



29/11/2024

DATED

**Secretary of State acting through the Export Credits Guarantee Department
Operating as UK Export Finance**

and

BLOOM PROCUREMENT SERVICES LIMITED

CALL-OFF CONTRACT

for the provision of
Specialist Professional Services ("NEPRO³")

HEMPSONS

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THIS AGREEMENT is dated 29/11/2024

BETWEEN:

- (1) **Secretary of State acting through the Export Credits Guarantee Department Operating as UK Export Finance** of 1 Horse Guards Road, London, SW1A 2HQ ("**Authority**"); and
- (2) **BLOOM PROCUREMENT SERVICES LIMITED** incorporated and registered in England and Wales with company number 08045123 whose registered office is at Point 5 New Eden House, Fletcher Road, Gateshead NE8 2ET ("**Delivery Partner**").

BACKGROUND

- (A) The Delivery Partner has been appointed by the Association of North East Councils Limited trading as the North East Procurement Organisation ("**NEPO**") as the Delivery Partner for specialist professional services via a single supplier Framework Agreement dated 1st September 2019 for a period of four (4) years (with extension options) commencing on 1st September 2019 (the "**Framework Agreement**").
- (B) The Authority is a Contracting Authority (as defined in the Framework Agreement).
- (C) The Authority requires the Services (as defined below) to be delivered and the Delivery Partner is willing and able to procure a SPS Provider to provide the Services to the Authority in accordance with the terms and conditions of this Agreement.
- (D) This Agreement is a Call-Off Contract (as defined in the Framework Agreement) pursuant to and in accordance with the Framework Agreement.

AGREED TERMS

1 DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Additional Charges has the meaning given in clause 8.4;

Additional Services means the meaning given in clause 8.4;

Appointed SPS Provider Has the meaning given to it in the Framework Agreement;

Associated Company	means any holding company from time to time of the Delivery Partner and any subsidiary from time to time of the Delivery Partner or any subsidiary or any subsidiary of any such holding company;
Authorised Representatives	means the persons respectively designated as such by the Authority and the Delivery Partner, the first such persons being set out in Schedule 3;
Bribery Act	means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;
Business Case	means, in respect of each SPS Project, the document annexed to the Work Order in relation to that SPS Project;
Business Day	means Monday to Friday excluding any public holidays in England and Wales;
Change	means any change to this Agreement including to any of the Services being provided under a Work Order;
Change Control Procedure	means the procedure for changing this Agreement and a Work Order as set out in Schedule 5;
Charges	means the charges which shall become due and payable by the Authority to the Delivery Partner in respect of the Services provided under this Agreement and/or each Work Order in accordance with the provisions of this Agreement, as such charges are annexed to the Work Order prior to its award in the form substantially set out in Schedule 1;
Claim	means a claim under the terms of this Agreement;
Commencement Date	means the date of this Agreement;

Commercially Sensitive Information

means the subset of Confidential Information listed in Column 1, Part 1 (Commercially Sensitive Contractual Provisions) and Column 1, Part 2 (Commercially Sensitive Material) of Schedule 6 in each case for the period specified in the respective columns of Parts 1 and 2 of Schedule 6;

Confidential Information

means:

- (a) Information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights, know-how, of either party and all personal data within the meaning of the Data Protection Act 1998; and
- (b) Commercially Sensitive Information

Construction & Engineering SDS Sub-Contract

has the meaning given to it in the Framework Agreement;

Contracting Authority

means the Authority and any other contracting authority (as defined in Regulation 2 of the Public Contracts Regulations 2015) described in the OJEU Notice.;

CPI

means the index published in Table 1 of the monthly Statistical Bulletin "Consumer price indices" published by the Office for National Statistics or failing such publication or in the event of a fundamental change to the index, such other index as the parties may agree, or such adjustments to the index as the parties may agree (in each case with the intention of putting the parties in no better nor worse position than they would have been in had the index not ceased to be published or the relevant

fundamental change not been made) or, in the event that no such agreement is reached, as may be determined in accordance with clause 26 (Dispute Resolution) of this Agreement;

Data Processor

shall have the same meaning as set out in GDPR;

Data Protection Legislation

means:

- (a) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy;
- (b) the GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing legislation as amended from time to time; and
- (c) all applicable legislation about the processing of personal data and privacy;

Data Subject

shall have the same meaning as set out in the Data Protection Legislation;

Default Notice

is defined in clause 4.2;

Delivery Partner's Personnel

means all employees, staff, other workers, agents and consultants of the Delivery Partner and of any SPS Provider who are engaged in the provision of the Services from time to time;

Dispute Resolution Procedure

means the procedure set out in clause 26;

Engagement Process

means the process undertaken by the Delivery Partner pursuant to the Framework Agreement to appoint the SPS Provider for an SPS Project, the subject of a Work Order;

Enhanced SDS Sub-Contract

has the meaning given to it in the Framework Agreement;

Environmental Information Regulations

means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;

FOIA

means the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such Act;

Force Majeure

means the occurrence after the date of this Agreement of:

- (a) war, civil war, armed conflict or terrorism; or
- (b) nuclear, chemical or biological contamination unless the source or cause of the contamination is as a result of any act or breach of this Agreement by the Delivery Partner or its SPS Sub-Providers (of any tier);
- (c) pressure waves caused by devices travelling at supersonic speeds;
- (d) interruption or failure of utility services or telecommunications networks;
- (e) declaration of a banking moratorium in London or any material disruption to commercial banking or securities settlement or clearance services in the UK;
- (f) strike or industrial dispute; or

(g) other action by a third party reasonably outside the control of the party

which directly causes either party to be unable to comply with all or a material part of its obligations under this Agreement;

Framework Agreement

has the meaning given in recital (A)

GDPR

means the General Data Protection Regulation (Regulation (EU) 2016/679);

Good Industry Practice

means the degree of skill, care, prudence and foresight which would reasonably and ordinarily be expected from time to time of a skilled and experienced professional or consultant engaged in the same type of undertaking under the same or similar circumstances;

Highlight Report

means the online document required to be completed by the Appointed SPS Provider and which should accompany each invoice submitted to the Contracting Authority by the Delivery Partner;

Information

has the meaning given under section 84 of FOIA;

Insolvency Event

means any of the following:

- (a) a Court makes an order that the Delivery Partner shall be wound up or a resolution for a voluntary winding up of the Delivery Partner is passed, except in the case of a solvent reconstruction or amalgamation;
- (b) any receiver or receiver manager in respect of the Delivery Partner is appointed or possession is taken by or on behalf of any creditor of any material property that is the subject of a charge;

- (c) any voluntary arrangement is made for the composition of debts or a scheme of arrangement for an insolvent company is approved under the Insolvency Act 1986 or the Companies Act 2006 in respect of the Delivery Partner; or

an administration order is made or an administrator is appointed in respect of the Delivery Partner;

Intellectual Property Rights

means any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attaching thereto which is created, brought into existence, acquired, used or intended to be used by the Delivery Partner, its sub-contractors and suppliers (of any tier) for the purpose of carrying out the Services or for the purposes of this Agreement;

Legislation

means:

- (a) any Act of Parliament;
- (b) any subordinate legislation within the meaning of Section 21 of the Interpretation Act 1978;
- (c) any exercise of the Royal Prerogative; and
- (d) any enforceable EU right within the meaning of Section 2 of the European Communities Act 1972

in each case in the United Kingdom;

Managed Service	means services provided by the Delivery Partner to the Authority to support the needs, objectives and requirements within the Specialist Professional Services category;
Managed Service Fee	means the fee charged by the Delivery Partner to the Appointed SPS Provider for all services rendered;
Management Reports	means a report which complies with the requirements of Schedule 4 of this Agreement;
Milestone	means the milestones set out in each Work Order or agreed pursuant to clause 8;
Necessary Consents	means all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services;
NEPO	has the meaning given in recital (A);
OJEU Notice	means the contract notice (reference number 2019/S-010-018943 and published in the Official Journal of the European Union;
Outcome	means the intended result(s), as detailed within the SPS Project Brief, for any SPS Project;
Personal Data	shall have the same meaning as set out in the GDPR;
Prohibited Act	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:</p> <p>(i) induce that person to perform improperly a relevant function or activity; or</p>

- (ii) reward that person for improper performance of a relevant function or activity;
 - (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
 - (c) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Authority; or
- defrauding, attempting to defraud or conspiring to defraud the Authority;

(iv)

Replacement Services

means any services that are identical or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the termination or expiry of this Agreement, whether those services are provided by the Authority internally or by any Replacement Delivery Partner;

Replacement Delivery Partner

means any third-party supplier of Replacement Services appointed by the Authority from time to time;

Request for Information

means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;

SDS Sub-Contract	has the meaning given to it in the Framework Agreement;
Services	means the Managed Service and/or the Specialist Professional Services (as the case may be);
Specialist Professional Services	has the meaning given to it in the Framework Agreement, as more fully detailed in the Work Order in respect to each SPS Project;
SPS Project	means the project as detailed in the Business Case;
SPS Proposal	means the response provided by an SPS Provider and approved by the Authority during the Engagement Process to be annexed to the Work Order;
SPS Provider	means the contractors or service providers that enter into a SDS Sub-Contract with the Delivery Partner;
Standard SDS Sub-Contract	has the meaning given to it in the Framework Agreement;
Technology Platform	means the system used by the Delivery Partner to automate the services of the Framework for both Contracting Authorities and SPS Providers;
Term	means the period commencing on the Commencement Date and expiring on the date specified in a notice to terminate served by either party in accordance with clause 2.1;
Termination Date	means the date of expiry of the Term or the date of termination of this Agreement;
Work Order	means, in relation to each SPS Project, the Work Order providing the details and information regarding the Specialist Professional Services to be provided in

relation to the SPS Project, in a form similar to that contained in Schedule 1.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A “person” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Schedules.
- 1.5 A reference to a “company” shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.10 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Agreement) at any time.
- 1.11 References to clauses and Schedules are to the clauses and Schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.
- 1.12 Where there is any conflict or inconsistency between the provisions of the agreement, such conflict or inconsistency shall be resolved according to the following order of priority:
 - 1.12.1 any Work Order;
 - 1.12.2 the clauses of the Agreement;
 - 1.12.3 the remaining schedules to this Agreement.

