



Department for  
Business, Energy  
& Industrial Strategy

# Low Carbon Hydrogen Supply 2 Competition: Stream 1

An SBRI Competition: TRN 5044/04/2021

Competition guidance notes

June 2021



© Crown copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at: [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)

# Contents

<b>BEIS LOW CARBON HYDROGEN SUPPLY 2 COMPETITION: STREAM 1 TRN 5044/04/2021 - COMPETITION RULES AND GUIDANCE .....</b>	<b>4</b>
<b>1. LOW CARBON HYDROGEN SUPPLY 2 COMPETITION – OVERVIEW .....</b>	<b>4</b>
<b>2. COMPETITION CONTEXT AND OBJECTIVES .....</b>	<b>8</b>
2.1 Context .....	8
2.2 Competition Objectives .....	9
2.3 Project Scope .....	10
<b>3. COMPETITION TIMETABLE, APPLICATION AND ASSESSMENT PROCESS .....</b>	<b>11</b>
3.1 Phase 1 Feasibility Phase .....	11
3.2 Phase 2 Demonstration Phase .....	12
3.3 Stage 1: Application .....	12
3.4 Stage 2: Assessment .....	16
3.5 Stage 3: Contract Award .....	16
<b>4. ELIGIBILITY FOR FUNDING .....</b>	<b>18</b>
4.1 Competition Eligibility Criteria (Stream 1 Phase 1) .....	18
4.2 General BEIS procurement conditions .....	21
<b>5. CONTRACT SIZE AND RESTRICTIONS ON FUNDING .....</b>	<b>23</b>
5.1 Competition Budget and Availability .....	23
5.2 Eligible Costs .....	23
5.3 Decommissioning Costs .....	24
<b>6. DELIVERABLES .....</b>	<b>25</b>
<b>7. ASSESSMENT PROCESS AND CRITERIA .....</b>	<b>27</b>
7.1 Assessment Process .....	27
7.2 Assessment Criteria .....	27
7.3 Scoring Guidance .....	34
<b>8. FINANCIAL INFORMATION .....</b>	<b>35</b>
<b>9. NOTIFICATION AND PUBLICATION OF RESULTS .....</b>	<b>36</b>
Notification .....	36
Publication of results .....	36
<b>10. REPORTING, KNOWLEDGE SHARING, EVALUATION AND INTELLECTUAL PROPERTY REQUIREMENTS .....</b>	<b>38</b>
Reporting, Knowledge Sharing and Evaluation Requirements .....	38
Intellectual Property .....	39
Ownership of Demonstration Devices .....	39
<b>11. FEEDBACK, RE-APPLICATION AND RIGHT OF APPEAL .....</b>	<b>40</b>
<b>12. CONFIDENTIALITY AND FREEDOM OF INFORMATION .....</b>	<b>41</b>
<b>13. FURTHER INSTRUCTIONS TO APPLICANTS .....</b>	<b>42</b>

<b>APPENDIX 1 – TECHNOLOGY READINESS LEVELS (TRLS)</b> .....	<b>43</b>
<b>APPENDIX 2 - ELIGIBLE AND INELIGIBLE COSTS</b> .....	<b>44</b>
1. <i>Eligible Costs</i> .....	44
2. <i>Ineligible Costs</i> .....	44
<b>APPENDIX 3 – DECLARATIONS</b> .....	<b>46</b>
<i>Declaration 1: Statement of non-collusion</i> .....	46
<i>Declaration 2: Form of Tender</i> .....	47
<i>Declaration 3: Conflict of Interest</i> .....	48
<i>Declaration 4: Standard Selection Questionnaire</i> .....	50
<i>Declaration 5: Code of Practice</i> .....	67
<i>Declaration 6: The General Data Protection Regulation Assurance Questionnaire for Contractors</i> .....	72
<b>APPENDIX 4 – CONTRACT TERMS AND CONDITIONS</b> .....	<b>79</b>

# BEIS LOW CARBON HYDROGEN SUPPLY 2 COMPETITION: STREAM 1 TRN 5044/04/2021 - Competition Rules and Guidance

## 1. Low Carbon Hydrogen Supply 2 Competition – Overview

The Low Carbon Hydrogen Supply 2 Competition forms part of BEIS' £1 billion Net Zero Innovation Portfolio, which aims to accelerate the commercialisation of innovative clean energy technologies and processes through the 2020s and 2030s. Low carbon hydrogen will be critical for meeting the UK's legally binding commitment to achieve net zero by 2050.

The Low Carbon Hydrogen Supply 2 (Hydrogen Supply 2 or HYS2) competition is to support the development of innovative solutions for the supply of hydrogen. Hydrogen supply solutions include hydrogen production, storage, transport technologies and technologies that could enable hydrogen to supply a wider hydrogen economy. For the hydrogen economy to grow, potential users (in any application) need to be confident in supply of sufficient volumes of low carbon hydrogen at a competitive price.

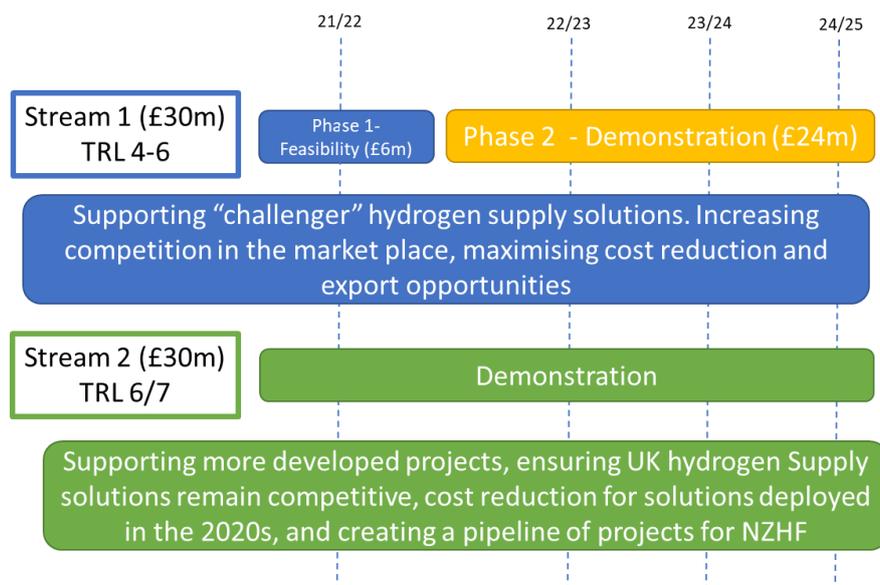
This competition aims to catalyse innovation in the supply of hydrogen, reducing the costs, bringing new solutions to the market, and ensuring that the UK continues to develop world leading hydrogen technologies for a future hydrogen economy. Low Carbon Hydrogen Supply 2 is the follow-on competition from the Low Carbon Hydrogen Supply (HS1) competition<sup>1</sup>. HYS2 is slightly differently designed due to the changing domestic and international policy landscape since the HS1 competition commenced. HYS2 will also consider the wider value chain, not solely bulk production of hydrogen, because to quickly enable a hydrogen economy to be established it is necessary to improve accessibility of hydrogen and to bring down all the system costs. Presently, most of the hydrogen produced is used locally and costs associated with transporting to remote locations can more than double the price of hydrogen.

The Low Carbon Hydrogen Supply 2 competition is split into two streams: Stream 1 and Stream 2. HYS2 Stream 1 will be for market entry solutions at Technology Readiness Levels (TRLs) 4-6 and HYS2 Stream 2 will be for more mature solutions/technologies at TRLs 6/7 (HS1 was a single stream competition open to TRL 4-7 technologies). Stream 1

---

<sup>1</sup> <https://www.gov.uk/government/publications/hydrogen-supply-competition>

and Stream 2 are independent competitions in legal terms, and each has its own separate pre-commercial procurement process. **This ITT (Invitation to Tender) is for Stream 1 Phase 1 only.** The guidance and the competition notes for the Hydrogen Supply 2 Competition: Stream 1 Phase 1 are provided within this document. A Small Business Research Initiative (SBRI) pre-commercial procurement process will be used to deliver this competition<sup>2</sup>. The aim of the Hydrogen Supply 2 Competition: Stream 1 is to identify, support and then develop credible innovative hydrogen supply or enabling technologies to bring about a step change in their development. It is to support the development of technologies that are not yet commercially viable and is specifically for technologies at a Technology Readiness Level (TRL) between 4 and 6 at the **start** of the project. Level 4 is laboratory testing/validation of component(s)/process(es), and level 6 is where a prototype system has been verified in a relevant environment (see Appendix 1 for all TRL definitions). Hydrogen projects where the core technology is above TRL 7 could seek funding through the Net Zero Hydrogen Fund which is going out for consultation in the summer 2021.



**Figure 1: Competition Timeline**

The HYS2 Stream 1 competition will be split up into two phases with Phase 1 focusing on an initial feasibility study, followed by Phase 2 which will support a physical demonstration. This competition will only support **demonstration projects where the core technology being developed has not been previously operated widely** or in a commercial environment. Projects will need to include a **physical demonstration of their hydrogen supply innovation** (see section 2.3 for types of projects in scope) in Phase 2. For the physical demonstration, this competition will only provide funding to develop, build, trial (and decommission if required) to the system boundary of the innovative solution and the

<sup>2</sup> This competition is **not** limited to small and medium sized organisations.

ancillary equipment required to run the trial. It will not provide funding for end-to-end hydrogen projects or end use equipment such as boilers, pipe networks, refuelling stations or modes of transportation (such as buses and ships). **Only those applicants who are successful in Phase 1 and have completed their feasibility study may enter into Phase 2.**

Stream 1 Phase 1 will be split into four Categories: Category 1 will focus on Low Carbon Hydrogen Production solutions, Category 2 on Zero Carbon Hydrogen Production solutions, Category 3 on Hydrogen Storage and Transport solutions, and Category 4 on Net zero Hydrogen Supply solutions (a further explanation of the Categories can be found in Section 2.3). Each Category will be assigned a maximum budget which will be assigned to projects in order of merit until the funds in that Category run out. If there is remaining budget in a Category (due to not enough applications or applications failing to score above the 60% threshold), this will be transferred to a central pot, where all remaining/unfunded projects across the Categories will be combined and ranked in order of merit, and funding will be assigned against order of merit to projects (with a minimum 60% threshold mark) until money runs out.

A lead organisation may only enter a maximum of one application into each Category. Additionally, for a particular technology/solution being developed, only one application by the provider/original equipment manufacturer will be allowed in any single category. Further details on multiple applications are provided in Section 3 under “multiple applications” of this ITT/guidance note.

## **Low Carbon Hydrogen Supply 2 Competition: Stream 1 Phases**

### **Phase 1 - Feasibility**

The purpose of the feasibility study is to develop the hydrogen supply technology or enabling technology concept. The feasibility study will support the development of the project team’s understanding of the core and ancillary technology, the performance of the technology, the market potential, the route to market (including competition) and costs and delivery plan for Phase 2. A public report detailing the key findings will be published on the gov.uk website. There will be a total budget of £6m for Phase 1 with minimum £50k and maximum £300k for each feasibility study. It will allow applicants to demonstrate the feasibility of their proposed technology.

### **Phase 2 - Demonstration**

A separate application form will be released to the successful applicants from Phase 1, before the end of the Phase 1, which will be used to assess applicants for the Phase 2 Demonstration study. This phase will support the physical demonstration of the hydrogen supply solution, including engineering design, build, trial, decommissioning, market assessment, and knowledge dissemination. The demonstration study should either

demonstrate the entire hydrogen supply solution (where necessary simulating scenarios of the hydrogen uses), or key components or a prototype in a relevant environment, or further develop and demonstrate the physical design of new solutions to enable low carbon hydrogen supply solutions. Companies will also develop technical and business plans for market deployment.

Applicants for Phase 2 must be successful for Phase 1 and have completed their feasibility study to be eligible for Phase 2. This will have the same Categories as Phase 1 with up to £6m allocated to each Category, providing a total budget of £24m for Phase 2. The applications will be assessed on a similar criterion to those used to assess this phase (Phase 1). The maximum funding available per project in Phase 2 is £6m.

Projects for Phase 2 must be completed by **1 February 2025**.

## 2. Competition Context and Objectives

### 2.1 Context

The Low Carbon Hydrogen Supply 2 Competition forms part of BEIS' £1 billion Net Zero Innovation Portfolio, which aims to accelerate the commercialisation of innovative clean energy technologies and processes through the 2020s and 2030s.

Low carbon hydrogen will be critical for meeting the UK's legally binding commitment to achieve net zero by 2050. Hydrogen has an essential role to play in the deep decarbonisation of the UK economy, with potential to help decarbonise "hard to electrify" UK industrial sectors, and provide greener energy across heat, power, and transport. Moreover, the UK's geography, geology, infrastructure, and expertise make it particularly suited to rapidly developing a low carbon hydrogen economy, with the potential to become a global leader on hydrogen and secure economic opportunities across the UK.

The Energy Innovation Needs Assessments (EINA)<sup>3</sup> carried out for BEIS identified several highest priorities for innovation for developing a hydrogen economy. These include, but are not limited to, the integration of hydrogen production from fossil sources with CCUS; advancing techniques and automation of electrolyser manufacture; electrolyser materials (including high temperature technologies); and flexible electrolysers for vector coupling<sup>4</sup>. Since the publication of the EINA, interest in hydrogen internationally has increased dramatically.

However, for the hydrogen economy to grow, potential users (in any application) need to be confident in supply of sufficient volumes of low carbon hydrogen at a competitive price. The production cost of low carbon hydrogen produced using mature technologies is currently estimated to be at least twice the price of natural gas. The cost of supplying the hydrogen to the energy system will be even higher. At present, we are in a challenging transition period owing to the cost differential between natural gas and hydrogen. Therefore, it is vital to bring down the cost and improve carbon saving potential.

To accelerate through this transition, HYS2 expects to support the development of innovative solutions for the supply of hydrogen to industry, power, the gas grid, transport, or import/export sectors. Hydrogen supply solutions include hydrogen production, storage, transport technologies and technologies that could enable hydrogen to supply a wider hydrogen economy. These projects should have the end benefit of increasing access to hydrogen to enable the development of a hydrogen economy across the country.

---

<sup>3</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/845658/energy-innovation-needs-assessment-hydrogen-fuel-cells.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/845658/energy-innovation-needs-assessment-hydrogen-fuel-cells.pdf)

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/845664/energy-innovation-needs-assessment-smart-systems.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/845664/energy-innovation-needs-assessment-smart-systems.pdf)

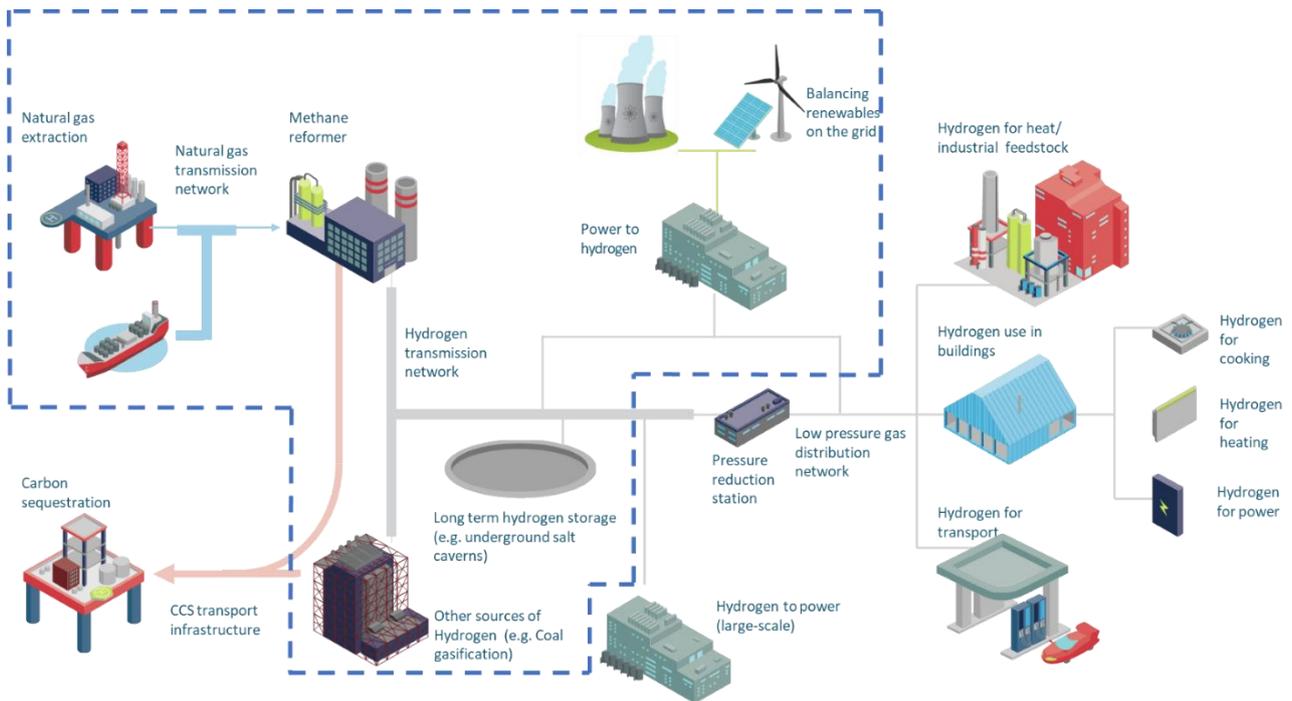


Figure 2: Schematic of a Hydrogen Supply chain covered by Hydrogen Supply 2<sup>5</sup>

HYS2 will be the first significant Hydrogen theme competition of the new Net Zero Innovation Portfolio (NZIP). It builds on a successful Low Carbon Hydrogen Supply (HS1) competition.

