractual details

This Order is for the G-Cloud Services outlined below. It is acknowledged by the Parties that the volume of the G-Cloud Services used by the Buyer may vary during this Call-Off Contract.

G-Cloud lot	<p>This Call-Off Contract is for the provision of Services under:</p> <ul style="list-style-type: none"> ● Lot 2: Cloud software
G-Cloud services required	<p>The Services to be provided by the Supplier under the above Lot are listed in Framework Section 2 and detailed in Schedule 1: Services, and include:</p> <ul style="list-style-type: none"> ● Local Government CRM pack (31-60 users price band) ● Base Pack (includes 3 admin, 8 standard users, 10 Conga, 10 PDF Tron) ● Service Cloud (CSA) (27) ● Knowledge (5) ● Live Agent (5) ● System Administrator (7) ● Community logins (6000) ● 1 TB File Storage ● Digital Services Hub (35k-70k CT properties pricing band) ● SF Managed Service & Support ● ICT Service Desk (1) ● Lightning Platform Starter (194) ● Conga (85 have been provisioned) <p>The above is provided by the following G-Cloud Services</p>

	<p>922085249202379 (BE / Reg) 227203589489185 (ICT Service Desk) 230256990348576 (AGL LG CRM) 248107826126766 (AGL Cloud Brokerage for all 3rd party licences)</p>
Additional Services	No Implementation Services have been included.
Location	<p>The Services will be delivered at:</p> <p>Arcus Global Limited Future Business Centre Kings Hedges Road Cambridge CB4 2HY</p> <p>and</p> <p>Folkestone & Hythe District Council Civic Centre Castle Hill Avenue Folkestone CT20 2QY</p>
Quality standards	The quality standards required for this Call-Off Contract are as set out in Schedule 1 and in Appendix B .
Technical standards:	The technical standards used as a requirement for this Call-Off Contract are as set out in Schedule 1 and in Appendix B .
Service level agreement:	The service level and availability criteria required for this Call-Off Contract are set out in Schedule 1 and in Appendix B to this Order Form.
Onboarding	Not applicable
Offboarding	The offboarding plans for this Call-Off Contract are set out in Appendix C to this Order Form.

Collaboration agreement	Not applicable.
Limit on Parties' liability	<p>The annual total liability of either Party for all Property defaults will not exceed 125% of the annual contract charges only.</p> <p>The annual total liability for Buyer Data defaults solely caused by the Supplier or it's subcontractors will not exceed 125% of the Charges payable by the Buyer to the Supplier during the relevant contract year.</p> <p>The annual total liability for all other defaults will not exceed 125% of the Charges payable by the Buyer to the Supplier during the contract year.</p>
Insurance	<p>The insurance(s) required will be:</p> <ul style="list-style-type: none"> • A minimum insurance period of 6 years following the expiration or Ending of this Call-Off Contract • Professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £2,000,000 for any one occurrence or series of occurrences arising out of any one event or any higher limit the Buyer requires (and as required by Law) • Employers' liability insurance with a minimum limit of £5,000,000 for any one occurrence or series of occurrences arising out of any one event or any higher minimum limit required by Law • Public liability insurance with a minimum limit of £5,000,000 for any one occurrence or series of occurrences arising out of any one event.
Force majeure	<p>A Party may End this Call-Off Contract if the Other Party is affected by a Force Majeure Event that lasts for more than 30 consecutive days.</p> <p>[This section relates to clause 23.1 in Part B below.]</p>
Audit	<p>The following Framework Agreement audit provisions will be incorporated under clause 2.1 of this Call-Off Contract to enable the Buyer to carry out audits:</p> <p>Clauses 7.4 to 7.13 of the Framework Agreement (inclusive) shall apply to this Call-Off Contract.</p>

Buyer's responsibilities

The Buyer is responsible for the following **Customer Responsibilities (as defined in AGL Supplier Terms below)**:

The Customer shall comply with the Customer Responsibilities.

1. If there is a Customer Failure then without prejudice to any of Arcus Global's other rights and remedies it:
 - shall be granted an extension of time in respect of any timeframes agreed by the parties based on the period of delay caused by the Customer Failure;
 - shall not be deemed to be in breach of this Agreement where the Customer Failure causes Arcus Global to breach this Agreement; and
 - may charge the Customer for any additional costs or expenses it incurs as a result of the Customer Failure.
2. Arcus Global may, on reasonable notice, visit FHDC owned premises in which the Customer is using or accessing the Products to determine whether the use of the Products by the Customer complies with this Agreement. The Customer shall grant Arcus Global such access to its premises and to its IT equipment (including Customer orgs or other environments) as is required to enable Arcus Global to verify that the Customer is complying with this Agreement.
3. Unless specifically agreed in writing, Customer will not, and will ensure that its end users, agents or 3rd parties under its control:
 - copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, export or move to another org. or otherwise attempt to extract any or all of the source code, objects, apex classes, data schemas, fields or logic contained in the Products or Services, whether these are contained within managed or unmanaged packages or within customer org (except to the extent such restriction is expressly prohibited by applicable law);
 - sub-licence, transfer or distribute any or all of the Products or Services;
 - sell, resell or otherwise make the Products or Services available as a commercial offering to a 3rd party or
 - access or use the Services: (i) for High Risk Activities; (ii) in a manner intended to avoid incurring Charges
4. Where Customer is able to self-provision Arcus licences or has administrative control of their org where Arcus licences are deployed, the Customer must inform Arcus in writing within 30 days of any changes

	<p>made to the number of users that have access to Arcus Products or Services. Arcus Global reserves the right to apply charges retrospectively for any such additional Customer users that have had access to Arcus Products or Services at any time during this Agreement.</p>
<p>Buyer's equipment</p>	<p>The Buyer's equipment to be used with this Call-Off Contract includes any desktop, laptop or tablet devices as provided to staff to perform their daily duties.</p> <p>The Suppliers solution can be accessed via web browser or mobile app meaning Buyer can use their own equipment.</p>

Supplier's information

<p>Subcontractors or partners</p>	<p>Salesforce Amazon Web Service (AWS) Conga</p>
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Call-Off Contract charges and payment

The Call-Off Contract charges and payment details are in the table below. See Schedule 2 for a full breakdown.

Payment method	The payment method for this Call-Off Contract is BACS transfer on receipt of a valid invoice.
Payment profile	The payment profile for this Call-Off Contract is as per the payment schedule. Schedule 2: Call-Off Contract Charges.
Invoice details	The Supplier will issue electronic invoices in line with the payment schedule. The Buyer will pay the Supplier within 14 days of receipt of a valid invoice.
Who and where to send invoices to	Invoices will be sent to: invoices@folkestone-hythe.gov.uk
Invoice information required	All invoices must include the purchase order number
Invoice frequency	Annually in advance of the service provision
Call-Off Contract value	The total value of this Call-Off Contract is up to £1,485,170.94
Call-Off Contract charges	The breakdown of the Charges is detailed in Schedule 2.

Additional Buyer terms

Performance of the Service and Deliverables	As per the Contract renewal document
Guarantee	N/A

Warranties, representations	N/A
Supplemental requirements in addition to the Call-Off terms	N/A
Alternative clauses	N/A
Buyer specific amendments to/refinements of the Call-Off Contract terms	<p>Intellectual Property Rights – additional terms</p> <ol style="list-style-type: none"> 1. Arcus Global owns, or is licensed to use, all copyright and other intellectual property rights in the Products and the Documentation. 2. Arcus Global will own any Intellectual Property Rights it creates in the course of providing the Services (including any Intellectual Property Rights in Deliverables). Any modifications or customisations to Arcus Global Products made in the course of the Services may be licensed to the Customer as per clause 6.5 below. 3. Save as expressly set out in this Agreement, the Customer does not acquire any rights in the Products or Services. 4. As part of the implementation of the Products or Services, Arcus may use other 3rd party software accepted best practice, and we do not expect to generate identifiable intellectual property or unique software code that is specific to each customer. However, in some cases, Arcus has pre-created a number of sub-modules, scripts, tools, software code (defined as Implementation IP) that may help to significantly improve the efficiency of delivery, data migration or integration tasks, as well as the quality of output for the Customer. Arcus may reuse software code (directly or in modified form) previously created by Arcus as part of our Products - such code will also be part of the Implementation IP. Arcus will retain all of the Intellectual Property Rights (IPR) for all Implementation IP in all cases. 5. Where the Customer has ordered the creation of a specific tool or script on a time and materials basis for their unique use case, Arcus will provide a perpetual, non-exclusive licence to the Customer following full payment of all fees due to Arcus. The licence will be royalty-free, as is, on "no support" basis. Such a licence will apply only for the purposes of the specific deployment. All such IPR will be considered "Pre-existing IPR" or "Background IPR" under the terms of the G-Cloud and other frameworks, and its inclusion in the deployment or implementation does not transfer any rights to the Customer, nor does it allow reproduction /

	<p>copying / modification by the Customer or any third party without prior written consent from Arcus.</p> <p>6. Arcus Global warrants that the use of the Products and the Documentation in accordance with this Agreement will not infringe any third party's copyright.</p> <p>With respect to the 'SFDC Pass Through Terms' that form part of the Supplier terms and are appended at Appendix A for ease of reference, the following clarifications apply:</p> <p style="padding-left: 40px;">a) The application to be provided is a "Non-SFDC Application".</p> <p style="padding-left: 40px;">b) Clause 13(2) provides a right for the Sub-contractor to terminate for breach by either the Supplier or the Customer's non-payment by the Supplier, or on the grounds of the Customer's insolvency. The provision of the SFDC licences are paid by the Supplier on a back to back basis i.e. the Supplier shall pay SFDC on receipt of payment from the Customer.</p> <p>Arcus Global Supplier Terms as specified in Appendix E to this Call-Off Agreement.</p>
Public Services Network (PSN)	Not applicable.
Personal Data and Data Subjects	Annex 1 of Schedule 7 shall apply.

Formation of contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a Call-Off Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.
- 1.4 In cases of any ambiguity or conflict, the Order Form (Part A) will supersede the terms and conditions of the Call-Off Contract (Part B) which will in turn will supersede the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

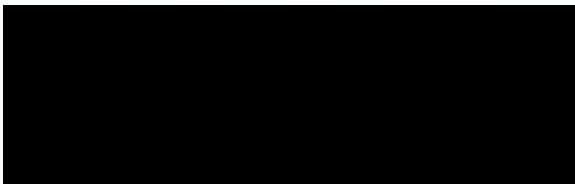
Background to the agreement

- 2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.12.
- 2.2 The Buyer provided an Order Form for Services to the Supplier.

Authorised Signatures

IN WITNESS whereof the Parties have executed this Call-off Contract as a deed the day and year above written

THE COMMON SEAL of
THE DISTRICT COUNCIL OF FOLKESTONE AND HYTHE
was hereunto affixed in the presence of:



9614

EXECUTED AS A DEED by
Arcus Global acting by:

Director	
Director/ Company Secretary	

Schedule 1: Services

Arcus Global will provide the Salesforce “Org” (compute environment) and associated services and other relevant 3rd party applications via our Cloud Brokerage Service on G-Cloud. All AGL software will be provided as per the G-Cloud 12 Service descriptions referenced by the service IDs below and available via the Digital Market place:

922085249202379 - AGL Built Environment - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/922085249202379>

514369745701869 - AGL Regulatory Services - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/514369745701869>

227203589489185 - AGL ICT Service Desk - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/227203589489185>

230256990348576 - AGL LG CRM - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/230256990348576>

248107826126766 - AGL Cloud Brokerage - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/248107826126766>

285587609539955 - AGL Digital Services Hub - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/285587609539955>

Assumptions and exclusions:

- The software is already deployed in customer environments. Any professional services required are via the Change Control Procedure based on the SFIA rates applicable to the above service via G-Cloud

<https://assets.digitalmarketplace.service.gov.uk/g-cloud-12/documents/92207/922085249202379-sfia-rate-card-2020-07-10-1223.pdf>

Project Implementation Notes:

- We expect that the majority of our professional services applicable to this contract will be from “Apply” SFIA category at a day rate of £850 per day and is exclusive of travel and subsistence costs.
- All project days are expected to be delivered remotely.

Schedule 2: Call-Off Contract charges

The following commercial proposal is based on the assumption that FHDC wishes to contract for a 24 month term, via the CCS G-Cloud Framework. Two optional extensions will attract a 5% price increase if taken separately after the expiry of the initial term or the Year 3 extension. FHDC can avoid this by exercising its right to extend the contract to the full 48 month term at the point of signature.

	Monthly cost per user	Annual cost per user	Users	Total annual cost
Local Government CRM pack (31-60 users)				██████████
AGL App (BE / Reg) Base Pack				██████████
Service Cloud (CSA)	██████████	██████████	27	██████████
Knowledge	██████████	██████████	5	██████████
Live Agent	██████████	██████████	5	██████████
System Administrator	██████████	██████████	7	██████████
Community logins	██████████	██████████	6000	██████████
1 TB File Storage	██████████	██████████	1	██████████
10 - 30	██████████	██████████	20	██████████
31 - 60	██████████	██████████	30	██████████
61 - 100	██████████	██████████	40	██████████
101 +	██████████	██████████	87	██████████
Digital Services Hub (35k-70k CT properties)				██████████
SF Managed Service & Support	Code Support			██████████
Staff Hub (Removed)		██████████	0	£0.00
ICT Service Desk	Digital Services Hub for Officers & Elected Members		1	██████████
Lightning Platform Starter	██████████	██████████	194	██████████
Document Creation	██████████	██████████	85	██████████
TOTAL P.A. during the initial term				£357,657.06
TOTAL for the initial 24 month term				£715,314.12
Total for Year 3 (if taken after expiry of the initial term)				£375,539.91
Total for Year 4 (if taken after expiry of Year 3)				£394,316.91
TOTAL CONTRACT VALUE (assuming 2 + 1 + 1 extensions taken separately)				£1,485,170.94

Notes to the Pricing:

The above pricing is valid until 30th July 2022. From September 2022, it is expected that the pricing will significantly increase as G-Cloud 13 will replace G-Cloud 12 pricing. All user numbers are constructed to take advantage of free users included in Arcus “packs” - Local Government CRM Pack, Application Base Pack and Digital Services Hub packs all come with some licences included, so these have been accounted for in the table above to give the best price to FHDC.

