

26.2 The following table sets out the method by which notices may be served under the Call-Off Contract and the respective deemed time and proof of Service:

Delivery type	Deemed delivery time	Proof of Service
Email	9am on the first Working Day after sending	Dispatched in a pdf form to the correct email address without any error message

26.3 The address and email address of each Party will be the address and email address in the Order Form.

27. Exit plan

27.1 The Buyer and the Supplier will agree an exit plan during the Call-Off Contract period to enable the Supplier Deliverables to be transferred to the Buyer ensuring that the Buyer has all the code and documentation required to support and continuously develop the Service with Buyer resource or any third party as the Buyer requires. The Supplier will update this plan whenever there are material changes to the Services. A Statement of Work may be agreed between the Buyer and the Supplier to specifically cover the exit plan.

28. Staff Transfer

28.1 The Parties agree that nothing in the Call-Off Contract or the provision of the Services is expected to give rise to a transfer of employment to which the Employment Regulations apply.

28.2 The Supplier will fully indemnify the Buyer against all Supplier Staff Liabilities which arise as a result of any claims brought against the Buyer due to any act or omission of the Supplier or any Supplier Staff.

28.3 The indemnity given in Clause 28.2 will be uncapped.

29. Help at retendering and handover to replacement supplier

29.1 When requested, the Supplier will (at its own expense where the Call-Off Contract has been terminated before end of term due to Supplier cause) help the Buyer to migrate the Services to a replacement Supplier in line with the exit plan (Clause 27) to ensure continuity of the Services. Such help may include Supplier demonstrations of the existing code and development documents, software licences used and Buyer approval documents. The Supplier will also answer Service and development-related clarification questions.

29.2 Within 10 Working Days of a request by the Buyer, the Supplier will provide any information needed by the Buyer to prepare for any procurement exercise or to facilitate any potential replacement Supplier undertaking due diligence. The exception to this is

where such information is deemed to be Commercially Sensitive Information, in which case the Supplier will provide the information in a redacted form.

30. Changes to services

30.1 It is likely that there will be changes to the scope of the Services during the Call-Off Contract period. Agile projects have a scope that will change over time. The detailed scope (eg as defined in user stories) can evolve and change during the Call-Off Contract Period. These changes do not require formal contract changes but do require the Buyer and Supplier to agree these changes.

30.2 Any changes to the high-level scope of the Services must be agreed between the Buyer and Supplier. The Supplier will consider any request by the Buyer to change the scope of the Services, and may agree to such request.

31. Contract changes

31.1 All changes to the Call-Off Contract which cannot be accommodated informally as described in Clause 30 will require a Contract Change Note.

31.2 Either Party may request a contract change by completing and sending a draft Contract Change Note in the form in Schedule 4 of Part B - The Schedules ('the **Contract Change Notice**') to the other Party giving sufficient information to enable the other Party to assess the extent of the change and any additional cost that may be incurred. The Party requesting the contract change will bear the costs of preparation of the Contract Change Notice. Neither Party will unreasonably withhold or delay consent to the other Party's proposed changes to the Call-Off Contract.

31.3 Due to the agile-based delivery methodology recommended by the Framework Agreement, it may not be possible to exactly define the consumption of Services over the duration of the Call-Off Contract in a static Order Form. The Supplier should state the initial value of all Services that are likely to be consumed under the Call-Off Contract.

32. Force Majeure

32.1 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Call-Off Contract (other than a payment of money) to the extent that such delay or failure is a result of a Force Majeure event. Each Party will use all reasonable endeavours to continue to perform its obligations under the Call-Off Contract for the length of a Force Majeure event. If a Force Majeure event prevents a Party from performing its obligations under the Call-Off Contract for more than 15 consecutive calendar days, the other Party may terminate the Call-Off Contract with immediate effect by notice in writing.

33. Entire agreement

33.1 The Call-Off Contract constitutes the entire agreement between the Parties relating to the matters dealt within it. It supersedes any previous agreement between the Parties relating to such matters.

33.2 Each of the Parties agrees that in entering into the Call-Off Contract it does not rely on, and will have no remedy relating to, any agreement, statement, representation, warranty, understanding or undertaking (whether negligently or innocently made) other than as described in the Call-Off Contract.

33.3 Nothing in this Clause or Clause 34 will exclude any liability for (or remedy relating to) fraudulent misrepresentation or fraud.