## 2.2 Competition Objectives

The aim of the Hydrogen Supply 2 Competition: Stream 1 is to identify, support and then develop credible innovative hydrogen supply technologies/enabling technologies bringing about a step change in their development. This will achieve the following aims:

- **Reduce costs of hydrogen supply** – the competition will support advances in hydrogen supply solutions (both incumbent and challenger solutions), that will reduce the cost of hydrogen relative to current best available technique technology costs.
- **Increase Carbon Saving potential** – the competition will support the development of technologies which will improve resource efficiency through improvements in energy efficiency or greater use of a constrained renewable source, poorer quality water use, and higher capture rates.
- **Develop novel technologies to increase market competition** – the competition will have a focus on enabling a diversification in hydrogen supply solutions.

<sup>5</sup> Please see Section 4 Technology Scope for technology exclusions

- **Knowledge building to inform policy development** – the competition will produce a number of reports which will provide market insight on the support required to enable rollout and costs of a range of hydrogen supply solutions.
- **Develop the knowledge and skills required to meet net zero** – the competition will enable the development of the skills and experience required across the supply chain.

## 2.3 Project Scope

The Competition will be delivered over two phases; Phase 1 (total budget £6m) will support multiple projects to scope and develop a feasible prototype demonstration project to be run in Phase 2. Phase 2 (total budget £24m) takes the most promising projects from Phase 1 and supports the proposed physical demonstration of their hydrogen supply solution.

The competition will be split into four Categories.

**Category 1: Low Carbon Hydrogen Production** – this Category will support projects that will have some residual direct emissions even when coupled with CCUS. Typical projects could support, but not limited to, development of new reformation technologies, waste gasification (where the waste is largely anthropogenic), industry derived hydrogen, improvements to ancillary equipment/ materials (including pressure swing adsorber, water gas shift, air separation unit, and catalysts).

**Category 2: Zero Carbon Hydrogen Production** – this Category will support projects that do not directly produce anthropogenic emissions. This could include, but not limited to, electrolysis, high temperature processes, biological hydrogen processes, solar, automation of electrolysis production, green ammonia production, use of poorer quality water, and new materials.

**Category 3: Hydrogen Storage and Transport** – this Category will support the development of novel hydrogen storage and transport/distribution solutions (including for import/export). This could include, but not limited to, liquid organic hydrogen carriers, ammonia, or metal organic frameworks. It could support innovation in how import/export facilities could transition over to enabling a hydrogen economy.

**Category 4: Net Zero Hydrogen Supply solutions** – this Category will support solutions aiming to decarbonise the wider energy system - projects could include, but will not be limited to, solutions that enable greater rollout of low carbon hydrogen, enable improved distribution of hydrogen to areas of high demand, hydrogen upgrading/separation, improved controls, and wider solutions where hydrogen supply could support the transition to net zero.

### 3. Competition Timetable, Application and Assessment Process

The Competition funding will be awarded using the Small Business Research Initiative (SBRI) approach. SBRI is a well-established pre-commercial procurement process that enables the development of innovative products and services in response to specific challenges faced by government departments and public-sector bodies. Successful business partners receive finance to develop their innovative ideas, generating new business opportunities and routes to market. This competition and the SBRI approach is **not** limited to small and medium sized organisations.

An SBRI will fund 100% of eligible costs up to the maximum of £300k per project for Phase 1. The minimum cost per project for Phase 1 is £50k. For Phase 2, the maximum funding available per project is £6m.

#### 3.1 Phase 1 Feasibility Phase (please note dates may vary)

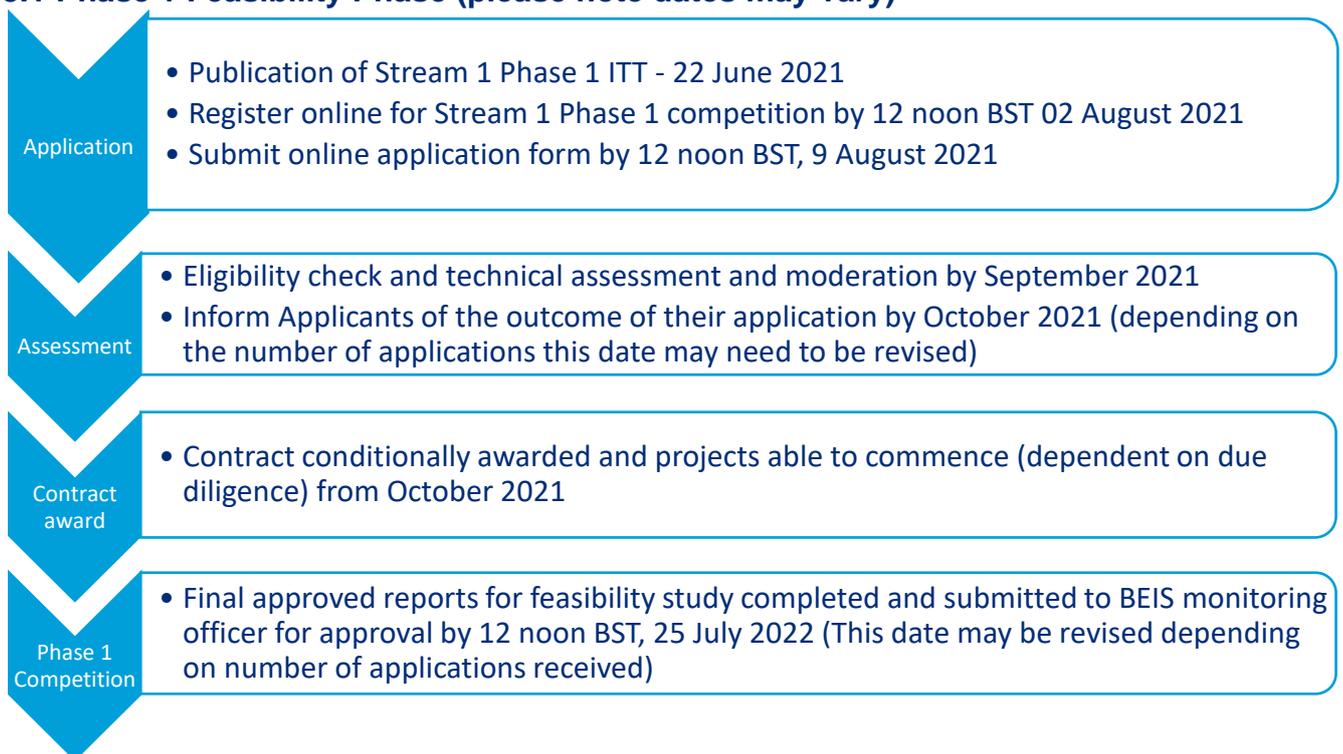


Figure 3: Phase 1 Competition Timetable (Launch to Completion)

### 3.2 Phase 2 Demonstration Phase (please note dates may vary)

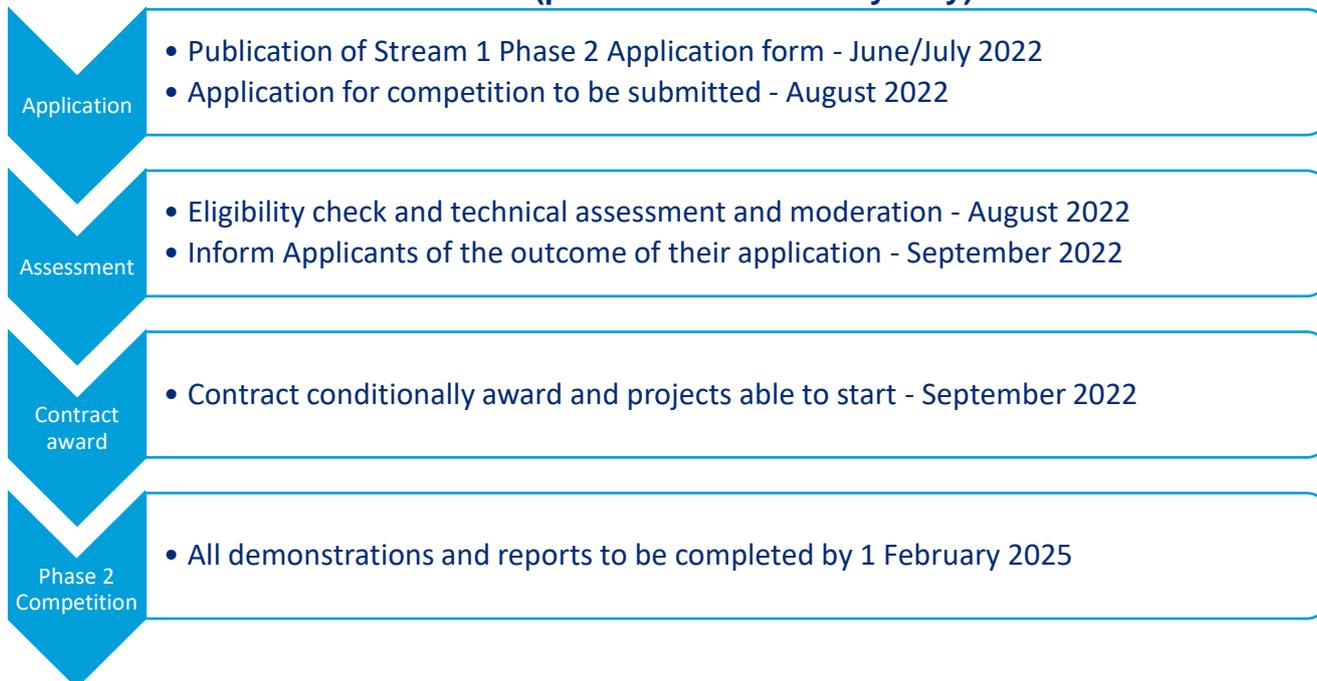


Figure 4: Phase 2 Competition Timetable (Launch to Completion)

The application process for Phase 1 is outlined below. A separate application for Phase 2 is due to be published in **June/July 2022**.

### 3.3 Stage 1: Application

Applicants are asked to submit an online competition application form, with supporting information by **12 noon BST, 9 August 2021**. They should explain their proposed Hydrogen Supply approach, indicate the applicable Category, and outline their proposed project for Phase 2. The notes below explain the details of the application process:

- **Questions about the Competition:** If you have any questions on the competition process or require clarifications on the eligibility criteria after reading these guidance notes, please submit queries to [nzip.hydrogen@beis.gov.uk](mailto:nzip.hydrogen@beis.gov.uk). All questions should be submitted **by 12 noon BST, 12 July 2021**. Questions submitted after this date may not be answered. We will reply to any queries which, in our judgement, are of material significance through an anonymised Q&A sheet published on our [website](#) **by 12 noon BST, 19 July 2021**, so there is sufficient time to include the responses in the applications. Please see Section 13 for further instructions on amendments to the competition documents. All applicants should take these replies into consideration when preparing their own applications and we will evaluate applications on the assumption that they have done so.
- **Online Registration Form:** You must first register via the online [registration form](#) to be entered into Stream 1 Phase 1 of the HYS2 Competition. Once the registration

form is submitted you will receive a password to the online application form. Those applicants that do not register will not be able to access the online application form and hence will not be able to apply/enter the application/assessment process.

Previous correspondence relating to Expressions of Interest or attendance at the HYS2 Stakeholder Engagement event does not result in an automatic registration.

**You must register to be entered into Phase 1 Feasibility Study by 12 noon BST, 2 August 2021**, the online registration form will be closed after this time.

There is no obligation on you to submit an application if you register.

- **Submission of Application:** The full application for the Competition must be submitted online by the deadline: **12 noon BST, 9 August 2021**. The online [application form](#) will be closed for submissions after this time.
  - Application documents: All application documents must be submitted via the online application form. In the form there are opportunities to upload relevant supporting documents. In some sections we specify the supporting information we would like to see uploaded.
- **Submission Content:** Each Stream 1 Phase 1 online application must include the following:
  - Completed Application Form (the online application form can be found [here](#)).
  - Completed Project Finance/Cost Breakdown Form (this should be uploaded in the Finance Section of the assessed criteria in the application form).
  - An organogram outlining the key roles of each partner and of team members.
  - Completed high level project Gantt chart or project plan for the Stream 1 Phase 1 Feasibility Study to be uploaded in the Project Plans section of the assessed criteria in the application form.
  - Completed risk register for the project proposed to be uploaded in the Project Success Factors, Risks, and Management section of the assessed criteria in the application form.
  - Optional: additional letters of support or other supporting information can also be submitted in the final section before you submit your online application form, **where they add background/ supporting information** (this could include but not limited to relevant papers, assumptions/ calculations to back up the assertions made in the application) to the application. However, the assessment will be based on the information directly written in the online application; you should not assume that any additional information will be cross-referenced or reviewed as part of the selection process.

- You should endeavour to answer all the questions on the application in full. Some questions will be 'required fields' in the form and you will not be able to proceed to the next section until these questions are complete. Incomplete applications and any containing incorrect information may be rejected. However, BEIS may, at its discretion, request clarification before making a final decision. Any applications or supporting documentation received after the application deadline will not be considered. Applicants are advised to use the downloadable word version when working on a draft application, but also to ensure they leave sufficient time to copy their application to an online version and answer all the compulsory questions. Applicants are also advised to make an early start on the application process as it may take considerable time, and to use the Q&A process to clarify anything they are unsure about.
- **Submission Costs:** You will **not** be entitled to claim from the Department any costs or expenses that you may incur in preparing your application, whether or not your application is successful.
- **Consortium Applications:** Applications from consortia are welcome. **Only one submission should be submitted for each separate project application**, but all consortium partners are required to sign the completed application form for their project(s) (see Appendix 3, Declaration 2 of the application form).

If a consortium is not proposing to form a separate corporate entity, the project partners will need to nominate a lead organisation who we will contract with and complete a Consortium Agreement (once a contract has been awarded). Please note that BEIS reserves the right to require a successful consortium to form a single legal entity in accordance with Regulation 28 of the Public Contracts Regulations 2006.

BEIS recognises that arrangements in relation to consortia and sub-contractors may (within limits) be subject to future change. Applicants should therefore respond in the light of the arrangements as currently envisaged and are reminded that any future proposed changes in relation to consortia and sub-contractors must be submitted in writing to BEIS for consideration on a case-by-case basis.

- **Multiple Applications:** Lead organisations may only enter one application into each Category as the project lead. Consortium members/Subcontractors may be part of multiple applications; however, it is the duty of the lead organisation to manage any arrangements with regards to conflict of interests with sub-contractors/consortium members where those sub-contractors/consortium members are part of other applications. Where consortium members are part of multiple applications, the lead organisation must provide assurance that the consortium

members have sufficient resources to successfully deliver all work packages. The lead organisation must also ensure that funding is not double counted for the same piece of work.

Lead organisations must also ensure that for a particular technology/solution, only one application is submitted by the technology provider/OEM or a consortia that includes that provider per category. It is the duty of all applicants to ensure that for a particular solution requiring development, only one application is submitted to the competition per category when applicants are part of multiple applications. BEIS will contact the relevant organisations involved which are believed to have entered multiple applications within a category for a particular technology from the same provider, to discuss a way forward. Any issues arising in this area will be discussed with the relevant parties. Please contact [nzip.hydrogen@beis.gov.uk](mailto:nzip.hydrogen@beis.gov.uk) if you would like to discuss this before submitting an application.

Lead organisations must also ensure that for a particular project, only one application is submitted to either competition stream (Stream 1 and Stream 2). It is the duty of all applicants to ensure that for a particular project, only one application is submitted to the HYS2 competition when applicants are part of multiple applications. If applications are submitted to streams 1 and 2 for a **particular** project including a common technology from the same OEM, it would be at BEIS discretion to assign the most appropriate stream for the project. This will be discussed with the relevant organisations during the assessment period. Please note that applications can be received for the two streams for the same technology from the same OEM if the projects differ and are developing distinctly different aspects of that technology.

- **Tender Validity:** Stream 1 Phase 1 applications shall be valid for a minimum of 180 calendar days from the submission deadline (**12 noon BST, 9 August 2021**).
- **Phase 2 Submissions:** For Stream 1 Phase 2, a separate application form will be published prior to the completion of Stream 1 Phase 1 and **only** the response to the Phase 2 application form will be used to assess and select the projects to be funded. The feasibility study will be expected to strengthen the evidence used for the application process via the application form, which will also detail the initial plan for the work carried out in Phase 2. Phase 2 will use similar assessment criteria to Phase 1; however, it is expected that costs and performance can be quantified and evidenced, with a greater focus on how the proposed demonstration will move the solution closer to commercialisation. Only successful Phase 1 applicants, that have completed their feasibility study, are eligible to apply to Phase 2.

### 3.4 Stage 2: Assessment

Applications will initially be assessed against the Eligibility Criteria in Section 4.