The following numbers of 3rd party licences have been used to construct the pricing in this contract (shown for transparency):

Users	SKU	Licences	Total
AGL Product Admin	AGL App (BE / Reg) Base Pack	3	
AGL Product Admin	System Admin Addons	7	
AGL Product Admin Total			10
AGL Products Std. User	AGL App (BE / Reg) Base Pack	8	
AGL Products Std. User	AGL Std User Addons	177	
AGL Products Std. User Total			185
Doc Creation (Conga)	AGL App (BE / Reg) Base Pack	10	
Doc Creation (Conga)	Additional	85	
Doc Creation Total			95
PDF Tron	AGL App (BE / Reg) Base Pack	10	
PDF Tron Total			10
Service Cloud	SF Service Cloud (CSA) via Cloud Brokerage	27	
Service Cloud	Digital Services Hub (35k-70k CT properties)	5	
Service Cloud Total			32
Knowledge	Cloud Brokerage		5
Live Agent	Cloud Brokerage		5
SF Community logins	Cloud Brokerage		6000
1 TB File Storage	Cloud Brokerage		1
Lightning Platform Starter	Cloud Brokerage		194

Please note all prices are exclusive of VAT at the current rate. All purchase orders must be made out to Arcus Global Limited for the full contract value. 100% of Software and Services payable on order.

All licences are payable annually in advance. Any licences that are paid for 12 month earlier than are due will attract a further 5% discount (this is not reflected in the table above).

FHDC must respect the user licence restrictions, API call and data restrictions included in each of the licences above. Any additional charges generated by FHDC through usage outside those limits will become chargeable. Arcus will pass on any additional charges that are identified during an audit by a 3rd party.

Supporting documentation to this proposal

922085249202379 - AGL Built Environment - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/922085249202379>

514369745701869 - AGL Regulatory Services - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/514369745701869>

227203589489185 - AGL ICT Service Desk - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/227203589489185>

230256990348576 - AGL LG CRM - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/230256990348576>

248107826126766 - AGL Cloud Brokerage - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/248107826126766>

285587609539955 - AGL Digital Services Hub - <https://www.digitalmarketplace.service.gov.uk/g-cloud/services/285587609539955>

Part B: Terms and conditions

1. Call-Off Contract Start date and length

- 1.1 The Supplier must start providing the Services on the date specified in the Order Form.
- 1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 24 months from the Start date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.
- 1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, provided that this is within the maximum permitted under the Framework Agreement of 2 periods of up to 12 months each.
- 1.4 The Parties must comply with the requirements under clauses 21.3 to 21.8 if the Buyer reserves the right in the Order Form to extend the contract beyond 24 months.

2. Incorporation of terms

- 2.1 The following Framework Agreement clauses (including clauses and defined terms referenced by them) as modified under clause 2.2 are incorporated as separate Call-Off Contract obligations and apply between the Supplier and the Buyer:

- 4.1 (Warranties and representations)
- 4.2 to 4.7 (Liability)
- 4.11 to 4.12 (IR35)
- 5.4 to 5.5 (Force majeure)
- 5.8 (Continuing rights)
- 5.9 to 5.11 (Change of control)
- 5.12 (Fraud)
- 5.13 (Notice of fraud)
- 7.1 to 7.2 (Transparency)
- 8.3 (Order of precedence)
- 8.6 (Relationship)
- 8.9 to 8.11 (Entire agreement)
- 8.12 (Law and jurisdiction)
- 8.13 to 8.14 (Legislative change)
- 8.15 to 8.19 (Bribery and corruption)
- 8.20 to 8.29 (Freedom of Information Act)
- 8.30 to 8.31 (Promoting tax compliance)
- 8.32 to 8.33 (Official Secrets Act)
- 8.34 to 8.37 (Transfer and subcontracting)
- 8.40 to 8.43 (Complaints handling and resolution)
- 8.44 to 8.50 (Conflicts of interest and ethical walls)
- 8.51 to 8.53 (Publicity and branding)
- 8.54 to 8.56 (Equality and diversity)
- 8.59 to 8.60 (Data protection)
- 8.64 to 8.65 (Severability)
- 8.66 to 8.69 (Managing disputes and Mediation)

- 8.80 to 8.88 (Confidentiality)
- 8.89 to 8.90 (Waiver and cumulative remedies)
- 8.91 to 8.101 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement glossary and interpretation
- any audit provisions from the Framework Agreement set out by the Buyer in the Order Form

2.2 The Framework Agreement provisions in clause 2.1 will be modified as follows:

2.2.1 a reference to the 'Framework Agreement' will be a reference to the 'Call-Off Contract'

2.2.2 a reference to 'CCS' will be a reference to 'the Buyer'

2.2.3 a reference to the 'Parties' and a 'Party' will be a reference to the Buyer and Supplier as Parties under this Call-Off Contract

2.3 The Parties acknowledge that they are required to complete the applicable Annexes contained in Schedule 4 (Processing Data) of the Framework Agreement for the purposes of this Call-Off Contract. The applicable Annexes being reproduced at Schedule 7 of this Call-Off Contract.

2.4 The Framework Agreement incorporated clauses will be referred to as incorporated Framework clause 'XX', where 'XX' is the Framework Agreement clause number.

2.5 When an Order Form is signed, the terms and conditions agreed in it will be incorporated into this Call-Off Contract.

3. Supply of services

3.1 The Supplier agrees to supply the G-Cloud Services and any Additional Services under the terms of the Call-Off Contract and the Supplier's Application.

3.2 The Supplier undertakes that each G-Cloud Service will meet the Buyer's acceptance criteria, as defined in the Order Form.

4. Supplier staff

4.1 The Supplier Staff must:

4.1.1 be appropriately experienced, qualified and trained to supply the Services

4.1.2 apply all due skill, care and diligence in faithfully performing those duties

4.1.3 obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer

4.1.4 respond to any enquiries about the Services as soon as reasonably possible

4.1.5 complete any necessary Supplier Staff vetting as specified by the Buyer

- 4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.
- 4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.
- 4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35.
- 4.5 The Buyer may End this Call-Off Contract for Material Breach as per clause 18.5 hereunder if the Supplier is delivering the Services Inside IR35.
- 4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14-digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.
- 4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.
- 4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

5. Due diligence

- 5.1 Both Parties agree that when entering into a Call-Off Contract they:
 - 5.1.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party
 - 5.1.2 are confident that they can fulfil their obligations according to the Call-Off Contract terms
 - 5.1.3 have raised all due diligence questions before signing the Call-Off Contract
 - 5.1.4 have entered into the Call-Off Contract relying on its own due diligence

6. Business continuity and disaster recovery

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their service descriptions.
- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.

7. Payment, VAT and Call-Off Contract charges

- 7.1 The Buyer must pay the Charges following clauses 7.2 to 7.11 for the Supplier's delivery of the Services.
- 7.2 The Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice.
- 7.3 The Call-Off Contract Charges include all Charges for payment Processing. All invoices submitted to the Buyer for the Services will be exclusive of any Management Charge.
- 7.4 If specified in the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and must not recover this charge from the Buyer.
- 7.5 The Supplier must ensure that each invoice contains a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.
- 7.6 If the Supplier enters into a Subcontract it must ensure that a provision is included in each Subcontract which specifies that payment must be made to the Subcontractor within 30 days of receipt of a valid invoice.
- 7.7 All Charges payable by the Buyer to the Supplier will include VAT at the appropriate Rate.
- 7.8 The Supplier must add VAT to the Charges at the appropriate rate with visibility of the amount as a separate line item.
- 7.9 The Supplier will indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier must pay all sums to the Buyer at least 5 Working Days before the date on which the tax or other liability is payable by the Buyer.
- 7.10 The Supplier must not suspend the supply of the G-Cloud Services unless the Supplier is entitled to End this Call-Off Contract under clause 18.6 for Buyer's failure to pay undisputed sums of money. Interest will be payable by the Buyer on the late payment of any undisputed sums of money properly invoiced under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.11 If there's an invoice dispute, the Buyer must pay the undisputed portion of the amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.12 Due to the nature of G-Cloud Services it isn't possible in a static Order Form to exactly define the consumption of services over the duration of the Call-Off Contract. The Supplier agrees that the Buyer's volumes indicated in the Order Form are indicative only.

8. Recovery of sums due and right of set-off

- 8.1 If a Supplier owes money to the Buyer, the Buyer may deduct that sum from the Call-Off Contract Charges.

9. Insurance

- 9.1 The Supplier will maintain the insurances required by the Buyer including those in this clause.
- 9.2 The Supplier will ensure that:
- 9.2.1 during this Call-Off Contract, Subcontractors hold third party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000
 - 9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit
 - 9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
 - 9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date
- 9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.
- 9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:
- 9.4.1 a broker's verification of insurance
 - 9.4.2 receipts for the insurance premium
 - 9.4.3 evidence of payment of the latest premiums due
- 9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:
- 9.5.1 take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers
 - 9.5.2 promptly notify the insurers in writing of any relevant material fact under any Insurances
 - 9.5.3 hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance

- 9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.
- 9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.
- 9.8 The Supplier will be liable for the payment of any:
 - 9.8.1 premiums, which it will pay promptly
 - 9.8.2 excess or deductibles and will not be entitled to recover this from the Buyer

10. Confidentiality

- 10.1 Subject to clause 24.1 the Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under the Data Protection Legislation or under incorporated Framework Agreement clauses 8.80 to 8.88. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

11. Intellectual Property Rights

- 11.1 Unless otherwise specified in this Call-Off Contract, a Party will not acquire any right, title or interest in or to the Intellectual Property Rights (IPRs) of the other Party or its Licensors.
- 11.2 The Supplier grants the Buyer a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to use the Project Specific IPRs and any Background IPRs embedded within the Project Specific IPRs for the Buyer's ordinary business activities.
- 11.3 The Supplier must obtain the grant of any third-party IPRs and Background IPRs so the Buyer can enjoy full use of the Project Specific IPRs, including the Buyer's right to publish the IPR as open source.
- 11.4 The Supplier must promptly inform the Buyer if it can't comply with the clause above and the Supplier must not use third-party IPRs or Background IPRs in relation to the Project Specific IPRs if it can't obtain the grant of a licence acceptable to the Buyer.
- 11.5 The Supplier will, on written demand, fully indemnify the Buyer and the Crown for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:
 - 11.5.1 rights granted to the Buyer under this Call-Off Contract
 - 11.5.2 Supplier's performance of the Services
 - 11.5.3 use by the Buyer of the Services
- 11.6 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:

- 11.6.1 modify the relevant part of the Services without reducing its functionality or performance
 - 11.6.2 substitute Services of equivalent functionality and performance, to avoid the infringement or the alleged infringement, as long as there is no additional cost or burden to the Buyer
 - 11.6.3 buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer
- 11.7 Clause 11.5 will not apply if the IPR Claim is from:
- 11.7.2 the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract
 - 11.7.3 other material provided by the Buyer necessary for the Services
- 11.8 If the Supplier does not comply with clauses 11.2 to 11.6, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money paid for the affected Services.

12. Protection of information

- 12.1 The Supplier must:
- 12.1.1 comply with the Buyer's written instructions and this Call-Off Contract when Processing Buyer Personal Data
 - 12.1.2 only Process the Buyer Personal Data as necessary for the provision of the G-Cloud Services or as required by Law or any Regulatory Body
 - 12.1.3 take reasonable steps to ensure that any Supplier Staff who have access to Buyer Personal Data act in compliance with Supplier's security processes
- 12.2 The Supplier must fully assist with any complaint or request for Buyer Personal Data including by:
- 12.2.1 providing the Buyer with full details of the complaint or request
 - 12.2.2 complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions
 - 12.2.3 providing the Buyer with any Buyer Personal Data it holds about a Data Subject (within the timescales required by the Buyer)
 - 12.2.4 providing the Buyer with any information requested by the Data Subject

12.3 The Supplier must get prior written consent from the Buyer to transfer Buyer Personal Data to any other person (including any Subcontractors) for the provision of the G-Cloud Services.

13. Buyer data

13.1 The Supplier must not remove any proprietary notices in the Buyer Data.

13.2 The Supplier will not store or use Buyer Data except if necessary to fulfil its obligations.

13.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested.

13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.

13.5 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.

13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:

13.6.1 the principles in the Security Policy Framework:

<https://www.gov.uk/government/publications/security-policy-framework> and the Government Security Classification policy:

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

13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management:

<https://www.cpni.gov.uk/content/adopt-risk-management-approach> and Protection of Sensitive Information and Assets:

<https://www.cpni.gov.uk/protection-sensitive-information-and-assets>

13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance:

<https://www.ncsc.gov.uk/collection/risk-management-collection>

13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint:

<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>

13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance:

<https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>

13.6.6 buyer requirements in respect of AI ethical standards

- 13.7 The Buyer will specify any security requirements for this project in the Order Form.
- 13.8 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.
- 13.9 The Supplier agrees to use the appropriate organisational, operational and technological processes to keep the Buyer Data safe from unauthorised use or access, loss, destruction, theft or disclosure.
- 13.10 The provisions of this clause 13 will apply during the term of this Call-Off Contract and for as long as the Supplier holds the Buyer's Data.

