



Crown Commercial Service

G-Cloud 10 Framework Agreement

Dated: 18 June 2018

Framework reference: RM1557.10

This Framework Agreement is between:

Crown Commercial Service

and

[Supplier name]

G-Cloud 10 Framework Agreement

This Framework Agreement governs the relationship between the Crown Commercial Service (CCS), and the Supplier. It covers the provision of G-Cloud 10 services by the Supplier to CCS and to Buyers.

CCS and the Supplier are known together as the 'Parties'.

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1. Section 1 - The appointment

This section includes terms about the Supplier appointment.

Appointment

- 1.1 Under the terms of this Framework Agreement (RM1557.10) and the Supplier's Application, the Minister for the Cabinet Office, represented by the Crown Commercial Service (CCS), 9th Floor, The Capital, Old Hall Street, Liverpool, L3 9PP, appoints:

company: [company name]

registered address: [company address]

company number: [company number]

(the 'Supplier'), as a Framework Agreement Supplier of G-Cloud 10 services who can be considered for Call-Off Contracts as outlined in the Contract Notice in the Official Journal of the European Union reference 2018/S 074-164715 (OJEU Contract Notice).

- 1.2 **Appointment is to:** [lots awarded]
- 1.3 **Appointment starts at:** 2 July 2018
- 1.4 **Appointment ends at:** 23:59 on 1 July 2019 (unless this Framework Agreement is extended by CCS or Ends early).
- 1.5 **Framework extension:** Up to 12 months, by CCS giving written notice to Suppliers.
- 1.6 **Framework term:** From and including the date at 1.3 above (Appointment starts at) to and including the date at 1.4 above (Appointment ends at).
- 1.7 **Call-Off Contract length:** Up to 24 months plus 2 optional extension periods of up to 12 months each.
- 1.8 The Parties agree that they have read this Framework Agreement and by signing below agree to be bound by its terms.
- 1.9 All Sections, including the Invitation to Tender (known as the Invitation to Apply on the Digital Marketplace) and Schedules to this Framework Agreement are expressly part of this Framework Agreement.
- 1.10 CCS will pay £1 to the Supplier to perform its obligations under this Framework Agreement, receipt of which is acknowledged by the Supplier signing this Framework Agreement.
- 1.11 The finalised Framework Agreement will include:
- a signature page, signed by the Supplier
 - a signature page, signed by the Crown Commercial Service
 - the rest of the Framework Agreement document
- 1.12 The signature pages and the rest of the Framework Agreement document are counterparts before signing and duplicate originals after signing. The duplicate originals together make one Framework Agreement signed by all the necessary Parties.

Signed by or on behalf of [Supplier name]

Signed for and on behalf of CCS

Signature:

Signature:

Name:

Name:

Role:

Role:

Date:

Date:

2. Section 2 - Services offered

2.1 The Supplier must provide G-Cloud Services for the Lot that they've been appointed to. The G-Cloud 10 framework is split into 3 Lots:

- Lot 1: Cloud hosting
- Lot 2: Cloud software
- Lot 3: Cloud support

For all Lots, the Supplier must help buyers comply with the Technology Code of Practice.

Lot 1 - Cloud hosting

2.2 Cloud hosting services sold through G-Cloud are cloud platform or infrastructure services that can help buyers do at least one of:

- deploy, manage and run software
- provision and use processing, storage or networking resources

Buyers only need to pay for what they use.

The G-Cloud cloud hosting lot is equivalent to the National Institute of Standards and Technology (NIST) definitions of 'Platform as a Service' and 'Infrastructure as a Service':

<http://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf>

Cloud hosting Suppliers will provide services in at least one of these categories:

- archiving, backup and disaster recovery
- compute and application hosting
- container service
- content delivery network
- database
- data warehousing
- NoSQL database
- relational database
- load balancing
- logging and analysis
- message queuing and processing
- networking (including Network as a Service)
- Platform as a Service (PaaS)
- infrastructure and platform security

- distributed denial of service attack (DDOS) protection
- firewall
- intrusion detection
- protective monitoring
- search
- storage
- block storage
- object storage

Lot 2 - Cloud software

2.3 Cloud software services sold through G-Cloud are applications that are accessed over the internet and hosted in the cloud. Buyers only need to pay for what they use.

The G-Cloud cloud software lot is equivalent to the National Institute of Standards and Technology definition of 'Software as a Service':

<http://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf>

G-Cloud cloud software Suppliers will provide cloud software services in at least one of these categories:

- accounting and finance
- analytics and business intelligence
- application security
- collaborative working
- creative, design and publishing
- customer relationship management (CRM)
- electronic document and records management (EDRM)
- healthcare
- human resources and employee management
- information and communication technology (ICT)
- legal and enforcement
- marketing
- operations management
- project management and planning
- sales

- schools, education and libraries
- software development tools
- transport and logistics

Lot 3 - Cloud support

2.4 Cloud support services sold through G-Cloud can help buyers set up and maintain their cloud software or hosting.

G-Cloud cloud support Suppliers will provide services in at least one of these categories:

- planning
- setup and migration
- training
- security services
- quality assurance and performance testing
- ongoing support

Additional services

2.5 Additional Services, through Lot 3 - Cloud support only, must support buyers in their transition to Cloud services.

2.6 A description for Additional Services must be included by the Supplier and it must be G-Cloud Service-related. Additional Services must help the Supplier with its main G-Cloud Services offering. Non-G-Cloud Services will be removed from the Digital Marketplace.

2.7 Additional Services must not include:

- Services that aren't cloud-related
- recruitment or contractor (contingent labour) Services or Services that are Inside IR35
- 'colocation' Services, for example equipment the buyer rents from a Supplier's datacentre
- hardware
- bespoke design or development

The Buyer doesn't have to buy any Additional Services from the Supplier and can buy Services that are the same as or similar to the Additional Services from any third party.

Service application

2.8 The Supplier's Service Application must include as a minimum an overview of the G-Cloud Service and information about:

- the scope of the G-Cloud Service, for example any constraints Buyers should know about like maintenance windows

- whether the Supplier is a reseller or not
- any support the Supplier provides
- how users work with the G-Cloud Service
- the G-Cloud Service onboarding and offboarding process
- an overview of pricing, including unit prices, volume discounts and data extraction costs
- the Supplier's security certifications and standards
- the Supplier's approach to personnel security

3. Section 3 - How services will be bought

Digital Marketplace

- 3.1 The Supplier will describe its Services on the Digital Marketplace. It will keep this information updated for the Term of this Framework Agreement.
- 3.2 The Supplier agrees that the prices and other terms quoted in its Digital Marketplace Application will not be increased during the Term of this Framework Agreement, but Suppliers may reduce any of their G-Cloud prices at any time.
- 3.3 The pricing of Call-Off Contracts must be based on the most up-to-date prices on the Supplier's Digital Marketplace Service page.
- 3.4 Discounted pricing periods may be considered on an individual basis, and subject to CCS approval, will be available to all Buyers.
- 3.5 The Supplier will tell any relevant Buyer about their Digital Marketplace offering on the G-Cloud Framework Agreement at the earliest opportunity.
- 3.6 The Supplier agrees that its G-Cloud Services, pricing, and terms and conditions will be on the Digital Marketplace and will be used as part of the evaluation criteria.
- 3.7 Subject to CCS's approval, the Supplier may update, but not materially change, its Digital Marketplace entry or Service Definitions and CCS may ask the Supplier to provide evidence to show that any updates it makes are non-material. These variations must be within scope of the Framework Agreement and Lot it's in. The Supplier can remove any Digital Marketplace entries if it tells CCS in writing.
- 3.8 If the Supplier fails to provide acceptable evidence for any updates to their service offering, CCS will remove the service from the Digital Marketplace and may suspend the Supplier from the Framework Agreement.
- 3.9 The Supplier's Terms and Conditions, submitted as part of its Application, can't be amended during the Term of this Framework Agreement.
- 3.10 Subject to clause 3.2, once the G-Cloud Services have been ordered by a Buyer, the Supplier must maintain the Supplier Terms, including the pricing in the Supplier's Digital Marketplace entry at the time of the Order, for the length of any Call-Off Contract.