- 1.13 In this Agreement, references to amounts expressed to be “Indexed” are references to such amounts at the date of the Framework Agreement multiplied by:

$$I_1$$

$$\frac{I_1}{I_2}$$

where:

I₁ is the value of CPI most recently published prior to the relevant calculation date;
and

I₂ is the value of CPI on the date of the Framework Agreement.

2 TERM AND WORK ORDERS

- 2.1 This Agreement shall take effect on the Commencement Date and shall continue for the Term, unless terminated earlier in accordance with clause 22.
- 2.2 For the avoidance of doubt, this Agreement can extend beyond termination of the Framework Agreement but only for a period not exceeding twenty-four (24) months.
- 2.3 Any Work Order must end before the expiry of, or co-terminously with, this Agreement.
- 2.4 During the Term, in relation to each SPS Project, the Authority may submit a Business Case, containing such details as is required to enable the Delivery Partner to engage in the selection process of the SPS Provider(s) to perform the Specialist Professional Services which are the subject of the relevant Work Order pursuant to clause 4.3 of the Framework Agreement.
- 2.5 The parties agree that the Authority may not award and the Delivery Partner shall not accept (and shall be entitled not to accept) any award of a Work Order under clause 4.4 of the Framework Agreement unless and until the process of selection of SPS Providers in accordance with clause 4.3 of the Framework Agreement have been complied with.
- 2.6 Subject to clause 2.5, each Work Order may be awarded by the Authority in accordance with clause 4.4 of the Framework Agreement.
- 2.7 Each Work Order, once awarded, shall be construed in accordance with and shall be subject to the terms of this Agreement.

3 CONSENTS, DELIVERY PARTNER'S WARRANTY AND DUE DILIGENCE

- 3.1 The Delivery Partner shall use reasonable endeavours to ensure that each SPS Provider has all Necessary Consents in place to provide the Specialist Professional

Services and the Authority shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same unless provided for in the SPS Proposal.

3.2 Where there is any conflict or inconsistency between the provisions of the Agreement and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Delivery Partner has made all reasonable attempts to ensure that a Necessary Consent is obtained in line with the requirements of the Specialist Professional Services.

3.3 In respect of each Work Order, the Delivery Partner undertakes to the Authority that:

3.3.1 it shall carry out a thorough due diligence exercise in relation to the Specialist Services and shall ask the Authority all the questions, and for all the information, it considers to be relevant for the purpose of establishing whether it is able to procure the provision of the Specialist Professional Services in accordance with the terms of this Agreement and the relevant Work Order; and

3.3.2 it shall raise all relevant due diligence questions with the Authority before the date the relevant Work Order is awarded pursuant to clause 4.4 of the Framework Agreement

and the Delivery Partner agrees that by accepting the relevant Work Order the Delivery Partner is deemed to have confirmed that this is the case.

3.4 In respect of each Work Order, the Authority undertakes to the Delivery Partner to provide the Delivery Partner with all information it requests from the Authority pursuant to clause 3.3, and any such other information which would be reasonably required to enable the Delivery Partner to establish whether it is able to procure the provision of the Specialist Professional Services in relation to the relevant Work Order.

3.5 In respect of each Work Order, the Delivery Partner shall:

3.5.1 procure that as at the date of award of the Work Order, the SPS Provider warrants and represents that all information contained in the SPS Proposal remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to the award of the Work Order; and

3.5.2 use reasonable endeavours to procure that the SPS Provider shall promptly notify the Authority and the Delivery Partner in writing if it becomes aware during the performance of the Specialist Professional Services of any

inaccuracies in any information provided to it by the Authority or the Delivery Partner during such due diligence which materially and adversely affects its ability to perform the Specialist Professional Services.

- 3.6 The Delivery Partner shall be entitled to recover any additional costs from the Authority which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Authority by the Delivery Partner or the SPS Provider in accordance with clause 3.5.2 and in such circumstances the Delivery Partner shall be entitled to recover such reasonable additional costs from the Authority, or by agreement between the Delivery Partner and the Authority, shall be relieved from performance of certain obligations.
- 3.7 Nothing in this clause 3 shall limit or exclude the liability of the Authority for fraud or fraudulent misrepresentation.

4 SUPPLY OF SPECIALIST PROFESSIONAL SERVICES

- 4.1 The Delivery Partner shall, in respect of each Work Order, procure the provision of the Specialist Professional Services to the Authority commencing after the date of award of the Work Order and in accordance with the requirements of the Business Case and otherwise as provided in the SDS Sub-Contract.
- 4.2 In the event that the Delivery Partner does not comply with the provisions of clause 4.1 in any way, the Authority may serve the Delivery Partner with a notice in writing setting out the details of the Delivery Partner's default in accordance with clause 26.
- 4.3 In respect of each Work Order, the Delivery Partner shall seek approval from the Authority that the SPS Project to which the Work Order relates is completed before it may close the SPS Project.
- 4.4 Not Used
- 4.5 The Delivery Partner shall charge the SPS Provider an amount equal to five per cent (5%) plus VAT of the SPS Provider's total gross invoices in relation to the provision of the Specialist Professional Services.
- 4.6 For an SPS Project involving construction, design and/or engineering Services (regardless of value or term) the Delivery Partner shall ensure it enters into a Construction & Engineering SDA Sub-Contract to allow the Authority the benefit of a collateral warranty, if requested by the Authority. For a lower value SPS Project (less than approximately £75,000 excluding VAT) or shorter term SPS Project (less than 12 months) the Delivery Partner shall ensure it enters into a Standard SDS Sub-Contract.

For all other SPS Projects the Delivery Partner shall ensure it entered into an Enhanced SDS Sub-Contract. The Delivery Partner shall ensure it complies with the accreditation process in the Framework Agreement in all respects.

5 SERVICE STANDARDS

- 5.1 The Delivery Partner shall procure that the SDS Sub-Contract shall require that the SPS Provider provides the Specialist Professional Services:
- 5.1.1 with reasonable skill and care and in accordance with Good Industry Practice;
 - 5.1.2 in all material respects in accordance with each Work Order;
 - 5.1.3 in accordance with each Business Case; and
 - 5.1.4 in accordance with all applicable Legislation relating to the provision of the Specialist Professional Services by the SPS Provider.
- 5.2 Without limiting the general obligation set out in clause 5.1, the Delivery Partner shall (and shall procure so far as is reasonably possible that the Delivery Partner's Personnel and each SPS Provider shall):
- 5.2.1 at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement and the Services. The Delivery Partner shall (and shall procure so far as is reasonably possible that each SPS Provider shall) undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998; and
 - 5.2.2 not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).
- 5.3 The Delivery Partner shall ensure that its equality policy (and shall use its reasonable endeavours to ensure that the equality policy of each SPS Provider) is made available to the Authority on request.
- 5.4 The Delivery Partner shall use its reasonable endeavours (and shall procure, so far as it is reasonably able to do so, that each SPS Provider uses its reasonable endeavours) to support the Authority in the delivery of social, economic and environmental regeneration of the Authority's locality and surrounding areas. Any specific obligations in relation to these requirements shall be set out in each Business Case.

- 5.5 The Delivery Partner shall use its reasonable endeavours (and shall procure, so far as it is reasonably able to do so, that each SPS Provider uses its reasonable endeavours) to put in place procedures and processes to provide encouragement and opportunities for Small and Medium Enterprises and minority groups to be involved in each SPS Project. Any specific obligations in relation to these requirements are set out in each Business Case.

6 NEUTRALITY AND CONFLICTS OF INTEREST

6.1 The Delivery Partner:

- 6.1.1 subject to clause 6.1.2, must not profit from its relationship with any SPS Provider at the expense of NEPO or the Authority;
- 6.1.2 shall not accept or receive any direct or indirect pecuniary benefit from its relationship with any SPS Provider in connection with the provision of the Services pursuant to this Agreement other than as envisaged by this Agreement and each Work Order awarded by the Authority;
- 6.1.3 shall not (nor shall any Associated Company) form any consortium, joint venture, partnership or other commercial or legal relationship beyond the terms envisaged by the Framework Agreement with any SPS Provider in respect of the provision of the Specialist Professional Services delivered under the Framework Agreement; and
- 6.1.4 comply with clause 6 of the Framework Agreement in all respects.

- 6.2 The Delivery Partner shall take reasonable and appropriate steps to ensure that neither the Delivery Partner, the Delivery Partner Personnel nor any SPS Provider are placed in a position where (in the reasonable opinion of the Authority), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Delivery Partner, the Delivery Partner Personnel or any SPS Provider and the duties owed to the Authority under the provisions of this Agreement other than in respect of (i) contractual protection provided by the SPS Provider to the Delivery Partner as comfort that the SPS Provider can perform its obligations under the SDS Sub-Contract; or (ii) collateral warranties provided by an SPS Provider directly to the Authority; or (iii) insurance or (iv) some other third party comfort that the SPS Provider can perform its obligations, all at the cost of the SPS Provider; or (v) the fee provided in clause 4.5.