**Applications which fail the Eligibility Criteria will not be assessed further, so it is essential to ensure that your project meets these criteria before you submit your application.**

The eligible projects will be further assessed against the assessment criteria described in Section 7 (Assessment Process and Criteria), by three reviewers, including external reviewers<sup>6</sup>, these scores will then be moderated to determine an overall ranking list that will be used to allocate the funding for the Competition. To be eligible to receive funding, a project must also be allocated a minimum total score of 60% against these assessment criteria. The projects will be funded in ranked order until money for that Category runs out or all successful applications have been funded (whichever happens first). If there is remaining budget in a Category (due to not enough applications or applications failing to score above the 60% threshold), this will be transferred to a central pot, where all remaining/unfunded projects across the Categories will be combined and ranked in order of merit, funding will be assigned against order of merit to projects (with a minimum 60% threshold mark) until central pot money runs out.

After the assessment stage, all applicants will receive a short summary of key feedback regarding their applications irrespective of whether they are successful or not. BEIS aims to have provided all feedback to applicants once all applications have been reviewed and assessed. Feedback will be given at the same time as the successful/unsuccessful letters are sent to the applicants.

### 3.5 Stage 3: Contract Award

Phase 1 contracts are expected to be started in **October 2021 and run to 25 July 2022**<sup>7</sup>. Phase 2 contracts are expected to be awarded in **September 2022**. Please note that BEIS will not back date the start date of contracts.

**Contract terms:** For both Phase 1 and 2, the contracts will be based on the BEIS pre-commercial procurement contract. The terms and conditions for the Phase 1 contract is provided in Appendix 4 of this ITT. These terms and conditions are final and non-negotiable. For this contract (Phase 1), clause 18.7 of the terms and conditions stipulates that liability is limited to twice the contract value, for Phase 2 this will be increased to £4m or twice contract value whichever is greater.

All applicants should review the clauses 27 and 28 of the terms and conditions which contain important provisions relating to arising intellectual property and its exploitation.

---

<sup>6</sup> All external reviewers have signed up to adhering to strict conflicts of interest terms and will be subject to a confidentiality agreement.

<sup>7</sup> Start dates may vary depending on number of applications received.

There will be an opportunity for successful applicants, prior to contracts being signed, to discuss the contract at a meeting with an official from BEIS who will explain the contractual terms and conditions and respond to any queries which the applicant may have at this stage.

**Consortium applications:** with consortium applications, the lead company (project coordinator) will be the recipient of the contract (the supplier) and will be responsible for managing payment to the other project partners. If a consortium is not proposing to form a separate corporate entity, the project partners will need to complete a Consortium Agreement. Funding will not be provided by BEIS until a signed consortium agreement has been finalised between all of its members. Consortium members/Subcontractors may be part of multiple applications; however, it is the duty of the lead organisation to manage any arrangements with regards to conflicts of interest with sub-contractors/consortium members where those sub-contractors/consortium members are part of other applications. Where consortium members are part of multiple applications, the lead organisation must ensure that the consortium member have sufficient resources to successfully deliver multiple applications/work packages. The lead organisation must also ensure that funding is not double counted for the same piece of work.

## 4. Eligibility for Funding

### 4.1 Competition Eligibility Criteria (Stream 1 Phase 1)

To be eligible for funding, proposed projects must meet all the following eligibility criteria:

#### 1) Technology Categorisation

The technology must be in scope for the category applied for.

**Eligibility question: is the technology in scope? YES/NO**

#### 2) Innovation and technology readiness

This Competition is to support the development of innovative Low Carbon Hydrogen supply solutions. It is to support the development of technologies that are not yet commercial from **Technology Readiness Levels (TRLs) 4 to 6 at the start of the project**. (Further information on TRLs can be found in Appendix 1 of the Low Carbon Hydrogen Supply 2 Stream 1 ITT).

**Eligibility question: Will your technology / system be at TRL 4 – 6 at the start of the project? YES/ NO**

#### 3) Technology scope

The focus of the Competition is to support the development and demonstration of innovative hydrogen supply solutions as detailed in section 2.3.

**Exclusions:** Funding will not be provided for projects where the technology development focuses on:

- Upstream energy production (power and fossil fuel extraction)
- End-use technologies (for example boilers, and other hydrogen appliances)
- Technologies where the core technology has previously been operated commercially (in UK or Internationally)
- Power generation from hydrogen (for example fuel cells or CCGT)
- Gas-grid systems (onshore)
- Novel CCUS technologies which aren't intrinsically linked in the hydrogen production process

**Eligibility question: Does your application exclude costing/budget for any of these technology exclusions (listed above)? YES/NO**

#### 4) Project status

BEIS is unable to fund retrospective work on projects.

**Eligibility question: Can you confirm that your application does not seek funding for retrospective work on this project? YES/ NO**

#### 5) Additionality

Projects can only be funded where evidence can be provided that innovation would not be taken forwards (or would be taken forwards at a much slower rate) without public sector funding.

**Eligibility question: Can you confirm that this project would not be taken forward (or would progress at a much slower rate) without public sector funding? YES/ NO**

#### 6) Contract size

Contracts will be awarded in this Competition in two phases:

**Phase 1** – Feasibility study (SBRI): Split into Category 1, Category 2, Category 3 and Category 4 with a total allocation across all categories of £6m. The maximum funding available per feasibility study is £300k and the full project cost must be a minimum of £50k (this must cover 100% of project costs). Studies must be complete by **25 of July 2022** and approved by BEIS.

**Phase 2** – Demonstration phase (SBRI): Split into Category 1 (up to £6m), Category 2 (up to £6m), Category 3 (up to £6m) and Category 4 (up to £6m) with a total of £24m. The maximum funding available per project is £6m (this must cover 100% of project costs). Demonstration studies must be complete by **1 February 2025**.

**6 (a) Eligibility question: Can you confirm the funding requested from BEIS for your Phase 1 project cost will be between £50k - £300k? YES/NO**

**6 (b) Eligibility question: Can you confirm the funding requested from BEIS for your project cost for Phase 2 will be equal to or below £6m? YES/NO**

#### 7) Eligible project costs

SBRI is aimed at organisations working on research and development (R&D) of an innovative process, material, device, product, or service prior to commercialisation. Funding is available for R&D activities only, including related dissemination activity. Projects requesting funding for commercialisation activities are not eligible.

The full list of eligible project costs is set out in Appendix 2 and outlined in Section 5 of this ITT. BEIS must fund **100% of eligible project costs**, no match or in-kind funding is allowed.

**Eligibility question: Can you confirm that requested funding is for eligible costs and BEIS will fund 100% of those costs? YES/ NO**

#### **8) Project end date**

Phase 1 Feasibility Studies must be completed and approved by BEIS **by 12 noon BST, 25 July 2022**. Projects need to allow for time for the BEIS monitoring officer to review the feasibility study and amend accordingly, this process can take up to a month and should be included in your project plan. Phase 2 demonstration projects must be completed **by 1 February 2025**.

**Eligibility question: Can you confirm that the project will meet the specified project end dates? YES/ NO**

#### **9) Risk-Benefit sharing**

The sharing of *risks and benefits* is an important aspect to the SBRI approach. Projects receive financial support and retain any intellectual property generated, with certain rights of use retained by BEIS. Project outputs are also expected to be shared widely and publicly and project teams are not permitted to include profit in the eligible project costs (for Phase 1 or Phase 2).

**Eligibility Question: Do you agree to this approach? YES/NO**

#### **10) Delivering multiple projects**

If project consortium member(s) are part of multiple successful applications, they must be able to deliver on them and they must not have applied for funding for the same piece of work more than once.

**10 (a) Eligibility question: If you or your consortium are part of multiple successful applications, would you be able to successfully deliver all projects if necessary? YES/NO**

**10 (b) Eligibility question: If you or your consortium are part of multiple successful applications could you please confirm that you have not applied for funding for the same piece of work more than once? YES/NO**

## 11) Multiple applications

If you intend to submit multiple applications, you must comply with the following limits of entry into the competition:

- Lead organisations may only enter **one** application into each Category as the project lead.
- A technology provider/OEM are limited to **one** application for a particular technology/solution requiring development per Category.

**11 (a) Eligibility question: If you are the lead organisation, as the project lead can you confirm only one application per Category has been submitted? YES/NO**

**11 (b) Eligibility question: If you or your consortium are part of multiple applications, could you confirm that the main technology being developed is different in each application i.e., only one application per particular OEM's technology has been submitted per Category? YES/NO**

### 4.2 General BEIS procurement conditions

There are six declaration forms which must be completed by each applicant, covering issues such as: conflict of interest, non-collusion, bribery, corruption and fraud, GDPR assurance and overall agreement to the terms of this pre-commercial procurement process.

These declarations are provided and can be downloaded from the Low Carbon Hydrogen Supply 2 Stream 1 Phase 1 Application form which must be signed and attached to the application by the applicant. They are also attached in Appendix 3 of this document for reference. The GDPR Assurance Questionnaire is embedded in this document and must be returned as part of the application.

**Conflicts of interest:** The BEIS standard terms and conditions of contract include reference to conflict of interest and require contractors to declare any potential conflict of interest to the Secretary of State.

For research and analysis, conflict of interest is defined as the presence of an interest or involvement of the contractor, subcontractor (or consortium member) which could affect the actual or perceived impartiality of the research or analysis.

Where there may be a potential conflict of interest, it is suggested that the consortium or organisation designs working arrangements such that the findings cannot be influenced (or perceived to be influenced) by the organisation that owns a potential conflict of interest. For example, consideration should be given to the different roles which organisations play in the research or analysis, and how these can be structured to ensure an impartial approach to the project is maintained.

This is managed in the procurement process as follows:

- During the application process, organisations may contact BEIS to discuss whether or not their proposed arrangement is likely to yield a conflict of interest.
- **Contractors are asked to sign and return Declaration 3** (this is contained in the Competition Application Form and is attached for reference in Appendix 3) to indicate whether or not any conflict of interest may be, or be perceived to be, an issue. If this is the case, the contractor or consortium should give a full account of the actions or processes that it will use to ensure that conflict of interest is avoided. In any statement of mitigating actions, contractors are expected to outline how they propose to achieve a robust, impartial and credible approach to the research.
- When tenders are scored, this declaration will be subject to a pass/fail score, according to whether, on the basis of the information in the application and declaration, there remains a conflict of interest which may affect the impartiality of the research.

Failure to declare or avoid conflict of interest, or perceived conflict of interest, at this or a later stage may result in exclusion from the procurement competition, or in BEIS exercising its right to terminate any contract awarded.

## 5. Contract Size and Restrictions on Funding

### 5.1 Competition Budget and Availability

The total budget available for the Competition is up to £60m, split evenly between Stream 1 and 2. Any remaining budget from Stream 2 may be transferred to Stream 1 Phase 2, additionally budget can be transferred from Stream 1 Phase 2 to Stream 2. BEIS reserves the right to allocate more or less than the total budget depending on the number and quality of applications received and budget availability.

A maximum of £6m will be available for Phase 1 feasibility studies, with a maximum expected value of £300k (excluding VAT) per project. The phases will be split into four Categories: Category 1 will focus on Low Carbon Hydrogen Production solutions, Category 2 on Zero Carbon Hydrogen Production solutions, Category 3 on Hydrogen Storage and Transport solutions, and Category 4 on Net zero Hydrogen Supply solutions. The number of Phase 1 projects funded depends on the range of solutions proposed, the quality of the applications, how much they cost and the number of projects that are affordable within the allocated budget.

BEIS have currently allotted £24m to Phase 2 demonstration projects. The maximum funding available per project is £6m (excluding VAT) with a maximum of £3m (excluding VAT) funding per project which can be allocated to engineering design (inc. modelling, FEED etc). The phases will again be split into four Categories: Category 1 will focus on Low Carbon Hydrogen Production solutions, Category 2 on Zero Carbon Hydrogen Production solutions, Category 3 on Hydrogen Storage and Transport solutions, and Category 4 on Net zero Hydrogen Supply solutions.

All project activities, including reporting and payments, need to be completed by **1 February 2025**. All costs should be provided excluding VAT, though where VAT applies, applicants should specify the amount. Your total costs excluding VAT should not exceed the maximum allowable budget per project. Any costs incurred by the project that is greater than the agreed total project costs will not be covered by BEIS.

Note: Nothing in this funding call requires BEIS to award any applicant a contract of any particular amount or on any particular terms. BEIS reserves the right not to award any contracts, in particular if BEIS is not satisfied by the applications received or if the funding assigned to the scheme is required for other, unforeseen, purposes. BEIS will not, under any circumstances, make any contribution to the costs of preparing applications and applicants accept the risk that they may not be awarded a contract.

### 5.2 Eligible Costs

Applicants are instructed that the project costs quoted must reflect actual costs at a 'fair market value' and for this Competition, **profit must not be included**, including within labour costs which should include salary plus employer costs only.

Applicants **must** ensure all your project costs are eligible (See Appendix 2). At any stage of the competition BEIS can ask for any ineligible cost to be removed from the project costs.

Applicants must justify all costs in their application.

All eligible project costs must be **100% funded by BEIS**. Projects which have higher costs than the maximum allowed in each Phase (Phase 1 £300k excluding VAT and Phase 2 £6m excluding VAT) are ineligible, even when the project team are providing the additional/in-kind funding.

Please note this does not exclude projects from covering any ineligible costs at their own expense, however they will not be included in the assessment of the project or form part of the contract.

In Phase 1, eligible costs (those directly associated with preparation of the feasibility study) will be considered. However, an indication of the potential costs involved in participating in Phase 2 is also required when applying for Phase 1.

In Phase 2, eligible costs are those directly associated with the development, implementation, monitoring, and decommissioning (if necessary – see separate note below) of the Hydrogen Supply demonstration projects.

Further details of eligible and ineligible costs are provided in Appendix 2. Applicants must complete the Competition [Finance Form](#) (separate spreadsheet) to provide the necessary cost information for the assessment process; further itemisation of costs and methods of calculation may be requested to support the application.

### **5.3 Decommissioning Costs**

Where the Hydrogen Supply solution includes a physical asset, the chosen suppliers will have responsibility for decommissioning demonstration equipment when the project has been completed if it is not feasible to continue to operate/develop the equipment. When applying, suppliers need to include any decommissioning costs, at fair market value, in the total estimated costs for the Phase 2 demonstration project.

## 6. Deliverables

It should be noted that SBRI contracts require that project outputs are shared publicly – therefore non-commercial information developed by this competition will need to be sharable.

### Phase 1: Feasibility

Phase 1 projects will be expected to deliver a publishable feasibility study report containing:

- A project description for Phase 2 explaining how it would enable the development of a hydrogen economy.
- An engineering design for implementation of the demonstration.
- An assessment of the benefits and challenges of the solution including capital and operating costs, process risks, its cost-effectiveness, and how the solution could be scaled, against a counterfactual.
- A costed development plan for each solution. This should also include a detailed focus on the component(s) to be demonstrated in Phase 2, a project delivery plan with detailed cost estimates for the demonstration and a business plan for how the solution will continue to be developed after the funding for the pilot ends.
- An assessment of the potential rollout for the technology once successfully commercialised.
- A route to market assessment, describing the key steps to commercialisation, including significant barriers and risk, and an assessment of potential benefits for other sectors, including an assessment of job creation and potential carbon savings.

Alongside the report, suppliers will need to deliver appropriate explanations of the analysis undertaken and the raw data used. The report will require a log of assumptions made when conducting the feasibility study, along with an assessment of the impact that gaps in the data may have on the viability of the Hydrogen Supply solution.

BEIS will appoint a monitoring officer<sup>8</sup> to support the delivery of the feasibility study and approve materials for publication. Projects will need to include sufficient time for the approval process to enable delivery of a final report by the **25 of July 2022**. Where certain information is not publishable for commercial reasons, this should be discussed with BEIS at the earliest opportunity once the contract has been awarded.

BEIS requires the project teams to support the evaluation of their projects by providing data on key performance indicators annually through a survey for up to three years post-project; and to take part in one round of interviews.

---

<sup>8</sup> In some instances the monitoring services will be provided by an external organisation. External organisations will be subject to a confidentiality agreement.

Applicants will retain ownership of the intellectual property generated during the project subject to certain requirements. See Section 10 and Appendix 4 of this ITT for further details. If there are aspects of the main report which are commercially confidential, then project teams will be required to provide a version of the Phase 1 feasibility study which can be published.

## **Phase 2: Demonstration**

The Phase 2 demonstration projects will be selected based on the application form which draws from the feasibility studies submitted for Phase 1 – some variation in project partners may also be permitted (on a case-by-case basis with written permission from BEIS). Only successful applicants to Phase 1 who have completed a Phase 1 feasibility study can apply to Phase 2. No new applicants will be permitted for Phase 2.

Phase 2 will consider applications to demonstrate the entire process, key components, or to further develop and demonstrate the design of new solutions to enable the supply of hydrogen to become cost-effective with a view to achieving net zero ambition. A demonstration may only be for part(s) of the process.

Additional to a physical demonstration successful, applicants to Phase 2 will need to deliver:

- An evidence-based final project report for BEIS (and other government departments) detailing the design and development of the system, demonstration and trials results, key successes, lessons learned, and next steps.
- A version of the Phase 2 project report that can be published.
- A detailed assessment of the business plan for how the process will continue to be developed after the funding for the pilot ends.

## 7. Assessment Process and Criteria

### 7.1 Assessment Process

All applications will be considered initially against all the competition eligibility criteria (described in section 4) and then against the assessment areas outlined below which are based on the competition's objectives and the likelihood of effective project delivery.