Background

- 3.11 All Buyers listed under the OJEU Contract Notice can award a Call-Off Contract under this Framework Agreement.
- 3.12 The Buyer can appoint an agent to act on their behalf.
- 3.13 CCS is not responsible for the actions of any Buyer.

Process

- 3.14 If a Buyer decides to source G-Cloud Services and any Additional Services through this Framework Agreement it must search on the Digital Marketplace for a capable Supplier and then award its Call-Off Contract using this process and following the Regulations and Guidance.
- 3.15 The initial search will return a long list and the Buyer will use additional keywords to refine the search of Suppliers whose service offerings are capable of meeting the Buyer's requirement.
- 3.16 The additional search will return a short list and the Buyer will review supplier documents (to include Supplier Terms and pricing) on the Digital Marketplace to assess suitability against their requirement. All shortlisted offerings must be evaluated against the same evaluation model.
- 3.17 The Buyer will apply some or all of the evaluation criteria in 3.20 (or use their own weightings) against the Supplier documents (including Supplier Terms and pricing) on the Digital Marketplace, to evaluate the Services offered following the shortlist and determine the Service that best meets their requirements.
- 3.18 The Buyer may choose to use a credit reference agency (CRA) to carry out due diligence before any appointment to assess the Supplier's economic and financial standing. The CRA report will be used to determine the level of financial risk that appointing the Supplier would represent. If the Buyer determines that the Supplier's credit risk is poorer than average the Buyer reserves the right not to award a Call-Off Contract to the Supplier.
- 3.19 The Buyer will appoint a Supplier based on Most Economically Advantageous Tender (MEAT).
- 3.20 Buyers will apply their own weighting to each of the direct award criteria to award the Call-Off Contract to the Supplier:

Criteria number	Direct award criteria
1	Whole-life cost: cost effectiveness; price and running costs
2	Technical merit and functional fit: coverage, network capacity and performance as specified in relevant service levels
3	After-sales service management: help desk, account management function and assurance of supply of a range of services
4	Non-functional characteristics

- 3.21 Buyers may notify all unsuccessful shortlisted suppliers so they can review and improve their Service Descriptions.

4. Section 4 - How services will be delivered

Warranties and representations

4.1 The Supplier warrants, represents and undertakes to CCS and each Buyer that:

- it has full capacity, authority and all necessary authorisations, consents, licences and permissions, to enter into and perform its obligations under the Framework Agreement and each Call-Off Contract, including if a Supplier's processes need the consent of its Parent Company
- the Supplier or an authorised representative will sign the Framework Agreement and the Call-Off Contract
- it has used and must continue to use all reasonable endeavours to prevent viruses and malware accessing systems owned by, under the control of, or used by CCS or any Buyer via its own access to these systems
- in entering into this Framework Agreement and any Call-Off Contract, it has not committed, will not commit or agree to commit a Prohibited Act
- it will continue to pay all taxes due to HMRC and will not indulge in 'disguised employment' practices when delivering services under this Framework Agreement
- at the Start Date, it has notified CCS in writing of any Tax Non-Compliance or any Tax Non-Compliance litigation it is involved in
- it will perform all obligations under this Framework Agreement and any Call-Off Contract complying with all Laws
- it will perform its obligations with all reasonable care, skill and diligence, according to Good Industry Practice
- on a Call-Off Start Date, all information, statements and representations in the Application are accurate and not misleading except if the Buyer has been notified in writing before signing the Call-Off Contract

The fact that any provision within this Framework Agreement is expressed as a warranty does not preclude any right of Ending CCS may have if the Supplier breaches that provision.

Liability

4.2 Neither Party excludes or limits its liability for:

- death or personal injury caused by its negligence, or that of its Staff
- bribery, Fraud or fraudulent misrepresentation by it or its employees
- breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or sections 2 or 11B of the Supply of Goods and Services Act 1982
- any liability that cannot be excluded or limited by Law

4.3 Nothing in this Framework Agreement affects a Party's duty to mitigate their loss.

- 4.4 Except for liabilities which can't be limited by Law, neither Party will be liable to the other for any:
- loss of profits
 - loss of business
 - loss of revenue
 - loss of or damage to goodwill
 - loss of savings (whether anticipated or otherwise)
 - indirect, special or consequential loss or damage
- 4.5 The Supplier will be liable for the following types of loss which will be regarded as direct and will be recoverable by CCS for any:
- regulatory losses or fines arising directly from the Supplier's breach of any Laws
 - additional operational or administrative costs and expenses from any Material Breach
 - wasted expenditure or unnecessary charges CCS pays because of the Supplier's Default
 - other liabilities suffered by CCS in connection with the loss of, corruption or damage to, or failure to deliver CCS Data by the Supplier
- 4.6 The Supplier will not be responsible for any injury, loss, damage, cost or expense that is directly caused by the negligence or wilful misconduct of CCS or breach by CCS of its obligations under the Framework Agreement.
- 4.7 CCS's obligations under this Framework Agreement are only in its capacity as a contracting party and won't constrain CCS in any other capacity or lead to any liability to the Supplier under this Framework Agreement where CCS exercises its public duties and powers.
- 4.8 The Supplier's liability to pay any Management Charges due to CCS will be unlimited.
- 4.9 Subject to any liabilities which can't be limited by Law under clause 4.2, each Party's total aggregate liability under this Framework Agreement in each 12-month period during the Term (whether in contract, tort (including negligence), breach of statutory duty or otherwise) will be limited to 125% of the Management Charge paid or payable in the Year the default happened; or £100,000, whichever is greater. The Parties agree that these clauses 4.2 to 4.8 (inclusive) will not limit the Supplier's and Buyers' liability under any Call-Off Contract.

Guarantee

- 4.10 If requested by a Buyer, the Supplier must provide a completed Guarantee before the Call-Off Start Date in the form set out in Call-Off Schedule 5.

IR35

- 4.11 The Parties do not intend the Framework Agreement to be used for provision of Services or off-payroll worker recruitment that is Inside IR35.
- 4.12 CCS may End this Framework Agreement under clause 5.1 for Material Breach if the Supplier is found to be delivering Services to a Buyer Inside IR35.

5. Section 5 - What happens if the supplier fails to meet the terms of this framework agreement

Ending and suspension of a supplier's appointment

With cause by CCS

5.1 CCS can suspend or End this Framework Agreement by notice with immediate effect if:

- there's a Supplier Insolvency Event
- the Supplier has breached clauses 2.5 to 2.8
- there are at least 3 MI Failures within a 6-month rolling period
- the Supplier has tried to renegotiate any terms of a Call-Off Contract or potential Call-Off Contract
- the Supplier commits a Material Breach of this Framework Agreement
- CCS reasonably considers that the Services supplied by the Supplier to a Buyer is Inside IR35

Force majeure

- 5.2 Neither Party will be liable to the other Party for any delay in performing, or failure to perform, its obligations under this Framework Agreement (other than a payment of money) to the extent that such delay or failure is a result of a Force Majeure event.
- 5.3 A Party will promptly (on becoming aware of the same) notify the other Party of a Force Majeure event or potential Force Majeure event which could affect its ability to perform its obligations under this Framework Agreement.
- 5.4 Each Party will use all reasonable endeavours to continue to perform its obligations under the Framework Agreement and to mitigate the effects of Force Majeure. If a Force Majeure event prevents a Party from performing its obligations under the Framework Agreement for more than 60 consecutive Working Days, the other Party can End the Framework Agreement with immediate effect by notice in writing.

Without cause by CCS

- 5.5 CCS will have the right, without cause and without liability, to suspend or End this Framework Agreement, or any provisions of any part of this Framework Agreement, by giving at least one month's written notice to the Supplier.
- 5.6 Ending, suspension or expiry of this Framework Agreement will not affect any accrued rights, remedies or obligations of either Party.

