



Crown  
Commercial  
Service

## Call-Off Contract – Lot 4 Only **v4**

Dated: **XX/XX/XXXX**

Framework Reference: RM6123

**[CLIENT NAME]**

and

**[AGENCY]**

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## Call-Off Contract - Call-Off Terms

This Call-Off Contract is made on the [ ] day of [ ] 201[ ]

- (1) The [insert name of Council / Government entity] with offices at [insert address] (“the **Client**”); and
- (2) [LICENSEE] (“the **Agency**”),

Both the Client and the Agency can be referred to as a “**Party**” or together the “**Parties**”.

## INTRODUCTION

- (1) The Client is the proprietor of [insert address] (“the **Client Site**”), of which the Approved Site (as defined below) forms part.
- (2) The Agency is an out-of-home advertising company.
- (3) In consideration of the Agency agreeing to pay the Client and to comply with its other obligations as set out in this Call-Off Contract, the Client agrees to grant a licence to the Agency to install and display Advertising in Displays (as defined below) [within OR at] the Approved Site upon the terms and conditions set out herein.
- (4) The Parties agree that the Services as laid out in the Brief shall be supplied and displayed in accordance with the terms of the Framework Agreement and this Call-Off Contract.

## IT IS AGREED:

### 1 APPOINTMENT

- 1.1 These Call-Off Terms, which form part of the Call-Off Contract, are to be read with the Letter of the Appointment and any documents referred to within it.
- 1.2 Throughout the Term of this Call-Off Contract, the Agency will install and operate media Displays in accordance with the following (collectively, the “**Service Description**”):
  - 1.2.1 [ General Specification (as set out in Appendix [X] to this Call-Off Contract;
  - 1.2.2 Lot 4 (as set out in Appendix [X] to this Call-Off Contract; and
  - 1.2.3 any other specifications or terms describing the Deliverables as agreed in the Letter of Appointment.
- 1.3 Where the Service Description would result in:
  - 1.3.1 a variation of the Services procured under this Call-Off Contract;
  - 1.3.2 an increase in the Fees agreed under this Call-Off Contract; or

1.3.3 a change in the economic balance between the Parties to the detriment of the Client that is not provided for in this Call-Off Contract, the relevant term(s) will be dealt with as a proposed Variation to this Call-Off Contract in accordance with the Variation procedure set out in Clause 7.1.

1.4 At the Effective Date the Agency acknowledges that:

1.4.1 the Client has delivered or made available to the Agency all of the information and documents that the Agency considers necessary or relevant for the performance of its obligations under this Call-Off Contract;

1.4.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the due diligence information received by it;

1.4.3 it has raised all relevant due diligence questions with the Client before the Effective Date;

1.4.4 it has undertaken all necessary due diligence and has entered into this Call-Off Contract in reliance on its own due diligence alone; and

1.4.5 it shall not be excused from the performance of any of its obligations under this Call-Off Contract on the grounds of, nor shall the Agency be entitled to recover any additional costs or charges, arising as a result of any:

(a) misinterpretation of the requirements of the Client in the Letter of Appointment or elsewhere in this Call-Off Contract;

(b) failure by the Agency to satisfy itself as to the accuracy and/or adequacy of the due diligence information received by it; and/or

(c) failure by the Agency to undertake its own due diligence.

## **2 PRINCIPLES**

The following Principles apply to all Services and provide a clear indication of the standards to which the Agency will be expected to adhere in providing the Services under the Framework Agreement.

### **2.1 Transparency**

The Agency will provide completely transparent services to the Client, and will be proactive in safeguarding that transparency. To achieve this, the Agency must:

2.1.1 ensure all revenue is returned to the Client in accordance with the Call-Off Contract.

2.1.2 make all documentation produced by the Agency in relation to the Services under the Call-Off Contract, to include invoices and contracts, available to:

- (a) the Client;
- (b) the Client's appointed representative named in the **Letter of Appointment**;
- (c) CCS; and
- (d) appointed internal and external auditors.

Such documents will be securely stored and shared without redaction by the recipient.

2.1.3 The Agency will promptly disclose to the Client all third party interests in any investment or recommendations put forward by the Agency.

2.1.4 Provide an annual report on key advertising partners on the organisations assets.

### **3 TERM**

3.1 This Call-Off Contract shall commence on the Commencement Date and unless terminated earlier in accordance with clause 24, shall continue for the Term.

### **4 GRANT OF RIGHTS**

4.1 To enable the Agency to provide the Services, the Client grants to the Agent the right during the Term, to:

- 4.1.1 display Advertising at the Approved Site;
- 4.1.2 manage and promote the sale to third parties of the right to display Advertising at the Approved Sites;
- 4.1.3 install and operate Displays at Approved Sites, and
- 4.1.4 undertake Approved Activities subject to the approval of the Client on a case by case basis and subject to operational or safety conditions that the Client impose.

in accordance with, and subject to, the terms of this Call-Off Contract.

4.2 For the avoidance of doubt, no exclusive rights are granted to the Agency under this Agreement in relation to:

- 4.2.1 the display of any advertising material at sites other than Approved Sites;
- 4.2.2 the undertaking of any other activity except to provide the Services described in the Service Description or otherwise as agreed between the Parties.

### **5 SCOPE AND DELIVERABLES**

5.1 The Agency shall provide to the Client during the Term the Services as described in the Service Description.

## 5.2 RIGHTS OF THE AGENCY

5.3 Subject to clause 9.6 (Compliance), the Agency:

5.3.1 is hereby granted exclusive rights during the Term to install Displays at the Approved Site;

5.3.2 may sell and display advertising on the Displays; and

5.3.3 may install additional Displays in the future on terms and conditions mutually agreed with the Client in writing.

## 6 AGENCY: OTHER APPOINTMENTS

6.1 Adverse public perception could have a detrimental impact on the Client's desired outcomes for the Service. To minimise this risk, the Agency must not, without the Client's written consent, provide services to a third party during the Term of this Call-Off Contract where the provision of such services (in the reasonable opinion of the Client):

6.1.1 has the potential to adversely affect the Client's desired outcome of the Service or diminish the trust that the public places in the Client; or

6.1.2 is likely to cause embarrassment to the Client or bring the Client into disrepute.

6.2 The only exception to this is if the Agency provides communication services to an existing client, which the Client had been informed about before entering into this Call-Off Contract.

6.3 If the Agency becomes aware of a breach, or potential breach, of its obligations under Clause 6.1, the Agency must notify the Client immediately, providing full details of the nature of the breach and the likely impact on any Services.

6.4 If the Agency breaches Clause 6.1, the Client may terminate this Call-Off Contract, a Service, or any part of a Service with immediate effect in accordance with Clause 24.3.

## 7 RISK IN RELATION TO THE DISPLAYS

7.1 The Displays shall remain the property of the Agency and the Agency will be responsible for any damage caused to the Displays as a result of works carried out associated with the installation, repair, maintenance, upgrading or removal of the Displays or any damage caused to the Displays as a result of the act or default or negligence of the Agency or its employees, contractors or agents. The Client will be responsible for all other damage howsoever caused to the Displays.

## 8 OBLIGATIONS OF THE AGENCY

The Agency undertakes in favour of the Client for the Term and thereafter where the obligation remains to be performed or fully discharged as follows:

**8.1 Payment**

to pay the Charges to the Client in accordance with the provisions of clause 13 (Charges and Invoicing) and without set-off or counter-charge.

**8.2 All Displays (including Digital Faces if applicable)**

8.2.1 to pay the costs associated with the procurement and installation of the Displays;

8.2.2 to comply with the Client's reasonable requirements notified to the Agency after the signature of this Call-Off Contract in respect of the installation of the Displays;

8.2.3 throughout the Term to ensure that the Displays are maintained in good and substantial repair;

8.2.4 in conjunction with clause 8.2.5 at the expiry or earlier termination of the Term, to promptly and at its own cost remove the Displays;

8.2.5 the Agency will at its own cost promptly repair any damage caused to the Client Site as a result of the removal of existing advertising units or the installation, repair, maintenance or removal of the Displays to the satisfaction of the Client, acting reasonably; and

8.2.6 the Agency will pay any and all applicable business rates and/or other taxes levied in respect of the Displays.

**8.3 Digital Faces only (if applicable)**

8.3.1 to pay the costs associated with the procurement and installation of the Digital Faces and the initial charges associated with connecting the Digital Faces to an electricity supply and to a data supply; and

8.3.2 where reasonably necessary, to upgrade the Digital Faces.

**8.4 Repair and new equipment**

The Agency will keep each Display in good repair and working order and will upgrade, refresh and refurbish the Displays at its own cost such that the faces remain fit for purpose.

**8.5 Maximising Turnover**

The Agency will use all reasonable endeavours to:

8.5.1 maximise revenues from advertising through the Displays for the mutual benefit of the Client and the Agency; and

8.5.2 ensure (subject to clause 8.7.1) that advertisements are displayed through the Displays at all times.

## 8.6 **Compliance**

The Agency will comply with:

- 8.6.1 all applicable laws and regulations in the performance of its obligations under this Call-Off Contract;
- 8.6.2 all reasonable regulations and instructions as the Client may from time to time make or give in connection with the operation, management, administration and/or security within the Client site; and
- 8.6.3 all safety regulations and procedures issued by the Client and to procure that such procedures are complied with by all employees and sub-contractors of the Agency attending the Client site.

## 8.7 **Standards to be maintained**

The Agency will not permit any advertising on the Displays which:

- 8.7.1 is offensive, immoral, illegal or which violates any intellectual property rights;
- 8.7.2 contravenes any statutory or regulatory provisions or relevant codes of practice in force from time to time (including without limitation the rules of the Advertising Standards Authority);
- 8.7.3 advertises tobacco, political parties, religion or any other matter which the Client reasonably deems to be incompatible with the Client's obligations and goodwill and/or any branding of the Client's tenants at the Client Site.