- 6.3 The Delivery Partner shall promptly notify the Authority (and provide full particulars to the Authority) if any conflict referred to in clause 6.2 above arises or is reasonably foreseeable.
- 6.4 The Authority reserves the right to terminate this Agreement or any Work Order arising under this Agreement immediately by giving notice in writing to the Delivery Partner and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Delivery Partner, the Delivery Partner Personnel or any SPS Provider and the duties owed to the Authority under the provisions of this Agreement or the relevant Work Order (as the case may be) which is not immaterial and which if capable of remedy is not remedied within twenty (20) Business Days of the day of receipt of notice from the Authority giving details of the breach and requiring its remedy. The actions of the Authority under this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

7 AUTHORITY'S PREMISES AND ASSETS

- 7.1 The Authority shall, subject to clause 9 provide the Delivery Partner (and each SPS Provider) with access to such parts of the Authority's premises as the Delivery Partner and each SPS Provider reasonably requires for the purposes only of properly providing the Services.
- 7.2 The Authority shall provide the Delivery Partner and each SPS Provider with such accommodation and facilities in the Authority's premises as is agreed by the parties from time to time.

8 PAYMENT

- 8.1 In relation to each Work Order, in conjunction with the Delivery Partner's engagement in the selection process pursuant to clause 4.3 of the Framework Agreement the Delivery Partner shall also prepare a set of Charges in respect of the Work Order for consideration by the Authority and should the Authority decide to award the Work Order in accordance with clause 4.4 of the Framework Agreement it shall be deemed to have accepted the Charges which shall prior to the award of the Work Order, be annexed to and form part of the Work Order.
- 8.2 In consideration of the provision of the Managed Service pursuant to each Work Order by the Delivery Partner in accordance with the terms and conditions of this Agreement,

the Authority shall pay the Charges to the Delivery Partner in accordance with this clause 8 and each Work Order.

- 8.3 In consideration of the provision or the procurement of the provision of the Additional Services by the Delivery Partner in accordance with the terms and conditions of this Agreement and each Work Order, the Authority shall pay the Additional Charges to the Delivery Partner in accordance with this clause 8.
- 8.4 Subject to prior written agreement (which shall include agreement by email) between the Authority and NEPO, the Authority may at any time require the Delivery Partner by an express written request to perform or procure the performance of any additional services outside the scope of a Work Order (the “**Additional Services**”) and the Delivery Partner agrees to use its reasonable endeavours to procure the provision of such Additional Services. Prior to performing any Additional Services, the parties shall agree the additional charges for performance of such Additional Services (the “**Additional Charges**”) and the milestones for payment of the Additional Charges unless provided in the Work Order. For the avoidance of doubt, if any Additional Services arise from or in connection with any act, omission, negligence or default of the Delivery Partner or SPS Provider, the Delivery Partner shall not be entitled to any Additional Charges and/or any additional fees, costs and expenses in respect of such Additional Services unless expressly agreed in writing by the Authority.
- 8.5 The Authority must approve a Highlight Report within seven (7) days of receipt. In respect of each Work Order, no later than seven (7) days after the Authority has approved the Highlight Report, the Delivery Partner shall send a valid VAT invoice to the Authority detailing the Services provided under the Work Order (with a copy of the approved Highlight Report) to which the VAT invoice relates and stating the amount due to the Delivery Partner and specifying the relevant Milestone or Outcome to which the amount relates.
- 8.6 Notwithstanding the provisions of this clause 8 and subject to agreeing any applicable Additional Charges payable to the Delivery Partner the Authority can request the Delivery Partner to prepare invoices (but not Highlight Reports or Service Delivery Plans) bespoke to their requirements. The Delivery Partner shall use its reasonable endeavours to comply with all such requests, so far as reasonably practicable but is not obliged to do so where this is not practicable or reasonable.
- 8.7 All invoices shall be directed to the Authority's Representative. The Authority's Representative shall consider and verify all invoices in a timely fashion in any event within five (5) working days from the date of receipt of each invoice.

- 8.8 The Authority shall pay the Charges and Additional Charges which have become payable within fourteen (14) days of receipt of a valid undisputed invoice from the Delivery Partner. Where the Authority fails to comply with clause 8.7 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of this clause 8.8 after the seven (7) day period referred to in clause 8.7 has elapsed.
- 8.9 The Authority reserves the right to withhold payment of all or the relevant part of the invoice without payment of interest where the Delivery Partner has either failed to procure the provision of the Specialist Professional Services at all or the Specialist Professional Services have been provided inadequately and any invoice relating to such Services will not be paid unless or until the Services have been performed to the Authority's reasonable satisfaction.
- 8.10 Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with clause 26. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until twenty (20) days after resolution of the dispute between the parties, subject to the Late Payment of Commercial Debt (Interest) Act 1998.
- 8.11 Subject to clause 8.9, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Agreement in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.12 The Charges, Additional Charges and payments under this clause are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice. The Delivery Partner shall indemnify the Authority against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Authority at any time in respect of the Delivery Partner's failure to account for, or to pay, any VAT relating to payments made to the Delivery Partner under this Agreement.
- 8.13 The Delivery Partner shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Authority pursuant to this Agreement and each Work Order. Such records shall be retained for inspection by the Authority for six (6) years from the date of the invoice.
- 8.14 Where the Delivery Partner enters into a SDS Sub-Contract with a SPS Provider for the purpose of performing a Work Order in accordance with this Agreement, it shall cause a term to be included in such a SDS Sub-Contract that requires payment to be

made of undisputed sums by the Delivery Partner to the SPS Provider within a specified period not exceeding the later of (i) thirty (30) days from the receipt of a valid invoice from the SPS Provider, as defined by the SDS Sub-Contract requirements; and (ii) fourteen (14) Business Days from payment by the Authority of the Delivery Partner's own invoice in relation to the works performed under the Work Order and in relation to which the SPS Provider's invoice to the Delivery Partner under the SDS Sub-Contract relates (unless agreed otherwise between the Delivery Partner and the SPS Provider).

- 8.15 Either party may retain or set off any sums owed to it by the other party which have fallen due and payable against any sums due from it to the other party under this Agreement or any Work Order in respect only of any agreements which relate to the same SPS Provider.

9 PERSONNEL USED TO PROVIDE THE SERVICES

- 9.1 At all times, the Delivery Partner shall ensure that:

- 9.1.1 each of the SPS Provider's personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
- 9.1.2 there is an adequate number of SPS Provider's personnel to provide the Specialist Professional Services properly;
- 9.1.3 only those people who are authorised by the Delivery Partner (under the Engagement Process or as agreed between the parties) are involved in providing the Services; and
- 9.1.4 all of the Delivery Partner's Personnel and SPS Provider's personnel comply with all of the Authority's policies, which have been provided in writing to the Delivery Partner, including those that apply to persons who are allowed access to the applicable Authority's premises.

- 9.2 The Authority may refuse to grant access to, and remove, any of the Delivery Partner's Personnel or SPS Provider's personnel who do not comply with any such policies.

- 9.3 The Delivery Partner shall replace any of the Delivery Partner's Personnel who are engaged directly by the Delivery Partner or procure the replacement of any Delivery Partner's Personnel who are engaged directly by a SPS Provider who the Authority reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Delivery Partner's Personnel or SPS Provider's personnel for any reason, the Delivery Partner shall use reasonable endeavours to

ensure that such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.

- 9.4 The Delivery Partner shall maintain up-to-date personnel records on the Delivery Partner's Personnel who are engaged directly by the Delivery Partner and shall use reasonable endeavours to procure that the SPS Provider maintains up-to-date personnel records on the Delivery Partner's Personnel who are engaged directly by the SPS Provider engaged in the provision of the Services and, on request, provide reasonable information to the Authority on the Delivery Partner's Personnel who are engaged directly by the Delivery Partner and use reasonable endeavours to provide reasonable information to the Authority on the Delivery Partner's Personnel who are engaged directly by the SPS Provider. The Delivery Partner shall ensure at all times that it has the right to provide these records in respect of Delivery Partner Personnel who are engaged directly with the Delivery Partner and use reasonable endeavours to ensure that it has the right to provide these records in respect of Delivery Partner Personnel who are engaged directly with the SPS Provider in compliance with the applicable Data Protection Legislation.
- 9.5 The Delivery Partner shall use its reasonable endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good at the prevailing industry norm for similar services, locations and environments.
- 9.6 The Authority warrants that it does not (and does not have the right to) supervise, direct or control the SPS Provider or the Delivery Partner's Personnel as to the manner in which they provide the Specialist Professional Services. The Authority will notify the Delivery Partner in writing if it exercises supervision, direction or control, or seeks the right to supervise, direct or control the SPS Provider or the Delivery Partner's Personnel in which case the Delivery Partner may terminate the SPS Project without any further liability on the part of the Delivery Partner. In addition, the Authority agrees that the Delivery Partner does not (and does not have the right) to supervise, direct or control the SPS Provider or the persons engaged by the SPS Provider to provide Specialist Professional Services. The Authority shall indemnify and keep indemnified the Delivery Partner against any Direct Losses or Indirect Losses incurred by the Delivery Partner by reason of any proceedings, claims or demands by Her Majesty's Revenue and Customs and any successor, equivalent or related body:
 - 9.6.1 for Income Tax; and

9.6.2 pursuant to any of the provisions of ITEPA or the NICs Legislation and/or any supporting or consequential secondary legislation relating thereto,

in either case arising out of any breach by Authority of the warranty in this clause 9.6 provided that this indemnity shall not apply to employers' national insurance contributions to the extent that recovery of such contributions is prohibited by paragraph 3A of Schedule 1 to the Social Security Contributions and Benefits Act 1992.