Ending on change of control

- 5.7 The Supplier must tell CCS immediately if the Supplier has a change of Control and, provided this does not contravene any Law, will notify CCS immediately in writing of any circumstances suggesting that a change of Control could happen.
- 5.8 CCS may End this Framework Agreement by giving notice in writing to the Supplier within 6

months of CCS either:

- being notified in writing by the Supplier that a change of Control could happen
- if it hasn't notified CCS, the date that CCS becomes aware that a change of Control could happen

5.9 CCS can End this Framework Agreement by giving notice in writing to the Supplier with immediate effect if either:

- CCS determines at its discretion that the change of Control is prohibited under the Regulations
- CCS's written approval has not been granted before the change of Control and CCS reasonably believes that the change is likely to have an adverse effect on the provision of the Services

Fraud

5.10 If the Supplier commits any Prohibited Act, it will be a Material Breach and:

- CCS may End this Framework Agreement
- Buyers may End their Call-Off Contracts
- CCS and any Buyer may fully recover any resulting Losses from the Supplier

Notice of fraud

5.11 The Supplier must tell CCS immediately and in writing if it suspects that any Prohibited Act has happened, is happening or is likely to happen, except if complying with this provision would mean committing an offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.

Consequences of suspension, ending and expiry

5.12 Suspension, Ending or expiry of this Framework Agreement will not affect existing Call-Off Contracts. Call-Off Contracts will remain in force unless they End, are suspended or expire under the terms of the Call-Off Contract.

5.13 Even if a notice is served to End this Framework Agreement, the Supplier will continue to fulfil its obligations, including those obligations expressed to be for the Buyer's benefit until the End date or date of expiry of any Call-Off Contract.

5.14 The Supplier must continue to provide Management Information and pay the Management Charges due to CCS even if this Framework Agreement Ends, is suspended or expires.

5.15 Ending, suspension or expiry of this Framework Agreement will not affect any prior rights, remedies or obligations of either CCS or the Supplier accrued under this Framework Agreement.

5.16 All licences, leases and authorisations granted by CCS to the Supplier under this Framework Agreement will cease when it Ends or expires without the need for CCS to serve notice except if the Framework Agreement states otherwise.

Assurance verification

- 5.17 The Supplier accepts that an Assurance verification process is an important part of the operation of the Framework Agreement. CCS or its agents may check any claims made by the Supplier in their Response and in their Service Definitions. CCS will continue to verify that:
- any information submitted is still an accurate reflection of the actual characteristics of the Supplier and its G-Cloud Service offerings
 - the Supplier's Services remain within scope of the Framework Agreement
 - the Supplier continues to meet the essential qualification criteria established when the Framework Agreement was awarded
- 5.18 Failure of the Assurance verification process by the Supplier will mean that the service will be removed from the Digital Marketplace and the Supplier may be suspended from the Framework Agreement.

6. Section 6 - What you report to CCS

Management information

- 6.1 The Supplier will provide complete and accurate Management Information (MI) to CCS using MI Reports. Suppliers will provide these reports for free and using the template provided by CCS.
- 6.2 CCS must provide the Supplier with the latest MI reporting template. See Framework Schedule 1 for the link to an example MI reporting template.
- 6.3 The Supplier must not use templates from previous months.
- 6.4 The Supplier will not make any amends to the format of the MI reporting template provided by CCS.
- 6.5 CCS has the right at any time and on reasonable notice, to amend the format of the reporting template and its reporting method.
- 6.6 Using the MI report to upload monthly returns to the CCS Management Information System Online (MISO), the Supplier must:
- report on each order agreed
 - report on each invoice raised or submitted in each month
 - use the template and complete all appropriate data fields provided to submit the report
 - send the report by the 7th day of the following month, or the nearest Working Day before the 7th day if it's a weekend or public holiday
- 6.7 If there has been no activity for a particular month, the Supplier must submit a 'nil return' for that month.
- 6.8 The Supplier must also inform CCS of any corrections to previous MI Reports.
- 6.9 CCS may consider that an MI Failure has happened if an MI Report:
- contains any material errors or omissions

- is submitted using an incorrect MI reporting template
- isn't submitted by the Reporting Date (including if a nil return should have been filed)
- isn't submitted for the relevant period

6.10 After an MI Failure CCS may issue reminders to the Supplier or require the Supplier to fix mistakes in the MI Report. The Supplier must do this as soon as possible and not more than 5 Working Days after receiving the reminder.

Use of management information

6.11 The Supplier grants CCS a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to use and to share with any Buyers and Relevant Person any Management Information supplied to CCS for CCS's normal operational activities as a central purchasing body for government.

6.12 If CCS shares the Management Information, any Buyer receiving the information will be informed of its sensitive nature and requested not to disclose it to any person who is not a Crown body or Buyer.

Admin fees

6.13 If there are 2 or more MI Failures in any 3-month rolling period, CCS will charge the Supplier for the costs (an Admin Fee) of chasing the Supplier to provide the information.

6.14 The Admin Fee is the amount payable by the Supplier to CCS if:

- CCS incurs costs because of incorrect MI
- the MI Report is not returned within the agreed timescales

6.15 Details of the Admin Fees are available at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/382985/MI_admin_fees.xlsx

6.16 By signing this Framework Agreement, the Supplier agrees that the Admin Fees are a fair reflection of the additional costs incurred by CCS due to the Supplier failing to supply the MI as required.

6.17 CCS will tell the Supplier about any Admin Fees and will be entitled to invoice the Supplier admin fees, which will be payable as a supplement to the Management Charge.

6.18 Payment of the Admin Fee will not affect any of CCS's other rights under this Framework Agreement.

6.19 If three (3) MI Failures occur in a six (6) Month rolling period then an "**MI Default**" shall be deemed to have occurred and CCS shall be entitled to:

- charge and the Supplier shall pay an additional default management charge ("**Default Management Charge**") in respect of the Months in which the MI failure occurred and subsequent Months in which they continue, calculated in accordance with Paragraph 6.20; and/or
- End this Framework Agreement.

6.20 The Default Management Charge shall be the higher of

- the average Management Charge paid or payable by the Supplier in the previous six (6) Month period or, if the MI Default occurred within less than six (6) Months from the commencement date of the first Call-Off Contract, in the whole period preceding the date on which the MI Default occurred; or
- the sum of five hundred pounds (£500).

6.21 If the Supplier provides sufficient Management Information to rectify any MI Failures to the satisfaction of CCS and the Management Information demonstrates that:

- the Supplier has overpaid the Management Charges as a result of the application of the Default Management Charge then the Supplier shall be entitled to a refund of the overpayment, net of any Admin Fees where applicable; or
- the Supplier has underpaid the Management Charges during the period when a Default Management Charge was applied, then CCS shall be entitled to immediate payment of the balance as a debt together with interest.

Management charge

6.22 The Supplier must pay CCS the Management Charge for setting up and running this Framework Agreement.

6.23 The Management Charge excludes VAT and will be a figure of up to 1% of all Charges for the Services invoiced to Buyers. It is currently set at 0.75% of all Charges invoiced to Buyers but may be increased at CCS's discretion.

6.24 CCS will submit invoices to the Supplier for the Management Charge due each month based on the MI provided by the Supplier, which must be paid by the Supplier within 30 days of the date of the invoice.

6.25 The Management Charge applies to the full Charges specified in each order and will not be varied because of any service credits or other deductions.

6.26 The Supplier must pay the VAT on the Management Charge.

6.27 Interest will be payable on any late payments of the Management Charge under this Framework Agreement as set out in the Late Payment of Commercial Debts (Interest) Act 1998.

Buyer satisfaction monitoring

6.28 CCS or a CCS agent may carry out a Buyer satisfaction survey at any time to:

- assess Buyer satisfaction with the provision, performance and delivery of G-Cloud Services by the Supplier and with the quality, efficiency and effectiveness of the supply
- monitor how the Supplier is complying with the terms of its Digital Marketplace Application
- carry out any other assessment it considers appropriate

6.29 CCS can include the results of Buyer satisfaction surveys on the Digital Marketplace and any Buyer can use those results to make decisions about any contract between the Buyer and the

Supplier.