- 8.8 The Agency shall procure that the condition of the advertising estate, Structures and Displays makes a positive contribution to the image of the Client Site and that the advertisement presentation will be at a high standard in the opinion of the Client, acting reasonably.

- 8.9 The Agency shall promptly acknowledge any and all complaints by either the Client or guests to the Client Site and agrees that it shall deal with and rectify the issues behind these complaints as soon as reasonably practicable after they are communicated to the Agency.

## 8.10 **Alterations and additions**

Not to alter or add to the Structures (with the exception of installation and removal of the Displays) without the Client's prior written consent.

## 8.11 **Indemnity**

- 8.11.1 The Agency shall indemnify the Client against all direct third party claims in the event that the Agency is in breach of this Agreement or performed any obligations negligently. If any third party makes a claim, or notifies an intention to make a claim, against the Client

which may reasonably be considered likely to give rise to a liability under this indemnity (a “**Claim**”), the Client shall:

- (a) as soon as reasonably practicable, give written notice of the Claim to the Agency, specifying the nature of the Claim in reasonable detail;
- (b) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Agency;
- (c) give the Agency and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power and control of the Client, so as to enable the Agency and its professional advisers to examine them and to take copies (at the Agency's expense) for the purpose of assessing the Claim; and
- (d) subject to the Agency providing security to the Client against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Agency may reasonably request to avoid dispute, compromise or defend the Claim.

8.11.2 If a payment due from the Agency under this clause is subject to tax (whether by way of direct assessment or withholding at its source), the Client shall be entitled to receive from the Agency such amounts as shall ensure that the net receipt, after tax, to the Client in respect of the payment is the same as it would have been were the payment not subject to tax.

8.11.3 Nothing in this clause shall restrict or limit the Client's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

## **9 OBLIGATIONS OF THE CLIENT**

### **Access to Client Site**

9.1 Subject to the terms of this Call-Off Contract or as otherwise agreed between the Parties in the Service Description, the Client permits the Agency Staff to temporarily enter such parts of the Client Sites as are designated by the Client from time to time in order to access the Approved Site for the sole purpose of:

- 9.1.1 carrying out any maintenance or repair work (including installing, replacing, protecting, maintaining, repairing and/or removing any Displays);

- 9.1.2 inserting or changing advertising displayed on a Display at the Approved Site; and
  - 9.1.3 Performing any other obligations of Agency under this Call-Off Contract which require access to the applicable Approved Site(s).
- 9.2 Agency shall be entitled to exercise its rights under clause 9.1 during:
  - 9.2.1 any times at which the applicable Client Site(s) are open for business; and
  - 9.2.2 such other times as the Client may agree on reasonable request from Agency, such agreement not to be unreasonably withheld or delayed.
- 9.3 Agency shall promptly and at the Client's option:
  - 9.3.1 make good and repair any damage to any Display or any other part of a Client Site caused by any act or omission of the Agency Staff or any Display; or
  - 9.3.2 reimburse to the Client on demand any costs and expenses incurred by the Client in repairing, or procuring repairs to, any such damage.
- 9.4 Agency may only bring onto to a Client Site such vehicles, goods, equipment and supplies as may be designated by the Client from time to time.

### **General Client obligations**

- 9.5 Subject to clause 8.2 (All Displays) and clause 8.3 (Digital Faces), the Client undertakes in favour of the Agency for the Term as follows:
  - 9.5.1 to provide and enable suitable electricity and data connectivity to each Digital Face;
  - 9.5.2 to pay all costs attributable to electricity and data in respect of the Structures and the Displays save for the costs of connecting a Display to an electricity supply and data supply;
  - 9.5.3 to ensure that the Agency benefits from exclusive portrait format digital advertising with a display area of up to five (5) square metres per structure;
  - 9.5.4 that it will not place or permit the placement of any obstruction within five (5) metres of each Display. In the event that any Display is obstructed for over twenty four (24) hours, the Agency has the right to take the Display out of charge and will not be liable to the Client for payment of [X] during the period of obstruction; and
  - 9.5.5 to procure that the Displays are cleaned daily in accordance with the Cleaning Procedure.

## **10 RESERVED AND EXCLUDED RIGHTS**

- 10.1 The rights granted by the Client to Agency under this Call-Off Contract shall at all times be subject to the Client's obligations, and any third party rights and the Relevant Standards.
- 10.2 Nothing in this Agreement shall remove, limit, prevent or restrict any right, freedom or power of the Client or CCS (or of any other person who has the applicable right, freedom or power as against the Client) (subject always to an appropriate adjustment to any payments due to the Client) to:
- 10.2.1 close or dispose of the whole or part of any Client Site;
  - 10.2.2 demolish, develop, redevelop, build on, refurbish, renew, replace, alter, modify, or execute any other works at, the whole or part of any Client Site;
  - 10.2.3 undertake any action connected with preserving or maintaining the security or safety of the whole or part of any Client Site or any person using a Client Site;
  - 10.2.4 in an emergency, undertake any action for the purpose of preserving or protecting life or property; or
  - 10.2.5 undertake any action required to be done or pursuant to any of the Relevant Standards.
- 10.3 The Client shall, in its reasonable discretion, be entitled itself or to require Agency to disturb, remove or obstruct any Display if, in the reasonable discretion of the Client, this is necessary or desirable, although the Client shall use reasonable endeavours to:
- 10.3.1 give reasonable prior notice to Agency of any requirement to disturb, remove or obstruct an Advertising Display Structure for a material period of time; and
  - 10.3.2 make available alternative Advertising space at the same or a different Client Site.
- 10.4 All rights granted under this Call-Off Contract are personal to the Agency and are contractual licences only. Nothing in this Agreement shall:
- 10.4.1 create any lease over;
  - 10.4.2 give Agency any right to occupy; or
  - 10.4.3 grant any exclusive possession, easement, right of way or any other property interest over or in relation to, any part of a Client Site.
- 10.5 Nothing in this Agreement shall limit or restrict the rights of the Client or its tenants to undertake or permit the following:
- 10.5.1 any advertising undertaken by or permitted by the Client using a Client Site, or any connecting transport operator, in advertising or promoting their own facilities, services or destinations;

- 10.5.2 any advertising required to be displayed by any regulatory regime; or
- 10.5.3 any other advertising within or upon or immediately connected with the Client Site including any tenancy unit, trader, telephone equipment, photo-booth, vending machine or similar equipment or facility so far as it relates to goods, services and facilities available at the Client Site.

## 11 VARIATIONS AND CANCELLATIONS

- 11.1 Either Party may request a change to this Call-Off Contract or the Service Description. Any requested change must not amount to a material change of this Call-Off Contract (within the meaning of the Regulations and the Law). A change, once implemented, is called a "**Variation**".
- 11.2 A Party may request a Variation by completing, signing and sending the Variation Form to the other Party. The requesting Party must give sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred by it.
- 11.3 Subject to Clause 11.5, the receiving Party must respond to the request within the time limits specified in the Variation Form. The time limits shall be reasonable and ultimately at the discretion of the Client, having regard to the nature of the Services and the proposed Variation.
- 11.4 If the Agency requests a Variation, the Client can ask the Agency to carry out an assessment of the effects of the proposed Variation (an **Impact Assessment**). The Impact Assessment must consider:
  - 11.4.1 the impact of the proposed Variation on the Services and the Agency's ability to meet its other obligations under this Call-Off Contract (including in relation to the Service Description);
  - 11.4.2 the initial cost of implementing the proposed Variation and any ongoing costs post-implementation;
  - 11.4.3 any increase or decrease in the Charges, any alteration in the resources or expenditure required by either Party and any alteration to the working practices of either Party;
  - 11.4.4 a timetable for the implementation, together with any proposals for the testing of the Variation; and
  - 11.4.5 any other information the Client reasonably asks for in response to the Variation request.
- 11.5 The Parties may agree to adjust the time limits specified in the Variation Form so the Impact Assessment can be carried out.
- 11.6 If the Parties agree the Variation, the Agency will implement it, and be bound by it as if it was part of this Call-Off Contract.

- 11.7 Until a Variation is agreed, the Agency must continue to perform and be paid for the Services as originally agreed, unless otherwise notified by the Client.
- 11.8 Subject to Clauses 11.9 and 24.1 the Client can ask the Agency to suspend or cancel any Service, or any part of a Service, including any plans, schedules or work in progress at any time, regardless of whether a Variation has been requested. Any request shall be made by an Authorised Client Approver in writing. The Agency will take all reasonable steps to comply with any such request.
- 11.9 In the event of any cancellation under Clause 11.8, the Client will pay the Agency all Charges reasonably and properly incurred by the Agency (including charges imposed by Media Owners or third party vendors from the cancellation) during the Service Notice Period, provided that the Agency uses all reasonable endeavours to mitigate any charges or expenses.

## **12 APPROVALS AND AUTHORITY**

- 12.1 For the purposes of this Call-Off Contract, any reference to Client Approval means written approval in one of the following ways:
- 12.1.1 the Client issuing a purchase order bearing the signature of an Authorised Client Approver; or
  - 12.1.2 e-mail from the individual business e-mail address of an Authorised Client Approver; or
  - 12.1.3 the signature of an Authorised Client Approver on the Agency's documentation.
- 12.2 Any reference to Agency Approval means written approval in one of the following ways:
- 12.2.1 e-mail from the individual business e-mail address of an Authorised Agency Approver; or
  - 12.2.2 the signature of an Authorised Agency Approver on the Client's documentation.
- 12.3 The Agency will seek the Client's prior Approval of any estimates or quotations for any costs to be paid by the Client that are not agreed in the Service Description.
- 12.4 If the Client does not approve of any matter requiring Approval, it must notify the Agency of its reasons for disapproval within 14 days of the Agency's request.
- 12.5 If the Client delays approving or notifying the Agency as to its disapproval, the Agency will not be liable for any resulting delays or adverse impact caused to the delivery of the Project.