10 REPORTING REQUIREMENTS

The Delivery Partner shall provide the Management Reports in the form and at the intervals set out in Schedule 4.

11 MONITORING

- 11.1 The Authority may monitor the performance of the Services by the Delivery Partner or any SPS Provider.
- 11.2 The Delivery Partner shall ensure that the Authority has access to the Delivery Partner's electronic system in order to monitor the status of each SPS Project.
- 11.3 The Delivery Partner shall co-operate and shall use reasonable endeavours to procure that each SPS Provider co-operate, with the Authority in carrying out the monitoring referred to in clause 11.1 at no additional charge to the Authority.

12 CHANGE CONTROL AND CONTINUOUS IMPROVEMENT

- 12.1 Any requirement for a Change shall be subject to the Change Control Procedure.
- 12.2 The Delivery Partner shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services. As part of this obligation the Delivery Partner shall identify and report to the Authority's Representative every six (6) months during the Term on:
 - 12.2.1 new or potential improvements to the Services;
 - 12.2.2 new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Authority which might result in efficiency or productivity gains or in reduction of operational risk; and
 - 12.2.3 changes in ways of working that would enable the Services to be delivered at lower costs and/or at greater benefits to the Authority.

- 12.3 Any potential Changes highlighted as a result of the Delivery Partner's reporting in accordance with clause 12.2 shall be addressed by the parties using the Change Control Procedure.
- 12.4 The Delivery Partner shall have and shall implement a written policy and procedural guidance ("Complaints, Compliments and Comments Guidance") on complaints and compliments and comments to be agreed with the Authority or NEPO.
- 12.5 The Delivery Partner shall ensure that:
- 12.5.1 the relevant Authority personnel are aware of the procedure to be used for making a complaint to the Delivery Partner; and
- 12.5.2 systems are in place to monitor the incidence and outcome of complaints, compliments and comments in respect of the Services.

13 SPS SUB-CONTRACTING AND ASSIGNMENT

- 13.1 Subject to clause 13.4, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement or any Work Order without the prior written consent of the other party.
- 13.2 In respect of the Managed Service the Delivery Partner may sub-contract the whole or any part of its obligations under this Agreement and any Work Order with the express prior written consent of the Authority.
- 13.3 In respect of the Specialist Professional Services, the Authority acknowledges that the Delivery Partner shall enter into an SDS Sub-Contract with the SPS Provider identified in the Work Order.
- 13.4 In the event that the Delivery Partner enters into any SDS Sub-Contract in connection with this Agreement and any Work Order it shall:
- 13.4.1 remain responsible to the Authority for the performance of the Managed Service under the Agreement and each Work Order notwithstanding the appointment of any SPS Provider and be responsible for the acts, omissions and neglect of the SPS Providers;
- 13.4.2 impose obligations on each SPS Provider in the same terms as those imposed on it pursuant to this Agreement and the relevant Work Order and shall use its reasonable endeavours to procure that the SPS Provider complies with such terms; and

13.4.3 provide a copy, at no charge to the Authority, of any such SDS Sub-Contract on receipt of a request for such by the Authority's Authorised Representative.

13.5 The Authority shall be entitled to novate the Agreement and any Work Order to any other body which substantially performs any of the functions that previously had been performed by the Authority.

14 LIABILITY AND LIMITATION OF LIABILITY

14.1 The Delivery Partner shall indemnify and keep indemnified the Authority against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this Agreement, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its employees or of any SPS Provider save to the extent that the same is caused by or arises from the negligence, breach of this Agreement or applicable Legislation by the Authority.

14.2 Subject to clause 14.4, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with this Agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.

14.3 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.

14.4 Notwithstanding any other provision of this Agreement neither party limits or excludes its liability for:

14.4.1 fraud or fraudulent misrepresentation;

14.4.2 death or personal injury caused by its negligence;

14.4.3 breach of any obligation as to title implied by statute; or

14.4.4 any other act or omission, liability for which may not be limited under any applicable Legislation.

14.5 Notwithstanding any other provision contained in this clause 14, the Delivery Partner's liability under this Agreement shall be capped at the amount recovered and paid to the Delivery Partner under this Agreement, any relevant Work Order and the relevant SDS Sub-Contract, less the Delivery Partners costs of recovery and the Parties shall resolve

to work together in accordance with clause 15 in respect of the recovery process against an SPS Provider under an SDS Sub-Contract.

15 CONDUCT OF CLAIMS

15.1 If the Authority becomes aware of any claim or any matter or circumstance which might give rise to a Claim or of an entitlement to recover (whether by payment, discount, credit, relief or otherwise) from a third party an amount which relates to the subject matter of a Claim:

15.1.1 the Authority shall immediately give written notice to and consult with the Delivery Partner in respect of the claim, matter, circumstance or entitlement and the most effective manner to proceed in relation to the Claim;

15.1.2 after the Parties have consulted and agreed the appropriate course of action in accordance with clause 15.1.1, the Delivery Partner shall:

15.1.2.1 at the written request and the cost of the Authority take such reasonable action or (at the Authority's option) permit the Authority to take such reasonable action as the Authority considers appropriate, with the consent of the Delivery Partner (such consent not to be unreasonably withheld or delayed), to make, bring, appeal, compromise or settle the Claim (including, without limitation, avoid, dispute, resist, appeal, defend, compromise or settle any counterclaims or other claims against third parties) and any related adjudication or proceedings, and to conduct matters relating thereto including negotiations or appeals, subject to the Delivery Partner being indemnified for all costs and expenses;

15.1.2.2 provide to the Authority and its advisers reasonable access to premises and personnel and to relevant assets, documents and records within the Delivery Partner's power or control for the purposes of investigating the matter or entitlement which allegedly gives rise to the Claim; and

15.1.2.3 preserve all documents, records, correspondence, accounts, electronically stored data and other information whatsoever relevant to a matter which may give rise to a Claim;

- 15.1.3 the Authority (at its cost) may examine and take copies of the documents or records and photograph the premises or assets referred to in clause 15.1.2 above.
- 15.2 Notwithstanding clause 15.1, if a Claim is as a result of, or in connection with, a claim by or a liability to a third party or if, in respect of any Claim, the Authority has any right of action, indemnity or contribution from or against any third party, then the Authority shall;
 - 15.2.1 take all reasonable steps to enforce any right of recovery prior to taking action against the Delivery Partner; and
 - 15.2.2 make no admission of liability in respect of, or compromise, dispose of or settle, any claim without the written consent of the Delivery Partner.
- 15.3 The Parties will deal with any disputes, as between themselves, under this clause 15, in accordance with clause 26.

16 INSURANCE

- 16.1 The Delivery Partner shall use its reasonable endeavours to procure that each SPS Provider engaged in the provision of the Specialist Professional Services shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing the minimum levels of cover set out in the clause 4 of the Framework Agreement:

Together, the “**Required Insurances**” or such other amounts provided on the Work Order. The cover shall be in respect of all risks which may be incurred by the Delivery Partner or the SPS Provider, arising out of the Delivery Partner's or SPS Provider's performance of the Services. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Delivery Partner or the SPS Provider.
- 16.2 The Delivery Partner shall provide to the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 16.3 If, for whatever reason, the Delivery Partner or the SPS Provider fails to give effect to and maintain the Required Insurances, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Delivery Partner.

- 16.4 The terms of any insurance or the amount of cover shall not relieve the Delivery Partner of any liabilities under this Agreement.
- 16.5 The Delivery Partner shall hold and maintain and/or use reasonable endeavours to ensure that the relevant SPS Providers hold and maintain, following the expiration or earlier termination of this Agreement, the Required Insurances either for a minimum period of six (6) years or for a minimum period of twelve (12) years where an SPS Project has utilised contracts signed as a deed.

17 FREEDOM OF INFORMATION

- 17.1 The Delivery Partner acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Authority (at the Delivery Partner's expense) to enable the Authority to comply with these information disclosure requirements.
- 17.2 The Delivery Partner shall (and shall procure that each SPS Provider shall):
- 17.2.1 transfer the Request for Information to the Authority as soon as practicable after receipt and in any event within two (2) Business Days of receiving a Request for Information;
 - 17.2.2 provide the Authority with a copy of all Information in its possession or power in the form that the Authority reasonably requires within five (5) Business Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - 17.2.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 17.3 The Authority shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:
- 17.3.1 is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations; and/or
 - 17.3.2 is to be disclosed in response to a Request for Information.
- 17.4 In no event shall the Delivery Partner respond directly to a Request for Information unless expressly authorised to do so by the Authority.

17.5 The Delivery Partner acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:

17.5.1 without consulting with the Delivery Partner;

17.5.2 following consultation with the Delivery Partner and having taken its views into account

provided always that where clause 17.5.2 applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Delivery Partner advanced notice, or failing that, to draw the disclosure to the Delivery Partner's attention after any such disclosure.