Key performance indicators

6.30 Key Performance Indicator Targets that CCS may use to measure the performance of the Supplier on this Framework Agreement are:

KPI number	Performance criteria	Target	Measured by
Contract management			
1	Respond to CCS about any Framework management matters.	≥95%	The Supplier responding to correspondence (email or phone) from CCS within 2 Working Days. Resolving issues raised within 5 Working Days.
Management information			
2	Complete and accurate MI reports to be returned to CCS by 7th day of the following month.	100%	Complete and accurate MI template submitted by the Supplier to CCS by 7th day of the following month.
3	Management Charges to be paid within 30 days from date of invoice issue.	100%	Confirmation of payment received by CCS within 30 calendar days.

7. Section 7 - Transparency and access to records

Transparency

7.1 Under the government's transparency policy, CCS can make all or part of the Information (including the Framework Agreement and Call-Off Contract) publicly available subject to any redactions made at the discretion of CCS by considering and applying relevant exemptions under the Freedom of Information Act (FoIA).

7.2 The terms of this Framework Agreement and any Call-Off Contract mean:

- CCS can publish the full text of the Framework Agreement concluded with the Supplier
- the Buyer can publish the signed Call-Off Contract after considering (at CCS's or the Buyer's discretion) any representations made by the Supplier about the application of any relevant FoIA or EIR exemptions
- CCS or the Buyer can publish any information provided by the Supplier as part of early market engagement

The Supplier agrees that information in its Application may be incorporated by CCS into any Call-Off Contract awarded to, or any Framework Agreement concluded with, the Supplier and may be published.

What will happen during the Framework Agreement's term

7.3 The Supplier will maintain full and accurate records and accounts, using Good Industry Practice

and generally accepted accounting principles, of the:

- operation of the Framework Agreement and the Call-Off Contracts entered into with Buyers
- Services provided under any Call-Off Contracts (including any Subcontracts)
- amounts paid by each Buyer under the Call-Off Contracts

What will happen when the Framework Agreement ends

- 7.4 The Supplier will provide a completed self audit certificate (Schedule 2) to CCS within 3 months of the expiry or Ending of this Framework Agreement.
- 7.5 The Supplier's records and accounts will be kept until the latest of the following dates:
- 7 years after the date of Ending or expiry of this Framework Agreement
 - 7 years after the date of Ending or expiry of the last Call-Off Contract to expire or End
 - another date agreed between the Parties
- 7.6 During the timeframes highlighted in clause 7.5, the Supplier will maintain:
- commercial records of the Charges and costs (including Subcontractors' costs) and any variations to them, including proposed variations
 - books of accounts for this Framework and all Call-Off Contracts
 - MI reports
 - access to its published accounts and trading entity information
 - proof of its compliance with its obligations under the Data Protection Legislation and the Transparency provisions under this Framework Agreement
 - records of its delivery performance under each Call-Off Contract, including that of its Subcontractors

What will happen during an audit or inspection

- 7.7 CCS will use reasonable endeavours to ensure that the Audit does not unreasonably disrupt the Supplier, but the Supplier accepts that control over the conduct of Audits carried out by the auditors is outside of CCS's control.
- 7.8 Subject to any Confidentiality obligations, the Supplier will use reasonable endeavours to:
- provide audit information without delay
 - provide all audit information within scope and give auditors access to Supplier Staff
- 7.9 The Supplier will allow the representatives of CCS, Buyers receiving Services, the Comptroller and Auditor General and their staff, any appointed representatives of the National Audit Office, HM Treasury, the Cabinet Office and any successors or assigns of any of the above, access to the records, documents, and account information referred to in clause 7.6 (including at the Supplier's premises) as may be required by them and subject to reasonable and appropriate

confidentiality undertakings, to verify and review:

- the accuracy of Charges (and proposed or actual variations to them under this Framework Agreement)
- any books of accounts kept by the Supplier in connection with the provision of the G-Cloud Services for the purposes of auditing the Charges and Management Charges under the Framework Agreement and Call-Off Contract only
- the integrity, Confidentiality and security of the CCS Personal Data and the Buyer Data held or used by the Supplier
- any other aspect of the delivery of the Services including to review compliance with any legislation
- the accuracy and completeness of any MI delivered or required by the Framework Agreement
- any MI Reports or other records about the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records
- the Buyer's assets, including the Intellectual Property Rights, Equipment, facilities and maintenance, to ensure that the Buyer's assets are secure and that any asset register is up to date

Costs of conducting audits or inspections

7.10 The Supplier will reimburse CCS its reasonable Audit costs if it reveals:

- an underpayment by the Supplier to CCS in excess of 5% of the total Management Charge due in any monthly reporting and accounting period
- a Material Breach

7.11 CCS can End this Framework Agreement under Section 5 (Ending and suspension of a supplier's appointment) for Material Breach if either event in clause 7.10 applies.

7.12 Each Party is responsible for covering all their own other costs incurred from their compliance with these audit obligations.

8. Section 8 - General governance

Definitions and interpretation

8.1 This Framework Agreement will be interpreted using the definitions and provisions in the Glossary and interpretations section.

8.2 All 3 schedules are incorporated into this Framework Agreement:

- Schedule 1: MI reporting template
- Schedule 2: Self audit certificate
- Schedule 3: Glossary and interpretations

Order of precedence

8.3 If there's any conflict or ambiguity between the clauses of this agreement, to the extent necessary, the order of precedence for resolving the conflict is:

- the completed Order Form
- the Framework Agreement
- the clauses of a Call-Off Contract (excluding Supplier Terms)
- the Supplier's Terms
- any other document referred to in the Call-Off Contract clauses

Alternative Clauses specified in a Buyer's Order Form will take precedence over their corresponding clauses in the Call-Off Contract.

If the Application contains provisions which are more favourable to CCS or the Buyer compared to the rest of the Framework Agreement or Call-Off Contract, the Application provisions will apply. CCS and the Buyer will at their discretion determine whether any provision is more favourable.

Relationship

8.4 Nothing in this Framework Agreement is intended to:

- create a partnership, or legal relationship of any kind that would impose liability on one Party for the act or failure to act of the other Party
- authorise either Party to act as agent for the other Party

Who can buy using this Framework Agreement

8.5 CCS and Buyers can order G-Cloud Services from the Supplier using the Buying Process and the provisions of the Call-Off Contract.

No guarantee of work

8.6 No exclusivity or guarantee of volume or quantity of work has been offered by CCS to Suppliers under this Framework Agreement and the Supplier confirms that it accepts this. Neither CCS or any other Buyer has to offer the Supplier a Call-Off Contract.

Entire agreement

8.7 This Framework Agreement is the entire agreement and understanding between the Parties.

8.8 Each of the Parties agrees that in entering into this Framework Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Framework Agreement.

8.9 Nothing in these Entire agreement clauses 8.7 to 8.9 (inclusive) will exclude liability or remedy for Fraud or fraudulent misrepresentation.

Law and jurisdiction

- 8.10 Any disputes or matters (including non-contractual) under this Framework Agreement will be governed by and construed under the Laws of England and Wales and without prejudice to the dispute resolution process. Each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

Legislative change

- 8.11 The Supplier won't be relieved of its obligations under this Framework Agreement, or be entitled to increase the Framework Agreement prices as the result of a general change in Law or a Specific Change in Law, without prior written approval from CCS.
- 8.12 If a Specific Change in Law is made which has a material impact on the delivery of the Services or the Framework Agreement price range, the Supplier will notify CCS of the likely effects of that change. This will include whether any change is required to the Services, the Framework Agreement price range or this Framework Agreement.