34. Liability

34.1 Neither Party excludes or limits its liability for:

- death or personal injury;
- bribery or fraud by it or its employees;
- breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- any liability to the extent it cannot be excluded or limited by Law.

34.2 In respect of the indemnities in Clause 13 (Intellectual Property Rights) and Clause 28 (Staff Transfer) the Supplier's total liability will be unlimited. Buyers are not limited in the number of times they can call on this indemnity.

34.3 Subject to the above, each Party's total aggregate liability relating to all Losses due to a Default in connection with this agreement:

- resulting in direct loss or damage to physical Property (including any technical infrastructure, assets or Equipment) of the other Party, will be limited to the sum of £1,000,000 in each Call-Off Contract year in which the Default occurs, unless otherwise stipulated by the Buyer in a Further Competition procedure
- subject to the first bullet point in this Clause 34.3 which occur in the first 6 months, will be limited to the greater of the sum of £500,000 or a sum equal to 200% of the estimated Call-Off Contract Charges for the first six months
- subject to the first bullet point in this Clause 34.3 which occur during the remainder of the Call-Off Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 200% of the Call-Off Contract Charges paid, due or which would have been payable under the Call-Off Contract in the 6 months immediately preceding the event giving rise to the liability
- subject to the first bullet point in this Clause 34.3 which occur after the end of the Call-Off Contract period, will be limited to the greater of the sum of £500,000 or an amount equal to 200% of the Call-Off Contract Charges paid, due or which would have been payable under the Call-Off Contract in the 6 months immediately before the end of the Call-Off Contract period.

34.4 Subject to clause 34.1, in no event will either Party be liable to the other for any:

- loss of profits;
- loss of business;
- loss of revenue;
- loss of or damage to goodwill;
- loss of savings (whether anticipated or otherwise); or
- any indirect, special or consequential loss or damage.

34.5 The Supplier will be liable for the following types of loss which will be regarded as direct and will be recoverable by the Buyer:

- the additional operational or administrative costs and expenses arising from any Material Breach; and/or
- any regulatory losses, fines, expenses or other losses arising from a breach by the Supplier of any Law.

34.6 No enquiry, inspection, approval, sanction, comment, consent, or decision at any time made or given by, or on behalf of, the Buyer to any document or information provided by the Supplier in its provision of the Services, and no failure of the Buyer to discern any defect in, or omission from, any such document or information will exclude or limit the obligation of the Supplier to carry out all the obligations of a professional Supplier employed in a client and Buyer relationship.

34.7 Unless otherwise expressly provided, the obligations of the Buyer under the Call-Off Contract are obligations of the Buyer in its capacity as a Contracting counterparty and nothing in the Call-Off Contract will be an obligation on, or in any other way constrain the Buyer in any other capacity, nor will the exercise by the Buyer of its duties and powers in any other capacity lead to any liability under the Call-Off Contract on the part of the Buyer to the Supplier.

34.8 Any liabilities which are unlimited will not be taken into account for the purposes of establishing whether any limits relating to direct loss or damage to physical Property within this Clause have been reached.

35. Waiver and cumulative remedies

35.1 The rights and remedies provided by this agreement may be waived only in writing by the Buyer or the Supplier representatives in a way that expressly states that a waiver is intended, and such waiver will only be operative regarding the specific circumstances referred to.

35.2 Unless a right or remedy of the Buyer is expressed to be exclusive, the exercise of it by the Buyer is without prejudice to the Buyer's other rights and remedies. Any failure to exercise, or any delay in exercising, a right or remedy by either Party will not constitute a waiver of that right or remedy, or of any other rights or remedies.

36. Fraud

36.1 The Supplier will notify the Buyer if it suspects that any fraud has occurred, or is likely to occur. The exception to this is if while complying with this, it would cause the Supplier or its employees to commit an offence.

36.2 If the Supplier commits any fraud relating to a Framework Agreement, the Call-Off Contract or any other Contract with the government:

- the Buyer may terminate the Call-Off Contract
- CCS may terminate the Framework Agreement
- CCS and/or the Buyer may recover in full from the Supplier whether under Clause 36.3 below or by any other remedy available in law.

36.3 The Supplier will, on demand, compensate CCS and/or the Buyer, in full, for any loss sustained by CCS and/or the Buyer at any time (whether such loss is incurred before or after the making of a demand following the indemnity hereunder) in consequence of any breach of this Clause.