14. Standards and quality

- 14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.
- 14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at:
<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>
- 14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.
- 14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.
- 14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

15. Open source

- 15.1 All software created for the Buyer must be suitable for publication as open source, unless otherwise agreed by the Buyer.
- 15.2 If software needs to be converted before publication as open source, the Supplier must also provide the converted format unless otherwise agreed by the Buyer.

16. Security

- 16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.
- 16.2 The Supplier will use all reasonable endeavours, software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.
- 16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.
- 16.4 Responsibility for costs will be at the:
- 16.4.1 Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided
- 16.4.2 Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control
- 16.5 The Supplier will immediately notify the Buyer of any breach of security of Buyer's Confidential Information (and the Buyer of any Buyer Confidential Information breach). Where the breach occurred because of a Supplier Default, the Supplier will recover the Buyer's Confidential Information however it may be recorded.
- 16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance:
<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>
- 16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start date.

17. Guarantee

- 17.1 If this Call-Off Contract is conditional on receipt of a Guarantee that is acceptable to the Buyer, the Supplier must give the Buyer on or before the Start date:
- 17.1.1 an executed Guarantee in the form at Schedule 5

17.1.2 a certified copy of the passed resolution or board minutes of the guarantor approving the execution of the Guarantee

18. Ending the Call-Off Contract

18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.

18.2 The Parties agree that the:

18.2.1 Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided

18.2.2 Call-Off Contract Charges paid during the notice period is reasonable compensation and covers all the Supplier's avoidable costs or Losses

18.3 Subject to clause 24 (Liability), if the Buyer Ends this Call-Off Contract under clause 18.1, it will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate the Loss. If the Supplier has insurance, the Supplier will reduce its unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of the unavoidable Loss with supporting evidence.

18.4 The Buyer will have the right to End this Call-Off Contract at any time with immediate effect by written notice to the Supplier if either the Supplier commits:

18.4.1 a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied

18.4.2 any fraud

18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:

18.5.1 the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due) and, if that breach is remediable, fails to remedy it within 15 Working Days of being notified in writing to do so

18.5.2 an Insolvency Event of the other Party happens

18.5.3 the other Party ceases or threatens to cease to carry on the whole or any material part of its business

18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.

18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

19. Consequences of suspension, ending and expiry

19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.

19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the Ordered G-Cloud Services until the dates set out in the notice.

19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.

19.4 Ending or expiry of this Call-Off Contract will not affect:

19.4.1 any rights, remedies or obligations accrued before its Ending or expiration

19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry

19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses

- 7 (Payment, VAT and Call-Off Contract charges)
- 8 (Recovery of sums due and right of set-off)
- 9 (Insurance)
- 10 (Confidentiality)
- 11 (Intellectual property rights)
- 12 (Protection of information)
- 13 (Buyer data)
- 19 (Consequences of suspension, ending and expiry)
- 24 (Liability); incorporated Framework Agreement clauses: 4.2 to 4.7 (Liability)
- 8.44 to 8.50 (Conflicts of interest and ethical walls)
- 8.89 to 8.90 (Waiver and cumulative remedies)

19.4.4 any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires

19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:

19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it

19.5.2 return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer

19.5.3 stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer

19.5.4 destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law

19.5.5 work with the Buyer on any ongoing work

19.5.6 return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.

19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

20. Notices

20.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being 'in writing'.

- Manner of delivery: email
- Deemed time of delivery: 9am on the first Working Day after sending
- Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message

20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

21. Exit plan

21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.

21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.

- 21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 24 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 18 month anniversary of the Start date.
- 21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.
- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.
- 21.6 The Supplier acknowledges that the Buyer's right to extend the Term beyond 24 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:
- 21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the extension period on terms that are commercially reasonable and acceptable to the Buyer
 - 21.6.2 there will be no adverse impact on service continuity
 - 21.6.3 there is no vendor lock-in to the Supplier's Service at exit
 - 21.6.4 it enables the Buyer to meet its obligations under the Technology Code Of Practice
- 21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.
- 21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:
- 21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier
 - 21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer
 - 21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier
 - 21.8.4 the testing and assurance strategy for exported Buyer Data
 - 21.8.5 if relevant, TUPE-related activity to comply with the TUPE regulations

21.8.6 any other activities and information which is reasonably required to ensure continuity of Service during the exit period and an orderly transition

22. Handover to replacement supplier

22.1 At least 10 Working Days before the Expiry Date or End Date, the Supplier must provide any:

22.1.1 data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control

22.1.2 other information reasonably requested by the Buyer

22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.

22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

23. Force majeure

23.1 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than the number of consecutive days set out in the Order Form, the other Party may End this Call-Off Contract with immediate effect by written notice.

24. Liability

24.1 Subject to incorporated Framework Agreement clauses 4.2 to 4.7, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract (whether expressed as an indemnity or otherwise) will be set as follows:

24.1.1 Property: for all Defaults by either party resulting in direct loss to the property (including technical infrastructure, assets, IPR or equipment but excluding any loss or damage to Buyer Data) of the other Party, will not exceed the amount in the Order Form

24.1.2 Buyer Data: for all Defaults by the Supplier resulting in direct loss, destruction, corruption, degradation or damage to any Buyer Data, will not exceed the amount in the Order Form

24.1.3 Other Defaults: for all other Defaults by either party, claims, Losses or damages, whether arising from breach of contract, misrepresentation (whether under common law or statute), tort (including negligence), breach of statutory duty or otherwise will not exceed the amount in the Order Form.

25. Premises

25.1 If either Party uses the other Party's premises, that Party is liable for all loss or damage it causes to the premises. It is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

25.2 The Supplier will use the Buyer's premises solely for the performance of its obligations under this Call-Off Contract.

25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.

25.4 This clause does not create a tenancy or exclusive right of occupation.

25.5 While on the Buyer's premises, the Supplier will:

25.5.1 comply with any security requirements at the premises and not do anything to weaken the security of the premises

25.5.2 comply with Buyer requirements for the conduct of personnel

25.5.3 comply with any health and safety measures implemented by the Buyer

25.5.4 immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury

25.6 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Buyer on request.

26. Equipment

26.1 The Supplier is responsible for providing any Equipment which the Supplier requires to provide the Services.

26.2 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any loss of, or damage to, any Equipment.

26.3 When the Call-Off Contract Ends or expires, the Supplier will remove the Equipment and any other materials leaving the premises in a safe and clean condition.

27. The Contracts (Rights of Third Parties) Act 1999

- 27.1 Except as specified in clause 29.8, a person who isn't Party to this Call-Off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. This does not affect any right or remedy of any person which exists or is available otherwise.

28. Environmental requirements

- 28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.
- 28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

29. The Employment Regulations (TUPE)

- 29.1 The Supplier agrees that if the Employment Regulations apply to this Call-Off Contract on the Start date then it must comply with its obligations under the Employment Regulations and (if applicable) New Fair Deal (including entering into an Admission Agreement) and will indemnify the Buyer or any Former Supplier for any loss arising from any failure to comply.
- 29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:
- 29.2.1 the activities they perform
 - 29.2.2 age
 - 29.2.3 start date
 - 29.2.4 place of work
 - 29.2.5 notice period
 - 29.2.6 redundancy payment entitlement
 - 29.2.7 salary, benefits and pension entitlements
 - 29.2.8 employment status
 - 29.2.9 identity of employer
 - 29.2.10 working arrangements
 - 29.2.11 outstanding liabilities
 - 29.2.12 sickness absence
 - 29.2.13 copies of all relevant employment contracts and related documents
 - 29.2.14 all information required under regulation 11 of TUPE or as reasonably requested by the Buyer
- 29.3 The Supplier warrants the accuracy of the information provided under this TUPE clause and will notify the Buyer of any changes to the amended information as soon as reasonably

possible. The Supplier will permit the Buyer to use and disclose the information to any prospective Replacement Supplier.

- 29.4 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.
- 29.5 The Supplier will co-operate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 29.6 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:
- 29.6.1 its failure to comply with the provisions of this clause
 - 29.6.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer
- 29.7 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.
- 29.8 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

30. Additional G-Cloud services

- 30.1 The Buyer may require the Supplier to provide Additional Services. The Buyer doesn't have to buy any Additional Services from the Supplier and can buy services that are the same as or similar to the Additional Services from any third party.
- 30.2 If reasonably requested to do so by the Buyer in the Order Form, the Supplier must provide and monitor performance of the Additional Services using an Implementation Plan.

31. Collaboration

- 31.1 If the Buyer has specified in the Order Form that it requires the Supplier to enter into a Collaboration Agreement, the Supplier must give the Buyer an executed Collaboration Agreement before the Start date.
- 31.2 In addition to any obligations under the Collaboration Agreement, the Supplier must:
- 31.2.1 work proactively and in good faith with each of the Buyer's contractors
 - 31.2.2 co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and G-Cloud Services

32. Variation process

- 32.1 The Buyer can request in writing a change to this Call-Off Contract if it isn't a material change to the Framework Agreement/or this Call-Off Contract. Once implemented, it is called a Variation.
- 32.2 The Supplier must notify the Buyer immediately in writing of any proposed changes to their G-Cloud Services or their delivery by submitting a Variation request. This includes any changes in the Supplier's supply chain.
- 32.3 If Either Party can't agree to or provide the Variation, the Buyer may agree to continue performing its obligations under this Call-Off Contract without the Variation, or End this Call-Off Contract by giving 30 days notice to the Supplier.

33. Data Protection Legislation (GDPR)

- 33.1 Pursuant to clause 2.1 and for the avoidance of doubt, clauses 8.59 and 8.60 of the Framework Agreement are incorporated into this Call-Off Contract. For reference, the appropriate GDPR templates which are required to be completed in accordance with clauses 8.59 and 8.60 are reproduced in this Call-Off Contract document at schedule 7.

Schedule 3: Collaboration agreement

Not applicable

Schedule 4: Alternative clauses

Not applicable

Schedule 5: Guarantee

Not applicable

Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
Additional Services	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Section 2 (Services Offered) which a Buyer may request.
Admission Agreement	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
Application	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Digital Marketplace).
Audit	An audit carried out under the incorporated Framework Agreement clauses specified by the Buyer in the Order (if any).
Background IPRs	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> • owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes • created by the Party independently of this Call-Off Contract, or <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>
Buyer	The contracting authority ordering services as set out in the Order Form.
Buyer Data	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
Buyer Personal Data	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
Buyer Representative	The representative appointed by the Buyer under this Call-Off Contract.

Buyer Software	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.
Call-Off Contract	This call-off contract entered into following the provisions of the Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.
Charges	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
Collaboration Agreement	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
Commercially Sensitive Information	Information, which the Buyer has been notified about by the Supplier in writing before the Start date with full details of why the Information is deemed to be commercially sensitive.
Confidential Information	Data, Personal Data and any information, which may include (but isn't limited to) any: <ul style="list-style-type: none"> • information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above • other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').
Control	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
Controller	Takes the meaning given in the GDPR.
Crown	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.

Data Loss Event	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Framework Agreement and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
Data Protection Impact Assessment (DPIA)	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
Data Protection Legislation (DPL)	Data Protection Legislation means: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy (iii) all applicable Law about the Processing of Personal Data and privacy including if applicable legally binding guidance and codes of practice issued by the Information Commissioner
Data Subject	Takes the meaning given in the GDPR
Default	Default is any: <ul style="list-style-type: none"> • breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) • other Default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
Deliverable(s)	The G-Cloud Services the Buyer contracts the Supplier to provide under this Call-Off Contract.
Digital Marketplace	The government marketplace where Services are available for Buyers to buy. (https://www.digitalmarketplace.service.gov.uk/)
DPA 2018	Data Protection Act 2018.
Employment Regulations	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') which implements the Acquired Rights Directive.

End	Means to terminate; and Ended and Ending are construed accordingly.
Environmental Information Regulations or EIR	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department about the regulations.
Equipment	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.
ESI Reference Number	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
Employment Status Indicator test tool or ESI tool	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here: https://www.gov.uk/guidance/check-employment-status-for-tax
Expiry Date	The expiry date of this Call-Off Contract in the Order Form.
Force Majeure	<p>A force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none"> ● acts, events or omissions beyond the reasonable control of the affected Party ● riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare ● acts of government, local government or Regulatory Bodies ● fire, flood or disaster and any failure or shortage of power or fuel ● industrial dispute affecting a third party for which a substitute third party isn't reasonably available <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> ● any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain ● any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure ● the event was foreseeable by the Party seeking to rely on Force Majeure at the time this Call-Off Contract was entered into ● any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans

Former Supplier	A supplier supplying services to the Buyer before the Start date that are the same as or substantially similar to the Services. This also includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).
Framework Agreement	The clauses of framework agreement RM1557.12 together with the Framework Schedules.
Fraud	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.
Freedom of Information Act or FoIA	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to the legislation.
G-Cloud Services	The cloud services described in Framework Agreement Section 2 (Services Offered) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
GDPR	General Data Protection Regulation (Regulation (EU) 2016/679)
Good Industry Practice	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances.
Government Procurement Card	The government's preferred method of purchasing and payment for low value goods or services.
Guarantee	The guarantee described in Schedule 5.
Guidance	Any current UK government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK government guidance and the Crown Commercial Service guidance, current UK government guidance will take precedence.