Bribery and corruption

- 8.13 The Supplier must ensure that neither it, nor any person acting on its behalf, will commit any Prohibited Act in connection with this Framework Agreement.
- 8.14 If the Supplier breaches the Bribery Act 2010, CCS can End this Framework Agreement.
- 8.15 If the Supplier breaches these Bribery and corruption clauses 8.13 to 8.17 (inclusive), CCS can End this Framework Agreement.
- 8.16 CCS will be entitled to recover in full from the Supplier and the Supplier will on demand compensate CCS in full for:
- the amount of value of any such gift, consideration or commission
 - any other Loss sustained by CCS because of any breach of these Bribery and corruption clauses 8.13 to 8.17 (inclusive)
- 8.17 The Parties agree that the Management Charge isn't an offence as described in section 1 of the Bribery Act 2010.

Freedom of Information Act (FoIA)

- 8.18 The Supplier acknowledges that CCS is subject to the Freedom of Information Act (FoIA) and the Environmental Information Regulations (EIR).
- 8.19 The Supplier will co-operate with CCS and Buyers to enable them to comply with their Information disclosure obligations under this Framework Agreement and any Call-Off Contracts.
- 8.20 The Supplier must not respond directly to a Request for Information under the FoIA or EIR.
- 8.21 The Supplier will note that the Information disclosed in response to a FoIA or EIR request may include its Response. This may include attachments, embedded documents, any score or details of its evaluation.
- 8.22 CCS is responsible for deciding whether the Commercially Sensitive Information or any other Information is exempt from disclosure under the provisions of the FoIA or the EIR.
- 8.23 CCS may be required to disclose Information under the FoIA, EIR and the Ministry of Justice

Code even where Information is identified as confidential or commercially sensitive. This may include disclosure of the information without consulting the Supplier or after having taken the Supplier's views into account.

8.24 If the Supplier considers any part of its Response or any other Supplier information to be confidential or commercially sensitive, the Supplier will promptly and in writing:

- identify this Information to CCS
- explain the potential implications of its disclosure, specifically addressing the public interest test as in the FoIA
- estimate how long it believes such Information will remain confidential or commercially sensitive

8.25 CCS will consider this when making a decision under the FoIA or EIR.

8.26 The Supplier must:

- transfer to CCS all Requests for Information that it receives within 2 Working Days of receiving it
- provide all necessary help reasonably requested by CCS to enable CCS to respond to the Request for Information within the timescales set out in section 10 of the FoIA or regulation 5 of the EIR
- provide CCS with a copy of all Information about a Request for Information, in its possession or control, in the form that CCS requires within 5 Working Days of CCS's request

8.27 CCS will make reasonable efforts to notify the Supplier when it receives a relevant FoIA or EIR request so that the Supplier may make appropriate representations.

Promoting tax compliance

8.28 If tax non-compliance happens during the Framework Agreement, the Supplier will:

- tell CCS in writing within 5 Working Days
- promptly provide CCS with details of the steps it has taken to address the non-compliance
- provide any other information as CCS reasonably needs

8.29 CCS can End this Framework Agreement for Material Breach if the Supplier doesn't:

- comply with clause 8.28
- provide details of any mitigating factors and its plans to prevent recurrence, which are acceptable to CCS

Official Secrets Act

8.30 The Supplier will comply with, and ensure that the Supplier Staff comply with, the provisions of the Official Secrets Act 1911 to 1989 and Section 182 of the Finance Act 1989.

8.31 If the Supplier or the Supplier Staff fail to comply with the above Official Secrets Act clause 8.30,

CCS reserves the right to End this Framework Agreement with immediate effect by giving notice in writing to the Supplier.

Transfer and subcontracting

- 8.32 The Supplier must not assign, novate, subcontract or in any other way dispose of this Framework Agreement or any part of it without CCS's prior written approval. Subcontracting any part of this Framework Agreement will not relieve the Supplier of its duties under this Framework Agreement.
- 8.33 The Supplier will only subcontract with the prior written approval of the Buyer. If the Supplier chooses to use Subcontractors, this will be outlined in any order along with the percentage of delivery allocated to each Subcontractor.
- 8.34 The Supplier is responsible for the acts and omissions of its Subcontractors and Supplier Staff as though they are its own.
- 8.35 Provided that it does not increase the burden on the Supplier under the Framework Agreement, CCS may assign, novate or otherwise dispose of its rights and obligations under the Framework Agreement or any part of it to any:
- other body established by the Crown or under statute to substantially perform any of the functions previously performed by CCS
 - private sector body which substantially performs the functions of CCS

Contracts (Rights of Third Parties) Act 1999

- 8.36 With the exception of Buyers who can enforce provisions intended for their benefit with CCS's approval, a person who is not Party to this Framework Agreement has no right to enforce any of its terms.
- 8.37 CCS may act as agent and trustee for each Buyer. CCS can enforce any clause or recover any Loss for a Buyer for a breach of any clause.

Complaints handling and resolution

- 8.38 Either Party will notify the other Party of any complaints made by the Buyer's end users, which are not resolved within 5 Working Days.
- 8.39 If the Supplier is the Party providing the notice, the notice will contain full details of the Supplier's plans to resolve the complaint.
- 8.40 The Supplier will work to resolve the complaint within 10 Working Days.
- 8.41 The Supplier will provide full details of a complaint, including details of steps taken to resolve it, within 5 Working Days of a request by CCS or the Buyer.

Conflicts of interest and ethical walls

- 8.42 The Supplier must not be in a position if there is a conflict, and will use reasonable endeavours to avoid being in a position if there is potential conflict between its financial, personal, and other interests (or those of the Supplier Staff or any affiliated company) and the duties owed to CCS and the Buyer under this Framework Agreement or any Call-Off Contract.
- 8.43 Any breach of these Conflict of interest and ethical walls clauses 8.42 to 8.48 (inclusive) will be

deemed to be a Material Breach.

8.44 A conflict of interest can happen if the Supplier, an affiliated company or a member of the Supplier Staff:

- is being considered for the opportunity to deliver Services and any of them has had involvement in the same or other related projects that may give them an advantage
- is related to someone in another supplier team or has a business interest in another supplier and both are part of the same team performing the Services
- has been provided with, or had access to, information which would give an unfair advantage in the buying process

8.45 The Supplier will fully compensate and keep CCS and all Buyers safe from Losses which the Buyer or the government may suffer as a result of a breach of these Conflict of interest and ethical walls clauses 8.42 to 8.47 (inclusive).

8.46 If the Supplier identifies a risk of a conflict or potential conflict, it will (before starting work under a Call-Off Contract) :

- inform the Buyer of the conflict of interest and how it plans to mitigate the risk
- if agreed by the Buyer, promptly establish the necessary ethical wall arrangements

8.47 Details of the mitigation arrangements must be sent to the Buyer as soon as possible.

8.48 The Buyer will, at its discretion, notify the Supplier if the arrangements are acceptable or whether the risk or conflict is a Material Breach.

Publicity and branding

8.49 The Supplier will not do or fail to do anything which may damage the public reputation of CCS under this Framework Agreement or otherwise. CCS may End the Framework Agreement for Material Breach if the Supplier causes material adverse publicity relating to or affecting CCS or the Framework Agreement.

8.50 The Supplier will indemnify CCS against all Losses resulting from the Supplier's use of CCS's logo.

8.51 The Supplier will not make any press announcements about the Framework Agreement or any Call-Off Contracts without CCS's written approval.

Equality and diversity

8.52 The Supplier will comply with any discrimination Laws and other requirements and instructions which CCS and the Buyer reasonably require.

8.53 The Supplier will make sure that all Supplier Staff engaged in the performance of this Framework Agreement and any Call-Off Contract observe these Equality and diversity clauses 8.52 to 8.54 (inclusive).

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

Intellectual property rights

- 8.55 Other than as set out in any Call-Off Contract, neither CCS, the Buyer nor the Supplier will acquire any right, title or interest in the other's Intellectual Property Rights (IPRs).
- 8.56 The Supplier must own or have a valid licence for any IPRs used to perform its obligations under this Framework Agreement and any Call-Off Contract. These must be maintained for the Term of the Framework Agreement and any relevant Call-Off Contracts.