## **13 CHARGES AND INVOICING**

- 13.1 The Client will invoice the Agency in respect of Charges (including all Fees and Third Party Costs).
- 13.2 All amounts stated are exclusive of VAT which will be charged at the prevailing rate. The Agency shall pay to the Client a sum equal to the VAT chargeable in respect of the Services where applicable. The Agency shall comply with all applicable HMRC and tax guidance and rules in respect of the payment or otherwise of VAT (or applicable sales taxes).
- 13.3 The Agency will pay the Client the invoiced amounts no later than 30 days from the date of the invoice.
- 13.4 If the Agency does not pay an undisputed amount properly invoiced by the due date, the Client has the right to charge interest on the overdue amount at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 13.5 If there is a dispute between the Parties about an amount invoiced, the Agency will pay the undisputed amount by the due date.

## **14 REVENUE SHARE**

- 14.1 The Agency shall pay to the Client the greater of a minimum guaranteed sum of £[AMOUNT] per year or [PERCENTAGE%] of Net Revenue. The minimum guaranteed sum shall be increased each year by [3%] during the term of the Call-Off Contract.
- 14.2 The minimum guaranteed sum shall be payable quarterly with any excess revenue share payment due paid at the end of each contract year.
- 14.3 By no later than 10 Business Days after the end of each calendar month, the Agency shall send to the Client a statement (in the format reasonably requested by the Client) specifying:
- 14.3.1 the amount of the Net Revenue for that month (including a detailed breakdown of the Net Revenue, including all deductions); and
  - 14.3.2 the amount of the Net Revenue Share payable to the Client under clause 15.1 in relation to that month.
- 14.4 The Agency shall pay all amounts due to the Client under clause 15.1 in relation to each calendar month in cleared funds into the bank account nominated by the Client within 70 days after the end of that month. The parties agree to make any appropriate annual adjustment at the end of each year.
- 14.5 The Agency shall not, without the prior written approval of the Client, permit any person who is connected in any way with the Agency, to have the benefit of the right to display Advertising under this Call-Off Contract, except on arm's length commercial terms. If the Client approves any arrangement other than on arm's length commercial terms, the Net Revenue for the applicable calendar month(s) shall be increased by an amount agreed between the Client and the Agency to reflect the terms agreed with such person.

- 14.6 The Agency shall at all times during the Term use all reasonable endeavours to maximise the Net Revenue Share payable to the Client under the Call-Off Contract (in a manner consistent with the Agency's obligations under the Call-Off Contract), including by:
- 14.6.1 procuring Advertising for the Approved Sites;
  - 14.6.2 developing the Approved Sites and Advertising Displays so as to maximise the Net Revenue generated; and
  - 14.6.3 minimising any deductions from the Net Revenue, including applicable commissions, payments and credits payable to third parties.

## **15 THIRD PARTY AGENCIES: ASSIGNMENT AND SUB-CONTRACTING**

### **Assignment and Sub-Contracting**

- 15.1 This Call-Off Contract, and all rights granted to the Agency under it, are personal to the Agency, and the Agency may not assign, transfer, sub-licence, declare a trust of, mortgage, charge or deal in any other manner with this Call-Off Contract, or with any of its rights or obligations under it, without the prior written consent of the Client. If the Agency purports to take any such action without the prior written consent of the Client, the Client may (without prejudice to its other rights or remedies) immediately terminate this Call-Off Contract by giving written notice to the Agency.
- 15.2 The Agency shall not sub-contract any of its obligations under this Call-Off Contract without the prior written consent of the Client.
- 15.3 Notwithstanding any consent given by the Client under clause 15.2, the Agency:
- 15.3.1 will not be relieved of any of its liabilities or obligations under this Call-Off Contract as a result of entering into any sub-contracts of its obligations;
  - 15.3.2 will be liable to the Client for the acts, omissions, defaults or negligence of each sub-contractor and their personnel as fully as if they were the acts, omissions, defaults or negligence of the Agency; and
  - 15.3.3 acknowledges that a sub-contractor's failure to perform does not excuse its failure to perform any part of this Call-Off Contract in any way whatsoever.

## **16 CONFIDENTIALITY, TRANSPARENCY AND FREEDOM OF INFORMATION**

### **CONFIDENTIALITY**

- 16.1 For the purposes of the Clauses below, a Party which receives or obtains, directly or indirectly, Confidential Information is a "**Recipient**". A Party which discloses or makes available Confidential Information is a "**Disclosing Party**".

- 16.2 Each Party must:
- 16.2.1 treat all Confidential Information it receives confidential and secure;
  - 16.2.2 except as expressly authorised in the Call-Off Contract, not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent;
  - 16.2.3 immediately notify the Disclosing Party if it suspects any unauthorised access, copying, use or disclosure of the Confidential Information.
- 16.3 In spite of Clause 16.2, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:
- 16.3.1 where disclosure is required by applicable Law or by a court with the relevant jurisdiction if, to the extent not prohibited by Law, the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
  - 16.3.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
  - 16.3.3 if the information was given to it by a third party without obligation of confidentiality;
  - 16.3.4 if the information was in the public domain at the time of the disclosure;
  - 16.3.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
  - 16.3.6 on a confidential basis, to its auditors;
  - 16.3.7 on a confidential basis, to its professional advisers on a need-to-know basis; or
  - 16.3.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 16.4 In spite of Clause 16.2, the Agency may disclose Confidential Information on a confidential basis to Agency Staff on a need-to-know basis to allow the Agency to meet its obligations under the Call-Off Contract. The Agency Staff must enter into a direct confidentiality agreement with the Client at its request.
- 16.5 In spite of Clause 16.2 CCS or the Client may disclose Confidential Information in any of the following cases:
- 16.5.1 on a confidential basis to the employees, agents, consultants and contractors of CCS or the Client;

- 16.5.2 on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any Client that CCS or the Client transfers or proposes to transfer all or any part of its business to;
  - 16.5.3 if CCS or the Client (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
  - 16.5.4 where requested by Parliament; or
  - 16.5.5 under Clauses 4.7 and 16.
- 16.6 For the purposes of Clauses 16.3 to 16.5 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or duty of confidentiality.
- 16.7 Transparency Information is not Confidential Information.
- 16.8 The Agency must not make any press announcement or publicise the Contracts or any part of them in any way, without the prior written consent of the Client and must take all reasonable steps to ensure that Agency Staff do not either.

## **TRANSPARENCY AND FREEDOM OF INFORMATION**

- 16.9 The Agency must tell the Client within 48 hours if it receives a Request For Information.
- 16.10 Within five (5) Working Days of the Client's request the Agency must give CCS and each Client full co-operation and information needed so the Client can:
- 16.10.1 publish the Transparency Information;
  - 16.10.2 comply with any Freedom of Information Act (FOIA) request; and/or
  - 16.10.3 comply with any Environmental Information Regulations (EIR) request.
- 16.11 The Client may talk to the Agency to help it decide whether to publish information under Clause 16. However, the extent, content and format of the disclosure is the Relevant Authority's decision in its absolute discretion.

## **17 AGENCY WARRANTIES**

- 17.1 The Agency warrants that:
- 17.1.1 it has full capacity and authority to enter into this Call-Off Contract and that by doing so it will not be in breach of any obligation to a third party; and
  - 17.1.2 the personnel who perform the Services are competent and suitable to do so.

- 17.2 The Agency hereby indemnifies the Client against any Losses incurred by the Client as a result of breach by the Agency of its warranty and undertaking in Clauses 17.1.

## **18 CLIENT WARRANTIES**

- 18.1 The Client warrants that it has full capacity and authority to enter into this Call-Off Contract and that by doing so it will not be in breach of any obligation to a third party:

## **19 LIABILITY**

- 19.1 Nothing in this Call-Off Contract will exclude or in any way limit either Party's liability for fraud, death or personal injury caused by its negligence.
- 19.2 The total aggregate liability of the Client to the Agency under or in relation to the Call-Off Contract, including liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including negligence) and breach of statutory duty, shall not, in relation to any event or series of connected events, exceed a sum equal to **[[five hundred thousand pounds (£200,000)] OR [500%]]** of the aggregate Net Revenue Share payable to the Client under clause 14.1 in relation to the three (3) calendar months immediately before the occurrence of the relevant event (or series of connected events).
- 19.3 Subject always to Clauses 19.1 and 19.4, the maximum amount the Agency can be liable for in respect of all Defaults shall in no event exceed:
- 19.3.1 in relation to any Defaults occurring from the Effective Date to the end of the first Contract Year, the lower of two million pounds (£2,000,000) or a sum equal to **125%** of the Charges paid or payable by the Agency for the first Contract Year; and
- 19.3.2 in relation to any Defaults occurring in each subsequent Contract Year that commences during the remainder of the Term, the lower of two million pounds (£2,000,000) or a sum equal to 125% of the Charges paid to the Client under this Call-Off Contract in the previous Contract Year.
- 19.4 Subject to Clause 19.1 and except for any claims arising under Clause 21.6, neither Party will be liable to the other in any situation for any:
- 19.4.1 loss of profits;
- 19.4.2 loss of goodwill or reputation;
- 19.4.3 loss of revenue;
- 19.4.4 loss of savings whether anticipated or otherwise; or
- 19.4.5 indirect or consequential loss or damage of any kind.