17.6 The Delivery Partner shall ensure that all Information produced in the course of or relating to the Agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

17.7 The Delivery Partner acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with clause 17.5.

18 DATA PROTECTION [DN: This clause is to be used where the Delivery Partner or SPS Provider is processing personal data for the Authority. if this clause is used, Schedule 8 should also be completed to set out the remit of the processing.]

18.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 18 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

18.2 Notwithstanding the general obligation in clause 18.1, where the Delivery Partner or a SPS Provider is processing Personal Data as a Data Processor for the Authority, Schedule 8 sets out the scope, nature and purpose of processing by the Delivery Partner or SPS Provider, the duration of the processing and the types of Personal Data and categories of Data Subject.

18.3 Without prejudice to the generality of clause 18.1, the Authority will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the

Personal Data to the Delivery Partner or SPS Provider for the duration and purposes of this agreement, where applicable.

18.4 Without prejudice to the generality of clause 18.1, the Delivery Partner or SPS Provider shall, in relation to any Personal Data processed in connection with the performance of its obligations under this agreement:

18.4.1 process that Personal Data only on the written instructions of the Authority (as set out in Schedule 8), unless the Delivery Partner or SPS Provider is required by the laws of any member of the European Union or by the laws of the European Union ("Applicable Laws") applicable to the Delivery Partner or SPS Provider to otherwise process the Personal Data. Where the Delivery Partner or SPS Provider is so required, it shall promptly notify the Authority before processing the Personal Data, unless prohibited by the Applicable Laws;

18.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Authority, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its 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 technical and organisational measures adopted by it);

18.4.3 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:

18.4.3.1 the Authority, the Delivery Partner or the SPS Provider has provided appropriate safeguards in relation to the transfer;

18.4.3.2 the Data Subject has enforceable rights and effective remedies;

18.4.3.3 the Delivery Partner or SPS Provider complies with its obligations under the Data Protection Legislation by providing

- an adequate level of protection to any Personal Data that is transferred; and
 - 18.4.3.4 the Delivery Partner or SPS Provider complies with the reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- 18.4.4 notify the Authority immediately if it receives:
 - 18.4.4.1 a request from a Data Subject to have access to that person's Personal Data;
 - 18.4.4.2 a request to rectify, block or erase any Personal Data;
 - 18.4.4.3 any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
- 18.4.5 assist the Authority in responding to any request from a Data Subject and in ensuring compliance with the Authority's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 18.4.6 notify the Authority immediately and in any event within 24 hours on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this agreement;
- 18.4.7 at the written direction of the Authority, delete or return Personal Data and copies thereof to the Contracting Authority on termination or expiry of the agreement unless required by the Applicable Laws to store the Personal Data;
- 18.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 18 and allow for audits by the Authority or the Authority's designated auditor pursuant to clause 20;
- 18.4.9 indemnify the Authority against any loss or damage suffered by the Authority from or in connection with any breach by the Delivery Partner or SPS Provider of its obligations under this clause 18.

- 18.5 Where the Delivery Partner intends to engage a sub-contractor pursuant to clause 13 and intends for that sub-contractor to process any Personal Data relating to this agreement, it shall:
- 18.5.1 notify the Authority in writing of the intended processing by the sub-contractor;
 - 18.5.2 obtain prior written consent to the processing;
 - 18.5.3 ensure that any sub-contract imposes obligations on the sub-contractor to give effect to the terms set out in this clause 18.
- 18.6 The provisions of this clause shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

19 CONFIDENTIALITY

- 19.1 Subject to clause 19.2, the parties shall keep confidential all matters relating to this Agreement and shall use all reasonable endeavours to prevent their Authorised Representatives from making any disclosure to any person of any matters relating hereto.
- 19.2 Clause 19.1 shall not apply to any disclosure of information:
- 19.2.1 required by any applicable Legislation, provided that clause 17.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
 - 19.2.2 that is reasonably required by persons engaged by a party in the performance of such party's obligations under this Agreement;
 - 19.2.3 where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 19.1;
 - 19.2.4 by the Authority of any document to which it is a party and which the parties to this Agreement have agreed contains no commercially sensitive information;
 - 19.2.5 to enable a determination to be made under clause 26;
 - 19.2.6 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
 - 19.2.7 by the Authority to any other department, office or agency of the Government; and

- 19.2.8 by the Authority relating to this Agreement and in respect of which the Delivery Partner has given its prior written consent to disclosure.
- 19.3 On or before the Termination Date the Delivery Partner shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Authorities' employees, rate-payers or service users, are delivered up to the Authority or securely destroyed.
- 19.4 The Delivery Partner shall ensure that any SDS Sub-Contract with a SPS Provider contains equivalent confidentiality obligations.
- 19.5 The Authority hereby acknowledges that Authority details and details of individual projects provided to the Delivery Partner in accordance with this Agreement will be uploaded to the Delivery Partner's Technology Platform and Authority information will be used for the purpose of generating reports and management of the Authority's requirements. In addition, the Delivery Partner can use the Authority's project details (on an anonymised basis) to develop standard specifications. The Authority can, on request, be added as a user of the Technology Platform system.

20 AUDIT

- 20.1 During the Term and for a period of six (6) years after the Termination Date, or in respect of a Work Order, six (6) years after termination of the Work Order, the Authority may conduct or be subject to an audit for the following purposes:
- 20.1.1 to verify the accuracy of Charges (and proposed or actual variations to them in accordance with this Agreement) and/or the costs of all suppliers (including SPS Providers) of the Services;
- 20.1.2 to review the integrity, confidentiality and security of any data relating to the Authority;
- 20.1.3 to review the Delivery Partner's and SPS Provider's compliance with the Data Protection Legislation, the FOIA, in accordance with clause 18 (Data Protection) and clause 17 (Freedom of Information) and any other Legislation applicable to the Services;
- 20.1.4 to review any records created during the provision of the Services;
- 20.1.5 to review any books of account kept by the Delivery Partner or SPS Provider in connection with the provision of the Services;
- 20.1.6 to carry out the audit and certification of the Authority's accounts;

- 20.1.7 to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - 20.1.8 to verify the accuracy and completeness of the Management Reports delivered or required by this Agreement.
- 20.2 Except where an audit is imposed on the Authority by a regulatory body, the Authority may not conduct an audit under this clause 20 more than twice in any calendar year.
- 20.3 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Delivery Partner or SPS Provider or delay the provision of the Services.
- 20.4 Subject to the Authority's obligations of confidentiality, the Delivery Partner shall (and shall procure, so far as it is reasonably able to do so, that the SPS Provider shall) on demand provide the Authority and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
 - 20.4.1 all information requested by the above persons within the permitted scope of the audit;
 - 20.4.2 reasonable access to any sites controlled by the Delivery Partner or SPS Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and
 - 20.4.3 access to the Delivery Partner's Personnel and SPS Provider's personnel.
- 20.5 The parties agree that the Authority shall bear the reasonable costs and expenses incurred by the Delivery Partner and the SPS Provider in respect of compliance with their obligations under this clause, unless the audit identifies a material failure to perform its obligations under this Agreement in any material manner by the Delivery Partner in which case the Delivery Partner shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.
- 20.6 If an audit identifies that:
 - 20.6.1 the Delivery Partner has failed to perform its obligations under this Agreement in any material manner, the parties shall agree and implement a remedial plan. If the Delivery Partner's failure relates to a failure to provide any information to the Authority about the Charges, proposed Charges or the

Delivery Partner's costs, then the remedial plan shall include a requirement for the provision of all such information;

20.6.2 the Authority has overpaid any Charges, the Delivery Partner shall pay to the Authority the amount overpaid within twenty (20) days. The Authority may deduct the relevant amount from the Charges if the Delivery Partner fails to make this payment; and

20.6.3 the Authority has underpaid any Charges, the Authority shall pay to the Delivery Partner the amount of the under payment less the cost of audit incurred by the Authority if this was due to a default by the Delivery Partner in relation to invoicing within twenty (20) days.

21 INTELLECTUAL PROPERTY

21.1 In the absence of prior written agreement by the Authority to the contrary, the Delivery Partner shall use its reasonable endeavours to procure that all Intellectual Property created by an SPS Provider or any employee, agent or subcontractor of an SPS Provider:

21.1.1 in the course of performing the Specialist Professional Services; or

21.1.2 exclusively for the purpose of performing the Specialist Professional Services shall vest in the Authority on creation.

21.2 The Delivery Partner shall indemnify the Authority against all claims, demands, actions, costs, expenses (including reasonable legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Authority's acts or omissions.

21.3 The Authority shall indemnify the Delivery Partner against all claims, demands, actions, costs, expenses (including reasonable legal costs and disbursements on a solicitor client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Delivery Partner or an SPS Provider's acts or omissions.

- 21.4 The Delivery Partner shall procure, so far as it is reasonably able to do so, that each SPS Provider shall assign its rights in any Intellectual Property referred to in clause 21.1 to the Authority free of charge and shall procure, so far as it is reasonably able to do so, that any such Intellectual Property created is capable of assignment.

22 TERMINATION

- 22.1 Either party may terminate this Agreement without cause on the service of one (1) month's written notice on the other party.