The eligible projects will be assessed against the assessment criteria below to determine an overall ranking list which will be used to allocate the funding for the competition. To be eligible to receive funding, a project must also be allocated a minimum total score of 60% against these assessment criteria. Projects in each Category will be ranked with the highest scoring projects funded until funding runs out or until all successful applications are allocated a place, whichever comes first. If there is remaining budget in a Category (due to not enough applications or applications failing to score above the 60% threshold), this will be transferred to a central pot, where all remaining/unfunded projects across the Categories will be combined and ranked in order of merit, funding will be assigned against order of merit to projects (with a minimum 60% threshold mark) until money runs out.

The application form and guidance notes are designed to inform you about the types of information you should provide to BEIS for your application to be assessed.

### 7.2 Assessment Criteria

The assessment criteria for the **Low Carbon Hydrogen Supply 2: Stream 1 Phase 1** competition is broken down into 5 separate criteria. Each criterion will be scored independently and will be given a scoring between 1-5.

Criteria	Weighting
1. Innovative, cost-effective Low Carbon Hydrogen Supply approach	15%
2. Performance of Hydrogen Supply solution	10%
3. Social Value	25% (Split into sections 3a – 15%, 3b – 5%, 3c – 5%)
4. Project Financing	25% (Split into sections 4a – 10%, 4b – 15%)
5. Project Delivery	25% (Split into sections 5a – 10%, 5b – 10%, 5c – 5%)

The scoring guidance and the criterion weighting is summarised in the table below.

<b>Criterion 1</b>	<b>Innovative, cost-effective Low Carbon Hydrogen Supply approach</b>
Weighting	15%
Guidance	<p>This criterion will be used to assess the novel approach to Hydrogen Supply in the proposed demonstration project.</p> <p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Explain why their solution is innovative and to what extent it is technically feasible in supporting hydrogen supply.</li> <li>• Provide evidence to demonstrate that the proposed approach is technically feasible, providing justifications for all technical data provided.</li> <li>• Outline the project expected to be carried out in phase 2, highlighting what is expected to be physically demonstrated and the benefits of carrying out the demonstration.</li> <li>• Describe how the solution fits into the hydrogen supply chain.</li> <li>• Describe the technology readiness level at the start of the project, and at the end of the project (following phase 2 demonstration).</li> <li>• Appraise outstanding technical challenges, commercial benefits, and risks of the solution.</li> <li>• Describe lifetime costs of the solution (including boundary condition assumptions), and how confidence in lifetime costs will be improved.</li> <li>• Describe how the feasibility study phase will firm up costs for the commercialised solution.</li> </ul>

<b>Criterion 2</b>	<b>Performance of Hydrogen Supply solution</b>
Weighting	10%
Guidance	<p>This criterion will be used to assess the performance and scalability of the hydrogen supply solution in supplying one or more of the gas grid, industry, power and transport.</p> <p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Describe the performance of the solution compared to other state of the art technologies.</li> <li>• Provide an assessment of operability of the solution including reliability, availability, expected maintenance requirements and the impact of a variable demand (impact on performance metrics, costs etc. of operating flexibly).</li> <li>• Describe how the performance of the solution will be further validated through the feasibility study and demonstration phase.</li> </ul>

<b>Criterion 3</b>	<b>Social Value</b>
Weighting	25% (Split into sections 3a – 15%, 3b – 5%, 3c – 5%)
	<p>This criterion will be used to assess the plans for the social value gained from supporting the project.</p> <p>Social value for the purposes of this competition includes long term development plan for the solution both in the UK and internationally, potential carbon saving and how they line up with HMG net zero objective, UK job/skills creation, development of a UK supply chain for the hydrogen supply solution, and information dissemination.</p>
<b>Criterion 3a</b>	<b>Long term development plan and benefits to the UK</b>
Weighting	15%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Describe the long-term development plan for further development, commercialisation, and exploitation beyond the hydrogen supply competition, including a credible route to market.</li> <li>• Highlight the key barriers and challenges to achieving commercialisation, timescales, and estimated long term development costs, and how these will be addressed.</li> <li>• Provide an assessment of the build rate, and how the solution could be scaled.</li> <li>• Provide an assessment of the demand for rare elements/materials used in the hydrogen supply solution and how demand could be reduced.</li> <li>• Provide information about UK job/skills creation during and beyond the hydrogen supply competition.</li> <li>• Provide details of how the solution will support the development of a resilient UK supply chain and provide export opportunities.</li> <li>• Describe how you will monitor, measure and report on your commitments/the impact of your project.</li> </ul>
<b>Criterion 3b</b>	<b>Carbon Saving and wider environmental impact</b>
Weighting	5%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Estimate the potential emissions savings from the solution and provide the basis behind the calculation (per unit of hydrogen and when deployed at scale by 2050) and the opportunity to use lower carbon feedstock (Category 1 &amp; 2).</li> <li>• Describe how the solution will enable wider carbon saving across the economy (Category 3 &amp; 4).</li> </ul>

	<ul style="list-style-type: none"> <li>Describe how the emissions savings will contribute to the UK's 2050 Net Zero target, and international targets.</li> <li>Describe the wider environmental impact associated with the hydrogen supply solution (local and global) and how it could be mitigated.</li> </ul>
<b>Criterion 3c</b>	<b>Dissemination</b>
Weighting	5%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>Provide a dissemination plan, describing how the learnings from the feasibility study will be shared with industry.</li> <li>The plan should include key stakeholders, lessons learnt, and any challenges faced during delivery.</li> </ul>

<b>Criterion 4</b>	<b>Project financing</b>
Weighting	25% (Split into sections 4a – 10%, 4b – 15%)
Guidance	<p>This criterion will be used to assess the demonstration costs, including assessing whether the project delivers fair market value and provides additionality.</p> <p>In recognition of the fact that the risks of the project development are shared with HM Government, but the applicant stands to gain all of the benefits occurring after completion of the project, the applicant is asked to explain where cost savings, from the point of view of HM Government, will be provided compared to the case where the project would be carried out under an exclusive development contract.</p> <p>This criterion will be used to assess:</p> <ul style="list-style-type: none"> <li>Phase 1 feasibility study project costs, to ensure that all eligible costs represent a fair market value.</li> <li>Robustness of the Phase 1 feasibility study project costs, i.e., whether the proposed eligible project costs are realistic and justified in terms of the proposed project plans, <u>and</u> sufficient to provide the deliverables sought.</li> </ul> <p><b>Highest marks will be awarded to applicants that:</b></p> <ul style="list-style-type: none"> <li>Ensure that all costs are justified, eligible, fair market value and sufficiently disaggregated to judge that this is the case. BEIS will</li> </ul>

	<p>not normally pay overheads over 50%, all overheads will need to be justified.</p> <ul style="list-style-type: none"> <li>• Demonstrate that the funding represents good use of public funding by supporting projects whose costs are realistic and justified and are likely to secure the expected project aims and deliverables.</li> <li>• Demonstrate that the funding represents good value for money for HM Government, including no element of profit in the project costs.</li> <li>• Provide evidence for the additionality achieved with this funding.</li> <li>• Demonstrate that the project finances are appropriate for the balance of risks and benefits seen by the project consortium and those seen by HM Government.</li> </ul>
<b>Criterion 4a</b>	<b>Project costs</b>
Weighting	10%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Fill in project finance form, justifying personnel and describing the basis of the costs. Including actual labour costs, and depreciation of capital items</li> </ul>
<b>Criterion 4b</b>	<b>Value for money to HM Government</b>
Weighting	15%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Describe why the application represents good value for money for HM Government. The answer should explain the following: <ol style="list-style-type: none"> <li>a. How the availability of <u>public funding</u> makes a <u>material</u> difference to the actuality and pace of moving the solution towards commercialisation, and</li> <li>b. Qualify and quantify the savings that are being passed on to HM Government to reflect the asymmetric balance of risks and benefits accruing to the project consortium and HM Government (refer to Risk-Benefits sharing Section 4 (9) in the Hydrogen Supply 2 Stream 1 ITT). As part of the assessment process for Phase 1, project teams will be asked to clearly state <b>where cost savings are being provided compared to exclusive development contracts</b>. These cost savings form part of the eligibility conditions for the Competition, i.e., projects that do not offer justified cost savings will not be eligible for Phase 1 funding.</li> </ol> </li> </ul>

Criterion 5	Project delivery
Weighting	25% (Split into sections 5a – 10%, 5b – 10%, 5c – 5%)
Guidance	<p>This criterion will be used to assess the expected effectiveness and efficiency of delivery of the feasibility study; and will also consider the indicative plan, and the project team’s potential capacity and capability to deliver a Phase 2 demonstration project in the time available.</p> <p>This will be assessed by looking at a range of factors, including:</p> <ul style="list-style-type: none"> <li>• The capacity, experience, and capability of the project team.</li> <li>• The completeness and quality of the proposed project delivery plans both for the feasibility study and for the proposed demonstration project.</li> <li>• The appropriateness and realism of the project milestones and deliverables, including those to develop the costs and delivery plan for Phase 2.</li> <li>• Applicants who are involved in multiple application to Hydrogen Supply 2 competition, should detail how they will ensure they have capacity to deliver if each application is awarded a contract.</li> <li>• The project’s access to the necessary skills, facilities, and materials.</li> <li>• The quality of risk assessment and contingency planning, including consideration of health and safety and other regulatory requirements.</li> </ul> <p><b><i>Highest marks will be awarded to applicants that:</i></b></p> <ul style="list-style-type: none"> <li>• Take all reasonable steps to maximise the likelihood of successfully delivering the project aims (whilst recognising the innate technical risk in any innovation project) and developing detailed costed project plan for Phase 2.</li> <li>• Present well thought-out, robust, credible, project plans.</li> <li>• Show a realistic and robust approach to risk management.</li> <li>• Identify the skills and competencies necessary for each task.</li> <li>• Have a strong delivery team with proven experience of successfully delivering comparable projects.</li> <li>• Guarantee access to any necessary specialist facilities, operational knowledge and skills, or other resources required to execute the project.</li> <li>• Show the strong commitment of all participating organisations.</li> <li>• Are not heavily dependent on the success of external factors beyond the project’s direct control.</li> <li>• Provide a development plan that looks to improve/solidify the cost elements and deliverability of Phase 2.</li> </ul>

<b>Criterion 5a</b>	<b>Project team and organisation</b>
Weighting	10%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Provide an organogram and outline the key roles for each partner and the proposed governance and communication arrangements in managing and coordinating the project between the partners to ensure effective project delivery.</li> <li>• List any external parties responsible for delivering goods or services worth more than 10% of the total project value and explain how they will ensure that these parts of the project do not give rise to delays in the delivery of the project.</li> <li>• Provide details of the relevant skills, qualifications, and experience of main project team members, including descriptions and evidence of previous relevant work carried out. Include brief details of relevant previous projects that specific members of the team have been involved with, including the date, location, client and project size.</li> </ul> <p>Brief CVs of lead individuals within the project team should be provided in an attachment to this criterion (CVs should be no longer than 2 pages each).</p>
<b>Criterion 5b</b>	<b>Project Plan</b>
Weighting	10%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Set out the key work packages for the Phase 1 feasibility study.</li> <li>• Provide a separate high-level Gantt chart or outline project plan listing the key tasks and timescales.</li> <li>• Explain how the project team, if involved in multiple Hydrogen Supply 2 applications will ensure they have sufficient capacity to deliver multiple projects.</li> </ul> <p>Applicants may attach tables describing the information requested on work packages, and GANTT charts to support their response to this criterion, which will be assessed</p>
<b>Criterion 5c</b>	<b>Project Risks</b>
Weighting	5%
Guidance	<p>Applicants are expected to:</p> <ul style="list-style-type: none"> <li>• Provide a detailed project risk register for the Phase 1 feasibility study, identifying key risks and providing suitable mitigation</li> </ul>

	<p>strategies, grouping the risks in whether the risks are, or relate to: technical, legislative/regulatory, environmental, policy, economic, commercial, financial or project management.</p> <ul style="list-style-type: none"> <li>• Provide information on contingency planning.</li> </ul> <p>Applicants should attach a risk assessment table to this criterion, which will be assessed.</p>
--	--

### 7.3 Scoring Guidance

We will select projects that offer the best value for money overall based on their assessment against the criteria outlined in section 7.2. The projects will be scored against the five scoring criteria set out below in table below. Projects must score a minimum of 60% (based on total score) to be eligible for funding.

Score	Description
1	<b>Not Satisfactory:</b> There is no evidence to <b>very little evidence</b> that the question has been satisfactorily answered and <b>major omissions</b> are evident.
2	<b>Partially Satisfactory:</b> There is <b>little evidence</b> that the question has been satisfactorily answered and <b>some omissions</b> are evident. <b>Much more clarification is needed.</b>
3	<b>Satisfactory:</b> There is <b>reasonable evidence</b> that the question has been satisfactorily addressed but <b>some omissions</b> are still evident and <b>further clarification</b> is needed.
4	<b>Good:</b> The question has been well addressed with a <b>good evidence base</b> , with only <b>minor omissions or lack of clarity.</b>
5	<b>Excellent:</b> There is <b>clear evidence</b> that the <b>question has been completely addressed</b> in all aspects, with question answered clearly, concisely with a <b>strong evidence base.</b>

## 8. Financial Information

Applicants are requested to provide a fixed price quotation for the work. A detailed cost breakdown is required to enable assessment of value for money.

Financial information should include costs for Phase 1 of the project, detailing labour (including manpower rates), material and capital equipment costs, and any travel and subsistence requirements. Applicants are required to complete a detailed financial summary template (the finance form) as part of the application process.

Estimated project costs should also be provided for the Phase 2 demonstration study.

### Financial viability checks

BEIS will undertake financial viability checks on all successful applicants. These will include looking at the latest independently audited accounts filed on the Companies House database. BEIS reserves the right to also verify the financial viability of all members of the consortium and key sub-contractors.

Where a business is not required to file accounts with Companies House, other financial information may be requested to enable an appropriate financial viability review to be undertaken. We will be looking for evidence of your ability to resource the cashflow for the project appropriately, so the information we request will be focused on understanding how your business operates in this respect.

Before your project starts, BEIS will ask for evidence that you have the funding mechanisms in place to manage your cash flow across the life of your project. This could include letters of credit or other such mechanisms.

BEIS will not make payments in advance of need and typically makes contract payments in arrears on satisfactory completion of agreed milestones and deliverables. BEIS understands, however, the difficulties which small businesses may face when financing this type of project. BEIS will explore cash flow issues with the applicant as part of developing the financial and milestone profile during the Contract Award process. BEIS will offer flexibility in terms of profiles and payments, within the confines of the requirements for use of public money within which it operates.

## 9. Notification and Publication of Results

### Notification

Applicants will be informed by email whether their application has been successful, subject to compliance with the terms and conditions of the Conditional Contract Offer (conditional on successfully passing due diligence).

BEIS may wish to publicise the results of the scheme, which may involve engagement with the media. At the end of the application and assessment process, BEIS may issue a press release or publish a notice on its website. These public documents may, for example, outline the overall results of competitions and describe some of the projects to be funded.

Some organisations may want their activities to remain confidential and you will be given a chance to opt out of any involvement in media relations activity and further case study coverage of projects, should you see this as being necessary. However, the public description of the project you provide in your application will be made available in the public domain if your application is successful, and you are not able to opt out of the project description being published, as such, you must provide a short description (<400 words) of your proposed hydrogen supply solution. In addition, all funded projects must include reporting and dissemination milestones – agreed with BEIS – as part of their project deliverables. Information about all contracts awarded will also be published on [Contracts Finder](#) as legally required under The Public Contracts Regulations 2015.

Any organisation that wishes to publicise its project, at any stage, must contact the Competition Project Manager or their Project Monitoring Officer at BEIS for approval.

### Publication of results

SBRI involves a high degree of risk–benefit sharing. In return for provision of funding and non-financial support during demonstration activities, BEIS expects to be able to use and share the results and outputs of the demonstration activities with other government departments and on the government website (gov.uk).

BEIS also wishes to publicise details of the award recipients. Therefore, on or after issuing a SBRI contract, BEIS will publish the following information:

- Identity of the participant and its partners
- Project summary information including aims and expected outcomes of the project and technology area
- Total award value

Following completion of the funded projects, BEIS will publish on its website a summary of the funded activities and the outcomes achieved. This will include a final summary report

from each project detailing technical approach, and key achievements. BEIS may also revisit projects at a later date and publish an evaluation report for the competition as a whole.

BEIS recognises the need to maintain confidentiality of commercially sensitive information. We will consult applicants regarding the nature of information to be published, to protect commercially sensitive information. The notice of the award on [Contracts Finder](#) will also include the value of the contract.

## 10. Reporting, Knowledge Sharing, Evaluation and Intellectual Property Requirements

### Reporting, Knowledge Sharing and Evaluation Requirements

There will be several requirements on contractors during the project, including after the final payment milestone:

- Reporting: to track project progress and ensure payments are made according to a schedule of milestones to be agreed with selected projects. This reporting will be in confidence to BEIS and its technical advisers and will not be published. Any changes to schedules or project plans will need to be discussed with BEIS and applicants should expect significant interaction with the team during the project.
- Evaluation of the scheme: Successful applicants will be expected to participate in an evaluation of the scheme during and after final contract payments, to assess the impact of the scheme, including value for money.
- Knowledge sharing: effective dissemination and knowledge sharing are key requirements in this competition – and applicants will be assessed on the scope and scale of their proposed knowledge sharing activities.