## **20 INSURANCE**

- 20.1 The Agency will hold insurance policies to the value sufficient to meet its liabilities in connection with this Call-Off Contract (including any specific insurance requirements as are set out in the Service Descriptions). The Agency will provide the Client with evidence that such insurance is in place at the Client's request.
- 20.2 The Agency will effect and maintain as a minimum:
- 20.2.1 public liability for all risks: £1,000,000 (one million pounds); and
- 20.2.2 any other policy or policies of insurance as stipulated in the Letter of Appointment to be agreed between the Client and the Agency.
- 20.3 If, for whatever reason, the Agency fails to comply with the provisions of this Clause 20, the Client may make alternative arrangements to protect its interests. If the Client does so, it may recover the premium and other costs of such arrangements as a debt due from the Agency.
- 20.4 Any insurance effected by the Agency will not relieve it of any liability under this Call-Off Contract. It is the Agency's responsibility to determine the amount of insurance cover that will be adequate to enable the Agency to satisfy any liability in relation to the performance of its obligations under this Call-Off Contract.
- 20.5 The Agency must ensure that the policies of insurance it holds pursuant to this Clause 20 are not cancelled, suspended or vitiated. The Agency will use all reasonable endeavours to notify the Client (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any circumstance whereby the relevant insurer could give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

## **21 INTELLECTUAL PROPERTY RIGHTS**

- 21.1 Except as specifically provided herein, each Party or its applicable licensors owns and retains all right, title and interest, worldwide, in any and all of its Intellectual Property Rights pre-existing before the effective date of the Call-Off Contract. Nothing in these Call-Off Terms is intended to bring effect to any transfer or licence to a Party's IPRs unless otherwise expressly stated.
- 21.2 The terms of and obligations imposed by this Clause 21 continue after the termination of this Call-Off Contract.
- 21.3 The Agency will indemnify the Client in full against all costs, expenses, damages and losses (whether direct or indirect in connection with any claim made against the Client for actual or alleged infringement of a third party's intellectual property rights in connection with the supply or use of the Displays and/or Services, if the claim is attributable to the acts or omission of the Agency or any of its Associates. This indemnity extends to any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Client.

- 21.4 If the Client receives any notice of any claim for which it appears that the Client is, or may become, entitled to indemnification 21.3 (a “**Claim**”), the Client shall give notice in writing to the Agency as soon as reasonably practicable and in any event within 10 Working Days of receipt of the same.
- 21.5 Subject to Clause 21.6, on the giving of a notice by the Client, where it appears that the Client is or may be entitled to indemnification from the Agency in respect of all (but not part only) of the liability arising out of the Claim, the Agency shall (subject to providing the Client with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the Claim in the name of the Client at the Agency’s own expense and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. If the Agency does elect to conduct the Claim, the Client shall give the Agency all reasonable cooperation, access and assistance for the purposes of such Claim, and the Client shall not make any admission which could be prejudicial to the defence or settlement of the Claim without the prior written consent of the Agency.
- 21.6 With respect to any Claim conducted by the Agency pursuant to Clause 21.5:
- 21.6.1 the Agency shall keep the Client fully informed and consult with it about material elements of the conduct of the Claim;
- 21.6.2 the Agency shall not bring the name of the Client into disrepute;
- 21.6.3 the Agency shall not pay or settle such Claim without the prior written consent of the Client, such consent not to be unreasonably withheld or delayed; and
- 21.6.4 the Agency shall conduct the Claim with all due diligence.
- 21.7 the Client shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Call-Off Contract if:
- 21.7.1 the Agency is not entitled to take conduct of the Claim in accordance with Clause 21.5;
- 21.7.2 the Agency fails to notify the Client in writing of its intention to take conduct of the relevant Claim within 10 Working Days of the notice from the Client or if the Agency notifies the Client in writing that it does not intend to take conduct of the Claim; or
- 21.7.3 the Agency fails to comply in any material respect with the provisions of Clause 21.6.
- 21.8 If the Agency pays to the Client an amount in respect of an indemnity and the Client subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the Claim, the Client shall forthwith repay to the Agency whichever is the lesser of:

- 21.8.1 an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the Client in recovering or obtaining the same; and
- 21.8.2 the amount paid to the Client by the Agency in respect of the Claim under the relevant indemnity.

## **22 AUDIT**

### **Records**

- 22.1 The rights and obligations set out in this clause 22 are without prejudice to the other rights and obligations set out under the Call-Off Contract or the Framework Agreement.

### **Records**

- 22.2 Without limiting its other obligations under the Call-Off Contract (including in particular its reporting obligations) the Agency shall, during the Term and for a minimum period of 6 years thereafter (or such longer period required by Law), maintain complete and accurate records in relation to the performance of the Call-Off Contract, including:
  - 22.2.1 details of all contracts which it concludes for the display of Advertising at Approved Sites, and the gross revenue receivable by the Agency under such contracts;
  - 22.2.2 records relating to the calculation of the Net Revenue, including:
    - (a) details of all gross revenue receivable by the Agency in relation to this Agreement;
    - (b) details of any commissions, payments and credits payable by the Agency in relation to this Call-Off Contract; and
    - (c) any other information needed to calculate the Net Revenue from time to time;
  - 22.2.3 records relating to all amounts payable to the Client under this Call-Off Contract;
  - 22.2.4 records relating to the residual value of all Displays;
  - 22.2.5 records relating to all other financial transactions relating to the Call-Off Contract.

### **Provision of financial information**

- 22.3 The Agency shall provide the following revenue information to the Client in relation to each calendar month by no later than 10 Business Days after the end of that month:

- 22.3.1 a statement of the monthly Net Revenue, broken down as reasonably required by the Client;
- 22.3.2 a statement of the cumulative Net Revenue for the then current Year, broken down in the same manner, and
- 22.3.3 a comparison of the monthly and cumulative Net Revenue amounts with any applicable forecasts.

#### **Annual audit**

- 22.4 The Agency shall procure that, within 3 months after the end of each Year:
  - 22.4.1 an independent audit is conducted (at the Agency's cost) by an auditor approved by the Client to verify that all payments made by The Agency to the Client in relation to that Year are accurate and in accordance with this Agreement; and
  - 22.4.2 the applicable auditor prepares a reconciliation statement giving full details of the Net Revenue for each calendar month during the applicable Year (including a detailed breakdown of the Net Revenue, including all deductions) and all amounts payable to the Client in accordance with this Agreement.

#### **Audit by the Client**

- 22.5 Upon reasonable notice from the Client, the Agency shall provide the Client and/or its third party representatives with reasonable access to the records referred to in clauses 23.1 to 23.5 (inclusive) and any other records or other documentation relating to this Agreement.
- 22.6 The purpose of audits under this Clause 23 include verifying the Agency's compliance with its obligations under the Call-Off Contract, including verifying the accuracy of all payments made to the client under the Call-Off Contract.
- 22.7 The Agency shall fully co-operate with (and shall ensure that the Agency Staff fully co-operate with) the client and, where applicable, the Client's audit representatives, in relation to any audits performed under the Call-Off Contract, including by providing any assistance or information reasonably required by the Client or such representatives.
- 22.8 Without prejudice to the Client's other rights or remedies, if any audit reveals:
  - 22.8.1 any underpayment in relation to any amount due to the Client under the Call-Off Contract, the Agency shall:
    - (a) promptly pay to the Client the amount of the underpayment plus interest at a rate of 2% above the base rate of Barclays Bank plc from time to time, which shall accrue on a daily basis from the date on which the underpayment ought to have been originally paid to the Client until the date of payment, whether before or after judgement; and

- (b) bear the entire cost of the audit exercise, including all fees incurred by the Client's external audit representatives;
- 22.8.2 any other failure by the Agency to comply with its obligations under this the Call-Off Contract, the Agency shall promptly and at its own cost rectify such failure.

## **23 ADVERTISING STANDARDS**

- 23.1 Both parties acknowledge that they have a responsibility to comply with all relevant Advertising Regulations.
- 23.2 The parties will co-operate with each other to ensure satisfaction of the requirements of any applicable Advertising Regulations.

## **24 TERMINATION**

### ***Client Rights to Terminate***

- 24.1 The Client may, by giving not less than 3 months' written notice to the Agency, terminate this Call-Off Contract without cause.
- 24.2 The Client may terminate or cancel a Service at any time subject to Clause 7.1 and payment of all Charges specifically set out at Clause 7.1.
- 24.3 The Client may terminate this Call-Off Contract or a Service by written notice to the Agency with immediate effect if the Agency:
  - 24.3.1 commits a material Default which cannot be remedied;
  - 24.3.2 repeatedly breaches any of the terms and conditions of this Call-Off Contract in such a manner as to indicate that it does not have the intention or ability to adhere to the terms and conditions;
  - 24.3.3 commits a Default, including a material Default, which in the opinion of the Client is remediable but has not remedied such Default to the satisfaction of the Client within 30 days of receiving notice specifying the Default and requiring it to be remedied or in accordance with the Rectification Plan Process;
  - 24.3.4 breaches any of the provisions of Clauses 6.1 (Agency: Other Appointments), 12 (Approvals and Authority), 16 (Confidentiality, Transparency and Freedom of Information), and 32 (Prevention of Fraud and Bribery);
  - 24.3.5 is subject to an Insolvency Event;
  - 24.3.6 fails to comply with legal obligations; or
  - 24.3.7 if at any time during the Term an Occasion of Tax Non-Compliance (as defined in the Framework Agreement) occurs and the Agency

fails to comply with Clause 8.8 of the Framework Agreement. Such failure shall constitute a material Default.

