

The background of the page is a photograph of a woman with dark hair tied back, wearing a blue polka-dot shirt. She is smiling and looking down at a laptop keyboard. A large, semi-circular red overlay covers the bottom half of the image, containing the text.

G-Cloud 13

Supplier Terms

1 THIS FRAMEWORK AGREEMENT AND EACH CALL-OFF CONTRACT

1.1 The provision of Services under this G-Cloud 13 Framework Agreement is subject to and conditional upon acceptance of the Supplier Terms.

2 DEFINITIONS

2.1 The definitions in Schedule 6 (Glossary and Interpretations) of the Call-Off Contract terms and conditions for the Framework Agreement are used in these Supplier Terms and have the same meaning.

2.2 In these Supplier Terms, the following additional definitions are used:

“Amazon Web Service” means Amazon products and services procured from Amazon;

“Charges” means the Charges for the Services procured under this Call-Off Contract including but not limited to charges for Resold Services and Supplier Services

“Customer Subscription(s)” means enrolment of the Customer for Services which are for a fixed, defined term and are as set out in the Order;

“Managed Services” means the elements of the Supplier Services which are usually associated with the support of the Resold Services and/or other third party applications, as further detailed in the Service Description;

“Microsoft Cloud Services” means Microsoft’s cloud products and services within the scope of the Services which are procured from Microsoft;

“Order” means an agreed Statement of Works or request for new services via a service request submitted by the Customer;

“Professional Services” means the professional services to be provided by the Supplier agreed under a Statement of Work;

“Rate Card” means the rate card set out in Schedule 2;

“Resold Services” means Microsoft Cloud Services, Amazon Web Service and RPA Services and any Third-Party Services procured under this Call-Off Contract;

“Resold Services Provider” means any of the providers of the Resold Services, including Microsoft and Amazon;

“RPA Services” means RPA products and services procured from an RPA service provider;

“Service Description” means (i) the description of the Supplier Services set out in Schedule 1 or as otherwise agreed in a Statement of Work and (ii) in the case of the Resold Services, their respective descriptions set out in their own documentation including in the case of Microsoft, the Customer Agreement;

“Services” means the Services provided under this G-Cloud 13 Framework Agreement including:

- a) the Resold Services
 - Amazon Web Service
 - Microsoft Cloud Services
 - RPA Services
 - Third Party Services
- a) the Supplier Services
 - the Managed Services

- the Supplier Products
- the Professional Services

“Statement of Work” means any of the statement of work for Professional Services agreed between the Parties which shall be appended to a Call-Off Contract. Reference to a Call-Off Contract shall include all accompanying Statement(s) of Work;

“Supplier Products” means those elements of the Supplier Services comprising of any of the Supplier owned technical solution and associated wrap-around services;

“Supplier Services” means the Services provided by the Supplier including the Managed Services, the Supplier Products and the Professional Services but excluding Resold Services;

“Supplier SLA” means the applicable service level agreement (if any) for the Managed Services or Supplier Products;

“Third Party Services” means third party products and services procured at the instruction of the Customer under this Call-Off Contract with the exclusion of Microsoft Cloud Services and Amazon Web Service and RPA Services. Third Party Services includes off the shelf third party applications and tools including opensource software used by the Supplier which may facilitate access to Buyer Data.

3 SUPPLIER SERVICES

3.1 The Supplier shall perform the Supplier Services in accordance with this Agreement with reasonable skill and care and in particular:

- 3.1.1 the Supplier Products in accordance with the Supplier SLA as set out in the Service Description. If the Supplier fails to meet the Supplier SLA, the service credit regime (if applicable) as specified in the Service Description shall apply;
- 3.1.2 the Managed Services in accordance with the Supplier SLA set out in the Service Description. If the Supplier persistently fails to meet the Supplier SLA, it shall implement a service improvement plan to address the underlying cause of such failure.
- 3.1.3 the Professional Services as set out in the relevant Statement of Work.