- 22.2 The Authority may terminate this Agreement in whole or part with immediate effect by the service of written notice on the Delivery Partner in the following circumstances:

22.2.1 the Delivery Partner committing a material breach of this Agreement which is incapable of remedy; or

22.2.2 the Delivery Partner committing a material breach of an obligation under this Agreement which is capable of remedy and failing to remedy the breach within twenty (20) Business Days of the day of receipt of notice from the Authority giving details of the breach and requiring its remedy; or

22.2.3 if the Delivery Partner stops payment of its debts or ceases or threatens to cease to carry on its business or substantially the whole of its business or is unable to pay its debts as they fall due or is deemed unable to pay its debts; or

22.2.4 an Insolvency Event occurs in relation to the Delivery Partner; or

22.2.5 the commission by the Delivery Partner of an act of grave misconduct in the course of its business or profession including any conviction or any adverse finding in relation to bid-rigging and other anti-competitive practices under the Competition Act 1998 and the Treaty Establishing the European Community 1957.

- 22.3 The Authority may terminate a Work Order with immediate effect by the service of written notice on the Delivery Partner in the following circumstances:

22.3.1 the SPS Provider committing a material breach of the Work Order which is incapable of remedy; or

22.3.2 the SPS Provider committing a material breach of an obligation under the Work Order which is capable of remedy and failing to remedy the breach within twenty (20) Business Days of the day of receipt of notice from the Authority giving details of the breach and requiring its remedy; or

- 22.3.3 the Delivery Partner being guilty of serious misrepresentation in providing any information required by the Authority during the Engagement Process leading to the award of the Work Order other than in reliance on any representation or statement made by an SPS Provider; or
 - 22.3.4 if the Delivery Partner stops payment of its debts or ceases or threatens to cease to carry on its business or substantially the whole of its business or is unable to pay its debts as they fall due or is deemed unable to pay its debts; or
 - 22.3.5 an Insolvency Event occurs in relation to the Delivery Partner; or
 - 22.3.6 the commission by the Delivery Partner of an act of grave misconduct in the course of its business or profession including any conviction or any adverse finding in relation to bid-rigging and other anti-competitive practices under the Competition Act 1998 and the Treaty Establishing the European Community 1957.
- 22.4 For the avoidance of doubt, notwithstanding any termination of the Framework Agreement, this Agreement and each Work Order shall continue in force in accordance with the terms of this Agreement.
- 22.5 Subject to clause 22.6, for the avoidance of doubt, notwithstanding any termination of this Agreement or a specific Work Order, each other Work Order shall continue in force in accordance with the terms of this Agreement.
- 22.6 In the event of termination of a Work Order pursuant to clauses 22.2 and 22.3, the Authority may terminate any other Work Order where the same SPS Provider is providing the Specialist Professional Services and/or require that a new SPS Provider is engaged by the Delivery Partner in respect of any such Work Order.
- 22.7 In the event of termination of this Agreement or any Work Order pursuant to clauses 22.2 and 22.3, the Authority shall have no liability to the Delivery Partner for any Direct Loss or Indirect Loss caused by such termination.
- 22.8 Notwithstanding its right to terminate pursuant to this clause 22, if a right to terminate this Agreement arises in accordance with clause 22.2 or a right to terminate a Work Order arises in accordance with clause 22.3, the Authority shall be entitled to suspend the Delivery Partner's performance under this Agreement or the relevant Work Order with immediate effect by written notice to the Delivery Partner.
- 22.9 Any such suspension pursuant to clause 22.8 shall continue for such period as stated in the written notice or such other period of time notified in writing by the Authority to

the Delivery Partner provided that if any such period extends for a period of more than 90 days from when the written notice under clause 22.8 is given, then the Delivery Partner shall be permitted to terminate this Agreement or the relevant Work Order by giving written notice to the Authority. Any suspension may be lifted at any time by written notice to the Delivery Partner and on receipt of such notice, the Delivery Partner shall resume performance of its obligations pursuant to this Agreement.

23 FORCE MAJEURE

- 23.1 If either party is prevented or delayed in the performance of any of its obligations under this Agreement or a Work Order by Force Majeure, that party shall immediately serve written notice on the other party specifying the nature and extent of the circumstances giving rise to Force Majeure. Subject to service of such notice and to clause 23.3, no party shall be liable for delay in performing or failure to perform its obligations under this Agreement or a Work Order if such delay or failure results from Force Majeure. Such delay or failure shall not constitute a breach of this Agreement and the time for its performance shall be extended by such period as is equal to the delay by which performance is prevented by such Force Majeure.
- 23.2 If any party is prevented from performing its obligations for a continuous period in excess of forty (40) Business Days by reason of Force Majeure, either party may terminate this Agreement or the relevant Work Order immediately on service of written notice upon the other party, in which case no party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist and clause 25 shall apply.
- 23.3 The Party claiming to be prevented or delayed in the performance of any of its obligations under this Agreement or a Work Order by reason of Force Majeure shall use all reasonable endeavours to bring the Force Majeure event to an end or to find a solution by which the Agreement or the Work Order may be performed despite the continuance of the Force Majeure event.

24 PREVENTION OF BRIBERY AND COMPLIANCE WITH MODERN SLAVERY ACT

- 24.1 The Delivery Partner:
- 24.1.1 shall not, and shall procure, so far as it is reasonably able to do so, that any SPS Provider and all Delivery Partner Personnel shall not, in connection with this Agreement commit a Prohibited Act;

- 24.1.2 warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Agreement.
- 24.2 The Delivery Partner shall:
 - 24.2.1 if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
 - 24.2.2 within twenty (20) Business Days of the Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an officer of the Delivery Partner) compliance with this clause 24 by the Delivery Partner and all persons associated with it [or other persons who are supplying goods or services in connection with this Agreement, including the SPS Provider so far as the Delivery Partner is aware]. The Delivery Partner shall provide such supporting evidence of compliance as the Authority may reasonably request.
- 24.3 The Delivery Partner shall have an anti-bribery policy (which shall be disclosed to the Authority) to prevent any SPS Provider or Delivery Partner Personnel from committing a Prohibited Act and shall enforce it where appropriate.
- 24.4 If any breach of clause 24.1 is suspected or known, the Delivery Partner must notify the Authority immediately.
- 24.5 If the Delivery Partner notifies the Authority that it suspects or knows that there may be a breach of clause 24.1, the Delivery Partner shall (and shall use its reasonable endeavours to procure that each SPS Provider shall) respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation.
- 24.6 The Authority may terminate this Agreement or a Work Order by written notice with immediate effect if the Delivery Partner, or Delivery Partner Personnel (in all cases whether or not acting with the Delivery Partner's knowledge) breaches clause 24.1 and the Delivery Partner has failed to comply with its anti-bribery policy (including the enforcement of it) in accordance with clause 24.3 after the Delivery Partner becomes

aware of such breach of clause 24.1. In determining whether to exercise the right of termination under this clause 24.6, the Authority shall give all due consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Delivery Partner or a senior officer of the Delivery Partner or by an employee, SPS Provider or supplier not acting independently of the Delivery Partner. The expression "not acting independently of" (when used in relation to the Delivery Partner or a SPS Provider) means and shall be construed as acting:

24.6.1 with the authority; or,

24.6.2 with the actual knowledge;

of any one or more of the directors of the Delivery Partner or the SPS Provider (as the case may be)

24.7 Any notice of termination under clause 24.6 must specify:

24.7.1 the nature of the Prohibited Act;

24.7.2 the identity of the party whom the Authority believes has committed the Prohibited Act; and

24.7.3 the date on which this Agreement will terminate.

24.8 In performing its obligations under this Agreement, the Delivery Partner shall:

24.8.1 comply with the Modern Slavery Act 2015; and

24.8.2 not engage in any activity, practice or conduct that would constitute an offence under the Modern Slavery Act 2015; and

24.8.3 include in every SDS Sub-Contract provisions that are at least as onerous as those set out in this clause 24.8.

25 CONSEQUENCES OF TERMINATION

25.1 On the expiry of the Term or if this Agreement is terminated in whole or in part for any reason, the Delivery Partner shall co-operate fully with the Authority to ensure an orderly migration of the Services to the Authority or, at the Authority's request, a Replacement Delivery Partner.

25.2 On termination of this Agreement, the Delivery Partner shall procure that all data and other material belonging to the Authority (and all media of any nature containing information and data belonging to the Authority or relating to the Services), shall be delivered to the Authority forthwith and the Delivery Partner's Authorised Representative shall certify full compliance with this clause.

25.3 Termination of this Agreement shall not affect the continuing rights and obligations of the parties under any provision of this Agreement which is expressed to survive termination or which is required to give effect to such termination or the consequences of such termination.

25.4 Any outstanding Charges, Additional Charges or payments under clause 3.6 up to termination of this Agreement or any Work Order or expiry of the Term shall become due and payable on submission of an invoice.

26 DISPUTE RESOLUTION PROCEDURE

26.1 The Delivery Partner and the Authority shall endeavour to notify each other of any anticipated disputes so that any potential dispute can be avoided by negotiation between them.

26.2 Both Parties shall endeavour to resolve any failure to agree matters or any disputes by direct negotiations between senior representatives of both Parties in accordance with Schedule 7.

27 NON-SOLICITATION

Neither party shall (except with the prior written consent of the other) during the term of this Agreement, and for a period of one year thereafter, solicit the services of any senior staff of the other party who have been engaged in the provision of the Services or the management of this Agreement or any significant part thereof either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of an open national advertising campaign and not specifically targeted at such staff of the other party.

28 WAIVER

No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach. In particular, but without limitation to the generality of the foregoing, any prior acceptance or approval communicated by the Authority to the Delivery Partner in respect of the Services or any omission on the part of the Authority to communicate such prior acceptance or approval shall not relieve the Delivery Partner of its obligations to deliver the Services in accordance with the provisions of this Agreement.