Data protection and disclosure

- 8.57 a) The Parties will comply with the Data Protection Legislation and the provisions of these Data protection and disclosure clauses 8.57 to 8.62 (inclusive) will apply during the Term and for as long as the Supplier holds CCS Personal Data. The Parties acknowledge that for the purposes of the Data Protection Legislation, CCS is the Controller and the Supplier is the Processor. The only Processing that the Supplier is authorised to do in relation to this Framework Agreement is:
- restricted to operations that are strictly necessary for the management/administration of this Framework Agreement; and
 - limited to Personal Data relating to CCS and Buyer personnel, such as contact details, strictly required for the fulfilment of the Supplier's obligation under this Framework Agreement
- b) The Supplier shall assist CCS in the preparation of any Data Protection Impact Assessment required by the Data Protection Legislation prior to commencing any Processing.
- c) The Supplier shall notify CCS immediately if it considers that any of CCS's instructions infringe the Data Protection Legislation. Otherwise the Supplier shall only Process Personal Data only in accordance with paragraph a) above unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify CCS before Processing the Personal Data unless prohibited by Law.
- 8.58 a) The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement:
- i. ensure that it has in place Protective Measures, details of which shall be provided to CCS on request, which are appropriate to protect against a Data Loss Event;
 - ii. take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data, ensuring they are aware of and comply with the Supplier's obligations under Clauses 8.57 to 8.62 and are subject to appropriate confidentiality undertakings
- b) Before allowing any Sub-processor to Process any Personal Data related to this Framework Agreement, the Supplier must:
- i. notify CCS in writing of the proposed Sub-processor(s) and obtain its written consent;
 - ii. ensure that it has entered into a written agreement with the Sub-processor(s) which gives effect to obligations set out in Clauses 8.57 to 8.62 such that they apply to the Sub-processor(s); and
 - iii. inform CCS of any additions to, or replacements of the notified Sub-processors and CCS shall either i) provide its written consent or ii) object
- c) The Supplier shall not transfer Personal Data outside of the European Union unless CCS's

prior written agreement has been obtained, which shall be dependent on such a transfer satisfying relevant Data Protection Legislation requirements.

- 8.59 Taking account of the nature of the Processing the Supplier shall implement appropriate technical and organisational measures, insofar as this is possible to;
- i. without undue delay notify CCS of any third party communication relating to the Parties' obligations under the Data Protection Legislation;
 - ii. assist CCS in meeting any Data Protection Legislation obligations arising from such a communication within the timescales mandated by the legislation;
 - iii. without undue delay notify CCS of any Data Loss Event and provide such assistance as reasonably required by the CCS in respect of such Data Loss Event.
- 8.60 The Supplier shall maintain complete and accurate records to demonstrate its compliance with Clauses 8.57 to 8.62. This obligation does not apply where the Supplier employs fewer than 250 staff unless CCS decides that the Data Protection Legislation so requires. Whatever, the Supplier shall allow for audits of its Data Processing activity by CCS or CCS's designated auditor and shall designate a data protection officer if required by the Data Protection Legislation.
- 8.61 The CCS may at any time propose an agreement variation to revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.
- 8.62 The parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. CCS may at any time propose an agreement variation to amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Officer.

Notices

- 8.63 Any notices sent must be in writing. An email is accepted as being 'in writing'. CCS's email address is: info@crownccommercial.gov.uk

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

- 8.64 Other than a dispute notice under this Framework Agreement, this clause does not apply to any legal action or other method of dispute resolution which will be served at the following addresses:

For CCS:	For the Supplier:
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<p>Crown Commercial Service 9th Floor The Capital Old Hall Street Liverpool L3 9PP</p> <p>For the attention of: G-Cloud Team</p> <p>Email: info@crowcommercialservice.gov.uk</p>	<p>[insert name of supplier] [insert address of supplier] [insert address of supplier] [insert address of supplier]</p> <p>For the attention of: [insert supplier contact name and email address]</p> <p>[Supplier to provide contact details]</p>
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Insurance

- 8.65 The Supplier must have employer's liability insurance of at least £5,000,000 before the framework is awarded unless the Supplier is exempt under law. Suppliers will need to maintain further insurances to the indemnity levels and as set out in each Call-Off Contract.

Severability

- 8.66 If any part of the Framework Agreement becomes invalid, illegal or unenforceable, it will be removed from the Framework Agreement and the remaining parts of the Framework Agreement or any Call-Off Contract will be unaffected.
- 8.67 If any fundamental part of this Framework Agreement becomes invalid, CCS and the Supplier may agree to remedy the invalidity. If the Parties can't do this within 20 Working Days of becoming aware of the invalidity, the Framework Agreement will be automatically Ended and each Party will be responsible for their own costs.

Managing disputes

- 8.68 When either Party notifies the other of a dispute, both Parties will attempt in good faith to negotiate a settlement within 20 Working Days. This will include escalation of the dispute to the CCS Representative and the Supplier Representative.
- 8.69 The obligations of the Parties under this Framework Agreement will not be suspended, ceased or delayed by the reference of a dispute to mediation or arbitration and the Supplier and Supplier's Staff will continue to comply with the requirements of this Framework Agreement.
- 8.70 Nothing in this process prevents a Party from seeking any interim order restraining the other Party from, or compelling the other Party to do, any act.
- 8.71 If the dispute can't be resolved, either Party will be entitled to refer it to mediation unless:
- i. CCS considers that the dispute is not suitable for resolution by mediation
 - ii. the Supplier does not agree to mediation

Mediation process

- 8.72 A neutral adviser or mediator will be agreed by both Parties. If the Parties cannot agree on a mediator within 10 Working Days after a request by one Party to the other, either Party will as soon as possible, apply to the mediation provider or to the Centre for Effective Dispute Resolution (CEDR) to appoint a mediator. This application to CEDR must take place within 12 Working Days from the date of the proposal to appoint a mediator, or within 3 Working Days of notice from the mediator to either Party that they can't or won't act.
- 8.73 The Parties will meet the mediator within 10 Working Days of the mediator's appointment to agree a structure for the negotiations. The Parties can at any stage ask the mediation provider for advice about the process.
- 8.74 Unless otherwise agreed, all negotiations and settlement agreements connected with the dispute will be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- 8.75 If the Parties reach agreement, it will be put in writing and will be binding once it's signed by the Parties' authorised representatives.
- 8.76 Failing agreement, either Party can invite the mediator to provide a non-binding opinion in writing. This opinion will be provided and will not be used in evidence in any proceedings about this Framework Agreement without the prior written consent of both Parties.
- 8.77 If the dispute can't be resolved by mediation, the Parties can refer it to arbitration.
- 8.78 If the Parties fail to reach agreement within 60 Working Days of the mediator being appointed, or other period as agreed by the Parties, it can be referred to the courts.
- 8.79 Either Party can request by written notice that the dispute is referred to expert determination if the dispute relates to:
- any technical aspect of the delivery of the Services
 - the underlying technology
 - financial issues
- 8.80 An expert will be appointed by written agreement between the Parties, but if they fail to agree on an expert within 10 Working Days of the first proposal by a Party, or if the person appointed is unable or unwilling to act, the expert will be appointed on the instructions of the relevant professional body.
- 8.81 The expert will:
- act fairly and impartially and not as an arbitrator
 - provide a determination that will be final and binding on the Parties, unless there's a material failure to follow the agreed process
 - decide the process to be followed and will be requested to make their determination within 30 Working Days of their appointment or as soon as possible and the Parties will provide the documentation that the expert needs
 - decide how and by whom the costs of the determination, including their fees and expenses, are to be paid. Any amount payable by one Party to another will be due within

20 Working Days of the Parties being notified of the determination

8.82 The expert determination process will be conducted in private and will be confidential.

Confidentiality

8.83 Unless disclosure is expressly permitted elsewhere in this Framework Agreement, each Party will:

- treat the other Party's Confidential Information as confidential and safeguard it accordingly
- not disclose it without the relevant Party's written consent

8.84 The Supplier must take all necessary precautions to ensure that any CCS Confidential Information is only disclosed to Supplier Staff to the extent that it is strictly necessary for this Framework Agreement and must ensure that they comply with the obligations under this clause.