- 24.4 The Agency must notify the Client as soon as practicable of any Change of Control or any potential Change of Control.
- 24.5 The Client may terminate this Call-Off Contract with immediate effect by written notice to the Agency within 6 months of:
- 24.5.1 being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or
  - 24.5.2 where no notification has been made, the date that the Client becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,
- but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.
- 24.6 The Client may terminate this Call-Off Contract or a Service by giving the Agency at least 14 days' notice if:
- 24.6.1 the Framework Agreement is terminated for any reason;
  - 24.6.2 the Parties fail to agree a Variation under Clause 7.1; or
  - 24.6.3 the Agency fails to implement an agreed Variation.

## **25 CONSEQUENCES OF TERMINATION**

- 25.1 If this Call-Off Contract is terminated, all ongoing and outstanding Projects (and any Briefs in respect of those Projects) will also terminate on the same date as this Call-Off Contract unless otherwise mutually agreed in writing.
- 25.2 Upon termination of this Call-Off Contract or a Service for any reason:
- 25.2.1 the Expiry Date or New Expiry Date shall be the date this Call-Off Contract terminates;
  - 25.2.2 the Client will pay the Agency all Charges falling properly due and payable to the Agency prior to the date of termination (in accordance with Clause 7.1 where relevant);
  - 25.2.3 each Party will, following a reasonable request by the other Party, promptly deliver or dispose of any and all materials and property belonging or relating to the other Party (including all Confidential Information) and all copies of the same, which are then in its possession, custody or control and which relate to all affected Projects. On the request of the other Party, each will certify in writing that the same has been done; and
  - 25.2.4 the Agency and its staff will vacate any premises of the Client occupied for any purpose of providing the Services.

- 25.3 Any provisions of this Call-Off Contract which are to continue after termination will remain in full force and effect after this Call-Off Contract is terminated. Such provisions may include (but are not limited to):
- 25.3.1 Clause 16 (Confidentiality);
  - 25.3.2 Clause 17 (Agency warranties);
  - 25.3.3 Clause 18 (Client warranties);
  - 25.3.4 Clause 19 (Liability);
  - 25.3.5 Clause 20 (Insurance);
  - 25.3.6 Clause 21 (Intellectual Property Rights);
  - 25.3.7 Clause 22 (Audit);
  - 25.3.8 Clause 25 (Consequences of Termination);
  - 25.3.9 Clause 27 (Notices);
  - 25.3.10 Clause 33 (General); and
  - 25.3.11 Clause 39 (Governing law and jurisdiction).

## 26 FORCE MAJEURE

- 26.1 Neither Party will have any liability under or be in breach of this Call-Off Contract for any delays or failures in performance which result from circumstances beyond the reasonable control of the Party seeking to claim relief (a "**Force Majeure Event**" and the "**Affected Party**").
- 26.2 Following a Force Majeure Event, the Affected Party must promptly notify the other Party in writing, both when the event causes a delay or failure in performance, and when the event has ended. If a Force Majeure Event continues for 60 consecutive Working Days, the Party not affected by the Force Majeure Event can suspend or terminate this Call-Off Contract. They must do so in writing, and state the date from which the suspension or termination will come into effect.
- 26.3 If a Force Majeure Event occurs, the Parties will use all reasonable endeavours to prevent and mitigate the impact, and continue to perform their obligations under this Call-Off Contract as far as is possible. Where the Agency is the Affected Party, it will take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

## 27 NOTICES

- 27.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they are delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An

email is effective at 9:00am on the first Working Day after sending unless an error message is received.

27.2 The address and email address of each Party will be:

Agency: [Please complete]

For the attention of: [Please complete]

Email: [Please complete]

Client: [Please complete]

27.3 For the purpose of this Clause and calculating receipt all references to time are to local time in the place of receipt.

## **28 THIRD PARTY RIGHTS**

28.1 Except for CCS and the persons that the provisions of this Call-Off Contract confer benefits on, no third parties may use the Contracts (Rights of Third Parties) Act 1999 (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

## **29 DATA PROTECTION, SECURITY AND PUBLICITY**

29.1 In addition to its general security obligations under this Call-Off Contract, the Agency shall comply with any security requirements specifically set out in the Brief.

### **Data Protection**

29.2 The parties acknowledge that for the purposes of the Data Protection Legislation, both parties are independent Controllers.

29.3 This clause sets out the framework for the sharing of personal data between the parties as Controllers. Each party acknowledges that one party (referred to in this clause as the "**Data Discloser**") may disclose to the other party Shared Personal Data collected by the Data Discloser for the purposes of this Call-Off Contract.

29.4 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation, and any material breach of the Data Protection Legislation by the Agency shall, if not remedied within 30 days of written notice from the Client, give grounds to the Client to terminate this Call-Off Contract with immediate effect.

29.5 Without prejudice to the Agency's other obligations pertaining to Client Data under this clause 29, each party shall:

29.5.1 ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the purposes of this Call-Off Contract;

- 29.5.2 give full information to any data subject whose personal data may be processed under this Call-Off Contract of the nature of such processing. This includes giving notice that, on the termination of this Call-Off Contract, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
  - 29.5.3 process the Shared Personal Data only for the purposes of this Call-Off Contract;
  - 29.5.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
  - 29.5.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this Call-Off Contract;
  - 29.5.6 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
  - 29.5.7 not transfer any personal data received from the Data Discloser outside the UK unless the transferor ensures that (i) the transfer is to a country approved under the applicable Data Protection Laws as providing adequate protection; or (ii) there are appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Laws; or (iii) the transferor otherwise complies with its obligations under the applicable Data Protection Laws by providing an adequate level of protection to any personal data that is transferred; or (iv) one of the derogations for specific situations in the applicable Data Protection Laws applies to the transfer.
- 29.6 Each party shall assist, to the extent required under Data Protection Laws, the other in complying with all applicable requirements of the Data Protection Laws in connection with this Call-Off Contract.
- 29.7 Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of revenue, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Laws by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

## **Client Data**

- 29.8 Without prejudice to the Agency's obligations contained in clause 29.1 through clause 29.7 inclusive, the Agency:
- 29.8.1 will not store, copy, disclose, or use the Client Data except as necessary to perform its obligations under this Call-Off Contract or as otherwise Approved by the Client;
  - 29.8.2 if any Client Data is held and/or Processed by the Agency, the Agency must supply that Client Data to the Client, at the time and in the format the Client requests;
  - 29.8.3 shall be responsible for preserving the integrity of any Client Data it holds or Processes, and preventing its corruption or loss. On termination or expiry of this Call-Off Contract the Agency shall supply the Client Data to the Client in such format as the Client requires;
  - 29.8.4 will perform secure back-ups of all Client Data and ensure that such back-ups are available to the Client (or to such other person as the Client may direct) on request;
  - 29.8.5 will ensure that any system it uses to holds any Client Data, including back-up data, is secure. This system must comply with any security requirements and any government security requirement policy relating to this Client Data, duly notified in writing to the Agency; and
  - 29.8.6 if any time the Agency suspects or has any reason to believe that the Client Data is corrupted, lost or sufficiently degraded in any way, then the Agency must notify the Client immediately. This notification must contain information detailing the remedial action the Agency proposes to take.

## **Publicity and Branding**

- 29.9 The Agency may not make any press announcements or publicise this Call-Off Contract or use the Client's name or brand in any promotion or marketing or announcement of orders without Approval from the Client.

## **30 RETENTION AND SET OFF**

- 30.1 If the Agency owes the Client any money, the Client may retain or set off this money against any amount owed to the Agency under this Call-Off Contract or any other agreement between the Agency and the Client. In order to exercise this right, the Client will, within 30 days of receipt of the relevant invoice, notify the Agency of its reasons for retaining or setting off the relevant Charges.
- 30.2 The Agency will make any payments due to the Client without any deduction. Deductions, whether by way of set-off, counterclaim, discount, abatement or otherwise, are not permitted unless the Agency has obtained a sealed court order requiring an amount equal to such deduction to be paid by the Client.

## **31 INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS**

- 31.1 The Agency must not breach any Tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. CCS and the Client cannot terminate a Contract where the Agency has not paid a minor Tax or social security contribution.
- 31.2 Where the Charges payable under a Contract with the Client are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Agency must notify CCS and the Client of it within 5 Working Days including:
- 31.2.1 the steps that the Agency is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
  - 31.2.2 other information relating to the Occasion of Tax Non-Compliance that CCS and the Client may reasonably need.
- 31.3 Where the Agency or any Agency Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under a Call-Off Contract, the Agency must both:
- 31.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
  - 31.3.2 indemnify the Client against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Services by the Agency or any of the Agency Staff.
- 31.4 If any of the Agency Staff are Workers who receive payment relating to the Services, then the Agency must ensure that its contract with the Worker contains the following requirements:
- 31.4.1 the Client may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Client can specify the information the Worker must provide and the deadline for responding;
  - 31.4.2 the Worker's contract may be terminated at the Client's request if the Worker fails to provide the information requested by the Client within the time specified by the Client;
  - 31.4.3 the Worker's contract may be terminated at the Client's request if the Worker provides information which the Client considers is not good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is

not complying with those requirements; and

- 31.4.4 the Client may supply any information they receive from the Worker to HMRC for revenue collection and management.

## **32 PREVENTION OF FRAUD AND BRIBERY**

- 32.1 The Agency must not during any Term:

32.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2); or

32.1.2 do or allow anything to be done which would cause the Client or any of the Client's employees, consultants, contractors, sub-contractors or agents to breach any of the Relevant Requirements or incur any liability under them.

- 32.2 The Agency shall during the Term:

32.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;

32.2.2 keep full records to show it has complied with its obligations under 33.3 and give copies to the Client on request;

32.2.3 if so required by the Client, within 20 Working Days of the Effective Date, and then annually, certify in writing to the Client that the Agency has complied with clause 33, including compliance of Agency Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures .

- 32.3 The Agency must immediately notify the Client if it becomes aware of any breach of Clause 33.1 or has any reason to think that it has or any of the Agency Staff have:

32.3.1 been investigated or prosecuted for an alleged Prohibited Act;

32.3.2 been debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act;

32.3.3 received a request or demand for any undue financial or other advantage of any kind in connection with this Call-Off Contract; or

32.3.4 suspected that any person or Party directly or indirectly connected with this Call-Off Contract has committed or attempted to commit a Prohibited Act.

- 32.4 If the Agency makes a notification to the Client under to Clause 32.3, the Agency must respond promptly to the further enquiries, co-operate with any investigation, and allow the Client to audit any books, records and/or any other relevant documentation,

- 32.5 Any notice served by the Agency under Clause 32.3 must specify the:
- 32.5.1 Prohibited Act;
  - 32.5.2 identity of the Party who the Agency believes has committed the Prohibited Act; and
  - 32.5.3 action that the Agency has decided to take.

### **33 EQUALITY, DIVERSITY AND HUMAN RIGHTS**

- 33.1 The Agency must follow all applicable equality Law when they perform their obligations under the Contract, including:
- 33.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
  - 33.1.2 any other requirements and instructions which CCS or the Client reasonably imposes related to equality Law.
- 33.2 The Agency must take all necessary steps, and inform CCS or the Client of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on a Contract.

### **34 HEALTH AND SAFETY**

- 34.1 The Agency shall:
- 34.1.1 provide proper training in relation to the Relevant Standards;
  - 34.1.2 ensure that the Agency Staff comply with the Relevant Standards, and take appropriate action (including disciplinary action) in relation to any non-compliance by a member of the Agency Staff;
  - 34.1.3 ensure that, before attending any Client Site or other premises of the Client, the Agency Staff attend and pass all safety training courses required by the Client at such time;
  - 34.1.4 ensure that the Agency Staff carry evidence of their having passed the applicable safety training courses at all times whilst present at any Client Site or other premises of the Client and shall produce such evidence on demand to any person authorised by the Client to inspect it;
  - 34.1.5 take all reasonable steps to minimise or eliminate any risk to the safety of any person which relates to the activities of the Agency Staff at any Client Site or other premises of the Client;
  - 34.1.6 report to the Client and all other appropriate authorities any accidents or injuries occurring to the Agency Staff whilst present at any Client Site or other premises of the Client;

- 34.1.7 ensure that, whilst present at any Client Site or other premises of the Client, all Agency Staff dress, appear and behave in a professional manner and make all reasonable efforts not to disrupt, and to treat with appropriate professional courtesy, all of the Client's personnel and customers. The Client shall have the right (not to be unreasonably exercised) to refuse access to any premises to any Agency Staff who fail to comply with this clause 34;
- 34.1.8 ensure that, whilst present at any Client Site or other premises of the Client, no member of the Agency Staff shall:
- (a) report or attempt to report for duty having consumed alcohol or under the influence of drugs;
  - (b) report or attempt to report for duty in an unfit state due to the use of alcohol or drugs;
  - (c) be in the possession of drugs of abuse;
  - (d) consume alcohol or use drugs; and
- 34.1.9 undertake safety audits in accordance with the Relevant Standards and any other instructions of the Client from time to time.

## **35 ENVIRONMENT**

- 35.1 When working on Site the Agency must perform its obligations under the Client's current Environmental Policy, which the Client must provide.
- 35.2 The Agency must ensure that Agency Staff are aware of the Client's Environmental Policy.
- 35.3 The Agency is expected to consider both the positive and negative impacts upon the environment at a local, national and global levels of its activities in providing services under this agreement and seek to achieve continual improvements in how it seeks to measure and respond to its environmental impacts.

## **36 COMPLIANCE**

- 36.1 The Agency must use reasonable endeavours to comply with the provisions of Framework Schedule 16 (Corporate Social Responsibility).
- 36.2 To the extent that it arises as a result of a Default by the Agency, the Agency indemnifies the Client against any fine or penalty incurred by the Client pursuant to Law and any costs incurred by the Client in defending any proceedings which result in such fine or penalty.
- 36.3 The Agency must appoint a Compliance Officer who must be responsible for ensuring that the Agency complies with:
- 36.3.1 Law;

- 36.3.2 Clause 31 (Income Tax and National Insurance Contributions)
- 36.3.3 Clause 32 (Prevention of Fraud and Bribery)
- 36.3.4 Clause 33 (Equality, diversity and human rights)
- 36.3.5 Clause 34 (Health and safety)
- 36.3.6 Clause 34.1 (Environment)
- 36.4 As soon as it is aware of it, the Agency must report to the Client any actually or suspected breach of any Law or clause referred to in Clause 36.13 to the Client.
- 36.5 The Agency must not retaliate against any of its personnel or staff who in good faith report a breach listed in Clause 36.13 to the Client.

## **37 GENERAL**

- 37.1 The Parties confirm that they have not entered into this Call-Off Contract on the basis of any representation that is not expressly incorporated into this Call-Off Contract.
- 37.2 Nothing in this Clause excludes liability for fraud or fraudulent misrepresentation.
- 37.3 A partial or full waiver or relaxation of the terms of this Call-Off Contract is only valid if it is stated to be a waiver in writing to the other Party.
- 37.4 No Contract creates a partnership, joint venture or employment relationship. The Agency must represent themselves accordingly and ensure others do so.
- 37.5 Unless expressly stated in this Call-Off Contract, all remedies available to either Party for breach of this Call-Off Contract are cumulative and may be exercised concurrently or separately. The exercise of one remedy does not mean it has been selected to the exclusion of other remedies.
- 37.6 If any provision of this Call-Off Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed as much as required and rendered ineffective as far as possible without affecting the rest of the Call-Off Contract, whether it is valid or enforceable.

## **38 DISPUTE RESOLUTION**

- 38.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.
- 38.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 38.3 to 38.5.

- 38.3 Unless the Client refers the Dispute to arbitration using Clause 38.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 38.3.1 determine the Dispute;
  - 38.3.2 grant interim remedies; and/or
  - 38.3.3 grant any other provisional or protective relief.
- 38.4 The Agency agrees that the Client has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 38.5 The Client has the right to refer a Dispute to arbitration even if the Agency has started or has attempted to start court proceedings under Clause 38.3, unless the Client has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 38.4.
- 38.6 The Agency cannot suspend the performance of a Contract during any Dispute.

## **39 GOVERNING LAW AND JURISDICTION**

- 39.1 This Call-Off Contract will be governed by the laws of England and Wales.
- 39.2 Each Party submits to the exclusive jurisdiction of the courts of England and Wales and agrees that all Disputes shall be conducted within England and Wales.

## Schedule 1

### Definitions and Interpretation

#### 1 INTERPRETATION

1.1 In this Call-Off Contract, any references to numbered Clauses and schedules refer to those within this Call-Off Contract unless specifically stated otherwise. If there is any conflict between this Call-Off Contract, the Letter of Appointment, the provisions of the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:

1.1.1 the Framework Agreement;

1.1.2 the Letter of Appointment; and

1.1.3 the Call-Off Terms.

1.2 The definitions and interpretations used in this Call-Off Contract are set out in this Schedule 1.

1.3 Definitions which are relevant and used only within a particular Clause or Schedule are defined in that Clause or Schedule.

1.4 Unless the context otherwise requires:

1.4.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;

1.4.2 words importing the masculine include the feminine and the neuter and vice versa;

1.4.3 the words 'include', 'includes' 'including' 'for example' and 'in particular' and words of similar effect will not limit the general effect of the words which precede them;

1.4.4 references to any person will include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind;

1.4.5 references to any statute, regulation or other similar instrument mean a reference to the statute, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;

1.4.6 headings are included in this Call-Off Contract for ease of reference only and will not affect the interpretation or construction of this Call-Off Contract; and

1.4.7 if a capitalised expression does not have an interpretation in Call-Off Schedule 1 (Definitions) or relevant Call-Off Schedule, it shall have the meaning given to it in the Framework Agreement. If no meaning is given to it in the Framework Agreement, it shall be interpreted in accordance with the relevant market sector/industry. Otherwise, it shall be interpreted in accordance with the dictionary meaning.

1.5 In this Call-Off Contract, the following terms have the following meanings:

RM6123 – Media Services

Call-Off Contract

Attachment 4

Version 3

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<b>Advertising</b>	<b>an advertisement displayed in a Display at an Approved Site.</b>
<b>Advertising Regulations</b>	A present or future applicable code of practice or adjudication of the Committee of Advertising Practice, Broadcast Committee of Advertising Practice or the Advertising Standards Authority (including any applicable modification, extension or replacement thereof), together with other UK laws, statutes and regulations which are directly applicable to the Services.
<b>Agency Group</b>	<p>The Agency and any other Client which from time to time directly or indirectly Controls, or is Controlled by, the Agency, or is under the same direct or indirect common Control as the Agency, including:</p> <ul style="list-style-type: none"> <li>- any affiliated or associated companies of the Agency including any companies with which the Agency has a joint venture;</li> <li>- any trading arm used by the Agency;</li> <li>- any buying club of which the Agency is a member (whether directly or indirectly); and</li> <li>- any Sub-contractor of the Agency or any other entity providing services directly or indirectly to the Agency,</li> </ul> <p>where such Client is directly and/or indirectly in receipt of:</p> <ul style="list-style-type: none"> <li>- all or part of any sums paid or payable by CCS and/or any Client; and/or</li> <li>- goods, services or other benefits in kind including AVBs obtained or accrued in lieu of any sums paid or payable or due to be so; and/or</li> <li>- any other equivalent benefit,</li> </ul> <p>each as arising in connection with this Call-Off Contract.</p> <p>This does not include Media Owners.</p>
<b>Agency Staff</b>	All persons employed by the Agency, together with the Agency's agents, suppliers, consultants and Sub-Contractors (and all persons employed by any Sub-Contractor together with the Sub-Contractor's servants, consultants, agents and suppliers) used in the performance of the Agency's obligations under this Call-Off Contract.
<b>Approval</b>	Formal Approval from one Party to another, given in accordance with Clause 12.1 or 12.2.
<b>Approved Site</b>	<b>means the locations at which Advertising may be displayed, (as may be varied from time to time in accordance with the Call-Off Contract or otherwise by written agreement of the Parties);</b>
<b>Associates</b>	A Party's employees, officers, agents, sub-contractors or authorised representatives.
<b>Authorised Agency Approver</b>	Any personnel of the Agency who have the authority to contractually bind the Agency in all matters relating to this Call-Off Contract. They must be named in the Service Description, and the Client must be notified if they change.
<b>Authorised Client Approver</b>	Any personnel of the Client who have the authority to contractually bind the Client in all matters relating to this Call-Off Contract. They must be named in the Service Description, and the Agency must be notified if they change.