29 CUMULATION OF REMEDIES

Subject to the specific limitations set out in this Agreement, no remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy except as expressly provided for in this Agreement and each and every remedy shall be cumulative and shall be in addition to every other remedy given thereunder or existing at law or in equity by statute or otherwise.

30 SEVERABILITY

If any of the provisions of this Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.

31 PARTNERSHIP OR AGENCY

Nothing in this Agreement shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of this Agreement.

32 THIRD PARTY RIGHTS

No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Agreement.

33 PUBLICITY

The parties shall use all reasonable endeavours to agree, within [60 Business Days] from the date of this Agreement, a communications protocol ("Communications Protocol") detailing the manner and circumstances by, and in, which the Delivery Partner may communicate with representatives of the press, television, radio or other communications media on any matter concerning this Agreement.

34 NOTICES

Notices shall be in writing and shall be sent to the other party marked for the attention of the person at the address set out for such party in this Agreement. Notices may be sent by first class mail. Correctly addressed notices sent by first class mail shall be deemed to have been delivered seventy-two (72) hours after posting.

35 ENTIRE AGREEMENT

This Agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter

hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

36 COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each party has executed at least one (1) counterpart.

37 GOVERNING LAW AND JURISDICTION

37.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England.

37.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.

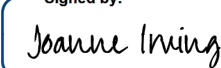
THIS AGREEMENT has been entered into on the date stated at the beginning of it.

Signed by Joanne Irving

Commercial Director

for and on behalf of

UK Export Finance

Signed by:

2E7C14882A55488...

Authorised Signatory

Signed by Amabel Grant

Chief Executive Officer

for and on behalf of

BLOOM PROCUREMENT SERVICES LTD

DocuSigned by:

Amabel Grant

753F22448E2748A...

Authorised Signatory

SCHEDULE 1: WORK ORDER

[TEMPLATE ONLY DO NOT COMPLETE]

Work Order

This document is a Work Order according to the definitions contained within the provisions of the Call Off Contract, dated [DATE] between **BLOOM PROCUREMENT SERVICES LTD**, and [NAME OF AUTHORITY] and the SDS Sub-Contract dated [DATE], between **BLOOM PROCUREMENT SERVICES LTD** and [NAME OF SPS PROVIDER]. Except where stated herein, all the clauses and conditions specified in the said contracts are included herein by reference and form part of this Work Order.

We are delighted to advise that BLOOM PROCUREMENT SERVICES LTD have been authorised to obtain the following services on behalf of the Authority

Project Number:	
Project Name:	
SPS Provider:	
For the attention of:	
E-mail:	
Telephone number:	
Address:	

Description of Specialist Professional Services / deliverables required:

Special licences, consents, conditions required as part of the deliverables?	N/A		
Specialist Professional Services Category (Primary)			
Specialist Professional Services Category (Secondary)			
Commencement Date			
Completion Date			
Total price payable All prices to include the 5% Delivery Partner's Managed Services Fee plus VAT but excluding expenses. Payment terms are in accordance with the SPS Contract	Total:		
Purchase Order No			
Details of agreed expenses			
Agreed Payment schedule (Milestone schedules to be detailed below)	Payment (Milestones)	Yes	Detail
	Payment in full option		
	Other		
Insurance Cover required (To be amended in accordance with project requirements or if Enhanced or C&E SDA provisions applicable)	<div style="text-align: right;">Amount (£)</div> Public Liability £5,000.000 Employers Liability statutory minimum Professional Indemnity £1,000,000		

<p>Any further specific requirements</p>	<p>DN: The Data Protection provision below is only to be used in circumstances where the SPS Provider is processing Personal Data for the Delivery Partner and such Personal Data has been provided to the Delivery Partner by the Authority. The Delivery Partner must also have prior express permission from the Authority to engage the SPS Provider as a Data Sub-Processor. If this clause is used, the Data Protection Schedule must also be completed to set out the remit of the processing.</p> <p><u>Data Protection</u></p> <p>The SPS Provider understands that in relation to the Data Protection Legislation it is a Data Sub-Processor on behalf of Bloom and Bloom is a Data Processor on behalf of the Relevant Authority in respect of any Personal Data that is passed from the Relevant Authority to Bloom and from Bloom to the SPS Provider.</p> <p>The attached Data Protection Schedule Annex 1 and where appropriate Annex 2 shall be completed in respect of this project.</p> <p><u>Delivery Partner Responsibilities</u></p> <p>For the avoidance of doubt the Delivery Partner's role, duties and responsibilities are expressly set out in the Supplier Terms and no other implied role, duty or responsibility, shall be applied to the Delivery Partner.</p> <p>[Additional changes to the SDA terms to be specified or incorporated and referenced here]</p>
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Invoicing procedure

The SPS Provider shall complete and submit a Highlight Report via the Technology Platform. This will initiate the Self-Billing Process once approved by the Authority or requirement owner.

Milestone reporting and Payment (Subject to agreed 'Highlight Reports')

ID	Task/milestone	Start date	End Date	Fixed-Fee (£)

Acknowledgment re supervision and control of SPS Provider personnel

In the event that any of the below terms are inconsistent with the terms of the SDS Sub-Contract, the terms of the SDS Sub-Contract shall prevail.

By signing this Work Order and agreeing to its terms, the SPS Provider confirms for the duration of the Services provided (subject to the contractual terms governing the Services to be provided):

1. The SPS Provider shall procure that its personnel do not act or operate in a manner which could be perceived in such a way as to infer that the SPS Provider's personnel are employees of the Authority;
2. 2.The SPS Provider shall ensure at all times that the Authority shall not supervise or control the work being carried out by the SPS Provider's personnel;
3. 3.The SPS Provider is free to determine the personnel it uses to provide the services provided that all personnel meet the standards specified by the Authority (including security clearances where applicable);
4. 4.The SPS Provider shall not assume any line management responsibility for any of the Authority's employees;
5. 5.The SPS Provider shall use their own equipment to deliver the Services, except where the provision of equipment by the Authority is necessary for security purposes;

6. 6.The SPS Provider shall determine their own place and hours of work, except where the nature of the project naturally enforces restriction e.g. attending project meetings at client site during business hours;

If at any time, the SPS Provider fails to comply with the above terms, this shall amount to a material breach of the Work Order which is not capable of remedy for the purposes of the termination clause of the SDS Sub-Contract and this Work Order will be terminated with immediate effect. If the SPS Provider breaches these provisions it may be liable for the payment of income tax or national insurance provisions.

Bloom Signature:

Signed by and on behalf of **BLOOM PROCUREMENT SERVICES LTD**

Bloom Signatory Name:

Bloom Signatory Title:

Date Bloom Signed:

Supplier Signature:

Signed by and on behalf of **[SPS PROVIDER]**

Supplier Signatory Name:

Supplier Signatory Title:

Date Supplier Signed:

DATA PROTECTION SCHEDULE**ANNEX 1**

1. The Contractor shall comply with any further written instructions with respect to processing by the Data Controller.
2. Any such further instructions shall be incorporated into this Schedule and this Schedule may be amended at any time during the Term by agreement in writing between the Data Controller and the Contractor to ensure that the description and detail set out in this Schedule with regard to the processing of personal data reflects the arrangements between the Parties, is accurate and is compliant with the Data Protection Legislation.

No	Description	Details
1	Subject matter of the processing	<i>Not applicable</i>
2	Duration of the processing	<i>Not applicable</i>
3	Nature and purposes of the processing	<i>Not applicable</i>
4	Type of Personal Data	<i>Not applicable</i>
5	Categories of Data Subject	<i>Not applicable</i>
6	Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>Not applicable</i>

ANNEX 2

1. This Annex lists the sub-processors that the Data Controller has authorised the Contractor to use in this project.
2. The Data Controller may, at any time and upon such notice as is reasonable in the circumstances, withdraw its approval in relation to any or all sub-processors listed within this Annex and upon such withdrawal the Contractor must immediately cease using that sub-processor.
3. If the Contractor wishes to propose a new sub-processor for approval, it must provide written notice to the Data Controller detailing the identity of the proposed sub-processor, the nature of the sub-processing and confirmation that a written contract in relation to the sub-processing is in place between the Contractor and the sub-processor. The Data Controller must not unreasonably refuse or delay approval.
4. The Data Controller may at any time and upon reasonable notice request copies of the contracts between the Contractor and its approved sub –processors in relation to the sub-processing.