BEIS uses a standardised set of key performance indicator metrics (KPI metrics) to help assess the set-up, progress, achievements, and long-term impacts of all projects funded within the Net Zero Innovation Portfolio. A subset of KPIs will be selected for each project according to the KPIs' relevance to the project's design, aims and objectives.

- You are required to work with BEIS to select all relevant KPIs to be tracked, measured, and reported against for your project.
- You are required to build in project data collection and reporting for all selected KPIs.
- You will be required to report on KPI metrics at the required intervals, which differ by metric, but are no more frequent than quarterly. The collection frequency has been set for each metric to reflect the likelihood of it changing in meaningful ways over that period. During the funding period reporting takes place during quarterly project reviews.
- You will also be required to provide a subset of KPI data in annual follow-up data collection for 3 years post project-completion, with focus on Technology Readiness Levels (TRLs), Commercial Readiness Levels (CRLs), follow-on funding, sales and expected long-term impact.
- Please note KPIs are related to but separate from the monitoring and evaluation plan for each project or programme. BEIS is planning the evaluation of the programme and successful tenderers will be required to share evidence and

collaborate in evaluation activities for example interviews, workshops held as part of these activities.

By submitting a bid, you agree that BEIS can hold your contact details for evaluation purposes for the duration of the competition, even if your bid is not successful. BEIS may, within that time, contact you to request your participation in an evaluation, exploring issues such as the application process or the development of your technology in the absence of BEIS funding. You are not required to participate in such an evaluation.

### **Intellectual Property**

The proposed arrangements for intellectual property rights and exploitation of IPR are set out in the contract terms and conditions for this competition, in Appendix 4.

Subject to the requirements of Conditions 27(3) and 28(5) of the pre-commercial terms and conditions (Appendix 4), applicants will retain ownership of the intellectual property generated from the project. Applicants are required to identify and record any such intellectual property and to protect patentable knowledge in accordance with Condition 28 of the standard terms and conditions. If within five years of its creation applicants have not commercially exploited intellectual property generated from the work, then in line with clause 28(5) of the standard terms and conditions, BEIS may request the Arising Intellectual Property be assigned to BEIS.

For further information please refer to the T&Cs, notably Conditions 27-28.

### **Ownership of Demonstration Devices**

Subject to the terms and conditions applicable to intellectual property within the terms and conditions, suppliers will retain responsibility and ownership for the technologies and demonstration devices developed. Suppliers will retain responsibility and ownership for the technologies and related equipment developed and used during the delivery of the contracts.

## **11. Feedback, Re-application and Right of Appeal**

A short summary of key feedback regarding the applications will be provided to all applicants. This feedback will be based on the comments of technical assessors. No additional feedback will be provided and there will be no further discussion on the application.

The feedback from the assessors is intended to be constructive. Comments are not a checklist of points which must be answered or argued in a resubmitted application as the assessors/requirements may be different and it is your decision as to whether you act on the suggestions made.

## 12. Confidentiality and Freedom of Information

Where any request is made to BEIS under the Freedom of Information Act 2000 (“FOIA”) for the release of information relating to any project or applicant, which would otherwise be reasonably regarded as confidential information, BEIS will notify you of the request as soon as we become aware of it. An applicant must acknowledge that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that BEIS may nevertheless be obliged to disclose information which the applicant considers confidential.

As part of the application process all applicants are asked to submit a public description of the project. This should be a public facing form of words that adequately describes the project but that does not disclose any information that may impact on Intellectual Property (IP), is confidential or commercially sensitive. The titles of successful projects, names of organisations, amounts awarded, and the description of the project may be published once the award is confirmed as final.

All assessors (internal and external) used during the assessment of applications and project monitoring officers will be subject to a confidentiality agreement. Assessors external to BEIS will also be required to declare any potential conflicts of interest in a written and signed declaration. If assessors, or anyone involved in the assessment process, encounter a conflict of interest, they will be removed from the process.

### 13. Further Instructions to Applicants

Please refer to the Low Carbon Hydrogen Supply 2 Competition Q&A document, published on the competition [website](#) for responses to questions raised at the virtual Stakeholder Engagement Day held on the 8 of June 2021.

The Department reserves the right to amend the enclosed Competition documents at any time prior to **12 noon BST, 19 July 2021**. Any changes are most likely to correct editorial errors and may include further FAQs on the Guidance Notes asked by stakeholders **before 12 noon BST, 12 July 2021**. Any such amendment will be numbered, dated and issued on the competition [website](#). Where amendments are significant, the Department may, at its discretion, extend the deadline for receipt of tenders.

The Department reserves the right to withdraw this contract opportunity without notice and will not be liable for any costs incurred by contractors during any stage of the process. Contractors should also note that, in the event an application is considered to be fundamentally unacceptable on a key issue, regardless of its other merits, that application may be rejected. By issuing this Competition document, the Department is not bound in any way and does not have to accept the lowest cost, or any application and reserves the right to accept a portion of any application unless the tenderer expressly stipulates otherwise.

# Appendix 1 – Technology Readiness Levels (TRLs)

Technology readiness levels are an indication of the maturity stage of development of a technology on its way to being developed for an application or product. The table below defines TRLs 1 to 9.

TRL 1 – Basic Research	Scientific research begins to be translated into applied research and development.
TRL 2 – Applied Research	Basic physical principles are observed, practical applications of those characteristics can be 'invented' or identified. At this level, the application is still speculative: there is not experimental proof or detailed analysis to support the conjecture.
<b>Applied research and development</b>	
TRL 3 – Critical Function or Proof of Concept Established	Active research and development is initiated. This includes analytical and laboratory studies to physically validate analytical predictions of separate elements of the technology. Examples include components that are not yet integrated or representative.
TRL 4 – Laboratory Testing/Validation of Component(s)/Process(es)	Basic technological components are integrated to establish that the pieces will work together.
TRL 5 – Laboratory Testing of Integrated/Semi-Integrated System	The basic technological components are integrated with reasonably realistic supporting elements so it can be tested in a simulated environment.
<b>Demonstration</b>	
TRL 6 – Prototype System Verified	Representative model or prototype system is tested in a relevant environment.
TRL 7 – Integrated Pilot System Demonstrated	Prototype near or at planned operational system, requiring demonstration of an actual system prototype in an operational environment.
<b>Pre-commercial deployment</b>	
TRL 8 – System Incorporated in Commercial Design	Technology is proven to work - actual technology completed and qualified through test and demonstration.
TRL 9 – System Proven and Ready for Full Commercial Deployment	Actual application of technology is in its final form - technology proven through successful operations.

# Appendix 2 - Eligible and Ineligible Costs

## 1. Eligible Costs

Directly incurred costs:

These are costs that are specific to the project that will be charged to the project as the amount spent, fully supported by an audit record justification of a claim. They comprise:

- Labour costs for all those contributing to the project, broken down by individual salary and employer costs.
- Material costs (including consumables specific to the project)
- Capital equipment costs
- Sub-contract costs
- Travel and subsistence

Indirect costs:

Indirect costs should be charged in proportion to the amount of effort deployed on the project. Applicants should document the methodology they have applied to calculate them, using their own cost rates. They may include:

- General office and basic laboratory consumables
- Library services / learning resources
- Typing / secretarial
- Finance, personnel, public relations and departmental services
- Central and distributed computing
- Overheads

## 2. Ineligible Costs

Under no circumstances can costs for the following items be claimed:

- Commercialisation activities
- Profit (i.e. applicants should not include profit for themselves or the other project team members within indirect costs or include it as a separate project cost)
- Protection of IPR

- For activities of a political or exclusively religious nature
- In respect of costs reimbursed or to be reimbursed by funding from other public authorities or from the private sector
- In connection with the receipt of contributions in kind (a contribution in goods or services as opposed to money)
- To cover interest payments (including service charge payments for finance leases)
- For the giving of gifts to individuals, other than promotional items with a value no more than £10 a year to any one individual
- For entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations)
- To pay statutory fines, criminal fines or penalties
- In respect of VAT that you are able to claim from HM Revenue and Customs.

# Appendix 3 – Declarations

## Declaration 1: Statement of non-collusion

To: The Department for Business, Energy and Industrial Strategy

1. We recognise that the essence of competitive tendering is that the Department will receive a bona fide competitive tender from all persons tendering. We therefore certify that this is a bona fide tender and that we have not fixed or adjusted the amount of the tender or our rates and prices included therein by or in accordance with any agreement or arrangement with any other person.

2. We also certify that we have not done and undertake not to do at any time before the hour and date specified for the return of this tender any of the following acts:

- (a) communicate to any person other than the Department the amount or approximate amount of our proposed tender, except where the disclosure, in confidence, of the approximate amount is necessary to obtain any insurance premium quotation required for the preparation of the tender;
- (b) enter into any agreement or arrangement with any other person that he shall refrain for submitting a tender or as to the amount included in the tender;
- (c) offer or pay or give or agree to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person doing or having done or causing or having caused to be done, in relation to any other actual or proposed tender for the contract any act, omission or thing of the kind described above.

3. In this certificate, the word “person” shall include any person, body or association, corporate or unincorporated; and “any agreement or arrangement” includes any such information, formal or informal, whether legally binding or not.

.....  
Signature (duly authorised on behalf of the tenderer)

.....  
Print name

.....  
On behalf of (organisation name)

.....  
Date

## Declaration 2: Form of Tender

To: The Department for Business, Energy and Industrial Strategy

1. Having considered the invitation to tender and all accompanying documents (including without limitation, the terms and conditions of contract and the Specification) we confirm that we are fully satisfied as to our experience and ability to deliver the goods/services in all respects in accordance with the requirements of this invitation to tender.
2. We hereby tender and undertake to provide and complete all the services required to be performed in accordance with the terms and conditions of contract and the Specification for the amount set out in the Pricing Schedule.
3. We agree that any insertion by us of any conditions qualifying this tender or any unauthorised alteration to any of the terms and conditions of contract made by us may result in the rejection of this tender.
4. We agree that this tender shall remain open to be accepted by the Department for 180 calendar days from the 9 of August 2021.
5. We understand that if we are a subsidiary (within the meaning of section 1159 of (and schedule 6 to) the Companies Act 2006) if requested by the Department we may be required to secure a Deed of Guarantee in favour of the Department from our holding company or ultimate holding company, as determined by the Department in their discretion.
6. We understand that the Department is not bound to accept the lowest or any tender it may receive.
7. We certify that this is a bona fide tender.

.....  
Signature (duly authorised on behalf of the tenderer)

.....  
Print name

.....  
On behalf of (organisation name)

.....  
Date

### Declaration 3: Conflict of Interest

I have nothing to declare with respect to any current or potential interest or conflict in relation to this research (or any potential providers who may be subcontracted to deliver this work, their advisers or other related parties). By conflict of interest, I mean, anything which could be reasonably perceived to affect the impartiality of this research, or to indicate a professional or personal interest in the outcomes from this research.

Signed .....

Name .....

Position .....

#### **OR**

I wish to declare the following with respect to personal or professional interests related to relevant organisations\*;

- X
- X

*Where a potential conflict of interest has been declared for an individual or organisation within a consortium, please clearly outline the role which this individual or organisation will play in the proposed project and how any conflict of interest has or will be mitigated.*

- X
- X

Signed .....

Name .....

Position .....

Please complete this form and return this with your ITT documentation - Nil returns **are** required.

\* These may include (but are not restricted to);

- A professional or personal interest in the outcome of this research
- For evaluation projects, a close working, governance, or commercial involvement in the project under evaluation
- Current or past employment with relevant organisations

- Payment (cash or other) received or likely to be received from relevant organisations for goods or services provided (Including consulting or advisory fees)
- Gifts or entertainment received from relevant organisations
- Shareholdings (excluding those within unit trusts, pension funds etc.) in relevant organisations
- Close personal relationship or friendships with individuals employed by or otherwise closely associated with relevant organisations

***All of the above apply both to the individual signing this form and their close family / friends / partners etc.***

If your situation changes during the project in terms of interests or conflicts, you must notify BEIS straight away.

A DECLARATION OF INTEREST WILL NOT NECESSARILY MEAN THE INDIVIDUAL OR ORGANISATION CANNOT WORK ON THE PROJECT; BUT IT IS VITAL THAT ANY INTEREST OR CONFLICT IS DECLARED SO IT CAN BE CONSIDERED OPENLY.

## **Declaration 4: Standard Selection Questionnaire**

### **Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.**

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion<sup>9</sup>. If there are grounds for exclusion, there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning).

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusion grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

### **Supplier Selection Questions: Part 3**

The procurement document will provide instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

### **Consequences of misrepresentation**

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

---

<sup>9</sup> For the list of exclusions please see [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/551130/List\\_of\\_Mandatory\\_and\\_Discretionary\\_Exclusions.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf)

## Low Carbon Hydrogen Supply 2 Competition: Stream 1 Phase 1

TRN 5044/04/2021

### **Notes for completion**

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. All sub-contractors are required to complete Part 1 and Part 2<sup>10</sup>.
7. For answers to Part 3 - If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

---

<sup>10</sup> See PCR 2015 regulations 71 (8)-(9)

## Part 1: Potential Supplier Information

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	
1.1(b) – (i)	Registered office address (if applicable)	
1.1(b) – (ii)	Registered website address (if applicable)	
1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	
1.1(d)	Date of registration in country of origin	
1.1(e)	Company registration number (if applicable)	
1.1(f)	Charity registration number (if applicable)	
1.1(g)	Head office DUNS number (if applicable)	
1.1(h)	Registered VAT number	
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	
1.1(k)	Trading name(s) that will be used if successful in this procurement	

1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) <ul style="list-style-type: none"> <li>a) Voluntary Community Social Enterprise (VCSE)</li> <li>b) Sheltered Workshop</li> <li>c) Public service mutual</li> </ul>	
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME) <sup>11</sup> ?	Yes <input type="checkbox"/> No <input type="checkbox"/>
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: <sup>12</sup> <ul style="list-style-type: none"> <li>- Name;</li> <li>- Date of birth;</li> <li>- Nationality;</li> <li>- Country, state or part of the UK where the PSC usually lives;</li> <li>- Service address;</li> <li>- The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used);</li> <li>- Which conditions for being a PSC are met;             <ul style="list-style-type: none"> <li>- Over 25% up to (and including) 50%,</li> <li>- More than 50% and less than 75%,</li> <li>- 75% or more. <sup>13</sup></li> </ul> </li> </ul> (Please enter N/A if not applicable)	
1.1(o)	Details of immediate parent company: <ul style="list-style-type: none"> <li>- Full name of the immediate parent company</li> <li>- Registered office address (if applicable)</li> <li>- Registration number (if applicable)</li> </ul>	

<sup>11</sup> See EU definition of SME [https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

<sup>12</sup> UK companies, Societas European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. [See PSC guidance.](#)

<sup>13</sup> Central Government contracting authorities should use this information to have the PSC information for the preferred supplier checked before award.