<b>Call-Off Contract</b>	This Call-Off Contract between the Client and the Agency (entered into under the provisions of the Framework Agreement), which consists of the terms set out in the Letter of Appointment, the Call-Off Terms, the Schedules and any Brief.
<b>Call-Off Terms</b>	The terms and conditions set out in this Call-Off Contract including this Schedule 1 but not including any other Schedules or Brief.
<b>Central Government Body</b>	A body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: Government Department; Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); Non-Ministerial Department; or Executive Agency.
<b>Change of Control</b>	Change of Control has the same meaning as in section 416 of the Income and Corporation Taxes Act 1988.
<b>Claim</b>	Has the meaning given in clause 8.11.1.
<b>Client Affiliates</b>	Any organisation associated with the Client that will directly receive the benefit of the Services. Client Affiliates must be named in the Service Description, or subsequently notified to the Agency.
<b>Client Data</b>	Data, text, drawings, diagrams, images or sounds (together with any database made up of any of these), including any Client's Confidential Information, supplied to the Agency by or on behalf of the Client, or which the Agency is required to generate, process, store or transmit in connection this Call-Off Contract, and any Personal Data for which the Client is the Controller.
<b>Confidential Information</b>	any information that the Disclosing Party gives to a Recipient that is designated as being confidential, or which ought reasonably be considered to be confidential (whether or not it is marked "confidential"). This may include information, however conveyed, that is politically or security sensitive and/or relates to the Disclosing Party's business, affairs, developments, trade secrets, Know-How, personnel and suppliers.
<b>Charges</b>	All charges payable by the Client for the Services provided under this Call-Off Contract calculated in accordance with Framework Schedule 3 (Charging Structure) and the Letter of Appointment including all Approved costs properly incurred by the Client including but not limited to all disbursement, taxes, sub-contractor or Third Party Costs, and Fees.
<b>Contracting Body</b>	CCS, the Client and any other bodies listed in the Notice.
<b>Contract Year</b>	A consecutive 12-month period during the Term commencing on the Effective Date or each anniversary thereof.
<b>Control</b>	Has the meaning set out in sections 1124 and 450 of the Corporation Tax Act 2010.
<b>Controller</b>	Has the same meaning as set out in the GDPR.
<b>Data Protection Legislation</b>	<ul style="list-style-type: none"> <li>(i) The GDPR and any applicable national implementing Laws as amended from time to time; (ii) the DPA 2018; and (iii) all applicable Law about the Processing of Personal Data and privacy.</li> </ul>

<b>Default</b>	Any breach of the obligations of the Agency (including but not limited to failing to perform any Services by any date set out in the applicable Brief (or any other deadline agreed by the Parties in writing) and abandonment of this Call-Off Contract in breach of its terms) or any other default (including material Default), act, omission, negligence or statement of the Agency, of its Sub-Contractors or any of its staff howsoever arising in connection with or in relation to the subject-matter of this Call-Off Contract and in respect of which the Agency is liable to the Client.
<b>Digital Face</b>	Any advertising display on liquid crystal display (LCD) or any other similar form of digital medium contained in the Structures and includes all associated equipment.
<b>Display</b>	Any advertising display, to include a Digital Face, contained in or upon the Structures for the purpose of communications or advertising and all associated equipment.
<b>Dispute</b>	Any dispute, difference or question of interpretation arising out of or in connection with this Call-Off Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Variation procedure or any matter where this Call-Off Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure.
<b>Dispute Resolution Procedure</b>	The dispute resolution procedure set out in Clause 38.
<b>DPA 2018</b>	The United Kingdom Data Protection Act 2018
<b>Effective Date</b>	The date this Call-Off Contract starts, as set out in the Letter of Appointment.
<b>Environmental Information Regulations or EIRs</b>	The Environmental Information Regulations 2004 together with any related guidance and/or codes of practice issued by the Information Commissioner or relevant Government department.
<b>Expiry Date</b>	The date this Call-Off Contract ends, as set out in the Letter of Appointment.
<b>Extension Expiry Date</b>	The latest date this Call-Off Contract can end, as set out in the Letter of Appointment.
<b>Fees</b>	The Agency fees (including, where applicable, the commission and the incentive as set forth in paragraph 1.2 of Schedule 3 of the Framework Agreement) to be payable by the Client for the Services to be provided under this Call-Off-Contract calculated in a manner that is consistent with the Charging Structure as set out in Schedule 3 of the Framework Agreement (Charging Structure) and as may be amended by the Parties from time to time in accordance with the Framework Agreement or this Call-Off-Contract.
<b>FOIA</b>	The Freedom of Information Act 2000 as amended from time to time and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation.

<b>Force Majeure Event</b>	<p>Means:</p> <ul style="list-style-type: none"> <li>• pandemics, epidemics, public health emergencies;</li> <li>• acts, events, omissions, happenings or non-happenings beyond the reasonable control of the affected Party;</li> <li>• riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</li> <li>• fire, flood, any disaster and any failure or shortage of power or fuel; and</li> <li>• an industrial dispute affecting a third party for which a substitute third party is not reasonably available;</li> </ul> <p>but does not mean</p> <ul style="list-style-type: none"> <li>• any industrial dispute relating to the Agency, its staff, or any other failure in the Agency's (or a Sub-Contractor's) supply chain;</li> <li>• any event or occurrence which is attributable to the wilful act, neglect or failure to take reasonable precautions against the event or occurrence by the Party concerned; and</li> <li>• any failure of delay caused by a lack of funds.</li> </ul>
<b>Framework Agreement</b>	The framework agreement between Crown Commercial Services and the Agency reference number: <b>[INSERT]</b> referred to in the Letter of Appointment.
<b>Framework Price(s)</b>	The maximum charges the Agency may charge as set out in Schedule 3 to the Framework Agreement.
<b>Further Competition Procedure</b>	The process of a Client issuing the Service Description and the Agency submitting a proposal in response to such Brief, as set out in Framework Clause 3.10.
<b>GDPR</b>	The United Kingdom General Data Protection Regulation
<b>Good Industry Practice</b>	Standards, practices, methods and procedures conforming to the Law and the exercise of the 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 within the relevant industry or business sector.
<b>Impact Assessment</b>	The assessment to be carried out by a Party requesting a Variation in accordance with Clause 11.4.
<b>Information</b>	The same meaning given under section 84 of the Freedom of Information Act 2000 as amended from time to time.
<b>Insolvency Event</b>	<p>Means, in respect of the Agency <b>[or Framework Guarantor (as applicable)]</b>:</p> <ul style="list-style-type: none"> <li>a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986; or</li> <li>b) a winding-up resolution is considered or passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</li> <li>c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a</li> </ul>

	<p>provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</p> <p>d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or</p> <p>f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>g) being a "small Client" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</p> <p>h) where the Agency is an individual or partnership, any event analogous to these listed in this definition occurs in relation to that individual or partnership; or</p> <p>i) any event analogous to those listed in this definition occurs under the law of any other jurisdiction.</p>
<b>Intellectual Property Rights or IPR</b>	<p>The following rights, wherever in the world enforceable, or such similar rights, which have equivalent effect, including all reversions and renewals and all applications for registration:</p> <ul style="list-style-type: none"> <li>• any patents or patent applications;</li> <li>• any trade marks (whether or not registered);</li> <li>• inventions, discoveries, utility models and improvements whether or not capable of protection by patent or registration;</li> <li>• copyright or design rights (whether registered or unregistered);</li> <li>• database rights;</li> <li>• performer's property rights as described in Part II of the Copyright Designs and Patents Act 1988 and any similar rights of performers anywhere in the world;</li> <li>• any goodwill in any trade or service name, trading style or get-up; and</li> <li>• any and all other intellectual or proprietary rights.</li> </ul>
<b>Invitation to Tender</b>	The invitation to tender for the Framework Agreement issued by CCS;
<b>Key Individuals</b>	Individuals named by the Agency in the Letter of Appointment or Brief as having a major responsibility for delivering the Services.
<b>Know-How</b>	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know-how already in the Agency's or the Client's possession before the Effective Date.
<b>Law</b>	Any law, subordinate legislation, bye-law, enforceable right, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Agency has to comply.