8.85 The Confidentiality clauses will not apply to any Confidential Information received by one Party from the other which:

- is or becomes public knowledge (unless by breach of this Framework Agreement)
- was already in the possession of the receiving Party without restriction as to its disclosure
- is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure
- is information independently developed without access to the other Party's Confidential Information
- must be disclosed under a statutory or legal obligation
- is disclosed on a Confidential Basis to a professional adviser

8.86 Nothing in this Framework Agreement will prevent CCS from disclosing the Supplier's Confidential Information (including Management Information):

- for the examination and certification of CCS's accounts
- for any examination under Section 6(1) of the National Audit Act 1983
- to the UK Parliament, Scottish Parliament or Welsh or Northern Ireland Assemblies, including their committees
- to any government department or any Buyer on the basis that the information can only be further disclosed to central government bodies and Buyers
- if CCS (acting reasonably) deems disclosure is appropriate for the performance of public functions
- for sharing knowledge of the G-Cloud Services and their performance to Buyers
- on a Confidential Basis to exercise its rights or comply with its obligations under any Call-Off Contract

- on a Confidential Basis to a proposed transferee, assignee or novatee of, or successor in title to CCS

- 8.87 The Supplier will maintain physical and IT security that follows Good Industry Practice to ensure there is no unauthorised access to any CCS or Buyer Confidential Information and data.
- 8.88 Information about orders placed by a Buyer (including pricing information and the terms of any Call-Off Contract) can be published by CCS and shared with other Buyers. If Confidential Information is shared with other Buyers, CCS will notify the recipient that its contents are confidential.
- 8.89 If the Supplier fails to comply with these confidentiality clauses, CCS reserves the right to End this Framework Agreement with immediate effect by notice in writing.
- 8.90 The Supplier will immediately tell CCS about any security breach of CCS's Confidential Information and will keep a record of those breaches. The Supplier will take all necessary steps to recover this information. The Supplier will co-operate with CCS in any investigation into the breach that CCS considers necessary.
- 8.91 Either Party can use techniques, ideas or knowledge gained during this Framework Agreement unless using them results in unauthorised disclosure of the other Party's Confidential Information or infringes Intellectual Property Rights under this Framework Agreement.

Waiver and cumulative remedies

- 8.92 The rights and remedies provided by this Framework Agreement can only be waived in writing by a Party if intent is clear and will only apply in the specific circumstances outlined here. Unless a right or remedy of CCS is expressed to be an exclusive right or remedy, the exercise of it by CCS doesn't affect CCS's other rights and remedies. Any failure or delay by a Party to exercise a right or remedy will not constitute a waiver.
- 8.93 The rights and remedies provided by this Framework Agreement are cumulative and, unless otherwise provided in this Framework Agreement, are not exclusive of any right or remedies provided at Law.

Schedule 1 - MI reporting template

The MI reporting template is available at

<https://www.digitalmarketplace.service.gov.uk/suppliers/frameworks/g-cloud-10>

You need to be logged in to the Digital Marketplace to see it.

Schedule 2 - Self audit certificate

[The Supplier must provide CCS with Self audit certificates within 3 months of this Framework Agreement expiring or Ending. It must be signed by the Head of Internal Audit, a Finance Director or the company's external auditor.]

Dear Sir or Madam,

Under the Framework Agreement entered into on [] 20[] between [insert Supplier name] and the

Crown Commercial Service, we confirm the following:

In our opinion [Supplier name] has in place suitable systems for identifying and recording the transactions taking place under the provisions of the above Framework Agreement.

We have tested the systems for identifying and reporting on framework activity and found them to be operating satisfactorily.

We have tested a sample of [] [Insert number of sample transactions tested] orders and invoices during our audit for the financial year ended [insert financial year] and confirm that they are correct and under the terms and conditions of the above Framework Agreement.

Signature:

Name:

Role:

Date:

Schedule 3 - Glossary and interpretations

1. If the context allows, any words in the singular also include the plural meaning and the other way round.
2. The words 'include', 'includes' 'including' and 'for example' and words of similar effect will not limit the general effect of the words which precede them.
3. References to any person will include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees.
4. References to any statute, enactment, order, regulation or other similar instrument will be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted.
5. Headings are included in this Framework Agreement for ease of reference only and will not affect the interpretation or construction of this Framework Agreement.
6. References in this Framework Agreement to any clause or Framework Schedule without further designation will be construed as a reference to the clause or sub-clause or Schedule to this Framework Agreement so numbered.
7. References in this Framework Agreement to any paragraph or sub-paragraph without further designation will be construed as a reference to the paragraph or sub-paragraph of the relevant Framework Schedule to this Framework Agreement so numbered.
8. Reference to a clause is a reference to the whole of that clause unless stated otherwise.
9. Approvals or agreements to be given by a Party should not be unreasonably withheld or delayed.
10. Reference to a month means a calendar month.

Additional Services	Any services ancillary to the G-Cloud Services that are in the scope of Section 2 (Services Offered) which a Buyer may request.
Admin Fees	The fees payable by the Supplier under clauses 6.13 to 6.18.
Alternative Clauses	The alternative clauses which the Buyer can incorporate as set out in Call-Off Schedule 4.
Applicant	Has the meaning given in paragraph 1.2 of the Invitation to Tender.
Application	The response submitted by the Supplier to the Invitation to Tender.
Assurance	The assurance verification process performed by CCS under clauses 5.17 and 5.18.
Audit	An audit carried out under this Framework Agreement in accordance with clauses 7.3 to 7.12
Buyer	A UK public sector body, or contracting authority, as described in the OJEU Contract Notice or Regulation 2 of the Public Contracts Regulations 2015, that can execute a Call-Off Contract under this Framework Agreement; or the contracting authority ordering services as identified in the Order Form (as the context provides).
Buyer Data	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
Buyer Satisfaction Survey	A survey carried out under clauses 6.28 to 6.29 (Buyer Satisfaction Monitoring).
Buyer Software	Software owned by or licensed to the Buyer (other than under or for this Framework Agreement), which is or will be used by the Supplier for the purposes of providing the Services.
Buying Process	The ordering and award process specified in Section 3 (How services will be bought).
Call-Off Buying Process	The process for placing orders given in Section 3 (How services will be bought).

Call-Off Contract	The legally binding agreement (entered into following the provisions of this Framework Agreement) for the provision of Services made between a Buyer and the Supplier including the completed Order Form.
Call-Off Term	The period of the Call-Off Contract as specified in the Order Form.
CCS Data	All data supplied by the Buyer to the Supplier including Personal Data that is owned and managed by CCS.
CCS Representative	The CCS representative for this Framework Agreement.
Charges	The prices (excluding any applicable VAT) payable to the Supplier by the Buyer under the Call-Off Contract.
Collaboration Agreement	An agreement between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end IT
Commercially Sensitive Information	Information, which CCS has been notified about by the Supplier in writing (before the Start Date of the Framework Agreement) or the Buyer (before the Call-Off Contract Start Date) with full details of why the Information is considered commercially sensitive.
Comparable Supply	The supply of services to another customer of the Supplier that are the same or similar to any of the Services.
Confidential Basis	Any disclosure by the recipient to a third party is subject to a confidentiality agreement or arrangement containing the same terms as those placed on the recipient under the confidentiality clauses.
Confidential Information	Data, personal data and any information, which may include (but is not limited to) any: <ul style="list-style-type: none"> • information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above • other information clearly designated as being confidential or which should reasonably be considered to be confidential (whether or not it is marked 'confidential').