	<ul style="list-style-type: none"> <li>- Head office DUNS number (if applicable)</li> <li>- Head office VAT number (if applicable)</li> </ul> <p>(Please enter N/A if not applicable)</p>	
1.1(p)	<p>Details of ultimate parent company:</p> <ul style="list-style-type: none"> <li>- Full name of the ultimate parent company</li> <li>- Registered office address (if applicable)</li> <li>- Registration number (if applicable)</li> <li>- Head office DUNS number (if applicable)</li> <li>- Head office VAT number (if applicable)</li> </ul> <p>(Please enter N/A if not applicable)</p>	

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

Please provide the following information about your approach to this procurement:

Section 1	Bidding model				
Question number	Question	Response			
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
		<p>If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3.</p> <p>If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.</p>			
1.2(a) - (ii)	Name of group of economic operators (if applicable)				
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.				
1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
1.2(b) - (ii)	If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.				
	Name				
	Registered address				
	Trading status				
	Company registration number				
	Head Office DUNS number (if applicable)				
	Registered VAT number				
	Type of organisation				

	SME (Yes/No)					
	The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables					
	The approximate % of contractual obligations assigned to each sub-contractor					

### Contact details and declaration

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

Section 1	Contact details and declaration	
Question number	Question	Response
1.3(a)	Contact name	
1.3(b)	Name of organisation	
1.3(c)	Role in organisation	
1.3(d)	Phone number	
1.3(e)	E-mail address	
1.3(f)	Postal address	
1.3(g)	Signature (electronic is acceptable)	
1.3(h)	Date	

## Part 2: Exclusion Grounds

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1(a)	<p><b>Regulations 57(1) and (2)</b></p> <p>The detailed grounds for mandatory exclusion of an organisation are set out on this <a href="#">webpage</a>, which should be referred to before completing these questions.</p> <p>Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the <a href="#">webpage</a>.</p>	
	Participation in a criminal organisation.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Corruption.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Fraud.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Terrorist offences or offences linked to terrorist activities.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Money laundering or terrorist financing.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
	Child labour and other forms of trafficking in human beings.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 2.1(b)
2.1(b)	If you have answered yes to question 2.1(a), please provide further details.  Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction,	

	<p>Identity of who has been convicted</p> <p>If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.</p>	
2.2	<p>If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
2.3(a)	<p><b>Regulation 57(3)</b></p> <p>Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
2.3(b)	<p>If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.</p>	

Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

Section 3		Grounds for discretionary exclusion
	Question	Response
3.1	<p><b>Regulation 57 (8)</b></p> <p>The detailed grounds for discretionary exclusion of an organisation are set out on this <a href="#">webpage</a>, which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.</p>	
3.1(a)	Breach of environmental obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1 (b)	Breach of social obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1 (c)	Breach of labour law obligations?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(d)	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(e)	Guilty of grave professional misconduct?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(h)	Been involved in the preparation of the procurement procedure?	Yes <input type="checkbox"/> No <input type="checkbox"/>

		If yes please provide details at 3.2
3.1(i)	Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions?	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes please provide details at 3.2
3.1(j)	Please answer the following statements	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.1(j) - (i)	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.1(j) - (ii)	The organisation has withheld such information.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.1(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes please provide details at 3.2
3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	

## Part 3: Selection Questions<sup>14</sup>

Section 4	Economic and Financial Standing	
	Question	Response
4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested?  If no, can you provide <b>one</b> of the following: answer with Y/N in the relevant box.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).	Yes <input type="checkbox"/> No <input type="checkbox"/>
4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	Yes <input type="checkbox"/> No <input type="checkbox"/>

<sup>14</sup> [See Action Note 8/16 Updated Standard Selection Questionnaire](#)

Section 5	If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:
Name of organisation	
Relationship to the Supplier completing these questions	

5.1	Are you able to provide parent company accounts if requested to at a later stage?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Section 6	Technical and Professional Ability
6.1	<p><b>Relevant experience and contract examples</b></p> <p>Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.</p> <p>The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>

	<b>Contract 1</b>	<b>Contract 2</b>	<b>Contract 3</b>
<b>Name of customer organisation</b>			
<b>Point of contact in the organisation</b>			
<b>Position in the organisation</b>			
<b>E-mail address</b>			
<b>Description of contract</b>			
<b>Contract Start date</b>			
<b>Contract completion date</b>			
<b>Estimated contract value</b>			

6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries)</p>

6.3	<p>If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.</p>

Section 7	Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015 <sup>15</sup>	
7.1	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
7.2	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	Yes <input type="checkbox"/> Please provide the relevant URL  No <input type="checkbox"/> Please provide an explanation

---

<sup>15</sup> [Procurement Policy Note 9/16 Modern Slavery Act 2015](#)

## 8. Additional Questions

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

Section 8	Additional Questions
8.1	Insurance
a.	<p>Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below: Y/N</p> <p>Employer's (Compulsory) Liability Insurance = £5m</p> <p>Public Liability Insurance = £5m</p> <p>*It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.</p>

8.2	Skills and Apprentices <sup>16</sup> – (please refer to supplier selection guidance)	
a.	<p>Public procurement of contracts with a full life value of £10 million and above and duration of 12 months and above should be used to support skills development and delivery of the apprenticeship commitment. This policy is set out in detail in Procurement Policy Note 14/15.</p> <p>Please confirm if you will be supporting apprenticeships and skills development through this contract.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
b.	<p>If yes, can you provide at a later stage documentary evidence to support your commitment to developing and investing in skills, development and apprenticeships to build a more skilled and productive workforce and reducing the risks of supply constraints and increasing labour cost inflation?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>
c.	<p>Do you have a process in place to ensure that your supply chain supports skills, development and apprenticeships in line with PPN 14/15 (see guidance) and can provide evidence if requested?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>

<sup>16</sup> [Procurement Policy Note 14/15– Supporting Apprenticeships and Skills Through Public Procurement](#)

8.3	Steel <sup>17</sup> – (please refer to supplier selection guidance)
	Questions not applicable, no answer required in this case.

8.4	Suppliers' Past Performance <sup>18</sup> - (please refer to supplier selection guidance - this question should only be included by central government contracting authorities)	
a.	Can you supply a list of your relevant principal contracts for goods and/or services provided in the last three years?	Yes <input type="checkbox"/> No <input type="checkbox"/>
b.	On request can you provide a certificate from those customers on the list?	Yes <input type="checkbox"/> No <input type="checkbox"/>
c.	If you cannot obtain a certificate from a customer can you explain the reasons why?	Yes <input type="checkbox"/> No <input type="checkbox"/>
d.	If the certificate states that goods and/or services supplied were not satisfactory are you able to supply information which shows why this will not recur in this contract if you are awarded it?	Yes <input type="checkbox"/> No <input type="checkbox"/>
e.	Can you supply the information in questions a. to d. above for any sub-contractors [or consortium members] who you are relying upon to perform this contract?	Yes <input type="checkbox"/> No <input type="checkbox"/>

<sup>17</sup> [Procurement Policy Note 16/15– Procuring steel in major projects](#)

<sup>18</sup> [Procurement Policy Note 04/15 Taking Account of Suppliers' Past Performance](#)

### Declaration 5: Code of Practice<sup>19</sup>

I confirm that I am aware of the requirements of the Department’s Code of Practice<sup>20</sup> for Research and, in the proposed project, I will use my best efforts to ensure that the procedures used conform to those requirements under the following headings<sup>21</sup>:

1. Responsibilities
2. Competence
3. Project planning
4. Quality Control
5. Handling of samples and materials
6. Documentation of procedures and methods
7. Research/work records

I understand that the Department has the right to inspect our procedures and practices against the requirements of the Code of Practice, and that I may be asked to provide documentary evidence of our working practices or provide access and assistance to auditors appointed by the Department.

(There is some flexibility in the application of the Code of Practice to specific research projects. Contractors are encouraged to discuss with the Department any aspects that cause them concern, in order to reach agreement on the interpretation of each requirement.)

.....  
Signature (duly authorised on behalf of the tenderer)

.....  
Print name

.....  
On behalf of (organisation name)

.....  
Date

---

<sup>19</sup> Please note that this declaration applies to individuals, single organisations and consortia.

<sup>20</sup> The Code of Practice is attached to this ITT

<sup>21</sup> Please delete as appropriate

## **Code of Practice for Research**

### ***Issued by the Department for Business, Energy and Industrial Strategy***

The Department has developed this Code of Practice from the Joint Code of Practice issued by BBSRC; the Department for Environment, Food and Rural Affairs (Defra); the Food Standards Agency; and the Natural Environment Research Council (NERC) which lays out a framework for the proper conduct of research. It sets out the key aspects of the research process and the importance of making judgements on the appropriate precautions needed in every research activity.

The Code applies to all research funded by The Department. It is intended to apply to all types of research, but the overriding principle is fitness of purpose and that all research must be conducted diligently by competent researchers and therefore the individual provisions must be interpreted with that in mind.

### ***PRINCIPLES BEHIND THE CODE OF PRACTICE***

Contractors and consortia funded by the Department are expected to be committed to the quality of the research process in addition to quality of the evidence outputs

The Code of Practice has been created in order to assist contractors to conduct research of the highest quality and to encourage good conduct in research and help prevent misconduct.

Set out over 8 responsibilities the Code of Practice provides general principles and standards for good practice in research.

Most contractors will already have in place many of the measures set out in the Code and its adoption should not require great effort.

### ***COMPLIANCE WITH THE CODE OF PRACTICE***

All organisations contracting to the Department (including those sub-contracting as part of a consortium) will be expected to commit to upholding these responsibilities and will be expected to indicate acceptance of the Code when submitting proposals to the Department.

Contractors are encouraged to discuss with the Department any clauses in the Code that they consider inappropriate or unnecessary in the context of the proposed research project. The Code, and records of the discussions if held, will become part of the Terms and Conditions under which the research is funded.

Additionally, The Department may conduct (or request from the Contractor as appropriate) a formal risk assessment on the project to identify where additional controls may be needed.

### ***MONITORING OF COMPLIANCE WITH THE CODE OF PRACTICE***

Monitoring of compliance with the Code is necessary to ensure:

- Policies and managed processes exist to support compliance with the Code
- That these are being applied in practice.

In the short term, the Department can require contractors to conduct planned internal audits although the Department reserves the right to obtain evidence that a funded project is carried out to the required standard. The Department may also conduct an audit of a Contractor's research system if deemed necessary.

In the longer term it is expected that most research organisations will assure the quality of their research processes by means of a formal system that is audited by an impartial and competent third party against an appropriate internationally recognised standard that is fit for purpose.

A recommended checklist for researchers can be found on the UK Research Integrity Office (UKRIO) website at <http://www.ukrio.org/what-we-do/code-of-practice-for-research>

### ***SPECIFIC REQUIREMENTS IN THE CODE OF PRACTICE***

#### ***1. Responsibilities***

All organisations contracting to the Department (including those sub-contracting as part of a consortium) will be responsible for the overall quality of research they conducted. Managers, group leaders and supervisors have a responsibility to ensure a climate of good practice in the research teams, including a commitment to the development of scientific and technical skills.

The Principal Investigator or Project Leader is responsible for all the work conducted in the project including that of any subcontractors. All staff and students must have defined responsibilities in relation to the project and be aware of these responsibilities.

#### ***2. Competence***

All personnel associated with the project must be competent to perform the technical, scientific and support tasks required of them. Personnel undergoing training must be supervised at a level such that the quality of the results is not compromised by the inexperience of the researcher.

### **3. Project planning**

An appropriate level of risk assessment must be conducted to demonstrate awareness of the key factors that will influence the success of the project and the ability to meet its objectives. There must be a written project plan showing that these factors (including research design, statistical methods and others) have been addressed. Projects must be ethical and project plans must be agreed in collaboration with the Department, taking account of the requirements of ethical committees<sup>22</sup> or the terms of project licences, if relevant.

Significant amendments to the plan or milestones must be recorded and approved by the Department if applicable.

### **4. Quality Control**

The organisation must have planned processes in place to assure the quality of the research undertaken by its staff. Projects must be subjected to formal reviews of an appropriate frequency. Final and interim outputs must always be accompanied by a statement of what quality control has been undertaken.

The authorisation of outputs and publications shall be as agreed by the Department, and subject to senior approval in the Department, where appropriate. Errors identified after publication must be notified to the Department and agreed corrective action initiated.

### **5. Handling of samples and materials**

All samples and other experimental materials must be labelled (clearly, accurately, uniquely and durably), and retained for a period to be agreed by the Department. The storage and handling of the samples, materials and data must be as specified in the project plan (or proposal), and must be appropriate to their nature. If the storage conditions are critical, they must be monitored and recorded.

### **6. Documentation of procedures and methods**

All the procedures and methods used in a research project must be documented, at least in the personal records of the researcher. This includes analytical and statistical procedures and the generation of a clear audit trail linking secondary processed information to primary data.

There must be a procedure for validation of research methods as fit for purpose, and modifications must be trackable through each stage of development of the method.

---

<sup>22</sup> Please note ethical approval does not remove the responsibility of the individual for ethical behaviour.

## **7. Research/work records**

All records must be of sufficient quality to present a complete picture of the work performed, enabling it to be repeated if necessary.

The project leader is accountable for the validity of the work and responsible for ensuring that regular reviews of the records of each researcher are conducted.<sup>23</sup>

The location of all project records, including critical data, must be recorded. They must be retained in a form that ensures their integrity and security, and prevents unauthorised modification, for a period to be agreed by the Department.

A recommended checklist for researchers can be found on the UK Research Integrity Office (UKRIO) website at <http://www.ukrio.org/what-we-do/code-of-practice-for-research>.

---

<sup>23</sup> Please note that this also applies to projects being undertaken by consortia.

## **Declaration 6: The General Data Protection Regulation Assurance Questionnaire for Contractors**



Declaration 6 -  
GDPR Assurance Que

## **Mandatory Exclusion Grounds**

**Public Contract Regulations 2015 R57(1), (2) and (3)**

**Public Contract Directives 2014/24/EU Article 57(1)**

**Participation in a criminal organisation**

Participation offence as defined by section 45 of the Serious Crime Act 2015

Conspiracy within the meaning of

- section 1 or 1A of the Criminal Law Act 1977 or
- article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983

where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime;

### **Corruption**

Corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;

The common law offence of bribery;

Bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010, or section 113 of the Representation of the People Act 1983;

### **Fraud**

Any of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the convention on the protection of the financial interests of the European Communities:

- the common law offence of cheating the Revenue;
- the common law offence of conspiracy to defraud;
- fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;
- fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;

- fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;
- an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;
- destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;
- fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006;
- the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;

### **Terrorist offences or offences linked to terrorist activities**

Any offence:

- listed in section 41 of the Counter Terrorism Act 2008;
- listed in schedule 2 to that Act where the court has determined that there is a terrorist connection;
- under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by the previous two points;

### **Money laundering or terrorist financing**

Money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002

An offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996

### **Child labour and other forms of trafficking human beings**

An offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;

An offence under section 59A of the Sexual Offences Act 2003

An offence under section 71 of the Coroners and Justice Act 2009;

An offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994

An offence under section 2 or section 4 of the Modern Slavery Act 2015

**Non-payment of tax and social security contributions**

Breach of obligations relating to the payment of taxes or social security contributions that has been established by a judicial or administrative decision.

Where any tax returns submitted on or after 1 October 2012 have been found to be incorrect as a result of:

- HMRC successfully challenging the potential supplier under the General Anti – Abuse Rule (GAAR) or the “Halifax” abuse principle; or
- a tax authority in a jurisdiction in which the potential supplier is established successfully challenging it under any tax rules or legislation that have an effect equivalent or similar to the GAAR or “Halifax” abuse principle;
- a failure to notify, or failure of an avoidance scheme which the supplier is or was involved in, under the Disclosure of Tax Avoidance Scheme rules (DOTAS) or any equivalent or similar regime in a jurisdiction in which the supplier is established

**Other offences**

Any other offence within the meaning of Article 57(1) of the Directive as defined by the law of any jurisdiction outside England, Wales and Northern Ireland

Any other offence within the meaning of Article 57(1) of the Directive created after 26<sup>th</sup> February 2015 in England, Wales or Northern Ireland

## **Discretionary exclusions**

### **Obligations in the field of environment, social and labour law.**

Where an organisation has violated applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Directive (see copy below) as amended from time to time; including the following:-

- Where the organisation or any of its Directors or Executive Officers has been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years;
- In the last three years, where the organisation has had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds of alleged unlawful discrimination;
- In the last three years, where any finding of unlawful discrimination has been made against the organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or incomparable proceedings in any jurisdiction other than the UK);
- Where the organisation has been in breach of section 15 of the Immigration, Asylum, and Nationality Act 2006;
- Where the organisation has a conviction under section 21 of the Immigration, Asylum, and Nationality Act 2006;
- Where the organisation has been in breach of the National Minimum Wage Act 1998.

### **Bankruptcy, insolvency**

Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State

### **Grave professional misconduct**

Guilty of grave professional misconduct

### **Distortion of competition**

Entered into agreements with other economic operators aimed at distorting competition

### **Conflict of interest**

Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure

**Been involved in the preparation of the procurement procedure.**

**Prior performance issues**

Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.

**Misrepresentation and undue influence**

The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

**Additional exclusion grounds**

**Breach of obligations relating to the payment of taxes or social security contributions.**

**ANNEX X Extract from Public Procurement Directive 2014/24/EU**

**LIST OF INTERNATIONAL SOCIAL AND ENVIRONMENTAL CONVENTIONS REFERRED TO IN ARTICLE 18(2) —**

- ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- ILO Convention 98 on the Right to Organise and Collective Bargaining;
- ILO Convention 29 on Forced Labour;
- ILO Convention 105 on the Abolition of Forced Labour;
- ILO Convention 138 on Minimum Age;
- ILO Convention 111 on Discrimination (Employment and Occupation);
- ILO Convention 100 on Equal Remuneration;
- ILO Convention 182 on Worst Forms of Child Labour;
- Vienna Convention for the protection of the Ozone Layer and its Montreal Protocol on substances that deplete the Ozone Layer;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention);

- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention)
- Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (UNEP/FAO) (The PIC Convention) Rotterdam, 10 September 1998, and its 3 regional Protocols.

### **Consequences of misrepresentation**

A serious misrepresentation which induces a contracting authority to enter into a contract may have the following consequences for the signatory that made the misrepresentation: -

- The potential supplier may be excluded from bidding for contracts for three years, under regulation 57(8)(h)(i) of the PCR 2015;
- The contracting authority may sue the supplier for damages and may rescind the contract under the Misrepresentation Act 1967.
- If fraud, or fraudulent intent, can be proved, the potential supplier or the responsible officers of the potential supplier may be prosecuted and convicted of the offence of fraud by false representation under s.2 of the Fraud Act 2006, which can carry a sentence of up to 10 years or a fine (or both).
- If there is a conviction, then the company must be excluded from procurement for five years under reg. 57(1) of the PCR (subject to self-cleaning).