<b>Letter of Appointment</b>	The Letter of Appointment, substantially in the form set out in Framework Schedule 4, signed by both Parties and dated on the Effective Date.
<b>Term</b>	seven (7) calendar years from the Commencement Date
<b>Losses</b>	Any losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses) to either Party subject to Clause 19.1 and 19.2.
<b>Net Revenue</b>	<p>The gross revenue receivable by the Agency in relation to each calendar month from the exploitation of the rights granted under the Call-Off Contract including all income receivable from the display of Advertising at the Approved Sites after deduction of the following amounts:</p> <p>(a) normal agency commission actually paid to third party agencies, provided such commission does not exceed the level which is normal in the advertising industry from time to time;</p> <p>(b) poster specialist commission, volume override payments and direct sales commissions, actually paid to third parties, provided such commission and payments do not exceed the level which is normal in the advertising industry from time to time;</p> <p>(c) credits properly due and paid to advertisers following industrial disputes relating to the client's personnel which results in Approved Sites at which relevant Advertising is displayed being closed to the public for a period of 2 consecutive days or more; and</p> <p>(d) credits or compensation properly due and paid to advertisers following breakdown of the Client's electrical supply to a Display Face which is not restored within 1 Business Day;</p>
<b>Net Revenue Share</b>	means the amount of the Net Revenue relating to a calendar month that is payable to the Client under Clause 15.1
<b>Media Owner</b>	Any third party with whom the Agency or Agency Group contracts or places an order either directly or indirectly for the purchase of Media Placements, including any member of the Media Owner Group.
<b>Media Owner Group</b>	<p>Any other Client which from time to time directly or indirectly Controls, or is Controlled by, the Media Owner, or is under the same direct or indirect common Control as the Media Owner, including:</p> <ul style="list-style-type: none"> <li>- any affiliated or associated companies of the Media Owner including any companies with which the Media Owner has a joint venture;</li> <li>- any trading arm used by the Media Owner; and</li> <li>- any sub-contractor or agency of the Media Owner or any other entity providing services directly or indirectly to the Media Owner.</li> </ul>
<b>Media Placement</b>	The advertising, sponsorship or promotional space and/or time in a publication, broadcast stream, press insert, transmission, VOD,

	website or any other on or off-line platform which is purchased either directly or indirectly from third parties by the Agency or Agency Group in connection with the provision of Services and all clicks howsoever purchased.
<b>New Expiry Date</b>	Has the meaning given to it in Clause 26.2
<b>Permitted Recipients</b>	means the parties to this Call-Off Contract, the employees of each party and any third parties engaged to perform obligations in connection with this Call-Off Contract.
<b>Personal Data</b>	Has the same meaning as set out in the GDPR.
<b>Personal Data Breach</b>	Has the same meaning as set out in the GDPR.
<b>Processor</b>	Has the same meaning as set out in the GDPR.
<b>Process or Processing</b>	Has the same meaning as set out in the GDPR. <b>"Processed"</b> shall be interpreted accordingly.
<b>Prohibited Act</b>	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Client or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>a) induce that person to perform improperly a relevant function or activity;</li> <li>b) reward that person for improper performance of a relevant function or activity;</li> <li>c) directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; or</li> <li>d) commit any offence: <ul style="list-style-type: none"> <li>• under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>• under legislation or common law concerning fraudulent acts; or</li> <li>• defrauding, attempting to defraud or conspiring to defraud the Client; or</li> <li>• any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.</li> </ul> </li> </ul>
<b>Service Commencement Date</b>	The date a Service will start, as set out in the relevant Brief.
<b>Service Completion Date</b>	The date by which a Service is to be completed, as set out in the relevant Brief.
<b>Service Notice Period</b>	The period of notice for cancellation of a Service as set out in the Brief.
<b>Service Term</b>	The period during which the Services for each Service will be provided as specified in the applicable Service Description.
<b>Records</b>	The accounts and information maintained by the Agency related to the operation and delivery of this Call-Off Contract, including all expenditure which is reimbursable by the Client, as are necessary

	for the provision of management information and to enable the Client to conduct an audit as set out in Clause 22.
<b>Rectification Plan</b>	The rectification plan pursuant to the Rectification Plan Process.
<b>Rectification Plan Process</b>	The process set out in clause 25.3.
<b>Regulations</b>	The Public Contracts Regulations 2015.
<b>Relevant Requirements</b>	All applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.
<b>Relevant Standards</b>	<p>(a) all applicable Laws relating to the performance of the Agency's obligations, and the exercise of its rights, under this Call-Off Contract</p> <p>(b) all applicable safety and other regulations and requirements of the client, as notified by the Client from time to time; and</p> <p>(c) any other instructions or requirements applicable to individual Client Sites, as notified by the Client from time to time.</p>
<b>Request for Information</b>	A request for information or an apparent request relating to this Call-Off Contract or the provision of the Services or an apparent request for such information under the FOIA or the EIRs.
<b>Schedule</b>	Any Schedule attached to this Call-Off Contract.
<b>Services</b>	The Services to be supplied by the Agency under this Call-Off Contract and in accordance with the Service Description.
<b>Service Description</b>	The description of the Services as described in the documentation listed in clauses 1.2.1, 1.2.2 and 1.2.3.
<b>Shared Personal Data</b>	<p>the personal data to be shared between the parties under clause 29 of this agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of information relevant to the following categories of data subject:</p> <p>a) identity, including name, title, sex and marital status;</p> <p>b) contact details, including postal address, email address, phone numbers and social media accounts;</p> <p>such other types of personal data as may be shared between the parties for the purposes of this agreement.</p>
<b>Special Terms</b>	Any terms specifically designated as varying these Call-Off Terms or the terms of any schedule, as set out in the applicable Service Description.
<b>Standards</b>	<p>Any:</p> <ul style="list-style-type: none"> <li>standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of</li> </ul>

	<p>industry or business sector as the Agency would reasonably and ordinarily be expected to comply with;</p> <ul style="list-style-type: none"> <li>standards detailed in the specification in Framework Section 2 (Services and Key Performance Indicators);</li> <li>standards detailed by the Client in the Letter of Appointment and Service Description or agreed between the Parties from time to time; or</li> <li>relevant Government codes of practice and guidance applicable from time to time.</li> </ul>
<b>Structures</b>	The advertising units used to display the Displays, further details of which (including agreed locations) are set out in the Services Description.
<b>Sub-Contract</b>	A contract entered into between the Agency and a Sub-Contractor.
<b>Sub-Contractor</b>	Any person or agency appointed by the Agency to provide elements of the Services on behalf of the Agency to the Client. For avoidance of doubt, the term Subcontractor does not include (i) any Media Owners, nor (ii) any intermediaries and other Agencies engaged by the Agency to assist in the completion of or provide services incidental, ancillary or supplemental to the Services, including but not limited to Agencies providing data, equipment, software or facilities shall not be considered a Subcontractor.
<b>Sub-processor</b>	Any third party appointed to Process Personal Data on behalf of the Agency related to this Call-Off Contract.
<b>Tender</b>	The tender submitted by the Agency in response to the Invitation to Tender and set out at Framework Schedule 10 (Call Off Tender).
<b>Term</b>	<p>The period from the Effective Date to the earlier of:</p> <ul style="list-style-type: none"> <li>the Expiry Date or New Expiry Date; and</li> <li>any date of termination.</li> </ul>
<b>Territory</b>	The United Kingdom, unless specified otherwise in the applicable Services Description. Publication and marketing on globally accessible mediums such as the internet shall not mean that the Territory is deemed to be worldwide.
<b>Third Party Costs</b>	all third party costs incurred by the Agency on behalf of CCS or the Client in performing the Services, including Net Media Value, subject to CCS or the Client approving all such costs in advance in writing, including the cost of Media Placements purchased on behalf of CCS or the Client and which appear in accordance with the relevant plan for media placement.
<b>Transparency Principles</b>	The principles set out at [DESCRIBE] detailing the requirement for the proactive release of contract information under the Government's transparency commitment.
<b>Transparency Reports</b>	The information relating to the Services and performance of this Call-Off Contract which the Agency is required to provide to the CCS in accordance with its reporting requirements.
<b>Variation</b>	A change in this Call-Off Contract that is formally agreed by both Parties, as detailed in Clause 7.1.

<b>Variation Form</b>	The template form to process and record variations to this Call-Off Contract as set out at Schedule 3 to these Call-Off Terms.
<b>Worker</b>	Any Agency Staff to whom the Client considers Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) applies .  See <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a>
<b>Working Day</b>	Any day other than a Saturday, Sunday or public holiday in England and Wales.

## Schedule 2

### Client Brief



Client Briefing  
Template v2 12.19.xls

### Schedule 3

#### VARIATION FORM

This form is to be used in order to change a contract in accordance with Clause 24 (Changing the Contract)

<b>Contract Details</b>		
This variation is between:	<b>[delete]</b> as applicable: CCS / Client] (" <b>CCS</b> " " <b>the Client</b> ") And <b>[insert]</b> name of Agency] (" <b>the Agency</b> ")	
Contract name:	<b>[insert]</b> name of contract to be changed] (" <b>the Contract</b> ")	
Contract reference number:	<b>[insert]</b> contract reference number]	
<b>Details of Proposed Variation</b>		
Variation initiated by:	<b>[delete]</b> as applicable: CCS/Client/Agency]	
Variation number:	<b>[insert]</b> variation number]	
Date variation is raised:	<b>[insert]</b> date]	
Proposed variation		
Reason for the variation:	<b>[insert]</b> reason]	
An Impact Assessment shall be provided within:	<b>[insert]</b> number] days	
<b>Impact of Variation</b>		
Likely impact of the proposed variation:	<b>[Agency to insert]</b> assessment of impact]	
<b>Outcome of Variation</b>		
Contract variation:	This Call-Off Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li><b>[CCS/Client to insert]</b> original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>	
Financial variation:	Original Contract Value:	£ <b>[insert]</b> amount]
	Additional cost due to variation:	£ <b>[insert]</b> amount]
	New Contract value:	£ <b>[insert]</b> amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by **[delete]** as applicable: CCS / Client]
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.

The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Client

Signature

Date

Name (in Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Agency

Signature

Date

Name (in Capitals)

Address