Implementation Plan	The plan with an outline of processes (including data standards for migration), costs (for example) of implementing the services which may be required as part of Onboarding.
Indicative test	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
Information	Has the meaning given under section 84 of the Freedom of Information Act 2000.
Information security management system	The information security management system and process developed by the Supplier in accordance with clause 16.1.
Inside IR35	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.
Insolvency event	Can be: <ul style="list-style-type: none"> ● a voluntary arrangement ● a winding-up petition ● the appointment of a receiver or administrator ● an unresolved statutory demand ● a Schedule A1 moratorium
Intellectual Property Rights or IPR	Intellectual Property Rights are: <ul style="list-style-type: none"> ● copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information ● applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction ● all other rights having equivalent or similar effect in any country or jurisdiction
Intermediary	For the purposes of the IR35 rules an intermediary can be: <ul style="list-style-type: none"> ● the supplier's own limited company ● a service or a personal service company ● a partnership <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>

IPR claim	As set out in clause 11.5.
IR35	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.
IR35 assessment	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.
Know-How	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or CCS's possession before the Start date.
Law	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply.
LED	Law Enforcement Directive (EU) 2016/680.
Loss	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' Losses ' will be interpreted accordingly.
Lot	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
Malicious Software	Any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.
Management Charge	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.

Management Information	The management information specified in Framework Agreement section 6 (What you report to CCS).
Material Breach	Those breaches which have been expressly set out as a Material Breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.
Ministry of Justice Code	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.
New Fair Deal	The revised Fair Deal position in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 as amended.
Order	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
Order Form	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.
Ordered G-Cloud Services	G-Cloud Services which are the subject of an order by the Buyer.
Outside IR35	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
Party	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
Personal Data	Takes the meaning given in the GDPR.
Personal Data Breach	Takes the meaning given in the GDPR.
Processing	Takes the meaning given in the GDPR.
Processor	Takes the meaning given in the GDPR.

Prohibited act	To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to: <ul style="list-style-type: none"> ● induce that person to perform improperly a relevant function or activity ● reward that person for improper performance of a relevant function or activity ● commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud
Project Specific IPRs	Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.
Property	Assets and property including technical infrastructure, IPRs and equipment.
Protective Measures	Appropriate technical and organisational measures which may include: pseudonymisation and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
PSN or Public Services Network	The Public Services Network (PSN) is the government's high-performance network which helps public sector organisations work together, reduce duplication and share resources.
Regulatory body or bodies	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.
Relevant person	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
Relevant Transfer	A transfer of employment to which the employment regulations applies.

Replacement Services	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.
Replacement supplier	Any third-party service provider of replacement services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).
Security management plan	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.
Services	The services ordered by the Buyer as set out in the Order Form.
Service data	Data that is owned or managed by the Buyer and used for the G-Cloud Services, including backup data.
Service definition(s)	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Section 2 (Services Offered) of the Framework Agreement.
Service description	The description of the Supplier service offering as published on the Digital Marketplace.
Service Personal Data	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.
Spend controls	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service
Start date	The Start date of this Call-Off Contract as set out in the Order Form.
Subcontract	Any contract or agreement or proposed agreement between the Supplier and a subcontractor in which the subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.

Subcontractor	Any third party engaged by the Supplier under a subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
Subprocessor	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
Supplier	The person, firm or company identified in the Order Form.
Supplier Representative	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.
Supplier staff	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Call-Off Contract.
Supplier terms	The relevant G-Cloud Service terms and conditions as set out in the Terms and Conditions document supplied as part of the Supplier's Application.
Term	The term of this Call-Off Contract as set out in the Order Form.
Variation	This has the meaning given to it in clause 32 (Variation process).
Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.
Year	A contract year.

Schedule 7: GDPR Information

This schedule reproduces the annexes to the GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract.

Annex 1: Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

- 1.1 The contact details of the Buyer's Data Protection Officer are: [REDACTED], Information Officer, The District Council of Folkestone and Hythe, Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY; data.protection@folkestone-hythe.gov.uk
- 1.2 The contact details of the Supplier's Data Protection Officer are: [REDACTED] - CEO
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Descriptions	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with paragraph 2-15 Framework Agreement Schedule 4 (Where the Party is a Controller and the other Party is Processor) and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> Personal information inclusive of name and addresses.
Duration of the Processing	Contract duration
Nature and purposes of the Processing	Collection, processing, recording
Type of Personal Data	Name, address and basic identifiers
Categories of Data Subject	Public, customer data
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or	As per the Appendix C Exit Plan

Member State law to preserve that type of data	
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Appendix A: Arcus Salesforce Pass through terms and conditions

The terms below form part of the Supplier terms and they are appended to the Call Off Order Form for ease of reference only. For the avoidance of doubt, in the event of any conflict between these terms and the Order Form, the Call-Off terms and conditions or the Call-Off schedules, these terms shall take the same level of precedence as the Supplier terms.

SFDC Pass-Through Terms

These SFDC Pass-Through Terms apply between Contractor as "Reseller" for the purposes of these SFDC Pass Through Terms and its Customer in respect of Services ordered for the Opportunity.

1. SFDC is not a party to these SFDC Pass-Through Terms, which apply solely between Contractor and Customer, and Customer has not right to enforce or bring any claim against SFDC in respect of these SFDC Pass-Through Terms. However, SFDC is a third party beneficiary to these SFDC Pass-Through Terms, and shall have the benefit of and the right to enforce these SFDC Pass-Through Terms between Customer and Reseller.

DEFINITIONS

"Content" means information obtained by SFDC from its content licensors or publicly available sources and provided to Customer pursuant to an Order Form, as more fully described in the Documentation.

"Customer" means the customer ordering Services from Reseller.

"Customer Data" means electronic data and information submitted by or for Customer to the Services or collected and processed by or for Customer using the Services, excluding Content and Non-SFDC Applications.

"Data Controller" has the meaning specified for "controller" in Data Protection Laws and Regulations.

"Data Processor" has the meaning specified for "processor" in Data Protection Laws and Regulations.

"Data Protection Laws and Regulations" means all applicable laws and regulations of the European Union, the European Economic Area and their member states regarding processing of Personal Data.

"Documentation" means SFDC's online user guides, help and training material for the applicable Services, accessible via help.salesforce.com or login to the applicable Services, as updated from time to time, including without limitation any notices and license information, external usage policies, and security, privacy and architecture documentation for the applicable Services accessible through the Trust and Compliance section of the help.salesforce.com website, current url at: https://help.salesforce.com/apex/HTViewSolution?urlname=Trust-and-Compliance-Documentation&language=en_US or any successor website, as updated from time to time.

"Malicious Code" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

"Marketplace" means an online directory, catalog or marketplace of applications that interoperate with the Services, including, for example, the AppExchange located at <http://www.salesforce.com/appexchange>, the Heroku add-ons catalog located at <https://addons.heroku.com/>, and any successor websites.

"Non-SFDC Application" means a Web-based or offline software application that is provided by Reseller, Customer or a third party and interoperates with a Service, including, for example, an application that is developed by or for Customer, is listed on a Marketplace, or is identified as Salesforce Labs or by a similar designation.

“Order Form” means the ordering document specifying the Services to be provided hereunder that is entered into between Customer and Reseller, including any Product Specific Terms addenda and supplements thereto.

“Personal Data” has the meaning specified for “personal data” in Data Protection Laws and Regulations where such data is submitted to the Services as Customer Data.

“Product Specific Terms” means standard terms from SFDC that apply specifically to one or more particular Service, as set out in the applicable order form between SFDC and Reseller, which Contractor is obliged to set out in the applicable Order Form.

“Reseller” means the Contractor authorized by SFDC to resell Services from whom Customer orders Services.

“Services” means the products and services that are ordered by Customer under an Order Form and made available online by SFDC, including associated offline components, as described in the Documentation. “Services” exclude Content and Non-SFDC Applications.

“SFDC” means salesforce.com EMEA Limited, a limited liability company having its registered office at Floor 26 Salesforce Tower, 110 Bishopsgate, London EC2N 4AY, United Kingdom or any of its Affiliates, as applicable, where Affiliates means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“User” means an individual who is authorized by Customer to use a Service, for whom Customer has ordered the Service, and to whom Customer (or when applicable, Contractor at Customer’s request, or SFDC at Customer’s request) has supplied a user identification and password. Users may include, for example, employees, consultants, contractors and agents of Customer, and third parties with which Customer transacts business.

SFDC RESPONSIBILITIES

Provision of Services. SFDC will (a) make the Services and Content available to Customer pursuant to these SFDC Pass-Through Terms and the applicable Order Forms, and (b) use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which SFDC shall give at least 8 hours electronic notice and which SFDC shall schedule to the extent practicable during the weekend hours between 6:00 p.m. Friday and 3:00 a.m. Monday Pacific time), and (ii) any unavailability caused by circumstances beyond SFDC’s reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving SFDC employees), Internet service provider failure or delay, Non-SFDC Application, or denial of service attack.

Protection of Customer Data. To the extent that Customer Data comprises Personal Data, Customer hereby agrees that SFDC and its Affiliates are each acting as individual Data Processors on behalf of Customer. SFDC shall, and shall procure that its Affiliates, shall: (a) process Customer Data in accordance with these SFDC Pass-Through Terms and Customer’s instructions (b) implement and maintain organisational, administrative, physical and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, as described in the Documentation, including, but not limited to, measures to protect against unauthorised access to or alteration, disclosure, destruction or loss of Customer Data, (c) not modify Customer Data, (d) not disclose Customer Data except as compelled by law in accordance with the “Confidentiality: Compelled Disclosure” section below or as expressly permitted in writing by Customer, and (e) not otherwise process Customer Data except to provide the Services and prevent or address service or technical problems. By submitting Customer Data to the Services, Customer acts as Data Controller under applicable Data Protection Laws and Regulations. Customer shall (i) have sole responsibility for the accuracy, quality, integrity, legality and reliability of Customer Data and of the means by which it acquired Customer Data, (ii) ensure that data processing instructions given to SFDC comply with applicable Data Protection Laws and Regulations, and (iii) comply with all applicable Data Protection Laws and Regulations in collecting, compiling, storing, accessing and using Customer Data in connection with the Services.

USE OF SERVICES AND CONTENT

Subscriptions. Unless otherwise provided in the applicable Order Form, Services and Content are purchased as subscriptions.

Usage Limits. Services and Content are subject to usage limits, including, for example, the quantities specified in Order Forms. Unless otherwise specified, (a) a quantity in an Order Form refers to Users, and the Service or Content may not be accessed by more than that number of Users, (b) a User's password may not be shared with any other individual, and (c) a User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Services.

Customer Responsibilities. Customer will (a) be responsible for Users' compliance with these SFDC Pass-Through Terms, (b) comply with Product Specific Terms, including any Product Specific Terms notified to Customer which Contractor has failed to include in the applicable Order Form, (c) be responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data, (d) submit Customer Data only in accordance with the Documentation and applicable laws and government regulations, (e) use commercially reasonable efforts to prevent unauthorized access to or use of Services and Content, and notify SFDC promptly of any such unauthorized access or use, (e) use Services and Content only in accordance with the Documentation, Order Forms, and applicable laws and government regulations, and (f) comply with terms of service of Non-SFDC Applications with which Customer uses Services or Content.

Support. Customer acknowledges and agrees that all Customer support inquiries and matters must be made through Contractor, and that Contractor may have access to Customer's instance of the Services, including Customer Data, for the purposes of providing such support, and accordingly Customer and Contractor will enter appropriate contractual protection. Any additional access required by Contractor and requested by Customer shall be agreed to by the parties.

Usage Restrictions. Customer will not (a) make any Service or Content available to, or use any Service or Content for the benefit of, anyone other than Customer or Users, (b) sell, resell, license, sublicense, distribute, rent or lease any Service or Content, or include any Service or Content in a service bureau or outsourcing offering, (c) use a Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use a Service to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) attempt to gain unauthorized access to any Service or Content or its related systems or networks, (g) permit direct or indirect access to or use of any Service or Content in a way that circumvents a contractual usage limit, (h) copy a Service or any part, feature, function or user interface thereof, (i) copy Content except as permitted herein or in an Order Form or the Documentation, (j) access the Services or Content in order to build a competitive product or services, (k) frame or mirror any part of any Service or Content, other than framing on Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, (l) access any Service or Content in order to build a competitive product or service, or (m) reverse engineer any Service (to the extent such restriction is permitted by law).

External-Facing Services. If Customer subscribes to a Service for creation and hosting of external-facing websites, Customer will comply with, and be responsible for Users' compliance with, SFDC's External-Facing Services Policy at <http://www.salesforce.com/company/legal/>, and be solely responsible for complying with applicable law in any use of cookies or other tracking technologies on such websites.

Removal of Content and Non-SFDC Applications. If SFDC is required by a licensor or any third party rights holder to remove Content, or receives information that Content provided to Customer may violate applicable law or third-party rights, SFDC may discontinue Customer's access to such Content through the Services. In addition, SFDC may on notice to Contractor or to Customer require Customer to discontinue all use of such Content and, to the extent not prohibited by law,

promptly remove such Content from its systems. If SFDC receives information that a Non-SFDC Application hosted on a Service by Customer may violate SFDC's External-Facing Services Policy or applicable law or third-party rights, SFDC may so notify Customer or Contractor and in such event Customer will promptly disable such Non-SFDC Application or modify the Non-SFDC Application to resolve the potential violation. If Customer does not take required action in accordance with the above, SFDC may disable the applicable Content, Service and/or Non-SFDC Application until the potential violation is resolved. If so requested by SFDC, Customer shall certify such deletion and discontinuance of use in writing and SFDC shall be authorized to provide a copy of such certification to any such third party claimant or governmental authority, as applicable

NON-SFDC PROVIDERS

Acquisition of Non-SFDC Products and Services. SFDC or third parties may make available (for example, through a Marketplace or otherwise) third-party products or services, including, for example, Non-SFDC Applications and implementation and other consulting services. Any acquisition by Customer of such non-SFDC products or services, and any exchange of data between Customer and any non-SFDC provider, is solely between Customer and the applicable non-SFDC provider. SFDC does not warrant or support Non-SFDC Applications or other non-SFDC products or services, whether or not they are designated by SFDC as "certified" or otherwise.