3.2 Unless expressly agreed in the Service Description, the Supplier:

- 3.2.1 is not providing consultancy, user familiarisation or training, or support for other systems and services used by the Customer which interact with the Services;
- 3.2.2 will not provide back-up and restoration of Customer Data, and nor will it provide business continuity and disaster recovery services, unless these form part of the specific Services agreed with the Customer, and then only to the extent described in the relevant Service Description;
- 3.2.3 does not warrant that the Customer's use of the Services will be uninterrupted or error-free;
- 3.2.4 does not warrant that the Services utilising the information obtained by the Customer through the Services will be error-free, accurate or meet the

- Customer's requirements; and
- 3.2.5 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 3.3 Unless explicitly agreed in an Order the Supplier will not provide an Exit Plan, Service Management Plan or Security Management Plan
- 3.4 The Supplier shall have no liability for any failure of the Services to provide any facility or function if the failure results from use of the Services in a manner contrary to the terms of this Call-Off Contract and/or the instructions given to the Customer.
- 3.5 The Supplier does not guarantee that the Services shall result in any savings for the Customer during the Term or any time after.
- 4 RESOLD SERVICES**
- 4.1 The Resold Services are provided subject to the service descriptions, characteristics, service levels, information security measures, terms of use and rights and remedies set out by the Resold Services Providers.
- 4.2 The Supplier shall pass through to the Customer the benefit of any warranties, indemnities and other remedies provided by the Resold Service Provider under its contract with the Supplier. If the contract between the Supplier and Resold Service Provider contains limitations and exclusions of liability, those limitations and exclusions shall apply as between the Supplier and the Customer in respect of the Resold Services, and the limitations on liability set out in the Call-Off Contract and terms and conditions shall be disapplied in respect of the Resold Services. The Supplier shall provide a copy or link to the Resold Service Provider's terms and conditions on request (with commercially sensitive information redacted).
- 4.3 Subject to clause 4.2, if the Resold Service Provider is in breach of its contract with the Supplier, the Supplier shall pass to the Customer any compensation or damages recovered from the Resold Service Provider to the extent that they relate to loss or damage suffered by the Customer as a result of the Resold Service Provider's breach of contract. The Supplier shall take such steps as it considers reasonable to enforce any rights and remedies available to it. If the Customer considers that additional steps should be taken, the Supplier shall facilitate the Customer itself taking such steps at its own cost (including taking action using the name of the Supplier as necessary provided that the Customer agrees to indemnify the Supplier in respect of any liabilities that it may incur as a result.
- 4.4 The Customer acknowledges that its rights to the Resold Services do not include any licence, right, power or authority to cause any part of the Resold Services to become subject to the terms of any licence, such as an open source software licence, that requires as a condition of use, modification or distribution of software subject to the excluded license, that it or other software combined or distributed with it be: (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.
- 4.5 The Customer acknowledges that with respect to the provision of Resold Services, the following matters are the responsibility of the provider of the Resold Services and are not the responsibility of the Supplier:
- 4.5.1 the definition of the Resold Services;
- 4.5.2 the technology solution which is used to provide the Resold Services;
- 4.5.3 the technical and organisational measures which apply to any data centres from which the Resold Services are provided;
- 4.5.4 the service levels (and service credits) which apply to the Resold Services;
- 4.5.5 the provision of tools and management information to support consumption-based billing, and the management of subscriptions, products and resources associated with the Resold Services
- 4.5.6 arrangements for business continuity and disaster recovery for the Resold Services;
- 4.5.7 the facilities which are made available to back-up and restore data;
- 4.5.8 the facilities available for the return of Customer Data to the Customer during and at the end of the Call-Off Contract.
- 4.6 With respect to Microsoft Cloud Services
- 4.6.1 the Customer acknowledges that the Supplier is a reseller of Microsoft products and services under the Microsoft Cloud Solution Provider (CSP) programme.
- 4.6.2 the Customer is able to purchase Microsoft Cloud Services from Microsoft via its Call-Off Contract with the Supplier through entering into an Order, which will enable the Supplier to place an order with Microsoft.
- 4.6.3 it is a requirement of the reseller agreement between Microsoft and the Supplier that the Customer accepts a Microsoft 'Customer Agreement' i.e. a binding contract between Microsoft and the Customer which applies to the Microsoft Cloud Services which are the subject of the Call-Off Contract. The terms of the Customer Agreement with Microsoft are not negotiable.
- 4.6.4 breach by the Customer of the Customer Agreement may lead to Microsoft suspending or terminating the Microsoft Cloud Services and/or taking legal action against the Customer (and potentially, the Supplier). The Supplier is not liable to the Customer for the lawful exercise by Microsoft of its rights under the Customer Agreement.
- 4.6.5 The Customer Agreement is made up of several parts:
- the Microsoft Cloud Agreement – this can be found at the following link: <https://docs.microsoft.com/en-us/partner-center/agreements>
 - the Online Services Terms – these can be found by following the link at the following URL and selecting the English version: <http://www.microsoftvolumelicensing.com/>

- the Online Services SLA – this can be found by following the link at the following URL and selecting the English version:
<http://www.microsoftvolumelicensing.com/>

- 4.7 The Supplier shall have no liability to the Customer if the Resold Services Provider suspends or terminates the Resold Services as a result of the Customer's breach of their obligations.
- 4.8 The Customer is responsible for notifying the Supplier to terminate the Resold Services. Where the supply of products or services under the Resold Services are subject to an automatic renewal in compliance with a notice period specified by the Resold Services Provider, the Resold Services shall continue until terminated in compliance with the provider's own terms.

5 CHARGES AND PAYMENT TERMS

- 5.1 In consideration for the provision of the Services, the Customer shall pay the Supplier the Charges. The Charges shall be calculated as such:

- 5.1.1 Subscription Charges shall be calculated on the basis of the fixed subscription charge for a fixed term in respect of such Service as stated in the Order and/or Schedule 2;
- 5.1.2 Consumption Charges shall be calculated on the basis of the unit rate or, fixed percentage in the case of the Managed Services, multiplied by the volume of the resources consumed from that provider during the period of a calendar month unless otherwise stated in Schedule 2;
- 5.1.3 Charges for Professional Services shall be calculated in accordance with the Rate Card. Unless otherwise agreed in the Order, the Charges for such Professional Services shall be invoiced monthly in arrears;
- 5.1.4 Charges for any other Services shall be as set out in Schedule 2 or otherwise in the relevant Order.
- 5.2 The Customer shall pay the Supplier for all Charges in respect of the Resold Services and the Supplier Services.
- 5.3 Unless the Charges are otherwise expressed to be due and payable on a specified date, payment of invoices shall be made by the Customer in pounds sterling within thirty (30) days of the date of each invoice to a bank account nominated in writing by the Supplier.
- 5.4 In respect of Resold Services the Customer shall raise any queries or disputes relating to invoices within sixty (60) Working Days of the invoice date. If by the end of this period no question or dispute has been raised then the invoice is deemed accepted.
- 5.5 In the event of a bona fide dispute regarding Charges, any invoice or other request for payment for the Supplier Services, the Customer shall immediately notify the Supplier in writing and the Parties shall attempt promptly and in good faith to resolve any dispute regarding the amounts owed. In each such case, the Customer shall pay all undisputed amounts on or before the due date for payment of such invoice.
- 5.6 In the event of a bona fide dispute regarding Charges, any invoice or other request for payment for the Resold Services:
- 5.6.1 the Customer shall raise a dispute with the Supplier

and the Supplier will open a case with the Resold Services Provider. The Supplier will work with the Resold Services Provider to review and resolve any disputes. With respect to the Microsoft Charges, in accordance with Microsoft's commitments to The Supplier under the Cloud Solution Provider Terms, Microsoft and the Supplier will review and resolve any disputes with respect to the Microsoft Charges.

- 5.6.2 Where disputed Resold Service Charges are due for payment prior to the resolution of the case, the Customer shall pay the charges in full and where a credit is issued by the Resold Services Provider, the Customer shall receive the credit in full.
- 5.6.3 If the Charges for the Resold Services are not paid in accordance with Clause 5.7 of these Supplier Terms, the Supplier shall be entitled to terminate or suspend the provision of the Resold Services on giving not less than thirty (30) days prior notice to the Customer or in accordance with the Resold Service Provider notice period.
- 5.7 All payments under an Order (excluding disputed Charges for the Supplier Services with bona fide dispute under Clause 5.5) shall be paid in full by the Customer without any deduction or withholding other than as required by law and the Customer shall not be entitled to assert any credit, set-off, deduction, counterclaim or abatement of any nature whatsoever against the Supplier in order to justify withholding payment of any such amount in whole or in part.
- 5.8 The Charges are exclusive of any applicable sales, use or service tax or any other applicable tax of any nature whatsoever, including any Value Added Tax; all such taxes will be added to the appropriate invoice and shall be payable by the Customer in accordance with the law from time to time and the terms hereof.
- 5.9 Unless otherwise agreed in the Call Off Contract, the Supplier shall be entitled to pass on to the Customer the cost of hotels, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals engaged by the Supplier in the provision of the Services, provided such costs are reasonable and supported by appropriate documentation.
- 5.10 Unless otherwise agreed in the Call Off Contract, in the case of the Supplier Services and the Rate Card, the Supplier shall be entitled, with effect from each anniversary of the Start Date, to adjust the Charges and/ or Rate Card (each an "Increase") by giving the Customer not less than one (1) month's prior written notice before such Increase is applied provided that:
- 5.10.1 such Increase shall not exceed the greater of (i) 5% (five per cent); or (ii) a percentage equal to the percentage increase in the Retail Price Index provided by the Office for National Statistics, in each case during the period since the last such Increase or, if there has been no such Increase, during the period since the Start Date; and
- 5.10.2 no Increase shall be made until a period of not less than 12 (twelve) months has elapsed since the last Increase came into effect.
- ## 6 CUSTOMER OBLIGATIONS
- 6.1 In addition to complying with any obligations set out

- elsewhere in this Agreement and/or any Order, the Customer shall be responsible for ensuring:
- 6.1.1 the management including backing up data, accuracy, quality, and legality of the Customer Data;
 - 6.1.2 it has such internet connectivity, bandwidth and mobile network coverage as may be necessary for the Customer to receive the Services;
 - 6.1.3 the Services are suitable and adequate for its purposes;
 - 6.1.4 it has obtained any permissions, licences and consents required for use of the Services;
 - 6.1.5 it complies with all applicable local and foreign laws and regulations which may govern its activities in relation to and the use of the Services;
 - 6.1.6 it makes any adjustments or changes within its own technical environment or business operations as may be necessary for it to receive the Services;
 - 6.1.7 it carries out its obligations in a timely and efficient manner and ensures that its staff, third party contractors and any other persons for whom it is responsible comply with the provisions of this Call-Off Contract and/or any Order;
 - 6.1.8 it provides such timely co-operation, facilities, and access to its premises and any relevant information, software, systems and documentation that the Supplier may reasonably require to enable the Supplier to provide the Services; and
 - 6.1.9 it complies with any reasonable instructions of the Supplier in connection with the Services.
- 6.2 The Customer agrees that it shall also be responsible for:
- 6.2.1 complying with the Customer Agreement in the case of the Microsoft Cloud Services and with the relevant terms and conditions for the other Resold Services – this obligation is owed to both the Resold Services Providers and to the Supplier;
 - 6.2.2 monitor applicable volume thresholds set out by the Resold Services Providers and manage any potential automatic renewals;
 - 6.2.3 in relation to the Microsoft Cloud Services, monitoring its Customer Subscription(s) throughout the term of any Order, including in respect of any potential automatic renewals of the same under the Customer Agreement (the Customer agreeing that it is solely liable for giving any notice required to avoid any such automatic renewals);
 - 6.2.4 managing and controlling access by users to the applications and systems which use the Services, and setting appropriate security controls and limits relating to such access;
 - 6.2.5 obtaining, maintaining, and compliance with the licensing terms, of all necessary licenses from third parties (including Microsoft) which are necessary to enable the relevant systems of the Customer (or its sub-contractors) to use the Services use of the Services may require the Customer to purchase additional licences from such third parties and the Supplier is not responsible for auditing the Customer to ensure that it has the appropriate quantity and quality of licences, or for procuring such licences;
- 6.2.6 the compatibility, legality, accuracy, completeness, operation, maintenance, security, backup and use of applications, software, systems and network connectivity that it uses in connection with the Services unless they are expressly included in the applicable Services;
 - 6.2.7 ensuring that users of the Services have received adequate training and that they undertake to carry out their role in relation to the operation of the Services, in line with good industry practice and any relevant documentation and reasonable advice given by the Supplier or its providers;
 - 6.2.8 using all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and notify the Supplier promptly of any such unauthorised access or use; and
 - 6.2.9 any impact to the Services due to Customer installed Software and/or Systems; and
 - 6.2.10 ensuring that any third party providers of services or systems (or other systems which the Services are to integrate with) provide all reasonable and necessary co-operation and assistance to deliver the necessary interfaces with the Services (such third party services being procured by the Customer at the Customer’s cost and expense).
- 6.3 The Customer agrees that if it terminates the Services without agreeing exit services with the Supplier in accordance with Clause 10.7 of the Supplier Terms, then the Customer will itself be solely responsible for ensuring that its systems and/or data (including all Customer Data) have been migrated to an alternative platform before the termination date.
- 6.4 If the Supplier is delayed or impeded, or obliged to spend additional time or incur additional expenses, in the performance of any of its obligations relating to the Services by reason of any failure by the Customer or its staff or its third-party contractors or any other persons for whom it is responsible to comply with the Customer’s obligations under this Call-Off Contract and/or any Order, then the Customer agrees that:
- 6.4.1 the Supplier shall not be liable for any delay or default in performance to the extent that the same occurs as a result of such failure, and
 - 6.4.2 an extension of time commensurate with the period of delay, and
 - 6.4.3 the Supplier shall be entitled to recover from the Customer the additional costs, wasted costs and/or additional expenses that it has reasonably incurred to the extent that the same occurs as a result of such failure.
- 7 INTELLECTUAL PROPERTY RIGHTS**
- 7.1 The Customer shall own all rights, title and interest in and to all the Customer Data.
 - 7.2 The Supplier’s Background IPRs shall (as between the Customer and the Supplier) be owned by the Supplier.
 - 7.3 IPR Claims do not cover Resold Services over and above and, without prejudice to Clause 4.1 of these Supplier Terms, all

references to Services in CO-11.5 shall mean Supplier Services.

8 SUBCONTRACTORS AND OTHER PERMISSIONS

- 8.1 The Customer hereby gives its written approval for the Supplier to use the Sub-contractors identified in the Call-Off Contract (including the Resold Services Providers) to perform the Services.
- 8.2 The Customer hereby gives its written approval for the Supplier to transfer Customer Data to the relevant Resold Services Providers identified in the Call-Off Contract to provide the Resold Services.
- 8.3 The Customer undertakes (on a continuing basis for the duration of the Term and thereafter) that it has all the consents necessary to allow the transfer and processing of the Customer Data (including Service Personal Data) by the Supplier and Sub-contractors as part of the Services, and, in the case of the Resold Services, by the Resold Services Providers and their subcontractors.
- 8.4 The Customer hereby gives its written approval for the Supplier to combine service data (including Personal Data) with data collected by other customers to create cross-customer analyses, and to supply the results of its analyses to third parties, provided that in doing so it maintains both the anonymity of personal data and the anonymity of the customers contributing the data.

9 LIABILITY

- 9.1 The liability caps referred to in CO-24 'Liability' are specified in the Call-Off Contract.
- 9.2 Except for the obligations implied by Section 2 of the Supply of Goods and Services Act 1982, all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality and fitness for purpose are, to the fullest extent permitted by applicable law, excluded from this Call- Off Contract.

10 TERMINATION OF CALL-OFF CONTRACT BY EITHER PARTY

- 10.1 Either Party may terminate this Call-Off Contract in accordance with the Call-Off Contract terms and conditions for the G-Cloud 13 Framework Agreement.
- 10.2 If the Customer terminates this Call-Off Contract for convenience under CO-18.1 by giving not less than 180 days' written notice, then it shall indemnify the Supplier for any unavoidable Loss, costs and expenses which the Supplier may incur in accordance with CO-18.3.
- 10.3 Where the Customer has obtained the benefit of lower Charges through the use of reserved instances or other similar means which involve a commitment by the Customer to purchase Resold Services over a period beyond the date on which the Call-Off Contract is terminated, the providers of the Resold Services will be entitled to compensation from the Supplier, and the Supplier is entitled to recover such compensation from the Customer under this indemnity. For the avoidance of doubt, CO-18.2 shall not apply in those circumstances.
- 10.4 The Customer agrees that the Supplier shall at any time be entitled to terminate in full or in part, this Call-Off Contract without incurring liability to the Customer in circumstances

where:

- 10.4.1 the Resold Services Provider rejects the Customer as one of their customers; or
- 10.4.2 the Resold Services Provider withdraws an applicable Resold Services from the market so that it is no longer available to the Customer; or
- 10.4.3 the Supplier does not agree to the renewal of the Resold Services beyond the original term of the Call-Off Contract; or
- 10.4.4 in the case of Microsoft only,
- Microsoft terminates the Customer Agreement; or;
 - the Customer refuses to enter into the initial Customer Agreement or upon renewal of any Customer Subscription or otherwise any new or revised Customer Agreement then issued by Microsoft.
- 10.5 If the Supplier elects to exercise any of its rights under Clause 10.4, then (other than in circumstances of breach by the Customer of this Call-off Contract or the Customer Agreement and in which case the Supplier reserves all of its rights and remedies in respect of any such breach), the Supplier will refund to the Customer any sums paid in advance to the Supplier for Services which will no longer be delivered and the Customer agrees that this shall be its sole remedy in respect of any such termination.
- 10.6 On expiry, and on termination of this Call-Off Contract, all licenses granted under this Call-Off Contract shall immediately terminate and the Customer shall:
- 10.6.1 no longer be entitled to and immediately cease to use the Services;
- 10.6.2 pay to the Supplier any sums due to the Supplier under this Call-Off Contract (including any sums due under the indemnity at CO-18.3 which is also referred to at Clause 10.2 above);
- 10.6.3 return to the Supplier all equipment, property, Confidential Information and other items (and all copies of them) belonging to the Supplier
- 10.7 On expiry, and on termination of this Call-Off Contract the Supplier shall, subject to agreeing an appropriate Statement of Work, provide the following exit and service transfer services (referred to as 'Offboarding') based on the Rate Card:
- 10.7.1 the services required to provide a smooth handover of the Services, Customer Data and the Customer's Confidential Information to the Customer or as nominated by the Customer, and
- 10.7.2 the Supplier shall comply with Clause CO-33. Customer Data and Confidential Information shall be returned to the Customer in its then current format or in a format agreed by the parties (in which event the Customer will reimburse the Supplier's reasonable data conversion expenses);
- 10.7.3 otherwise, in the absence of a Statement of Work, Clause 6.3 of these Supplier Terms shall apply.