Control	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
Controller	Takes the meaning given in the Data Protection Legislation
Crown	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.
Data Loss Event	Means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
Data Protection Impact Assessment	An assessment by the Controller of the impact of the envisaged Processing by the Processor under this Framework Agreement on the protection of Personal Data.
Data Protection Legislation	(i) The GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy, including if applicable legally binding guidance and codes of practice issued by the Information Commissioner.
Data Subject	Takes the meaning given in the Data Protection Legislation

Default	<p>This means any:</p> <ul style="list-style-type: none"> • breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) • other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Framework Agreement <p>Unless otherwise specified in this Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
Digital Marketplace	<p>The government marketplace where Services are available for purchase https://www.digitalmarketplace.service.gov.uk/</p>
Direct Award Criteria	<p>The award criteria to be applied for the award of Call-Off Contracts for G-Cloud Services set out in Section 3 (How services will be bought).</p>
DOTAS	<p>The Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide information on them within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made that Act as extended to National Insurance Contributions by the National Insurance Contributions Regulations 2012 made under section 132A Social Security Administration Act 1992.</p>
DPA 2018	<p>Data Protection Act 2018</p>
End	<p>Means to terminate; and Ended and Ending will be construed accordingly.</p>

Environmental Information Regulations or EIR	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department about these regulations.
Employment Status Indicator test tool or ESI tool	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting, the tool may be found here: http://tools.hmrc.gov.uk/esi

Fraud	Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the Crown.
Freedom Of Information Act or FoIA	The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant Government department in relation to the legislation.
G-Cloud Services	The cloud services described in Section 2 (Services Offered) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.
GDPR	The General Data Protection Regulation (Regulation (EU) 2016/679)
General Anti-Abuse Rule	The legislation in Part 5 of the Finance Act 2013 and any future legislation introduced to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.
Good Industry Practice	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking under the same or similar circumstances.
Group of Economic Operators	A partnership or consortium not (yet) operating through a separate legal entity.
Guarantee	The guarantee in Call-Off Schedule 5 (Guarantee).
Guidance	Any current UK Government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK Government guidance and the Crown Commercial Service Guidance, current UK Government guidance will take precedence.

Halifax Abuse Principle	The principle explained in the CJEU Case C-255/02 Halifax and others.
Implementation Plan	The plan set out in the Order Form.
Information	This has the meaning given under section 84 of the Freedom of Information Act 2000.
IR35	IR35 is also known as ‘intermediaries legislation’. It’s a set of rules that affect tax and National Insurance if a Supplier is contracted to work for a client through an intermediary.
Inside IR35	Employment engagements that would be within the scope of the IR35 Intermediaries legislation if assessed by the ESI tool.
Insolvency Event	Can be: <ul style="list-style-type: none"> • a voluntary arrangement • a winding-up petition • the appointment of a receiver or administrator • an unresolved statutory demand • a Schedule A1 moratorium
Intellectual Property Rights or IPR	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction</p> <p>c) all other rights having equivalent or similar effect in any country or jurisdiction</p>
Intermediary	<p>For the purposes of the IR35 rules, an intermediary can be:</p> <ul style="list-style-type: none"> • the supplier's own limited company • a service or a personal service company • a partnership <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example an employment agency).</p>
Invitation to Tender	The Invitation to Tender for this Framework Agreement

Key Performance Indicators	The performance indicators in clause 6.30.
Know-How	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or CCS's possession before the Start Date.
Law	Any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.
LED	Law Enforcement Directive (Directive (EU) 2016/680)
Loss	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' Losses ' will be interpreted accordingly.
Lot	Any of the 3 lots specified in the Invitation to Tender and 'Lots' will be construed accordingly.
Management Charge	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
Management Information or MI	The management information specified in Section 6 (What you report to CCS).

Material Breach	<p>A breach by the Supplier of the following clauses in this Framework Agreement:</p> <ul style="list-style-type: none"> • IR35 • Transfer and subcontracting • Equality and diversity • Conflicts of interest and ethical walls • Warranties and representations • Management information • Management charge • Publicity and branding • Bribery and corruption • Fraud and notice of fraud • Data protection and disclosure • Intellectual Property Rights • Confidentiality • any single serious breach or persistent failure to perform as required by this Framework Agreement or under a Call-Off Contract
MI Failure	A failure by the Supplier to provide as set out in clause 6.9.
Ministry of Justice Code	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.
MI report	The management information report provided by the Supplier under Section 6 (What you report to CCS).
OJEU Notice	The contract notice in the Official Journal of the European Union, seeking expressions of interest from potential providers of G-Cloud Services.
Order	An order for G-Cloud Services placed by a Buyer with the Supplier in accordance with the Buying Process.
Order Form	The order form in the Call-Of Contract to be used by a Buyer to order G-Cloud Services.

Parent Company	Any company which is the ultimate Holding Company of the Supplier.
Party	Party for the purposes of the: <ul style="list-style-type: none"> • Framework Agreement, CCS or the Supplier • Call-Off Contract, the Supplier or the Buyer and 'Parties' will be interpreted accordingly
Personal Data	Takes the meaning given in the Data Protection Legislation
Processing	Takes the meaning given in the Data Protection Legislation
Processor	Takes the meaning given in the Data Protection Legislation
Prohibited Act	To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to: <ul style="list-style-type: none"> • induce that person to perform improperly a relevant function or activity • reward that person for improper performance of a relevant function or activity • commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud
Protective Measures	Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

Regulations	The Public Contracts Regulations 2015 (at http://www.legislation.gov.uk/uksi/2015/102/contents/made) and the Public Contracts (Scotland) Regulations 2015 (at http://www.legislation.gov.uk/ssi/2015/446/contents/made).
Regulatory Bodies	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Framework Agreement.
Relevant Person	Any employee, agent, servant, or representative of CCS, any other public body or person employed by or on behalf of CCS, or any other public body.
Reporting Date	The seventh day of each month following the month to which the relevant MI relates. A different date can be chosen if agreed between the Parties.
Request(s) for Information	A request for information or an apparent request under the Code of Practice on Access to Government Information, FoIA or the Environmental Information Regulations.
Response	The response submitted by the Supplier to the Invitation to Tender.
Self Audit Certificate	The certificate in the form in Schedule 2 (Self Audit Certificate), to be provided to CCS by the Supplier.
Services	Means G-Cloud Services and any/or Additional Services.
Service Definition(s)	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but is not limited to, those items listed in Section 2 (Services Offered) of this Framework Agreement.
Service Description	The description of the Supplier service offering as published on the Digital Marketplace.
Service Personal Data	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of, or in connection with, this Framework Agreement or a Call-Off Contract.

Specific Change in Law	A change in the Law that relates specifically to the business of CCS and which would not affect a Comparable Supply.
Standstill Period	Has the meaning given in paragraph 11.4 of the Invitation to Tender.
Start Date	For the Framework Agreement, the start date is as outlined in 'Section 1 - The appointment'. For the Call-Off Contract, start date is as described in the Order Form.
Subcontract	Any contract or agreement or proposed agreement between the Supplier and a Subcontractor in which the Subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the G-Cloud Services or any part thereof.
Subcontractor	Any third party engaged by the Supplier under a Subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
Subprocessor	Any third party appointed to process Personal Data on behalf of the Supplier under this Framework Agreement.
Supplier Declaration	The document containing the selection and award questions for the procurement.
Supplier Representative	The representative appointed by the Supplier in relation to this Framework Agreement.
Supplier Staff	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and Subcontractors used in the performance of its obligations under this Framework Agreement or any Call-Off Contracts.
Supplier Terms	The Supplier's terms and conditions for G-Cloud Services and as set out in Section 2 (Services offered) and in the form supplied as part of the Supplier's Application.

Tax Non-Compliance	<p>(a) Any tax return the Supplier submitted to HMRC, or the relevant tax authority if the Supplier is established on or after 1 October 2012, is found to be incorrect as a result of:</p> <ul style="list-style-type: none"> (i) HMRC or the relevant tax authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an equivalent effect (ii) the failure of an avoidance scheme used by the Supplier which should be notified to HMRC or the relevant tax authority under the DOTAS or any equivalent regime <p>(b) the Supplier's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any country for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion</p>
Term	The term of this Framework Agreement as specified in Section 1 (The appointment).
Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.
Year	A contract year.