Non-SFDC Applications and Customer Data. If Customer installs or enables Non-SFDC Applications for use with the Services, Customer acknowledges that SFDC may allow providers of those Non-SFDC Applications to access Customer Data as required for the interoperation and support of such Non-SFDC Applications with the Services. Separate terms shall apply between Customer and the Non-SFDC Application providers regarding the use of such Non-SFDC Applications, and Customer shall be responsible for evaluating whether such terms with the Non-SFDC Application providers ensure appropriate protection of and access to Customer Data, and address responsibility for any disclosure, modification or deletion of Customer Data by the Non-SFDC Application providers, or any breach of Data Protection Laws and Regulations resulting from Non-SFDC Application providers' access to Customer Data. Non-SFDC Application providers shall not be considered subcontractors or sub-Data Processors of SFDC or any of its Affiliates. SFDC and its Affiliates shall not be responsible for any disclosure, modification, corruption, loss or deletion of Customer Data, or any breach of applicable Data Protection Laws and Regulations, resulting from any access by a Non-SFDC Application provider to Customer Data through a Non-SFDC Application installed by Customer or the Users.

Integration with Non-SFDC Applications. The Services may contain features designed to interoperate with Non-SFDC Applications. To use such features, Customer may be required to obtain access to Non-SFDC Applications from their providers. If the provider of a Non-SFDC Application ceases to make the Non-SFDC Application available for interoperation with the corresponding Service features on reasonable terms, SFDC may cease providing those Service features without entitling Customer to any refund, credit, or other compensation.

FEES AND PAYMENT

Fees and Payment. Payment of fees due under any Order Form, and the related payment terms, is exclusively between Customer and Reseller.

Suspension of Service

Customer acknowledges that if any charge is owing by Contractor to SFDC in respect of Customer and is 30 days or more overdue, SFDC may, without limiting its other rights and remedies, suspend Services after following this process:

SFDC shall give both Customer and Contractor 10 or more days' prior notice that Reseller's account is overdue;

if after such period such charges still remain unpaid, SFDC shall give Customer notice ("Second Notice") that Reseller's account is still overdue, and upon such Second Notice (a) Customer may

by written notice to the Contractor withdraw its designation as Customer's Contractor (becoming a "Former Reseller"), and (b) either Customer and SFDC shall in good faith and without delay negotiate with and appoint an alternative Contractor ("New Reseller") and SFDC and Former Contractor shall assign the applicable order from between SFDC and the Former Contractor to the New Reseller, provided such assignment is effective within 30 days of the date of the Second Notice, or Customer shall elect not to appoint a New Contractor in which case Customer shall engage good faith discussions with SFDC to agree a mutually acceptable payment schedule;

if SFDC and Customer are unable to appoint an alternative Contractor and assign the order form within 30 days of the date of the Second Notice, or if Customer elects not to appoint an alternative Reseller, Customer shall have 30 days (or such later date as Customer and SFDC agree) from the date of the Second Notice to pay directly to SFDC the outstanding fees due from the Former Contractor and to execute an assignment to assign the applicable order from between SFDC and the Former Contractor from Former Contractor to Customer;

if following such 30 days (or such later date as Customer and SFDC agree) period the charges still remain overdue, SFDC may suspend the Services until such amounts are paid in full. Future Functionality. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by SFDC or Contractor regarding future functionality or features.

PROPRIETARY RIGHTS AND LICENSES

Reservation of Rights. Subject to the limited rights expressly granted hereunder, SFDC and its licensors reserve all of their right, title and interest in and to the Services and Content, including all of their related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

Access to Content. Access to Content is subject to the terms of applicable Order Forms, these SFDC Pass-Through Terms and the Documentation.

License by Customer to Host Customer Data and Applications. Customer grants SFDC and its Affiliates a worldwide, limited-term license to host, copy, transmit and display Customer Data, and any Non-SFDC Applications and program code created by or for Customer using a Service, as necessary for SFDC to provide the Services in accordance with these SFDC Pass-Through Terms. Subject to the limited licenses granted herein, SFDC acquires no right, title or interest from Customer or its licensors under these SFDC Pass-Through Terms in or to any Customer Data, Non-SFDC Application or program code.

License by Customer to Use Feedback. Customer grants to SFDC and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users relating to the operation of the Services.

COMPELLED DISCLOSURE. Either Customer or SFDC (the "Receiving Party") may disclose confidential information of the other party (the "Disclosing Party") to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

DISCLAIMERS

Disclaimers. SFDC makes not warranties of any kind and excludes all warranties, representations, terms, conditions or other commitments of any kind, whether express or implied, statutory or otherwise, and SFDC specifically disclaims all implied warranties, including (without limitation) any

warranties, representations, terms, conditions or other commitments of merchantability or fitness for a particular purpose or of satisfactory quality or of reasonable skill and care, in each case, to the maximum extent permitted by applicable law. Without prejudice to the foregoing, Content and Beta Services are provided 'as is' and without warranty of any kind, and each party disclaims all liability and indemnification obligations for any harm, damages or other liability caused by any third party hosting providers.

Warranties and Indemnities between Contractor and Customer. For the avoidance of doubt, Contractor and Customer are free to agree warranties and indemnities in respect of the Services. Any such warranties and indemnities shall not form part of these SFDC Pass-Through Terms.

LIMITATION OF LIABILITY

No Liability. In no event shall SFDC have any liability to Customer or any User for any damages whatsoever, including but not limited to direct, indirect, special, incidental, punitive, or consequential damages, or damages based on lost profits, however caused and, whether in contract, tort or under any other theory of liability, whether or not Customer has been advised of the possibility of such damages. SFDC disclaims all liability and indemnification obligations for any harm or damages caused by any third-party hosting providers.

Limitation of Restrictions. Nothing in this "Liability" section shall exclude or limit the liability of Customer or SFDC for death or personal injury caused by that party's negligence or for fraud or fraudulent misrepresentation or for any other liability to the extent that the same may not be excluded or limited as a matter of applicable law.

TERM AND TERMINATION

Term. Services commence on the start date specified in the applicable Ordering Form entered into between Customer and Contractor and continue for the subscription term specified therein and any renewal term.

Termination. SFDC may terminate these SFDC Pass-Through Terms for cause (i) upon 30 days written notice to Customer or Contractor of a breach (a) of these SFDC Pass-Through Terms, or (b) by Contractor of its payment obligations to SFDC with respect to the Services it is providing to Customer in connection with these SFDC Pass-Through Terms, if such breach remains uncured at the expiration of such period, or (ii) immediately on written notice to Customer or Contractor if Customer becomes the subject of a petition in bankruptcy or any other proceeding (whether voluntary or involuntary) relating to insolvency, administration, receivership, administrative receivership, liquidation or assignment for the benefit of creditors, or if the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business, or takes or suffers any similar or analogous procedure, action or event in consequence of debt in any jurisdiction. Following any termination or expiration of Reseller's agreement with SFDC pursuant to which Contractor is providing the Services to Customer, each Customer subscription to the Services outstanding at the time of such termination or expiration shall remain in effect for the duration of its subscription term and shall continue to be governed by these SFDC Pass-Through Terms as if it had not been terminated ("Legacy Orders"), provided that Customer is not in breach of these SFDC Pass-Through Terms and SFDC has received all payments due in connection with such Legacy Orders. In no case will any termination, expiration or suspension hereunder give rise to any liability of SFDC to Customer for a refund or damages. Except as provided herein, SFDC is under no obligation to provide the Services to Customer, or to assume the relationship with Customer.

GENERAL PROVISIONS

Export Compliance. The Services, Content, other technology Salesforce makes available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Contractor shall not permit Users to access or use any Service or Content in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan, Syria or the Crimea Region of Ukraine) or in

violation of any U.S. export law or regulation, unless otherwise authorized by a specific license, general license, exemption, advisory opinion, or other authorization from the U.S. government.

Anti-Corruption. Customer has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from a SFDC or Contractor employee or agent in connection with these SFDC Pass-Through Terms, and shall comply with all applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption including without limitation the Bribery Act 2010 (as such statute is amended from time to time). If Customer learns of any violation of the above restriction, it will use reasonable efforts to promptly notify SFDC's Legal Department at legalcompliance@salesforce.com.

Third-Party Beneficiaries. Except for SFDC and for SFDC's Content licensors, who shall have the benefit of SFDC's rights and protections hereunder with respect to the applicable Content, nothing in these SFDC Pass-Through Terms shall confer, or is intended to confer, on any third party any benefit or the right to enforce any term of these SFDC Pass-Through Terms under the Contracts (Rights of Third Parties) Act 1999 (as such statute is amended from time to time). The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under these SFDC Pass-Through Terms is not subject to the consent of any person that is not a party to these SFDC Pass-Through Terms.

Notices. Except as otherwise specified in these SFDC Pass-Through Terms, all notices related to these SFDC Pass-Through Terms will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) the second business day after sending by confirmed facsimile, or (d), except for notices of termination ("Legal Notices"), the day of sending by email. Legal Notices to Customer will be addressed to Customer and be clearly identifiable as Legal Notices. All other notices to Customer will be addressed to the relevant Services system administrator designated by Customer.

Waiver. No failure or delay by SFDC in exercising any right under these SFDC Pass-Through Terms will constitute a waiver of that right.

For an up to date version of the Salesforce Master Subscription Agreement (MSA) go to:
https://www.salesforce.com/content/dam/web/en_us/www/documents/legal/salesforce_MSA.pdf

Appendix B: Arcus Software Support for Salesforce Apps

Introduction

Customers that purchase Arcus Software built on the Salesforce platform are investing in a platform technology that has an unrivalled ability to grow and adapt with the changing needs of their organisation.

This is very different to traditional software applications which are generally delivered in fixed “silos” of functionality with limited configuration options.

Salesforce’s advice on system administration resourcing can be found at <https://help.salesforce.com/servlet/servlet.FileDownload?file=01530000001x8hWAAQ>

As a result, our standard Software Support is focussed on enabling our customer’s system administrators to make the most of their investment as well as keeping teams working with standard “break fix” services.

Customers will be provided, within 12 weeks of contract signature:

- a clear explanation of standard system administration tasks that must be undertaken to keep your software running smoothly with links to documentation and customer specific notes made by your project team - “Minimum System Administration Requirements”
- a responsive Support team that will point you in the right direction or work directly within your environment (“orgs”) to resolve issues and apply regular updates
- continuous investment in research & development by Salesforce and Arcus to address bugs and deliver ever-greater value to customers
- the option to buy additional services on an ad-hoc or “managed service” basis when facing resource constraints - please contact your account manager to discuss or review the “Arcus Salesforce Managed Service, Customer Success and Support” service on the digital marketplace.

Arcus Support Process

Tickets can be raised through any of the following methods:

- Web Portal (also hosts the Arcus Knowledgebase)
- Email
- Phone Call

Once a ticket has been logged, our Service Desk then manages the classification and resolution of the ticket drawing in resources from our development, product management, training, test and release management functions.

In the event that an incident is detected by Arcus then nominated customer staff will be notified by email of the nature of the incident and receive regular updates on its resolution. Customer staff will also be notified of any planned downtime that is the result of approved change requests (originating from Arcus) or notified downtime from Salesforce or other third parties.

Types of support

The Arcus Support team provides three types of support:

- **General guidance** - provision of documentation (and signposting to relevant Salesforce, Arcus or 3rd party documentation)
- **Specific guidance** - review of customer queries in relation to general guidance, and/or in the context of their specific solution configuration

- **Execution** - making changes to customer environments

Support is available for a whole range of different categories of issue:

- **Environment maintenance** - standard tasks such as user management and maintaining bank holiday information
- **Issue resolution** - tackling problems with a customer environment (within the scope defined at contract) including:
 - Bugs
 - Missing features
 - Feature quality
 - Configuration error / gap
 - Training error / knowledge gap
 - Integration errors
- **Delivering enhancements** - extending or enhancing functionality to meet new requirements (outside the scope defined at contract) including:
 - Data quality / cleansing
 - Reports & Dashboards
 - Re-configuring existing features (e.g. changing workflow defining target dates)
 - Configuring newly released or previously out-of-scope features
 - Building a brand new feature
 - Enhancing an existing feature
- **Scoping changes** and preparing solution designs
- **Developer coaching** to help teams extend their use of Salesforce and Arcus apps is available from Salesforce and via Arcus Service desk when requested on an ad-hoc basis. Additional training can be provided upon request and may be chargeable
- **Updates / Upgrades Deployment** to put in place the latest versions of technology, Arcus will always ensure that the latest versions of our software support the relevant statutory requirements
- **Updates / Upgrades Configuration** to help customers take advantage of new features

These could all relate to standard Salesforce, Arcus apps, 3rd party technology such as Conga Composer or custom features.

Scope of support

The table below outlines whether or not each type of requirement is included within Standard support or requires optional supplementary services to be purchased.

Requirement	Commercial Model		
	General guidance	Specific guidance	Execution
End user support	Optional	Optional	Optional
Environment maintenance	Standard	Standard	Optional
Issue resolution	Standard	Standard	Standard*
Delivering enhancements	Standard	Optional	Optional

Scoping changes	Standard	Optional	Optional
Developer coaching	Standard	Optional	Optional
Updates / Upgrades Deployment	Standard	Standard	Standard **
Updates / Upgrades Configuration	Standard	Optional	Optional

* Arcus reserves the right to charge based on its standard hourly rates for issue resolution where the issue has been caused by the actions of the customer or a 3rd party.

** Arcus will offer to apply proactive upgrades / updates three times per annum (unless already applied through issue resolution work). Salesforce delivers three major releases per annum - https://trailhead.salesforce.com/en/content/learn/modules/sf_releases/sf_releases_start.