Sub-contractor details: (name, address and company registration number)	Nature of sub-processing:	Commencement date and term of contract between Contractor and Sub-processor:
<i>Not applicable</i>	<i>Not applicable</i>	<i>Not applicable</i>

SCHEDULE 2: CHARGES

Charges and Payments

38 [MILESTONES]

Workstream	Milestone	Date completion expected	Charge payable on completion (£)
[INSERT]	[INSERT DETAILS]	[INSERT DATE]	[INSERT FIGURE]
[INSERT]	[INSERT DETAILS]	[INSERT DATE]	[INSERT FIGURE]
[INSERT]	[INSERT DETAILS]	[INSERT DATE]	[INSERT FIGURE]

39 [HOURLY/DAY RATES]

Grade	Hourly Rate	Day Rate
[INSERT]	[INSERT DETAILS]	[INSERT DATE]
[INSERT]	[INSERT DETAILS]	[INSERT DATE]
[INSERT]	[INSERT DETAILS]	[INSERT DATE]

SCHEDULE 3: CONTRACT MANAGEMENT

1 AUTHORISED REPRESENTATIVES

1.1 The Authority's Initial Authorised Representative

Andy Aston – Head of News & Corporate Communications

Andy.aston@ukexportfinance.gov.uk

1.2 The Delivery Partner's Initial Authorised Representative

Fiona Corey

fiona.corey@thisisdefinition.com

SCHEDULE 4: MANAGEMENT REPORTS

1.1 Type

[]

1.2 Contents

[]

1.3 Frequency

[]

1.4 Circulation List

[]

SCHEDULE 5: CHANGE CONTROL

1 General Principles

- 1.1 Where the Authority or the Delivery Partner sees a need to change a Work Order, the Authority may at any time request, and the Delivery Partner may at any time recommend, such Change only in accordance with the Change Control Procedure set out in this Schedule 5.
- 1.2 Until such time as a Change is made in accordance with the Change Control Procedure, the Authority and the Delivery Partner shall, unless otherwise agreed in writing, continue to perform or procure the performance of (as the case may be) the Work Order in compliance with its terms before such Change.
- 1.3 Any discussions which may take place between the Authority and the Delivery Partner in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 1.4 Any work undertaken by the Delivery Partner and the Delivery Partner's Personnel who are engaged directly by the Delivery Partner which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule 5, shall be undertaken entirely at the expense and liability of the Delivery Partner.

2 Procedure

- 2.1 Discussion between the Authority and the Delivery Partner concerning a Change shall result in any one of the following:
 - 2.1.1 no further action being taken; or
 - 2.1.2 a request to change a Work Order or this Agreement by the Authority; or
 - 2.1.3 a recommendation to change a Work Order or this Agreement by the Delivery Partner.
- 2.2 Where a written request for an amendment is received from the Authority, the Delivery Partner shall, unless otherwise agreed, submit two copies of a Change Control Note (as described in paragraph 2.4 below) signed by the Delivery Partner to the Authority within three weeks of the date of the request.
- 2.3 A recommendation to amend a Work Order or this Agreement by the Delivery Partner shall be submitted directly to the Authority in the form of two (2) copies of a Change Control Note signed by the Delivery Partner at the time of such recommendation. The Authority shall give its response to the Change Control Note within three (3) weeks.

- 2.4 Each Change Control Note shall contain:
 - 2.4.1 the title of the Change;
 - 2.4.2 the originator and date of the request or recommendation for the Change;
 - 2.4.3 the reason for the Change;
 - 2.4.4 full details of the Change, including any specifications;
 - 2.4.5 the price, if any, of the Change;
 - 2.4.6 a timetable for implementation, together with any SPS Proposals for acceptance of the Change;
 - 2.4.7 a schedule of payments if appropriate;
 - 2.4.8 details of the likely impact, if any, of the Change on other aspects of this Agreement or the Work Order including:
 - 2.4.8.1 the timetable for the provision of the Change;
 - 2.4.8.2 the personnel to be provided;
 - 2.4.8.3 the Charges;
 - 2.4.8.4 the Documentation to be provided;
 - 2.4.8.5 the training to be provided;
 - 2.4.8.6 working arrangements;
 - 2.4.8.7 other contractual issues;
 - 2.4.9 the date of expiry of validity of the Change Control Note; and
 - 2.4.10 provision for signature by the Authority and the Delivery Partner.
- 2.5 For each Change Control Note submitted by the Delivery Partner the Authority shall, within the period of the validity of the Change Control Note:
 - 2.5.1 allocate a sequential number to the Change Control Note; and
 - 2.5.2 evaluate the Change Control Note and, as appropriate:
 - 2.5.2.1 request further information;
 - 2.5.2.2 arrange for two (2) copies of the Change Control Note to be signed by or on behalf of the Authority and return one (1) of the copies to the Delivery Partner; or

2.5.2.3 notify the Delivery Partner of the rejection of the Change Control Note.

2.6 A Change Control Note signed by the Authority and by the Delivery Partner shall constitute an amendment to the Work Order or this Agreement.

SCHEDULE 6: COMMERCIALLY SENSITIVE INFORMATION

**DETAILS OF ANY DELIVERY PARTNER INFORMATION TO BE CLASSIFIED AS
COMMERCIALY SENSITIVE**

Part 1

Commercially Sensitive Contractual Provisions

Part 2

Commercially Sensitive Material

SCHEDULE 7: DISPUTE RESOLUTION PROCEDURE

- 1** The Parties will attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Agreement within twenty (20) Business Days of either Party notifying the other of the dispute and such efforts will involve the escalation of the dispute to the senior management of each Party being the Authorised Representatives.
- 2** If the Authorised Representatives of each Party are unable to resolve the dispute the Authorised Representatives will each look at the use of mediation and shall either agree or disagree as to this method within five (5) Business Days of the expiry of the timeframe for resolution of the dispute in paragraph 1 above.
- 3** Where mediation is agreed the following procedure shall apply:
 - 3.1 A neutral adviser or mediator (the "Mediator") will be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 5 Business Days after the date the Parties agreed to use mediation, or if the Mediator agreed upon is unable or unwilling to act, either Party will within ten (10) Business Days after the date the Parties agreed to use mediation or within five (5) Business Days of notice to either Party that the Mediator appointed is unable or unwilling to act, apply to CEDR Solve to appoint a Mediator.
 - 3.2 The Parties will within ten (10) Business Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek further assistance from CEDR Solve to provide guidance on a suitable procedure.
 - 3.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
 - 3.4 If the Parties reach agreement on the resolution of the dispute, the agreement will be recorded in writing and will be binding on the Parties once it is signed by their duly Authorised Representatives.
 - 3.5 If the Parties fail to reach agreement in the structured negotiations within five (5) Business Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

4 Adjudication

- 4.1 If the Delivery Partner and the Authority fail to resolve the dispute through negotiation and the parties do not agree to refer the matter to mediation, then either party may refer the matter to an adjudicator (Adjudicator) selected in accordance with Paragraph 4.3 below.
- 4.2 The Adjudicator nominated to consider a dispute shall be selected by agreement between the Delivery Partner and the Authority from an appropriate panel of experts, and if the Authority and the Delivery Partner are unable to agree on the identity of the expert, the President for the time being of the Chartered Institute of Arbitrators shall appoint such expert(s) within thirty (30) days of any application for such appointment by either party.
- 4.3 Within five (5) Business Days of appointment in relation to a particular dispute, the Adjudicator shall require the parties to submit in writing their respective arguments. The Adjudicator shall, in his absolute discretion, consider whether a hearing is necessary in order to resolve the dispute.
- 4.4 In any event, the Adjudicator shall provide to both parties his written decision on the dispute, within twenty (20) Business Days of appointment (or such other period as the parties may agree after the reference). Unless the parties otherwise agree the Adjudicator shall give reasons for his decision. Unless and until revised, cancelled or varied by legal proceedings, the Adjudicator's decision shall be binding on both parties who shall forthwith give effect to the decision. The Adjudicator's costs of any reference shall be borne as the Adjudicator shall specify or, in default, equally by the parties. Each party shall bear its own costs arising out of the reference, including legal costs and the costs and expenses of any witnesses.
- 4.5 The Adjudicator shall be deemed to render his decision as an expert, and the provisions of the Arbitration Act 1996 and the law relating to arbitration shall not apply to the Adjudicator.
- 4.6 The Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law. The Adjudicator shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made under this Agreement.
- 4.7 All information, data or documentation disclosed or delivered by a party to the Adjudicator in consequence of or in connection with his appointment as Adjudicator shall be treated as confidential.

- 4.8 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith. Any employee or agent of the Adjudicator is similarly protected from liability.
- 4.9 If either party is dissatisfied with or otherwise wishes to challenge the Adjudicator's decision or the Adjudicator fails to deliver his decision, then either party may within twenty (20) Business Days of receipt of the Adjudicator's decision, notify the other party of its intention to refer the dispute to legal proceedings.
- 4.10 The parties shall continue to comply with, observe and perform all their obligations hereunder regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution under this Paragraph.

Nothing in this dispute resolution procedure will prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

SCHEDULE 8: DATA PROCESSING

- 5** The Delivery Partner or SPS Provider shall comply with any further written instructions with respect of processing by the Authority.
- 6** Any such further instructions shall be incorporated into this Schedule.
- 7** Processing by the Supplier:
- 7.1** Scope;
[This should be a high level, short description of what the processing is about, i.e. its subject matter]
- 7.2** Nature;
*[Please be as specific as possible, but make sure that you cover all intended purposes.
The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.]*
- 7.3** Purpose of processing;
[Please be as specific as possible, but make sure that you cover all intended purposes.]
- 7.4** Duration of processing;
*[Clearly set out the duration of the processing including dates]
The purposes might include employment processing, statutory obligation, recruitment assessment etc]*
- 7.5** Types of Personal Data;
[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]
- 7.6** Categories of Data Subject;
[Examples include: Staff (including volunteers, agents, and temporary workers), Contracting Authority's/clients, suppliers, patients, students/pupils, members of the public, users of a particular website etc]
- 7.7** Plan for return/destruction of data.
[Describe how long the data will be retained for, how it is to be returned or destroyed]

SIGNED by [NAME OF AUTHORISED
SIGNATORY] for and on behalf of [NAME OF
AUTHORITY]

Authorised Signatory:

SIGNED by [NAME OF DIRECTOR] for and on
behalf of []

Director:

