

# Framework Schedule 6 (Order Form Template and Call-Off Schedules)

## Order Form

CALL-OFF REFERENCE: DN688982

THE BUYER: The District Council of Folkestone and Hythe

BUYER ADDRESS Civic Centre, Castle Hill Avenue, Folkestone, Kent, CT20 2QY

THE SUPPLIER: Mills & Reeve LLP

SUPPLIER ADDRESS: 24 King William Street, London, EC4R 9AT

REGISTRATION NUMBER: OC326165

DUNS NUMBER: 219268914

SID4GOV ID: Not applicable

### APPLICABLE FRAMEWORK CONTRACT

This Order Form is for the provision of the Call-Off Deliverables and dated

25<sup>th</sup> September 2023

It's issued under the Framework Contract with the reference number RM6240 for the provision of Public Sector Legal Services.

### CALL-OFF LOT(S):

Lot 2a General Service Provision

### CALL-OFF INCORPORATED TERMS

The following documents are incorporated into this Call-Off Contract. Where numbers are missing we are not using those schedules. If the documents conflict, the following order of precedence applies:

1. This Order Form includes the Call-Off Special Terms and Call-Off Special Schedules.
2. Joint Schedule 1 (Definitions and Interpretation) RM6240
3. Framework Special Terms
4. The following Schedules in equal order of precedence:
  - Joint Schedules for RM6240
    - Joint Schedule 2 (Variation Form)
    - Joint Schedule 3 (Insurance Requirements)

- Joint Schedule 4 (Commercially Sensitive Information)
- Joint Schedule 10 (Rectification Plan)
- Joint Schedule 11 (Processing Data)
- Call-Off Schedules for RM6240
  - Call-Off Schedule 1 (Transparency Reports)
  - Call-Off Schedule 2 (Staff Transfer)
  - Call-Off Schedule 3 (Continuous Improvement)
- 5. CCS Core Terms (version 3.0.11)
- 6. Joint Schedule 5 (Corporate Social Responsibility) RM6240

No other Supplier terms are part of the Call-Off Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

### CALL-OFF SPECIAL TERMS

The following Special Terms are incorporated into this Call-Off Contract:

**Special Term 1** – The Core Terms (version 3.0.11) shall be amended with additional wording underlined and deletions scored-through as follows: -

#### **3.1 Deliverables**

- 3.1.3 The Supplier shall bring to the attention of the Buyer any conflict between:
- (a) the Core Terms or Special Terms in a Contract; and/or
  - (b) any of the requirements in Clause 3.1.1;
- and shall comply with the Buyer's decision on the resolution of any such conflict.

#### **3.3 Service clauses**

- 3.3.9 The Supplier shall to the extent expressly set out in the Order Form, obtain Approval from the Buyer's Authorised Representative before advising the Buyer on:
- (a) Retained EU Law (including State aid and public procurement); or
  - (b) public law (including national security); or
  - (c) the Employment Regulations; or
  - (d) any other issue as may be notified to the Supplier from time to time by the Buyer's Authorised Representative,
- and where Approval is given, if the advice is given orally, confirm in writing, to the Buyer's Authorised Representative, any advice given to the Buyer.

### **8. Restraint of Trade**

- 8.8 In order to protect the legitimate business interests of the Parties, each Party covenants with the other that it shall not (except with the prior written consent of the other Party or where a vacancy is openly and publicly advertised by means of a national advertising campaign) employ or engage or otherwise facilitate the employment or engagement of any Restricted Staff.

## 9 Intellectual Property Rights (IPRs)

9.1 Subject to Clause 9.2, each Party keeps ownership of its own Existing IPRs.

9.2 Unless otherwise provided in the Order Form:

- (a) Intellectual Property Rights in the output from the Deliverables shall vest in the Supplier who shall grant to the Buyer a non-exclusive, unlimited, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change, exploit and sub-license the same; and
- (b) The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-licence Supplier's Existing IPR to enable it to both:
  - (i) receive and use the Deliverables; and
  - (ii) make use of the deliverables provided by a Replacement Supplier.

9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing. However, nothing shall prevent a Buyer from using any techniques, ideas, Know-How which the Buyer has gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in the disclosure of the Supplier's Confidential Information or an infringement of IPRs.

9.5 If there is an IPR Claim, the Supplier indemnifies CCS and each Buyer against all Losses incurred as a result.

9.6 If an IPR Claim is made: -

- (a) the Buyer shall notify the Supplier in writing of the IPR Claim and the Buyer shall not make any admissions which may be prejudicial to its defence or settlement. The Supplier shall at its own expense conduct all negotiations and any litigation arising out of or in connection with the IPR Claim provided always that the Supplier shall: -
  - (i) consult CCS and the Buyer on all substantive issues which arise during the conduct of such litigation and negotiations;
  - (ii) take due and proper account of the interests of the CCS and the Buyer;
  - (iii) consider and defend the IPR Claim diligently using competent counsel and in such a way as not to bring the reputation of the Buyer into disrepute; and
  - (iv) not settle or compromise the IPR Claim without the prior written approval of the Buyer (not to be unreasonably withheld or delayed).

- (b) or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
  - (i) obtain for CCS and the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR; or
  - (ii) replace or modify the relevant item with substitutes that do not infringe IPR without adversely affecting the accuracy, completeness, reliability, functionality or performance of the Deliverables.

## **11. How much you can be held responsible for**

- 11.11 No enquiry, inspection, approval, sanction, comment, consent, decision or instruction at any time made or given by or on behalf of the Buyer to any document or information provided by the Supplier in its provision of the Deliverables, and no failure of the Buyer to discern any defect in or omission from any such document or information shall operate to exclude or limit the obligations of a professional Supplier employed in a buyer / supplier relationship.
- 11.12 Save as otherwise expressly provided, the obligations of the Buyer under the Contract are obligations of the Buyer in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Buyer in any other capacity, nor shall the exercise by the Buyer of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Buyer to the Supplier.
- 11.13 No individual nor any service company of the Supplier employing that individual shall have any personal liability to the Buyer for the Deliverables supplied by that individual on behalf of the Supplier and the Buyer shall not bring any claim under the Contract against that individual or such service company in respect of the Contract save in the case of Fraud or any liability for death or personal injury. Nothing in this Clause 11.13 shall in any way limit the liability of the Supplier in respect of the Deliverables, and such liability shall be uncapped unless otherwise specified in the Order Form.

## **34 Resolving Disputes**

### **Complaint Handling**

- 34.8 If a Complaint is made by any Buyer, either Party shall notify the other Party in writing of the Complaint which if not resolved by operation of the Supplier's usual Complaint handling procedure within 5 Working Days of becoming aware of the Complaint and, if the Supplier is providing the written notice, such notice shall contain full details of the Supplier's plans to resolve the Complaint.
- 34.9 Without prejudice to any:
  - (a) rights and remedies that a complainant may have at Law (including under a Contract), and

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(b) obligation of the Supplier to take remedial action under the provisions of the Contract, the Supplier shall use its best endeavours to resolve the Complaint within 10 Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

CALL-OFF START DATE: 1 August 2023

The Parties acknowledge that they had previously entered into a contract for the provision of legal advice which related to the Call-Off Deliverables referred to below (the "**Prior Contract**"). For the avoidance of doubt, all work carried out by the Supplier in respect of the Call-Off Deliverables referred to below before the Call-Off Start Date set out above was carried out under, and is subject to the terms of, the Prior Contract. All work carried out by the Supplier in respect of the Call-Off Deliverables referred to below from the Call-Off Start Date set out above is subject to the terms of this Call-Off.

CALL-OFF EXPIRY DATE: 31 January 2025

CALL-OFF INITIAL PERIOD: 18 months

CALL-OFF EXTENDED PERIOD: period or periods totalling no more than 6 months beyond the initial period

### CALL-OFF DELIVERABLES

Planning advice in relation to the Otterpool Park Garden Town planning application and associated legal matters and matters relating to decision making in respect of such planning application. Negotiation and completion of the planning agreement relating to the above outline planning application and any other agreement/memorandum of understanding as instructed. Advice on related planning conditions.

### CONFIDENTIALITY

The provisions of the Call-Off Contract relating to confidentiality shall apply.

### IPR

Core Terms as amended by Special Term 1 provides that Clause 9 (IPRs) assigns all IPRs in the outputs from the Deliverables to the Supplier, with a licence from the Supplier to the Buyer to use, transfer and sub-licence, etc. such rights.

### MAXIMUM LIABILITY

The limitation of liability for this Call-Off Contract is stated in Clause 11.2 of the Core Terms.

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The Estimated Year 1 Charges used to calculate liability in the first Contract Year is £200,000

The estimated Year 2 Charges is £200,000

**CALL-OFF CHARGES**

The contract Charges for the Deliverables are on the basis of the Hourly Rates detailed below.

Supplier Personnel Grade	Rate (excl. VAT)
1	
2	
3	
4	
5	
6	
Legal Project Manager	

The Charges will not be impacted by any change to the Framework Prices. The Charges can only be changed by agreement in writing between the Buyer and the Supplier because of:

- Indexation
- Specific Change in Law

**REIMBURSABLE EXPENSES**

None other than travel expenses (assuming a start point of our London office), unless agreed in advance with the Buyer.

**DISBURSEMENTS**

None other than Land Registry and similar fees, unless agreed in advance with the Buyer.

**ADDITIONAL TRAINING CHARGE**

Not applicable

**SECONDMENT CHARGE**

Not applicable

**PAYMENT METHOD**

Payable monthly via BACS in arrears.

**BUYER'S INVOICE ADDRESS:**

[Invoices@folkestone-hythe.gov.uk](mailto:Invoices@folkestone-hythe.gov.uk)

Civic Centre, Castle Hill Avenue, Folkestone, Kent, CT20 2QY

BUYER'S AUTHORISED REPRESENTATIVE

[REDACTED]  
Chief Planning Officer  
[REDACTED]@folkestone-hythe.gov.uk  
Civic Centre, Castle Hill Ave  
Folkestone  
CT20 2QY

SUPPLIER'S AUTHORISED REPRESENTATIVE

[REDACTED], Partner  
[REDACTED]@mills-reeve.com

SUPPLIER'S CONTRACT MANAGER

[REDACTED], Consultant  
[REDACTED]@mills-reeve.com  
[REDACTED]

PROGRESS REPORT FREQUENCY

As requested by the Buyer.

PROGRESS MEETING FREQUENCY

As requested by the Buyer.

KEY STAFF

[REDACTED], Principal Associate  
[REDACTED]  
[REDACTED]@mills-reeve.com  
[REDACTED]

[REDACTED], Associate

[REDACTED]  
[REDACTED]@mills-reeve.com  
[REDACTED]

KEY SUBCONTRACTOR(S)

None

COMMERCIALLY SENSITIVE INFORMATION

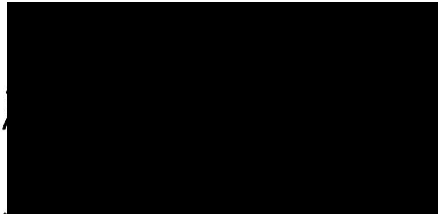
Supplier's charging rates as set out above.

SERVICE CREDITS

Not applicable

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

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



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**EXECUTED AS A DEED** by  
**MILLS & REEVE LLP** acting by:

<b>Director</b> PARTNER/MEMBER		
<b>Director/ Company Secretary</b>		