Note: Not all issues will be accepted for resolution, particularly if related to shared product features where changes will impact on all users.

Out of scope items

Where an item is out of scope for standard support the Arcus team will be happy to:

- signpost the relevant Knowledge articles or Salesforce Trailhead / Help resources
- establish a call-off arrangement based on a committed average monthly volume of enhancement work
- complete the work as an additionally chargeable service request based on a standard professional services rate card

Customer obligations

Arcus Support is funded through customer licence fees. In order to keep costs under control and ensure pricing is fair for all customers we ask that customers:

- allocate suitably trained (e.g. Trailhead e-learning) resources to undertake all system administration tasks outside of their success plan
- nominate a suitable number of authorised contacts that will analyse requests from users and undertake any necessary investigation before resolving locally or reporting to the Arcus Service Desk
- clearly specify issues when reporting them to the Arcus Service Desk - standards will be communicated during onboarding - and collate supporting evidence as and when required
- liaise with 3rd parties and internal IT teams to provide information and undertake actions necessary to achieve the required business outcomes
- test all changes made by Arcus (or any other party) in a sandbox environment prior to release to production
- manage all end user communication
- notify the Arcus Service Desk of all recent changes applied to their Salesforce environment when reporting new issues

The Arcus Service Desk will be asked to report regularly to account managers as to whether or not these obligations are being met and the findings will be discussed during regular review meetings as required.

Standard Service Levels

All issues raised will be classified into one of four categories. The table below outlines the standard classification method practised by the Arcus Global service desk.

Prioritisation table

Priority	Definition
Critical / P1	The Service is down or does not function at all, and there is no circumvention for the problem; a significant number of users (over 40%) are affected, and a production business system is inoperable.
High / P2	A component of the Service is not performing: creating a significant operational impact (affecting over 10% of users).
Moderate / P3	A component of the Service is not performing as documented: unexpected results; circumventable problems; moderate or minor operational impact causing inconvenience.
Low / P4	Usage questions or normal business questions: clarification of documentation, suggestions; requests for new product features and enhancements.

Response and resolution table

Priority	Response (working hrs)	Target Resolution (working hours)
Critical	< 4 hrs	8 hrs
High	< 8 hrs	16 hrs
Moderate	< 16 hrs	40 hrs
Low	< 40 hrs	80 hrs

The response time is the maximum time in which Arcus will respond to the submitter acknowledging receipt of their issue, first you receive an automated response then one of the Service Desk will send you a personal message. The actual response time will generally be much faster.

Achievement of these resolution times is subject to the issue being within Arcus scope to resolve i.e. issue is within an Arcus supplied technology asset. Issues related to the Salesforce platform itself will be addressed in line with Salesforce SLAs (these depend on whether or not the customer has purchased a Premier Success Plan).

Failure to attain 95% SLA level over a period of 3 consecutive months for Critical and High Priority items or 6 consecutive months of all other issues can be deemed a Persistent Breach by the Buyer.

The Arcus Service Desk will be the first point of contact for the Council's 1st line support team (or other named support individuals) where they have been unable to resolve an incident or service request themselves.

All tickets recorded within our Support portal can be logged (and viewed and updated) via phone, email or web self-service. Arcus Global currently uses Salesforce Service Cloud as its Service Management system.

Working hours

The Salesforce platform is monitored 24/7/365. All issues are resolved on the same "round the clock" basis.

Arcus standard Service Desk hours are 08:30-17:30 each day.

Out-of-hours tickets should continue to be logged by email/portal access.

Where changes need to be deployed that are disruptive to use of the system a suitable out of hours window will be achieved as required.

Extended support hours

Extended support hours are available on an ad-hoc or ongoing basis at an additional cost. Please contact your account manager to discuss your requirements and suitable options to provide the necessary assistance.

Appendix C: G-Cloud 12 Standard Exit Plan

Introduction

This document details the exit plan for Folkestone and Hythe District Council Arcus Global System. The document is structured in response around - Exit Plan requirements of the G-Cloud Call off contract.

Exit Plan

The following plan details actions and responsibilities pursuant to the exit plan for Folkestone and Hythe District Council from the Arcus delivered Built Environment service.

Data Extraction

Upon receiving notification of termination of contract as per the terms of the contract with an appropriate notice period, your account will be closed based on either the requested termination date or upon expiration of your contract. If there is no subsequent extension or new contract formed then the customer will be entitled to extract all of their data from the Arcus Software as a Service (SaaS) environment using a standard set of tools provided within the Salesforce platform that underpins the Arcus product range.

Your data will be available for 30 days from the date of termination and can be exported from the Arcus system in standard CSV files by Folkestone and Hythe District Council using standard data management tools including the Salesforce Dataloader application. The data can be securely downloaded and if necessary, Arcus can perform intermediary services to extract the data in a specific CSV format at an additional cost (which will vary according to the volume and complexity of the data itself)

Management Structure supporting termination, transfer and cessation of service.

Once a notification of termination has been received from Folkestone and Hythe District Council the following team will be responsible for supporting the commercial, contractual and technical aspects of the cessation of service:

Business Development Director [REDACTED]

Software Support Manager [REDACTED])

Commercial Director [REDACTED]

Detailing the transfer and cessation process

The Salesforce platform provides an Administration option to export all of the data (see https://help.salesforce.com/articleView?id=admin_exportdata.htm&type=5 for further information. As Folkestone and Hythe District Council have their own Administrators this can be done at any time.

During the period of transition (before the contract expiry / termination date), access to the Salesforce.com platform, and the Arcus Application licences (SaaS) will remain open and accessible for Folkestone and Hythe District Council. At the end of the transition this access will cease, and all data will need to be migrated from the platform.

Transferring services (including process documentation, data transfer and technology segregation) to replacement supplier and or customer

Not applicable as this is a SaaS service. Details on data extraction are detailed in section 1.

Transfer of contracts related to the service

Not applicable as this is a SaaS service.

Training of key members of staff

Not applicable as this is a SaaS service. As part of the initial contract Arcus has supplied Folkestone and Hythe District Council with technical documentation related to usage of the system as well as user training guides.

Provision of documentation related to the service.

Upon request we will supply the following:

- System specification as PDF named TBC with Folkestone and Hythe District Council
- System changes as PDF named TBC with Folkestone and Hythe District Council

Novation of services, leases, maintenance and support agreements

Not applicable as this is SaaS.

Ensuring no disruption or degradation of service during transition

Folkestone and Hythe District Council will need to ensure that all data is extracted during the transition period and before the expiration of the underlying Salesforce.com licences. This will ensure that services are not disrupted, and data remains accessible.

Appendix D: On-boarding Plan (Project Plan)

Not applicable

Appendix E: Arcus Global Supplier Terms

Arcus Global – General Terms

1 Definitions and interpretation

1.1 In this Agreement the following words and phrases shall have the following meanings:

“Access Requirements” means the access requirements set out in the Order Form;

“Agreement” has means a contract between the Customer and Arcus Global on the terms of the Order Form, the Arcus Global Terms (as set out in clause 2.1 below) and (where applicable) the Framework Terms;

“Arcus Global Product” means the Arcus Global software set out in the Order Form;

“Arcus Global Terms” means these Arcus Global General Terms and (where applicable under the Order Form) the attached Professional Services Terms, Products Terms, Resale Terms and Support Terms;

“Charges” means the Professional Services Charges, Product Charges and Support Charges (as applicable);

“Claim” means a claim brought against the Customer that the normal use or possession of the Products or the Documentation in accordance with this Agreement infringes a third party’s copyright;

“Confidential Information” means any information which is designated by the party disclosing it to be confidential (including, in respect of Arcus Global, the Products and the Documentation);

“Contract Year” means each period of 12 months starting on the date of this Agreement or an anniversary of the date of this Agreement;

“Customer” means the Customer specified on the G-Cloud Call-Off contract

“Customer Data” means all data held in the Product and belonging to the Customer and/or its licensors

“Customer Failure” means a breach by the Customer of any Customer Responsibilities;

“Customer Responsibilities” means the responsibilities of the Customer set out in this Agreement;

“Data Tools” means tools, processes and applications including reporting tools, business intelligence applications, machine learning models, data discovery and ETL processes, and predictive analytics

“Deliverable” means a deliverable provided by Arcus Global under this Agreement, including the deliverables set out in the Call Off Agreement;

“Documentation” means any instruction manuals and other information associated with the Products which may be provided by Arcus Global to the Customer, whether in electronic form or otherwise;

“Framework Terms” means the terms of G-Cloud or any other framework agreement to which Arcus Global has agreed in writing, where the Customer purchases Products and/or Services from Arcus Global under the terms of the framework;

“GDPR” means the EU Directive 2002/58/EC and, once in force and applicable, the GDPR and any legislation and/or regulation implementing or made pursuant to them, or which amends, replaces, re-enacts or consolidates any of them from time to time, together with the equivalent laws in any applicable jurisdiction and the guidance and codes of practice issued by supervisory authorities;

“Licence Restrictions” means the licence restrictions for a Product set out in the Order Form;

“Call Off Agreement” means a Call Off Agreement executed by Arcus Global and the Customer;

“Personal Data” means personal data (as defined in the GDPR) processed by Arcus Global on behalf of the Customer under this Agreement;

“Product” means a Arcus Global Product and/or Third Party Product as appropriate;

“Product Charges” means the charges for the Products set out in the Call Off Agreement;
“Professional Services” means the professional services set out in the Call Off Agreement;
“Professional Services Charges” means the charges for the Professional Services set out in the Call Off Agreement;
“Renewal Period” has the meaning in respect of each Product set out in the Call Off Agreement;
“Services” means the services provided by Arcus Global under this Agreement, including (where applicable) the provision of access to the Products and/or the Third Party Products, the Professional Services and/or the Support Services;
“Support Services” means the support services set out in the Call Off Agreement;
“Third Party Product” means the third party software or service set out in the Call Off Agreement;
“User” means an employee of the Customer who is permitted to use the Products;
“Warranty Period” means a period of 90 days commencing on the earlier of (i) the date that the Product is first delivered to the Customer; and (ii) the date that the Customer first accesses or uses the Product; and
“Working Days” means Monday to Friday excluding bank and public holidays in the UK;

1.2 In this Agreement:

- 1.2.1 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time;
- 1.2.2 the words “including” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;
- 1.2.3 the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement; and references to this Agreement are references to this Agreement as amended from time to time.

2 Status

- 2.1 Each Call Off Agreement constitutes a separate contract subject to the Arcus Global Terms.
- 2.2 This Agreement will become binding on Arcus Global only from the date that the Call Off Agreement is signed by an authorised representative of Arcus Global.
- 2.3 The terms of this Agreement will apply notwithstanding any terms attached to any purchase order or otherwise provided to Arcus Global by the Customer.
- 2.4 If there is any conflict between the Call Off Agreement, the Arcus Global Terms and/or the Framework Terms, the Call Off Agreement will take precedence over the Arcus Global Terms and the Arcus Global Terms will take precedence over the Framework Terms (to the extent permitted under the Framework Terms).

3 Customer Responsibilities

- 3.1 The Customer shall comply with the Customer Responsibilities.
- 3.2 If there is a Customer Failure then without prejudice to any of Arcus Global’s other rights and remedies it:
- 3.2.1 shall be granted an extension of time in respect of any timeframes agreed by the parties based on the period of delay caused by the Customer Failure;
- 3.2.2 shall not be deemed to be in breach of this Agreement where the Customer Failure causes Arcus Global to breach this Agreement; and
- 3.2.3 may charge the Customer for any additional costs or expenses it incurs as a result of the Customer Failure.
- 3.3 Arcus Global may, on reasonable notice, visit any premises in which the Customer is using or accessing the Products to determine whether the use of the Products by the Customer complies with this Agreement. The Customer shall grant Arcus Global such

access to its premises and to its IT equipment as is required to enable Arcus Global to verify that the Customer is complying with this Agreement.

3.4 Unless specifically agreed in writing, Customer will not, and will ensure that its end users, agents or 3rd parties under its control:

3.4.1 copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, export or move to another org. or otherwise attempt to extract any or all of the source code, objects, apex classes, data schemas, fields or logic contained in the Products or Services, whether these are contained within managed or unmanaged packages or within customer org (except to the extent such restriction is expressly prohibited by applicable law);

3.4.2 sub-licence, transfer or distribute any or all of the Products or Services;

3.4.3 sell, resell or otherwise make the Products or Services available as a commercial offering to a 3rd party or

3.4.4 access or use the Services: (i) for High Risk Activities; (ii) in a manner intended to avoid incurring Charges

3.5 Where Customer is able to self-provision Arcus licences or has administrative control of their org where Arcus licences are deployed, the Customer must inform Arcus in writing within 30 days of any changes made to the number of users (or other applicable pricing units, such as log-ins) that have access to Arcus Products or Services. Arcus Global reserves the right to apply charges retrospectively for any such additional users that have had access to Arcus Products or Services at any time during this Agreement.

4 Payment and payment terms

4.1 Arcus Global will invoice the Customer for Charges in accordance with the timeframes set out in the Call Off Agreement.

4.2 The Customer shall pay Charges invoiced by Arcus Global in accordance with clause 4.1 above within 14 days of the date of the invoice.

4.3 If the Customer does not pay any Charges within 14 days of the date of the invoice, Arcus Global may:

4.3.1 suspend provision of all or any of the Services or the Customer's access to the Products; and/or

4.3.2 charge interest at a daily rate on all sums outstanding until payment in full is received whether before or after judgement at a rate of 2% above the base lending rate of Barclay's Bank plc from time to time. Arcus Global reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

4.4 The Customer shall be responsible for any applicable sales, use or value added taxes arising out of or in connection with this Agreement, other than UK corporation tax arising in respect of Arcus Global's income or profits. All payments due are expressed exclusive of UK Value Added Tax, which will be invoiced in addition where applicable.