# Appendix 4 – Contract Terms and Conditions

## **BEIS DPF31 - BEIS PRE-COMMERICAL TERMS AND CONDITIONS OF CONTRACT FOR SERVICES**

(including Hire, Lease and Facilities Management)

Clauses	Index
1	Definitions and Interpretation
2	Acts by the Authority
3	Service of Notices and Communications
4	Assignment and Subcontracting
5	Entire Agreement
6	Waiver
7	Severability
8	Confidentiality
9	Freedom of Information
10	Amendments and Variations
11	Invoices and Payment
12	Accounts
13	Recovery of Sums Due
14	Value Added Tax
15	Provision of Services
16	Progress Report

17	Contractor's Personnel
18	Indemnities and Insurance
19	Termination for Insolvency or Change of Control
20	Termination of Breach of Contract
21	Cancellation
22	Dispute Resolution
23	Bribery and corruption
24	Official Secrets
25	Special Provisions
26	Conflict of Interest
27	Intellectual Property Rights
28	Exploitation of Intellectual Property
29	Rights of Third Parties
30	Government Property
31	Data Protection
32	Payment of taxes: income tax and NICs
33	Payment of taxes: Occasions of Tax Non-compliance
34	Equality and non-discrimination
35	Welsh Language Act
36	Sustainable Procurement
37	Other Legislation
38	Contractor Status
39	Transfer of Services

40	Law and Jurisdiction
41	Transparency
42	Monitoring and Management Information
43	Information confidential to the Contractor

## **BEIS PRE-COMMERCIAL TERMS AND CONDITIONS OF CONTRACT FOR SERVICES**

(including Hire, Lease and Facilities Management)

### **1. Definitions and Interpretation**

(1) In these terms and conditions of contract for services (“Conditions”):

“**Annex 1**” means the Annex 1 (Processing, Personal Data and Data Subjects) attached to the Authority’s specification of requirements which forms part of this Contract;

“**Arising Intellectual Property**” means the Intellectual Property Rights which are created as a result of the Contractor’s performance of the Services;

“**Authority**” means the Secretary of State for Business, Energy and Industrial Strategy, acting as part of the Crown;

“**Authority’s Premises**” means land or buildings owned or occupied by the Authority;

“**Background Intellectual Property**” means Intellectual Property Rights owned, controlled or used by either of the Parties at the date of this Contract or which shall at any time thereafter become so owned, controlled or used otherwise than as a result of the performance of the Services under this Contract;

“**Confidential Information**”:

means all information obtained by the Contractor from the Authority or any other department or office of Her Majesty’s Government relating to and connected with the Contract and the Services; but

does not include the Contract itself and the provisions of the Contract where, or to the extent that, the Authority publishes them by virtue of Condition 41;

“**Contract**” means the agreement concluded between the Authority and the Contractor for the supply of Services, including without limitation these Conditions (to the extent that they

are not expressly excluded or modified), all specifications, plans, drawings and other documents which are incorporated into the agreement;

**“Contract Period”** means the period from the date of this Contract to the date of expiry of this Contract set out in the DPF41 Contract offer letter or such earlier date as this Contract is terminated in accordance with its terms;

**“Contract” Year**” means a period of 12 consecutive months starting on the date of this Contract and each anniversary thereafter;

**“Contractor”** means the person who agrees to supply the Services and includes any person to whom all or part of the Contractor’s obligations are assigned pursuant to Condition 4;

**“Contractor Personnel”** means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any subcontractor engaged in the performance of its obligations under this Contract, pursuant to Condition 4;

**“Contracts Finder”** means the Government’s publishing portal for public sector procurement opportunities;

**“Charges”** means the price agreed in respect of the Services, excluding Value Added Tax;

**“Data Controller”** shall have the same meaning as given in the Data Protection Legislation; UK GDPR;

**“Data Loss Event”** means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Contract and/or actual or potential loss and/or alteration and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;

**“Data Protection Legislation”** means (i) the UK General Data Protection Regulation (GDPR)(Regulation (EU) 2016/679), the Law Enforcement Directive (LED) (Directive (EU) 2016/680) and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

**“Data Processor”** shall have the same meaning as given in the Data Protection Legislation; UK GDPR;

**“Data Protection Impact Assessment”** means an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data;

**“Data Protection Officer”** shall have the same meaning as given in the UK GDPR; Data Protection Legislation;

**“Data Subject”** shall have the same meaning as given in the Data Protection Legislation;

**“Data Subject Request”** means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

**“Government Property”** means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Authority, including but not limited to documents, papers, data issued in electronic form and other materials;

**“Intellectual Property Rights”** means patents, trade-marks, service marks, design rights (whether registrable or not), applications for any of those rights, copyright, database rights, trade or business names and other similar rights or obligations, whether registrable or not, in any country, including but not limited to, the United Kingdom;

**“Law”** means any legal provision the Contractor must comply with including any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972 (as implemented into UK law, by virtue of the European Union (Withdrawal Agreement) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020)), regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body;

**“MI Reporting Template”** means the document (included as an annex to the DPF41 Contract offer letter) as amended in accordance with Condition 42;

**“Party”** means a Party to this Contract, and “Parties” shall mean both of them;

**“Personal Data”** shall have the same meaning as given in the Data Protection Legislation; UK GDPR;

**“Personal Data Breach”** shall have the same meaning as given in the Data Protection Legislation; UK GDPR;

**“Protective Measures”** means any appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;

“**Purchase Order**” means the document so described by the Authority to purchase the Services which makes reference to the Conditions;

“**Services**” means the services to be supplied under the Contract;

“**SME**” means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;

“**Sub-Processor**” means any third Party appointed to process Personal Data on behalf of the Contractor related to this Contract;

“**UK GDPR**” means the General Data Protection Regulation (EU) 2016/679 as retained into UK law by virtue of the Data Protection, Privacy and Electronics Communications (Amendments etc) (EU Exit) Regulations 2019;

“**VCSE**” means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

“**Working Day**” means any day other than a Saturday, Sunday or public holiday in England and Wales.

(2) The interpretation and construction of the Contract shall be subject to the following provisions:

a reference to any statute, enactment, order, regulation or similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;

the headings in these Conditions are for ease of reference only and shall not affect the interpretation or construction of the Contract;

references to “person”, where the context allows, includes a corporation or an unincorporated association.

## **2. Acts by the Authority**

Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either expressly or impliedly, by the Authority to take or do that decision, act or thing.

## **3. Service of Notices and Communications**

Any notice or other communication that either party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery or facsimile

transmission. Notice given by hand shall be effective immediately, notice given by recorded postal delivery shall be effective two Working Days after the date of posting, notice given by facsimile transmission shall be effective the Working Day after receipt by the notifying party of a transmission slip showing that the transmission has succeeded.

#### **4. Assignment and Subcontracting**

- (1) The Contractor shall not give, bargain, sell, assign, subcontract or otherwise dispose of the Contract or any part thereof without the previous agreement in writing of the Authority.
- (2) The Contractor shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the Authority.
- (3) If the Contractor uses a subcontractor for the purpose of performing the Services or any part of it, the Contractor shall include in the relevant contract a provision which requires the Contractor to pay for those goods or services within 30 days of the Contractor receiving a correct invoice from the subcontractor.
- (4) The Contractor shall be responsible for the acts and omissions of his subcontractors as though they were his own.
- (5) The Authority shall be entitled to assign any or all of its rights under the Contract to any contracting authority as defined in Regulation 2(1) of the Public Services Contracts Regulations 2006, provided that such assignment shall not materially increase the burden of the Contractor's obligations under the Contract.
- (6) Where the Authority notifies the Contractor that it estimates the Charges payable under this Contract are due to exceed £5 million in one or more Contract Years the Contractor shall:

subject to Condition 4(9), advertise on Contracts Finder all subcontract opportunities arising from or in connection with the provision of the Goods and/or Services and/or Works above a minimum threshold of £25,000 that arise during the Contract Period;

within 90 days of awarding a subcontract to a subcontractor, update the notice on Contracts Finder with details of the successful subcontractor;

monitor the number, type and value of the subcontract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;

provide reports on the information in Condition 4(6)(c) to the Authority in the format and frequency as reasonably specified by the Authority; and

promote Contracts Finder to its Contractors and encourage those organisations to register on Contracts Finder.

(7) Each advert referred to in Condition 4(6)(a) above shall provide a full and detailed description of the subcontract opportunity with each of the mandatory fields being completed on Contracts Finder by the Contractor.

(8) The obligation in Condition 4(6)(a) shall only apply in respect of subcontract opportunities arising after the contract award date.

(9) Notwithstanding Condition 4(6), the Contracting Authority may, by giving its prior written approval, agree that a subcontract opportunity is not required to be advertised on Contracts Finder.

## **5. Entire Agreement**

The Contract constitutes the entire agreement and understanding between the parties and supersedes all prior written and oral representations, agreements or understandings between them relating to the subject matter of the Contract provided that neither party excludes liability for fraudulent misrepresentations upon which the other party has relied.

## **6. Waiver**

(1) The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

(2) No waiver shall be effective unless it is communicated to the other party in writing.

(3) A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

## **7. Severability**

If any Condition, clause or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the parties shall immediately commence negotiations in good faith to remedy the invalidity.

## **8. Confidentiality**

(1) The Contractor agrees not to disclose any Confidential Information to any third party without the prior written consent of the Authority. To the extent that it is necessary for the Contractor to disclose Confidential Information to its staff, agents and subcontractors, the Contractor shall ensure that such staff, agents and subcontractors are subject to the same obligations as the Contractor in respect of all Confidential Information.

(2) Condition 8(1) shall not apply to information which:

is or becomes public knowledge (otherwise than by breach of these Conditions or a breach of an obligation of confidentiality);

is in the possession of the Contractor, without restriction as to its disclosure, before receiving it from the Authority or any other department or office of Her Majesty's Government;

is required by law to be disclosed; was independently developed by the Contractor without access to the Confidential Information.

(3) The obligations contained in this Condition shall continue to apply after the expiry or termination of the Contract.

(4) The Contractor shall not handle or examine any document or thing bearing a Government security classification of "Confidential", "Secret" or "Top Secret" other than in a Government establishment and the Contractor shall not remove any such document or thing from such Government establishment without the prior written consent of the Authority.

(5) The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the Authority.

(6) Except with the prior consent in writing of the Authority, the Contractor shall not make use of the Contract or any Confidential Information otherwise than for the purposes of carrying out the Services.

## **9 Freedom of Information**

(1) The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations SI 2004 No. 3391 ("EIR") and shall assist and cooperate with the Authority, at the Contractor's expense, to enable the Authority to comply with these information disclosure requirements.

(2) In this Condition:-

“**Information**” has the meaning ascribed to it in section 84 of the FOIA;

“**Request for Information**” has the meaning ascribed to it in section 8 of the FOIA, or any apparent request for information under the FOIA or EIR.

(3) The Contractor shall (and shall procure that its subcontractors shall):-

Transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within two Working Days;

Provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority requesting that Information;

Provide all necessary assistance as reasonably requested by the Authority to enable it 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 EIR.

(4) The Authority shall be responsible for determining, at its absolute discretion, whether any Information:-

is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;

is to be disclosed in response to a Request for Information.

In no event shall the Contractor respond directly to a Request of Information unless expressly authorised to do so in writing by the Authority.

(5) The Contractor 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 the FOIA (issued under section 45 of the FOIA in November 2004), be obliged under the FOIA or the EIR to disclose Information unless an exemption applies. The Authority may at its discretion consult the Contractor with regard to whether the FOIA applies to the Information and whether an exemption applies.

(6) The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

(7) The Contractor acknowledges that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that the Authority may nevertheless be obliged to disclose information which the Contractor considers confidential in accordance with Conditions 9(4) and (5).

## **10. Amendments and Variations**

Subject to Condition 18(7) no amendment or variation to the terms of the Contract shall be valid unless previously agreed in writing between the Authority and the Contractor.

## **11. Invoices and Payment**

(1) The Contractor shall submit invoices at times or intervals agreed by the Authority in the Contract or otherwise. The Contractor shall ensure that any invoice it submits sets out the Authority's Purchase Order or contract number, the Charges and, where not all of the Services have been completed, the relevant part of the Charges with an appropriate breakdown of time worked, the part of the Services (if all the Services have not been completed) and period to which the invoice relates, and its confirmation that the Services (or relevant part of the Services referred to on the invoice) have been fully performed.

(2) In consideration of the provision of the Services by the Contractor, the Authority shall pay the Charges after receiving a correctly submitted invoice as set out in Condition 11(1). Such payment shall normally be made within 30 days of receipt of the correctly submitted invoice.

(3) The Contractor shall not be entitled to charge for the provision of any services that are not part of the Services agreed within the Contract, unless the Contract has been properly varied in advance in accordance with Condition 10.

(4) The Authority may reduce payment in respect of any Services that the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Authority.

(5) If the Contractor believes that payment for a correctly submitted invoice is overdue, he should, in the first instance, speak to the named contact on the face of the Contract. In the event that the problem is not resolved to his satisfaction, he should write to the Head of Procurement at the Department for Business, Energy and Industrial Strategy setting out his case. The Head of Procurement shall ensure that the complaint is dealt with by an official who is independent of the main contact and that the Contractor is not treated adversely in future for having made a complaint.

(6) For the purpose of calculating any statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998, the relevant date for the payment of the debt shall be deemed to be the last day of a period of 30 days commencing on the day when the Authority received the invoice, or, if the Contractor had not completed the Services (or the part of the Services to which the invoice relates) before submitting the invoice, the last day of a period of 30 days commencing on the day when the Contractor completed the Services, (or the part of the Services to which the invoice relates).

## **12. Accounts**

- (1) The Contractor shall keep full and proper accounts, records and vouchers relating to all expenditure reimbursed by the Authority and all payments made by the Authority in respect of the Services.
- (2) The Contractor shall permit the Authority acting by its officers, servants and agents or independent auditor on request and at all reasonable times to examine all accounts, records and vouchers at the offices of the Contractor or at such other places as the Authority shall direct, and to take copies of such accounts, records and vouchers and the Contractor shall provide the Authority or its independent auditor with such explanations relating to that expenditure as the Authority may request.
- (3) The Contractor shall ensure that the said accounts, records and vouchers are available for a period of six years after termination or expiry of the Contract.

## **13. Recovery of Sums Due**

- (1) Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, such sum may be deducted from any amount then due, or which at any time thereafter may become due, to the Contractor under this Contract or any other agreement or arrangement with the Authority or with any other department or office of Her Majesty's Government.
- (2) Any over-payment by the Authority to the Contractor whether in respect of the Charges or Value Added Tax shall be a sum of money recoverable from the Contractor pursuant to Condition 13(1) above or otherwise.

## **14. Value Added Tax**

- (1) The Authority shall pay to the Contractor, in addition to the Charges, a sum equal to the Value Added Tax chargeable on the value of the Services provided in accordance with the Contract.
- (2) Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Value Added Tax Act 1994.
- (3) The Contractor shall, if so requested by the Authority, furnish such information as may reasonably be required by the Authority relating to the amount of Value Added Tax chargeable on the Services.

## **15. Provision of Services**

(1) The Contractor shall provide the Services in accordance with and as specified in the Contract to the satisfaction of the Authority acting reasonably. The Authority shall have the power to inspect and examine the performance of the Services at the Authority's Premises at any reasonable time or, provided that the Authority gives reasonable notice to the Contractor, at any other premises where any part of the Services is being performed.

(2) If the Authority informs the Contractor that the Authority considers any part of the Services to be inadequate or in any way differing from the Contract, and this is other than as a result of default or negligence on the part of the Authority, the Contractor shall at his own expense re-schedule and perform the work correctly within such reasonable time as may be specified by the Authority.

(3) The Authority may at any time demand that the Contractor suspend the provision of the Services. If the Authority exercises such right to suspend the provision of the Services or any part of them, or if the Contractor is delayed in proceeding with the provision of the Services by the Authority (otherwise than as a consequence of a breach of the Contract, or a breach of duty or fault or negligence on the part of the Contractor), the Authority shall be responsible for loss incurred by the Contractor as a result of such suspension or delay. Subject to the Contractor taking reasonable steps to mitigate its loss, the Contractor will be able to recover from the Authority under this Condition only for those losses which:

were reasonably foreseeable by the Authority as arising as a direct result of the suspension or delay; and

relate to the cost of any commitments entered into by the Contractor which cannot be met as a result of the suspension or delay and in respect of which the Contractor cannot obtain a refund (where the Contractor has already paid in relation to the commitment) or is obliged to pay (where the Contractor has not already paid in relation to the commitment).

The provisions of this Condition shall not apply where the reason for the suspension of the Services arises from circumstances beyond the control of the Authority.

(4) If the performance of the Contract by the Contractor is delayed by reason of any act on the part of the Authority or by industrial dispute (other than by an industrial dispute occurring within the Contractor's or its subcontractor's organisation) or any other cause which the Contractor could not have prevented then the Contractor shall be allowed a reasonable extension of time for completion. For the purposes of this Condition, the Contractor shall be deemed to have been able to prevent causes of delay that are within the reasonable control of the Contractor's staff, agents and subcontractors.

(5) The Contractor shall provide the Services, including in relation to commencing the provision of the Services, within the time agreed or on a specified date.

(6) The Contractor warrants that it shall provide the Services with all due skill, care and diligence, and in accordance with good industry practice and legal requirements.

(7) Without prejudice to the provision of Condition 13(1), the Contractor shall reimburse the Authority for all reasonable costs incurred by the Authority which have arisen as a direct consequence of the Contractor's delay in the performance of the Contract which the Contractor had failed to remedy after being given reasonable notice by the Authority.

## **16. Progress Report**

(1) Where formal progress reports are required by the Contract, the Contractor shall render such reports at such time and in such form as may be specified by the Authority, or as otherwise agreed between the Contractor and the Authority.

(2) The submission and acceptance of progress reports shall not prejudice any rights of the Authority under the Contract.

## **17. Contractor's Personnel**

(1) The Authority reserves the right to refuse to admit to the Authority's Premises any person employed by the Contractor or its subcontractors, whose admission would be undesirable in the opinion of the Authority.