37. Prevention of bribery and corruption

37.1 The Supplier will not commit any Prohibited Act.

37.2 The Buyer and CCS will be entitled to recover in full from the Supplier and the Supplier will, on demand, compensate CCS and/or the Buyer in full from and against:

- the amount of value of any such gift, consideration or commission; and
- any other loss sustained by CCS and/or the Buyer in consequence of any breach of this Clause

38. Legislative change

38.1 The Supplier will neither be relieved of its obligations under the Call-Off Contract nor be entitled to increase the Call-Off Contract prices as the result of a general change in Law or a Specific Change in Law without prior written approval from the Buyer.

39. Publicity, branding, media and official enquiries

39.1 The Supplier will take all reasonable steps to not do anything which may damage the public reputation of the Buyer. The Buyer may terminate the Call-Off Contract for Material Breach where the Supplier, by any act or omission, causes material adverse publicity relating to or affecting the Buyer or the Call-Off Contract. This is true whether or not the act or omission in question was done in connection with the performance by the Supplier of its obligations hereunder.

40. Non Discrimination

40.1 The Supplier will notify CCS and relevant Buyers immediately of any legal proceedings issued against it by any Supplier Staff on the grounds of discrimination.

41. Premises

41.1 Where either Party uses the other Party's premises, such Party is liable for all Loss or damage it causes to the premises. Such Party is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

41.2 The Supplier will use the Buyer's premises solely for the Call-Off Contract.

41.3 The Supplier will vacate the Buyer's premises upon termination or expiry of the Call-Off Contract.

41.4 This Clause does not create an tenancy or exclusive right of occupation.

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

- ensure the security of the premises;
- comply with Buyer requirements for the conduct of personnel;
- comply with any health and safety measures implemented by the Buyer;
- comply with any instructions from the Buyer on any necessary associated safety measures ; and
- notify the Buyer immediately in the event of any incident occurring on the premises where that incident causes any personal injury or damage to Property which could give rise to personal injury.

41.6 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.

41.7 All Equipment brought onto the Buyer's premises will be at the Supplier's risk. Upon termination or expiry of the Call-Off Contract, the Supplier will remove such Equipment.

42. Equipment

42.1 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.

42.2 Upon termination or expiry of the Call-Off Contract, the Supplier will remove the Equipment, and any other materials, leaving the premises in a safe and clean condition.

43. Law and jurisdiction

43.1 The Call-Off Contract will be governed by the Laws of England and Wales. Each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

44. Defined Terms

'Assurance'	The verification process undertaken by CCS as
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	described in section 5 of the Framework Agreement
'Background IPRs'	<p>For each Party:</p> <ul style="list-style-type: none"> • IPRs owned by that Party before the date of the Call-Off Contract, including IPRs contained in any of the Party's know-how, documentation, processes and procedures; • IPRs created by the Party independently of the Call-Off Contract; and/or • For the Buyer, Crown Copyright which is not available to the Supplier otherwise than under the Call-Off Contract; <p>but excluding IPRs owned by that Party subsisting in Buyer Software or Supplier Software</p>
'Buyer'	A UK public sector body, or Contracting Body, as described in the OJEU Contract Notice, that can execute a competition and a Call-Off Contract within the Framework Agreement
'Buyer Background IPRs'	Background IPRs of the Buyer
'Buyer's Confidential Information'	<p>All Buyer Data and any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and Suppliers of the Buyer, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above</p> <p>Any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential')</p>
'Buyer Data'	Data that is owned or managed by the Buyer, including Personal Data gathered for user research, eg recordings of user research sessions and lists of user research participants
'Buyer Software'	Software owned by or licensed to the Buyer (other than under or pursuant to this Call Off Contract), which is or will be used by the Supplier for the purposes of providing the Services
'Call-Off Contract'	<p>The legally binding agreement (entered into following the provisions of the Framework Agreement) for the provision of Services made between a Buyer and the Supplier</p> <p>This may include the key information summary, Order Form, requirements, Supplier's response, Statement of Work (SOW), Contract Change Notice (CNN) and terms and conditions as set out in the Call-Off Contract</p>

	Order Form
'Charges'	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under the Call-Off Contract, as set out in the applicable SOW(s), in consideration of the full and proper performance by the Supplier of the Supplier's obligations under the Call-Off Contract and the specific obligations in the applicable SOW
'Commercially Sensitive Information'	Information, which CCS has been notified about, (before the start date of the Framework Agreement) or the Buyer (before the Call-Off Contract start date) with full details of why the Information is deemed to be commercially sensitive
'Comparable Supply'	The supply of services to another customer of the Supplier that are the same or similar to any of the Services
'Confidential Information'	CCS's Confidential Information or the Supplier's Confidential Information, which may include (but is not limited to): <ul style="list-style-type: none"> • any information that relates to the 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 • any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential')
'Contracting Bodies'	The Buyer and any other person as listed in the OJEU Contract Notice or Regulation 2 of the Public Contracts Regulations 2015, as amended from time to time, including CCS
'Control'	Control as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly
'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 government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
'Default'	<ul style="list-style-type: none"> • any breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) • any other default, act, omission, negligence or negligent statement of the Supplier, of its

	<p>Subcontractors or any Supplier Staff in connection with or in relation to the Framework Agreement or this Call-Off Contract</p> <p>Unless otherwise specified in this Call-Off Contract 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'	A tangible work product, professional service, outcome or related material or item that is to be achieved or delivered to the Buyer by the Supplier as part of the Services as defined in the Order Form and all subsequent Statement of Work
'Digital Marketplace'	The government marketplace where Services will be bought (https://www.digitalmarketplace.service.gov.uk/)
'Employment Regulations'	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time
'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 the Call-Off Contract
'Extension Period'	The period (expressed in Working Days) that the initial Call-Off Contract term is extended by following notice given by the Buyer to the Supplier in accordance with Clause 1.4, such period not to exceed the number of whole days that represent 25% of the initial Call-Off Contract period.
'FoIA'	The Freedom of Information Act 2000 and any subordinate legislation made under the Act occasionally together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation
'Framework Agreement'	The Framework Agreement between CCS and the Supplier for the provision of the Services dated [x]
'Further'	The Further Competition procedure as described in

Competition'	Section 3 (how Services will be bought) of the Framework Agreement.
'Good Industry Practice'	Standards and procedures conforming to the Law and the application of skill, care and foresight which would be expected from a person or body who has previously been engaged in a similar type of undertaking under similar circumstances. The person or body must adhere to the technology code of practice (https://www.gov.uk/service-manual/technology/code-of-practice.html) and the government service design manual (https://www.gov.uk/service-manual)
'Group'	A company plus any subsidiary or holding company. 'Holding company' and 'Subsidiary' are defined in section 1159 of the Companies Act 2006
'Group of Economic Operators'	A partnership or consortium not (yet) operating through a separate legal entity.
'Holding Company'	As described in section 1159 and Schedule 6 of the Companies Act 2006
'Information'	As described under section 84 of the Freedom of Information Act 2000, as amended from time to time
'Insolvency Event'	may 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'	means: <p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, service marks, logos, database rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, design rights (whether registerable or otherwise), Know-How, trade secrets and moral rights and other similar rights or obligations whether registerable or not;</p> <p>b) 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; and</p> <p>c) all other rights whether registerable or not having equivalent or similar effect in any country or jurisdiction (including but not limited to the United Kingdom) and the right to sue for passing off.</p>
'Key Staff'	Means the Supplier Staff named in the SOW as such
'KPI Target'	The acceptable performance level for a key

	performance indicator (KPI)
'Law'	Any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body
'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'	A subdivision of the Services which are the subject of this procurement as described in the OJEU Contract Notice
'Malicious Software'	Any software program or code intended to destroy, or cause any undesired effects. It could be introduced wilfully, negligently or without the Supplier having knowledge of its existence.
'Management Charge'	The sum paid by the Supplier to CCS being an amount of 1.0% 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 termination of any Call-Off Contract
'Management Information'	The Management Information (MI) specified in section 6 of the Framework Agreement
'Management Information (MI) Failure'	If any of the below instances occur, CCS may treat this as an 'MI Failure': <ul style="list-style-type: none"> ● there are omissions or errors in the Supplier's submission ● the Supplier uses the wrong template ● the Supplier's report is late ● the Supplier fails to submit a report
'Material Breach' (Framework Agreement)	A breach by the Supplier of the following Clauses in the Framework Agreement: <ul style="list-style-type: none"> ● Subcontracting ● Non-Discrimination ● Conflicts of Interest and Ethical Walls ● Warranties and Representations ● Provision of Management Information ● Management Charge ● Prevention of Bribery and Corruption ● Safeguarding against Fraud