4.5 The Customer shall reimburse Arcus Global for any reasonable travel and out-of-pocket expenses it incurs in the course of providing the Services.

4.6 Arcus Global may increase the Charges at the point of expiry of the minimum term. The prices shall be adjusted to the latest list price, or escalated by 7% p.a. as applicable. Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Products or Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing. The revised Charges shall take effect at Contract Renewal.

4.7 The process for resolving any disputes about invoices will be that the Customer pays the invoiced sum by the due date and that Arcus issues a credit note if it is subsequently shown to have invoiced the wrong amount.

5 Warranties

5.1 Each party warrants that it has full capacity and authority to enter into and perform this Agreement.

5.2 Arcus Global warrants that the Products will during the Warranty Period under normal use conform in all material respects with the functionality outlined in the Documentation. If the Customer notifies Arcus Global in writing of any material failure of a Product so to conform during the Warranty Period, Arcus Global shall at its own expense and sole option either correct any demonstrable failure in the Products within a reasonable time or upon return of the Product (where applicable) and the related Documentation provide or authorise a refund of the relevant Product Charge to the Customer. This shall be the Customer's sole remedy against Arcus Global for any fault with the Products or failure of the Products to conform with the functionality outlined in the Documentation.

5.3 Arcus Global warrants that it will provide the Services with reasonable skill and care and that the Services will be of a professional quality conforming to generally accepted computer service industry practices. The Customer shall notify Arcus Global of any failure to comply with this warranty within 90 days of the provision of the relevant Services. The Customer's sole remedy against Arcus Global for any such failure shall be to require Arcus Global to correct such failure free of additional charge and within a reasonable time.

5.4 Except as expressly set out in this Agreement, all conditions, warranties, terms and undertakings, express or implied, whether by statute, common law, trade practice, custom, course of dealing or otherwise (including about quality, performance or fitness or suitability for purpose) in respect of the Products, the Documentation and the Services are excluded to the fullest extent permissible by law.

6 Intellectual Property Rights

6.1 Arcus Global owns, or is licensed to use, all copyright and other intellectual property rights in the Products and the Documentation.

6.2 Arcus Global will own any Intellectual Property Rights it creates in the course of providing the Services (including any Intellectual Property Rights in Deliverables). Any modifications or customisations to Arcus Global Products made in the course of performing the Services may be licensed to the Customer as per clause 6.5 below.

6.3 Save as expressly set out in this Agreement, the Customer does not acquire any rights in the Products or Services.

6.4 As part of the implementation of the Products or Services, Arcus may use other 3rd party software accepted best practice, and we do not expect to generate identifiable intellectual property or unique software code that is specific to each customer. However, in some cases, Arcus has pre-created a number of sub-modules, scripts, tools, software code (defined as Implementation IP) that may help to significantly improve the efficiency of delivery, data migration or integration tasks, as well as the quality of output for the Customer. Arcus may reuse software code (directly or in modified form) previously created by Arcus as part of our Products - such code will also be part of the Implementation IP. Arcus will retain all of the Intellectual Property Rights (IPR) for all Implementation IP in all cases.

6.5 Where the Customer has ordered the creation of a specific tool or script on a time and materials basis for their unique use case, Arcus will provide a perpetual, non-exclusive licence to the Customer following full payment of all fees due to Arcus. The licence will be royalty-free, as is, on "no support" basis. Such licence will apply only for the purposes of the specific deployment. All such IPR will be considered "Pre Existing IPR" or "Background IPR" under the terms of the G-Cloud and other frameworks, and its inclusion in the deployment or implementation does not transfer any rights to the Customer, nor does it allow reproduction / copying / modification by the Customer or any third party without prior written consent from Arcus.

6.6 Arcus Global warrants that the use of the Products and the Documentation in accordance with this Agreement will not infringe any third party's copyright.

6.7 Subject to clauses 6.6 and 6.7, if there is a Claim, Arcus Global shall indemnify the Customer against any damages that are awarded to be paid to such third party in respect of such Claim provided that the Customer:

- 6.7.1 notifies Arcus Global of the Claim in writing as soon as reasonably practicable and in any event within 30 days of becoming aware of the Claim;
- 6.7.2 does not make any admission of liability or compromise or agree any settlement of the Claim without Arcus Global's prior written consent and does not otherwise prejudice the defence of the Claim;
- 6.7.3 gives Arcus Global, or such person as Arcus Global directs, immediate and complete control of the conduct or settlement of all negotiations and litigation arising from the Claim; and
- 6.7.4 on payment of its reasonable costs, gives Arcus Global, and other third parties as Arcus Global directs, all assistance reasonably required with the conduct or settlement of any such negotiations or litigation.
- 6.8 Arcus Global shall have no liability for any claim of infringement based on the use of a superseded or altered release of a Product if the infringement would have been avoided by the use of a current unaltered release of the Product which Arcus Global provides to the Customer.
- 6.9 If a Claim is brought, Arcus Global shall have the right in its absolute discretion and at its own expense:
- 6.9.1 to procure the right for the Customer to continue using the Products and/or the Documentation in accordance with the terms of this Agreement;
- 6.9.2 to make such alterations, modifications or adjustments to the Products and/or the Documentation so that they become non-infringing; or
- 6.9.3 to replace the Products and/or the Documentation with non-infringing software and/or documentation.
- 6.10 If Arcus Global is unable to resolve a Claim by taking one of the actions under clause 6.7 Arcus Global may terminate this Agreement upon repayment to the Customer of the relevant Product Charges (less a reasonable deduction, determined by Arcus Global, in respect of any use of the Product made by the Customer). Any such payment such right shall be the Customer's sole and exclusive remedy under this Agreement in respect of the Claim.
- 6.11 If there is any claim attributable to the use or possession by the Customer of the Products and the Documentation other than in accordance with this Agreement, the provisions of clauses 6.4 to 6.8 shall not apply and Customer shall indemnify Arcus Global against all liabilities, costs and expenses which Arcus Global incurs as a result of the claim.

7 Limitation of liability

- 7.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of one party or for liability for any fraudulent misrepresentation by either party.
- 7.2 Subject to clauses 7.1, and 7.3, the liability of Arcus Global to the Customer for direct loss in contract, tort or otherwise arising out of or in connection with this Agreement, the Customer's use of the Products or the Documentation and/or the Services shall be limited in aggregate during each Contract Year to the greater of £1,000 and the total Charges paid by the Customer to Arcus Global during the relevant Contract Year.
- 7.3 Subject to clause 7.1, in no circumstances shall Arcus Global be liable to the Customer in contract, tort, negligence, breach of statutory duty or otherwise in respect of any of the following arising out of or in connection with this Agreement or the Customer's use of the Products or the Documentation or the Services:
- 7.3.1 loss of profits, anticipated savings, revenue, goodwill or business opportunity;
- 7.3.2 loss or corruption of or cost of restoration of data or for use of any results obtained by use of the Products;
- 7.3.3 any indirect, consequential, financial or economic loss or damage, costs or expenses;
- 7.3.4 loss of availability arising out of or in connection with the Products or Services or otherwise under, in connection with or in relation to this Agreement; or
- 7.3.5 loss of access to the Products due to the failure by the Customer to comply with the Access Requirements.

7.4 If any of the limitations on Arcus Global' liability under this Agreement are adjudged to be unreasonable in the circumstances, then such limitation shall be increased to the amount that Arcus Global can recover from its insurer for the loss in question.

7.5 The payments due under this Agreement have been negotiated and agreed on the basis that the parties may exclude or limit their liability to each other as set out in this Agreement. The parties each confirm that they will themselves bear or insure against any loss for which the other party has limited or excluded liability under this Agreement.

8 Term

8.1 This Agreement shall commence on the date of this Agreement and shall continue until the termination or expiry of this Agreement in respect of all Products and the termination or expiry of all the Services.

9 Termination

9.1 Either party may terminate this Agreement by giving written notice to the other if the other commits a material or persistent breach of any term of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of written notice being given requiring it to be remedied (and where such breach is not capable of remedy, the relevant party shall be entitled to terminate the Agreement with immediate effect).

9.2 This Agreement may be terminated by either party if an interim order is made, or a voluntary arrangement approved, or if a petition for bankruptcy order is presented or a bankruptcy order is made against the other party or if a receiver or trustee is appointed of the other party's estate or a voluntary arrangement is approved or a notice is served of intention to appoint an administrator or an administrator is appointed by Court order or by any other means, or a receiver or administrative receiver is appointed over any of the other party's assets or undertaking or a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding up petition or make a winding up order or any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the above events.

9.3 Upon termination or expiry of this Agreement all licences granted under this Agreement shall immediately terminate.

9.4 Termination of this Agreement shall not relieve the Customer of its obligation to pay any Charges that have accrued prior to termination.

9.5 Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under this Agreement or at law.

9.6 Following termination of this Agreement (by either party for whatever reason) the Customer shall:

9.6.1 within seven days at Arcus Global's option, either return to Arcus Global or destroy all copies of the Products and Documentation in its possession and a duly authorised officer of the Customer shall certify in writing to Arcus Global that the Customer has complied with such obligation; and

9.6.2 as soon as reasonably practical ensure that all data (including the Personal Data) is removed or deleted from the Products. If the Customer does not remove or delete the data within [14 days], Arcus Global may remove or delete the data (and will have no liability for the loss of such data).

10 Confidentiality

10.1 Neither party shall during the term of this Agreement or for a period of five years after expiry or termination of this Agreement:

10.1.1 divulge or communicate to any person, company, business entity or other organisation;

10.1.2 use for its own purposes or for any purposes other than those of the other party; or
10.1.3 through any failure to exercise due care and diligence, cause any unauthorised disclosure of

any trade secrets or Confidential Information relating to the other party. These restrictions will cease to apply to any such information that becomes available to the public generally other than through a breach of a duty of confidentiality owed to the other party. Neither party shall be restricted from disclosing the Confidential Information or any part of it pursuant to a judicial or other lawful government order, but only to the extent required by such order and subject to the party obliged to comply with such order giving the other party as much notice of the terms of the order as may be reasonably practicable.

10.2 Nothing in this clause 10 shall prevent:

10.2.1 Arcus Global from disclosing the Products to any third party;

10.2.2 the Customer from disclosing the Products to the Users, provided that the Customer remains responsible for the Users' compliance with the obligations of confidentiality set out in this Agreement; or

10.2.3 Arcus Global from including the name of the Customer in its publicity materials to reference the Customer's use of the Products.

10.3 Arcus Global acknowledges that the Customer is a public authority for the purposes of the Freedom of Information Act 2000 and may be required to disclose information about this Agreement to enquirers in accordance with the provisions of that Act. The Customer shall, where possible, notify Arcus Global in writing of any requests it receives for Confidential Information relating to Arcus Global and shall discuss with Arcus Global prior to the disclosure of such information any exemptions that may apply to such Confidential Information.

11 GDPR

11.1 This contract provides written authorisation (GDPR Article 29) for Arcus Global to provide services to the Customer (which is the 'Data Controller') as a 'Data Processor' (each as defined in the GDPR) in respect of any Personal Data.

11.2 Arcus Global provides services using one or more of the AWS, Microsoft, Google, Salesforce or Conga platforms which means that one or more of those companies is a sub-processor for this service to Arcus Global. In order to comply with GDPR Article 28.2, acceptance of this contract provides Arcus Global with written authorisation from the Customer to use those companies as a sub-processor. No additional sub-processors will be used by Arcus Global without prior written authorisation from the Customer.

11.3 Arcus Global will work with the appropriate supervisory organisation (GDPR Article 31), which in this legal jurisdiction is assumed to be the Information Commissioner's Office (ICO), where necessary and required.

11.4 Arcus Global will take appropriate measures to ensure the security of data processing activities, which are detailed in our ISO27001:2015 certified Information Security Management System.

11.5 Where services are provided using public cloud platforms, Arcus Global will work with the Customer to suggest, design, implement and maintain appropriate tools and services to meet record security requirements (GDPR Article 32). The Customer has the option to accept or reject any security recommendations e.g. for cost reasons.

11.6 If the Customer buys Third Party Services through Arcus, the Customer acknowledges that Arcus shall have no responsibility for record security unless the Customer uses Arcus to design and support those services.

11.7 If the Customer rejects, or does not otherwise implement, the appropriate record security measures as indicated by Arcus Global and/or its public cloud sub-processors (as described in 12.2), neither Arcus Global nor its public cloud sub-processors will be liable for any financial penalty, or other material loss, in the event of a 'personal data breach' as defined by GDPR Article 33.

11.8 If Arcus Global detects a 'personal data breach' as defined by GDPR Article 33, it will notify the Customer within 8 working hours.

- 11.9 Arcus Global does not require a Data Protection Officer as defined by GDPR Article 37.
- 11.10 The Customer shall obtain all consents and provide all notices necessary to enable Arcus Global to receive and process the Personal Data for the purpose of providing the Services.
- 11.11 Arcus Global will:
- 11.12 process the Personal Data only on the instructions of the Customer as set out in this Agreement; and
- 11.13 put in place all reasonable technical and organisational security measures in respect of the Personal Data, as set out in this Agreement and agreed by the Customer.

12 Bribery and corruption

- 12.1 The Customer shall:
- 12.1.1 comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including the Bribery Act 2010;
- 12.1.2 have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with clause 12.1.1 above; and
- 12.1.3 promptly report to Arcus Global any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of this Agreement.

13 General

- 13.1 The failure or delay of Arcus Global to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time.
- 13.2 Neither party shall be liable for any delay in or for failure to perform its obligations under this Agreement, other than an obligation to make any payment due to the other party, if that delay or failure is caused by circumstances beyond the control of that party including fires, strikes, insurrection, riots, embargoes, or regulations of any civil or military authority.
- 13.3 The Customer shall not seek directly or through any third party to employ permanently or temporarily engage personnel who are supplying Services during the term of this Agreement or for six working months after termination or expiry of this Agreement. Any such approach shall result in payment by the Customer of damages including loss of revenue and expertise. As an agreed pre-estimate of damages, this sum shall be 6 working months of the standard price applicable to the person(s) affected and payable upon presentation of its invoice by Arcus Global.
- 13.4 This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersedes, cancels and replaces all prior agreements, licences, negotiations and discussions between the parties relating to it. The Customer acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) not expressly incorporated into this Agreement. However, nothing in this Agreement will exclude either party's liability for any fraudulent statement or act.
- 13.5 No variation of this Agreement shall be valid unless it is in writing and signed by an authorised representative of each of the parties.
- 13.6 The Customer shall not (without Arcus Global's prior written consent) assign this Agreement nor any of its rights or obligations under this Agreement nor sub-license the use of the Products or the Documentation. Arcus Global shall be entitled to assign this Agreement to another member of the Arcus Global group of companies and/or an assignee of Arcus Global's business. This Agreement shall be binding on any successors and assignees.

13.7 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement, and nothing in this Agreement shall confer or purport to confer on any third party any benefit or any right to enforce any term of this Agreement or operate to give any third party the right to enforce any term of this Agreement.

13.8 If any provision of this Agreement is held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.

13.9 Any notice to be given under this Agreement shall be in writing and shall be delivered by hand, sent by first class post to the address of the other party set out in this Agreement (or such other address as may have been notified in the Call Off Agreement) or sent by email to the address notified in the Call Off Agreement or from time to time. Any such notice or other document shall be deemed to have been served: if delivered by hand - at the time of delivery; if sent by post - upon the expiration of 48 hours after posting; and if sent by email - immediately unless the sender receives notice from the recipient that that the email has not been received.

13.10 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

13.11 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 Agreement or its subject matter or formation (including non-contractual disputes or claims).

14 Customer Data

14.1 In the course of providing the Services, Arcus Global may use Data Tools that access and/or use the Customer Data and the Customer hereby agrees to this use.

14.2 Arcus Global will own all right and title in and to the output of such use, including all related metadata and know-how ("Output").

14.3 Arcus Global's use of the Data Tools pursuant to clause 14.1 above will not involve any access to and/or use of Personal Data and, accordingly, the Output will not contain any Personal Data.

14.4 The Customer Data will remain the property of the Customer and/or its licensors and, save Arcus Global's right to access and use the Customer Data pursuant to clause 14.1 above, Arcus Global will not acquire any right in or title to the Customer Data.

Arcus Global – Professional Services Terms

1 Definitions

1.1.1 In these Professional Services Terms: "Customer Location" means a location chosen by the Customer at which they want Arcus Global Consultants to deliver some or all of the Professional Services.

1.1.2 "Consultant" means a member of Arcus Global staff or the staff of a partner or sub-contractor used by Arcus to deliver professional services.

1.1.3 "Project Plan" means any project plan set out in the Order Form.

2 Professional Services

2.1 Subject to clause 2.2 below, Arcus Global will provide the Professional Services to the Customer.

2.2 Arcus Global will use reasonable endeavours to deliver any Deliverables to meet the Customer's requirements as set out in the Order Form. However, owing to the nature of software development, Arcus Global cannot warrant that the Deliverables will meet the Customer's requirements or that they will deliver a particular output or result.

3 Project Plan

3.1 Arcus Global will use reasonable endeavours to meet any delivery dates set out in the latest version of any Project Plan agreed with the Customer (including in respect of the delivery of any Deliverables). Time is not of the essence in respect of any of Arcus Global's obligations relating to the Professional Services.

4 Acceptance

4.1 The Customer shall be deemed to accept any Deliverables received from Arcus Global under this Agreement seven days after delivery.

5 Customer Responsibilities

5.1 The Customer shall provide all cooperation reasonably required by Arcus Global in the provision of the Professional Services, including access to information, staff, systems and locations.

5.2 The Customer shall comply with any Customer Responsibilities set out in the Order Form in respect of the Professional Services in accordance with any timeframes for such Customer Responsibilities (including in the latest version of any Project Plan agreed with Arcus Global).

5.3 To allow Arcus Global to provide the Customer with Professional Services relating to public cloud platforms, the Customer will need to provide Arcus Global with the Customer's public cloud login credentials. In providing these credentials, the Customer consents to allowing Arcus Global to access the Customer's public cloud accounts and information for the purpose of the Professional Services. Any activity on the Customer's public cloud account shall remain the Customer's sole and exclusive responsibility. The Customer agrees that Arcus Global shall not be liable or responsible for any matters pertaining to its public cloud account.

6 Customer duty of care

6.1 Where Arcus Global sends Consultants to deliver Professional Services at a Customer Location, the Customer shall assume a duty of care with regard to the Consultants' health and safety and shall provide them with appropriate access to facilities and equipment and inform them of relevant health and safety procedures and provide them with the same or greater level of protection, comfort and assistance as they would provide to the Customer's own staff.

6.2 Where Arcus Global sends Consultants to deliver Professional Services at a location chosen by the Customer that is not in the UK, the Customer shall assume the duty of care referred to above from the time that the Consultants leave the UK until they return to it. Such duty of care in this case includes but is not limited to provision of advice and assistance on risk of personal injury, disease, and locally applicable laws and customs.

7 Travel & subsistence charges

7.1 Unless otherwise specified in the Order Form, Arcus will charge travel and subsistence charges for Consultants when they visit Customer Locations. Arcus is happy to match the Customer's travel policy for their staff if this is provided and will otherwise base the scale of these charges on use of second class public transport where available, business hotels and typical prices for meals in restaurant chains.

8 Payment

8.1 The Customer shall pay the Professional Services Charges including any applicable travel and subsistence charges in accordance with the timeframes set out in the Order Form.

9 Termination

9.1 Either party may terminate the Professional Services by giving the other party not less than one month's notice in writing unless the Order Form specifies a longer termination period, in which case the details on the Order Form will prevail

Arcus Global – Arcus Product Support Terms

1 Definitions

1.1 In these Arcus Global Support Terms, the following words and phrases shall have the following meanings:

1.1.1 "Fault" means a demonstrable fault, error or other problem in a Product that is capable of replication by Arcus Global;

1.1.2 "Support Hours" means the support hours set out in the Order Form;

1.1.3 "Support Request" means a request made by the Customer in accordance with clause 4 below for support in relation to the Products, including correction of a Fault; and

1.1.4 "Upgrade" means all significant changes made to a Product, new features requiring changes to the code and testing, or work requiring senior employees of Arcus Global, including batch extracts, migration, integration, conversion and import/export, made available by Arcus Global to the Customer.

2 Support Services

2.1 Arcus Global shall provide the following Support Services during the Support Hours via a support portal, telephone or email, as appropriate:

2.1.1 a support portal (which is the preferred reporting method), email and telephone helpdesk facility during Support Hours, for reporting new Faults and monitoring Arcus Global's progress against existing incidents;

2.1.2 where there is a Fault, ensuring that an engineer provides an initial telephone or email response;

2.1.3 using reasonable endeavours to provide a fix (or, where a fix is not possible, workaround) for each Fault with a reasonable time after receiving notice of the Fault; and

2.1.4 active monitoring of the Services with a monthly report of Arcus Global's findings.

2.2 Arcus Global may in its entire discretion resolve a Fault by providing a bug fix, workaround, patch or other minor modification to the Products.

2.3 Arcus Global shall not be liable to provide Support Services where any Fault results from or is connected with:

2.3.1 the failure of the Customer to comply with the relevant Access Requirements and/or any other Customer Failure;

2.3.2 any improper use, operation or neglect of the Products by the Customer (including any use of the Products that does not comply with this Agreement, the Documentation and/or any other instructions provided to the Customer by Arcus Global from time to time);

2.3.3 the Customer's failure to implement recommendations in respect of or solutions to Faults previously advised by Arcus Global; or

2.3.4 any repair, adjustment, alteration or modification of the Products or maintenance of the Products by any person other than Arcus Global or its authorised agents without Arcus Global's prior written consent.

2.4 Arcus Global reserves the right:

- 2.4.1 to refuse to respond to requests for Support Services made by any person who the Customer has not nominated as one of its support contacts in accordance with clause 5.1.1 below and if any such person makes a request for Support Services, Arcus Global shall be entitled to redirect that person to the Customer's nominated support contacts;
- 2.4.2 to monitor requests for Support Services and levels of support requested and, if it is found that an excessive number of inappropriate requests for Support Services are being made to Arcus Global, to notify the Customer of that fact and either temporarily or permanently to stop providing Support Services to the Customer whereupon the Customer shall investigate the number of requests being made and the reasons for such requests and Arcus Global may in its entire discretion assist the Customer to find out the reasons for the number of requests for Support Services and to reduce the number of such requests; and
- 2.4.3 to refuse to supply Support Services in respect of any alleged fault which could have been resolved by the Customer following any instructions set out in any related documentation provided by Arcus Global.
- 2.5 Arcus Global reserves the right to charge the Customer an additional sum (at the rates set out in the Order Form or, where not agreed, its standard rates for the provision of professional services) for the provision of support or other services in any of the following circumstances: namely, where:
- 2.5.1 support or other services are provided in respect of any Fault resulting from or connected with any of the circumstances set out in paragraph 2.3;
- 2.5.2 any assistance, support or other services are provided by Arcus Global in relation to any matter referred to in clause 2.4;
- 2.5.3 performance of the Support Services is made more difficult or costly as a result of the Customer's failure to inform Arcus Global of a problem as soon as reasonably practicable;
- 2.5.4 the Customer requests Arcus Global to perform the Support Services outside the Support Hours; or
- 2.5.5 the Customer requests that Arcus Global provides the Support Services at any of its premises where the Products is being used.

3 Upgrades

- 3.1 From time to time, Arcus Global may make Upgrades available to the Customer.
- 3.2 Where Arcus Global makes available an Upgrade to the Customer, the Customer shall not be liable to pay additional Support Fees except where such Upgrade provide additional features in which case additional Product Charges may be payable.
- 3.3 Arcus Global may at its discretion make available minor upgrades (being any upgrade other than a major Upgrade) to the Customer free of any additional charge.
- 3.4 Following installation of any Upgrade, Arcus Global's obligation to provide the Support Services shall only extend to the Products incorporating the Upgrade and shall cease in respect of the Products without the Upgrade. The Customer shall not refuse any Upgrade necessary at Arcus Global's reasonable determination for the continued operation of the Products.
- 3.5 Any Upgrades made to the Products by Arcus Global form part of the Products.

4 Submitting Support Requests and access

- 4.1 The Customer may request Support Services by way of a Support Request.
- 4.2 Each Support Request shall include a description and the start time of the incident.
- 4.3 The Customer shall provide Arcus Global with:
- 4.3.1 prompt notice of any Faults; and
- 4.3.2 such output and other data, documents, information, assistance and (subject to compliance with all Customer's security and encryption requirements notified to Arcus Global in writing) remote access to the Customer system, as are reasonably necessary to assist Arcus Global to reproduce operating conditions similar to those present when the Customer detected the relevant Fault and to respond to the relevant Support Request.

4.4 Save where agreed in advance by Arcus Global, all Support Services shall be provided from Arcus Global's office.

4.5 The Customer acknowledges that, to assess and resolve Support Requests, it may be necessary to permit Arcus Global direct access to the Customer's premises, system, files, equipment and personnel.

4.6 The Customer shall provide such access promptly, provided that Arcus Global complies with all the Customer's security requirements and other policies and procedures relating to contractors entering and working at the Customer's premises notified to Arcus Global.

5 Customer Responsibilities

5.1 The Customer shall:

5.1.1 nominate in writing an appropriate number of appropriately technically qualified and experienced persons within its organisation who shall be the points of contact between Arcus Global and the Customer for all requests for Support Services and shall notify Arcus Global in writing at least 10 Working Days in advance of any changes made to such nominations;

5.1.2 adequate information and written material to enable Arcus Global to recreate any Fault in respect of which the Customer requests the Support Services;

5.1.3 procure that all Arcus Global's instructions are followed in relation to the Products;

5.1.4 ensure that its infrastructure meets the Access Requirements;

5.1.5 procure that the Products are operated only by competent users in a proper and skilful manner and in accordance with the terms of any licence for use and any related documentation;

5.1.6 ensure that the relevant units of the Customer's computer hardware remain switched on and connected to the internet by a connection configured in accordance with any documentation related to the Products and permit Arcus Global to access and amend any information and data stored on them so that Arcus Global can provide the Support Services remotely and any necessary downloads can be completed;

5.1.7 take frequent and regular backups of all data and configuration information relating to the operation of the Products;

5.1.8 not permit anyone other than Arcus Global's authorised representatives to provide any support or maintenance services in respect of the Products; and

5.1.9 not use the Products or any part of it knowing it to be faulty without Arcus Global's knowledge and consent.

6 Service levels and service credits

6.1 Arcus Global shall use reasonable endeavours to comply with any service levels set out in the Order Form.

6.2 Where Arcus Global agrees in an Order Form to pay service credits in respect of any failures to comply with agreed service levels, such service credits will be the Customer's sole remedy for any such failures.

7 Payment

7.1 The Customer shall pay the Support Charges in accordance with the timeframes set out in the Order Form.

7.2 If the Customer at any time terminates this Agreement and subsequently seeks to purchase Support Services, Arcus Global shall be entitled to charge the Customer at its then current rates in respect of any period following such termination during which the Customer did not purchase Support Services.

8 Termination

8.1 Either party may terminate the Support Services by giving the other party notice in writing equal to the minimum Renewal Period for the Product in respect of which Arcus Global is providing Support Services.