(2) If and when requested by the Authority, the Contractor shall provide a list of the names and addresses of all persons who may at any time require admission in connection with the performance of the Services to the Authority's Premises, specifying the role in which each such person is concerned with the Contractor and giving such other particulars as the Authority may require.

(3) If and when requested by the Authority, the Contractor shall procure from each person identified by the request, a signed statement that he understands that the Official Secrets Acts 1911 to 1989 applies to him both during the carrying out and after expiry or termination of the Contract and that he will comply with the provisions of those Acts in so far as they apply to the work he is performing under the Contract.

(4) If and when requested by the Authority the Contractor agrees that it will submit any person employed by the Contractor or its subcontractors to the Authority's security vetting procedure. The Contractor further agrees that any individual who refuses to submit to such vetting procedure or does not attain the clearance it affords will not carry out any work on the Contract which the Authority certifies as suitable only for people who have passed its security vetting procedure.

(5) If the Contractor fails to comply with paragraph (2) (3) or (4) of this Condition and the Authority decides that such failure is prejudicial to its interests, the Authority may

immediately terminate the Contract by notice in writing to the Contractor, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to, the Authority.

## **18. Indemnities and Insurance**

- (1) The Contractor shall hold harmless and indemnify the Authority on demand from and against all claims, demands, proceedings, actions, damages, costs (including legal costs), expenses and any other liabilities arising from claims made by the Authority's staff or agents, or by third parties, in respect of any death or personal injury, or loss or destruction of or damage to property, or any other loss, destruction or damage, including but not limited to financial losses which are caused by the breach of contract or breach of duty (whether in negligence, tort, statute or otherwise) of the Contractor, its employees, agents or subcontractors.
- (2) The Contractor shall be liable to the Authority for any loss, damage, destruction, injury or expense (and including but not limited to loss or destruction of or damage to the Authority's property, which includes data) arising from the Contractor's breach of contract or duty (whether arising in negligence, tort, statute or otherwise).
- (3) The Contractor shall procure, with a reputable insurance company, a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor in respect of the indemnities provided under the Contract, which in any event shall not be less than £1,000,000, and shall at the request of the Authority produce the relevant policy or policies together with receipt or other evidence of payment of the latest premium due there under.
- (4) Nothing in these Conditions nor in any part of the Contract shall impose any liability on any member of the staff of the Authority or its representatives in their personal capacity.
- (5) The Contractor shall indemnify the Authority against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party's Intellectual Property Rights used by or on behalf of the Contractor for the purpose of the Contract, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to, by any act of the Authority.
- (6) The Authority shall indemnify the Contractor against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party's Intellectual Property Rights used at the request of the Authority by the Contractor in the course of providing the Services, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to by, any act of the Contractor.

(7) Except in relation to death or personal injury as referred to in Condition 18(1), and subject to Conditions 18(5) and 31(15) the amount of liability under this clause shall be twice the contract value, whichever is the greater, or such other sum as may be agreed in writing between the Head of Procurement on behalf of the Authority and the Contractor.

## **19 Termination for Insolvency or Change of Control**

(1) The Contractor shall notify the Authority in writing immediately upon the occurrence of any of the following events:

where the Contractor is an individual, if a petition is presented for his bankruptcy, or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his affairs; or

where the Contractor is not an individual but is a firm or a number of persons acting together, if any event in Condition 19(1)(a) or (c) occurs in respect of any partner in the firm or any of those persons, or if a petition is presented for the Contractor to be wound up as an unregistered company; or

where the Contractor is a company or limited liability partnership, if the company or limited liability partnership enters administration or passes a resolution to wind up or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge; or

the Contractor undergoes a change of control, where “control” is interpreted in accordance with Section 1124 of the Corporation Tax Act 2010.

(2) After receipt of the notice under paragraph (1) above or earlier discovery by the Authority of the occurrence of any of the events described in that paragraph, the Authority may, by notice in writing to the Contractor, terminate the Contract with immediate effect without compensation to the Contractor and without prejudice to any right or action or remedy which may accrue to the Authority thereafter. The Authority’s right to terminate the Contract under Condition 19(1)(d) will exist until the end of a period of three months starting from receipt of the notice provided by the Contractor pursuant to Condition 19(1), or such other period as is agreed by the parties.

## **20. Termination for Breach of Contract**

If either party commits a material breach of the Contract which is either not capable of remedy, or, if it is capable of remedy, he fails to remedy such breach within 28 days of being notified by the other party in writing to do so, that other party shall be entitled to terminate the Contract with immediate effect by notice in writing to the party that

committed the material breach and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

## **21. Cancellation**

(1) The Authority shall be entitled to terminate the Contract, or to terminate the provision of any part of the Services, by giving to the Contractor not less than 28 Working Days' notice in writing to that effect. Once it has given such notice, the Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Contractor during the period of extension.

(2) On termination of the Contract in accordance with Conditions 19, 20 or 21, the Contractor may submit an invoice, in accordance with Condition 11(1), for Services properly carried out by the Contractor prior to the date of termination, where payment has not already been made by the Authority. On receipt of a correctly submitted invoice, the Authority shall make payment in accordance with Condition 11.

(3) On termination of the Contract in accordance with Conditions 19, 20 or 21, the Contractor may submit an invoice submitted by any subcontractor, in accordance with Condition 11(1), for Services properly carried out by the subcontractor prior to the date of termination, where payment has not already been made by the Authority. On receipt of a correctly received invoice, the Authority shall make payment of the Charges in accordance with Condition 11.

## **22. Dispute Resolution**

(1) The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.

(2) If the parties cannot resolve the dispute pursuant to paragraph (1) of this Condition, the dispute may, by agreement between the parties, be referred to mediation pursuant to paragraph (4) of this Condition.

(3) The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to paragraph (2) of this Condition.

(4) If the parties agree to refer the dispute to mediation:

in order to determine the person who shall mediate the dispute (the "Mediator") the parties shall by agreement choose a neutral adviser or mediator from one of the dispute resolution providers listed by the Government Procurement Service on its website or in its printed guidance on dispute resolution within 30 days after agreeing to refer the dispute to mediation;

the parties shall within 14 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 assistance from the Government Procurement Service to provide guidance on a suitable procedure;

unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;

if the parties reach agreement on the resolution of the dispute within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both the Authority and the Contractor;

failing agreement within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties.

(5) If the parties do not agree to refer the dispute to mediation, or if the parties fail to reach agreement as to who shall mediate the dispute pursuant to Condition 22(4)(a) or if they fail to reach agreement in the structured negotiations within 60 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.

### **23. Bribery and corruption**

(1) The Contractor shall not, and shall ensure that its staff, subcontractors and agents do not:

offer or promise, to any person employed by or on behalf of the Authority any financial or other advantage as an inducement or reward for the improper performance of a function or activity, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority;

agree to receive or accept any financial or other advantage as an inducement or reward for any improper performance of a function or activity in relation to this Contract or any other contract with the Authority; or

enter into the Contract or any other contract with the Authority or any other department or office of Her Majesty's Government in connection with which commission has been paid, or agreed to be paid by him or on his behalf, or to his knowledge, unless, before the

Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to any person duly authorised by the Authority to act as its representative for the purpose of this Condition.

Nothing contained in this Condition shall prevent the Contractor paying such commission or bonuses to his own staff in accordance with their agreed contracts of employment.

(2) Any breach of this Condition by the Contractor, or by any person employed or engaged by him or acting on his behalf (whether with or without his knowledge), or any act or omission by the Contractor, or by such other person, in contravention of the Bribery Act 2010 or any other anti-corruption law, in relation to this Contract or any other contract with the Authority, shall entitle the Authority to terminate the Contract with immediate effect by notice in writing and to recover from the Contractor the amount of any loss resulting from such termination and the amount of the value of any such gift, consideration or commission as the Authority shall think fit.

(3) Where the Contract has been terminated under paragraph (2) of this Condition, there shall be deemed to be a failure to commence the provision of the Services, enabling the Authority to terminate the Contract with immediate effect and the Authority will not be obliged to pay the Charges.

(4) In any dispute, difference or question arising in respect of:

the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under paragraph (2) of this Condition in respect of any loss resulting from such determination of the Contract); or

the right of the Authority to determine the Contract; or

the amount or value of any gift, consideration or commission,

the decision of the Authority shall be final and conclusive.

## **24. Official Secrets**

The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989. The Contractor shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the expiry or earlier termination of the Contract.

## **25. Special Provisions**

In the case of any conflict or inconsistency between these general Conditions and any specific terms of the Contract, the latter shall prevail.

## **26. Conflict of Interest**

(1) The Contractor shall ensure that there is no conflict of interest as to be likely to prejudice his independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) he shall immediately notify the Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Authority may reasonably require.

(2) Where the Authority is of the opinion that the conflict of interest notified to it under paragraph (1) above is capable of being avoided or removed, the Authority may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:

if the Contractor fails to comply with the Authority's requirements in this respect; or

if, in the opinion of the Authority, it is not possible to remove the conflict,

the Authority may terminate the Contract immediately and recover from the Contractor the amount of any loss resulting from such termination.

(3) Notwithstanding Condition 26(2), where the Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Authority may terminate the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such termination.

## **27. Intellectual Property Rights**

(1) Subject to Condition 27(4), all Background Intellectual Property used or supplied under this Contract in connection with the Services shall remain the property of the Party introducing the same and nothing contained in this Contract or any licence agreement pertaining or pursuant to the Contractor's performance of the Services shall affect the rights of either Party in its Background Intellectual Property.

(2) Subject to Conditions 27(3) and 28(5), any Arising Intellectual Property shall belong to the Contractor.

(3) The Contractor hereby grants to the Authority a worldwide, irrevocable, royalty-free, non-exclusive licence at no cost to the Authority, together with the right to grant sublicences, to use or publish any Arising Intellectual Property, Data, results, outcomes or conclusions which are created as part of the Services, for its non-commercial purposes.

(4) The Contractor hereby grants to the Authority a worldwide, irrevocable, royalty-free, non-exclusive licence at no cost to the Authority, to use any Background Intellectual Property used in the performance of the Services, that is essential to the functioning and use of the Arising Intellectual Property for its non-commercial purposes.

(5) The Contractor shall procure for the Authority any worldwide, irrevocable, royalty-free licence, at no cost to the Authority, from any third party, to use any Intellectual Property Rights that are essential to the functioning and use of the Arising Intellectual Property for its non-commercial purposes.

(6) Under clauses 27(3), 27(4) and 27(5) the Authority shall only grant sublicences to third parties if, after five years from the date of this Contract, the Arising Intellectual Property has not been commercially exploited by the Contractor, or the Contractor has established a monopoly position.

## **28. Exploitation of Intellectual Property**

(1) The Contractor shall inform the Authority of any Arising Intellectual Property, Data, results, outcomes or conclusions which are created in performing the Services and which are capable of exploitation whether patentable or not.

(2) The Contractor shall, as appropriate, devise, publish, implement and maintain procedures for the management of Arising Intellectual Property and in particular, but without limitation, shall use its best endeavours to ensure that:

the Data which constitutes Arising Intellectual Property is identified, recorded and carefully distinguished from the outputs of other research;

prior to any publication of materials created in the course of performing the Services, patentable inventions comprised within the Arising Intellectual Property are identified, duly considered for patentability and, where it is reasonable so to do, patent applications in respect thereof are filed at the British or European Patent Office; and

all such patent applications are diligently executed having regard to all relevant circumstances.

(3) The Contractor shall permit the Authority to monitor the operation and effectiveness of the Contractor's procedures for the management of Intellectual Property Rights in such a way as the Authority considers reasonably necessary.

(4) Consistent with the good management of Intellectual Property Rights and the continued agreement of the Authority, the Contractor shall use its best endeavours to:

promote the dissemination of the Arising Intellectual Property; and

once the Contractor has performed the Services to the satisfaction of the Authority, commercially exploit any Arising Intellectual Property to generate either capital or revenue or both.

(5) If, within five years of its creation, any Arising Intellectual Property has not been commercially exploited by the Contractor the Contractor shall if requested by the Authority assign the Arising Intellectual Property to the Authority.

(6) The Contractor shall not transfer ownership of the Arising Intellectual Property without the consent of the Authority for ten years from the creation of that Arising Intellectual Property.

(7) If, within five years of its creation, any Arising Intellectual Property has not been commercially exploited by the Contractor or the Contractor has established a monopoly position, the Authority may require the Contractor to license the Arising Intellectual Property to third parties nominated by the Authority. Should the Authority choose to exercise its discretion under this clause, it will notify the Contractor in accordance with clause 3.

## **29. Rights of Third Parties**

It is not intended that the Contract, either expressly or by implication, shall confer any benefit on any person who is not a party to the Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

## **30. Government Property**

(1) All Government Property shall remain the property of the Authority and shall be used in the execution of the Contract and for no other purpose whatsoever except with the prior agreement in writing of the Authority.

(2) All Government Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the Authority to the contrary within 14 days or such other time as is specified in the Contract.

(3) The Contractor undertakes to return any and all Government Property on completion of the Contract or on any earlier request by the Authority.

(4) The Contractor shall, except as otherwise provided for in the Contract, repair or replace or, at the option of the Authority, pay compensation for all loss, destruction or damage occurring to any Government Property caused or sustained by the Contractor, or by his servants, agents or subcontractors, whether or not arising from his or their performance of the Contract and wherever occurring, provided that if the loss, destruction

or damage occurs at the Authority's Premises or any other Government premises, this Condition shall not apply to the extent that the Contractor is able to show that any such loss, destruction or damage was not caused or contributed to by his negligence or default or the neglect or default of his servants, agents, or subcontractors.

(5) Where the Government Property comprises data issued in electronic form to the Contractor (including Personal Data) the Contractor shall not store, copy, disclose or use such electronic data except as necessary for the performance by the Contractor of its obligations under the Contract (including its obligation to back up electronic data as provided in Condition 30(6) below) or as otherwise expressly authorised in writing by the Authority.

(6) The Contractor shall perform secure back ups of all such electronic data in its possession and shall ensure that an up to date back up copy is securely stored at a site other than that where any original copies of such electronic data are being stored.

(7) The Contractor shall, and shall procure that its subcontractors, agents and personnel, shall observe best practice when handling or in possession of any such electronic data. By way of example if the Contractor removes any such data or information from a Government establishment, or is sent such data or information by the Authority it shall ensure that the data and any equipment on which it is stored or is otherwise being processed is kept secure at all times. The Contractor shall impress on any of its subcontractors, agents and personnel who are required to handle or have possession of such electronic data that they must safeguard it all times, and shall not place it in jeopardy for example by leaving it unattended in a vehicle or on public transport or by transmitting or posting it by insecure means.

(8) If at any time the Contractor suspects or has reason to believe that such electronic data has or may become corrupted, lost, destroyed, altered (other than to the extent that the Contractor alters it by lawful processing in accordance with its obligations under this contract) or so degraded as a result of the Contractor's default so as to be unusable then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

(9) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith arising from the corruption, loss, destruction, alteration (other than by lawful processing permitted by this Contract) or degradation of electronic data which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or subcontractors, agents and personnel and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in such corruption, loss or degradation.

### 31. Data Protection

- (1) The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Data Controller and the Contractor is the Data Processor. The only processing that the Contractor is authorised to do is listed in Annex 1 by the Authority and may not be determined by the Contractor.
- (2) The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- (3) The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
  - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- (4) The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
  - (a) process that Personal Data only in accordance with Annex 1, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, as appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the Protective Measures), having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Data Loss Event;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;

The review and approval of the Protective Measures by the Authority shall not relieve the Contractor of its obligations under Data Protection Legislation, and the Contractor acknowledges that it is solely responsible for determining whether such Protective Measures are sufficient for it to have met its obligations under the Data Protection Legislation.

(c) ensure that:

(i) the Contractor Personnel do not process Personal Data except in accordance with this Contract and in particular Annex 1;

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Contractor's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-Processor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data.

(d) not transfer Personal Data outside of the UK unless the prior written consent of the Authority has been obtained and provided the following conditions are fulfilled:-

(i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer in accordance with guidance issued by the UK Government or body appointed by the Government and approved by the Authority;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and

(iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data.

(5) Subject to clause (6), the Contractor shall notify the Authority immediately if it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Data Loss Event.
- (6) The Contractor's obligation to notify under clause (5) shall include the provision of further information to the Authority in phases, as details become available.
- (7) Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause (5) (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:
- (a) the Authority with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Authority following any Data Loss Event;
  - (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- (8) The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
- (a) the Authority determines that the processing is not occasional;

- (b) the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
- (c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- (9) The Contractor shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
- (10) The Contractor shall designate a Data Protection Officer if required by the Data Protection Legislation.
- (11) Before allowing any Sub-Processor to process any Personal Data related to this Contract, the Contractor must:
- (a) notify the Authority in writing of the intended Sub-Processor and processing;
  - (b) obtain the written consent of the Authority;
  - (c) enter into a written agreement with the Sub-Processor which give effect to the terms set out in this Condition 31 such that they apply to the Sub-Processor; and
  - (d) provide the Authority with such information regarding the Sub-Processor as the Authority may reasonably require.
- (12) The Contractor shall remain fully liable for all acts or omissions of any of its Sub-Processors.
- (13) The Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- (14) The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- (15) If the Contractor fails to comply with any provision of this Condition 31, the Authority may terminate the Contract immediately in which event the provisions of Condition 20 shall apply.

(16) The Contractor shall indemnify and keep indemnified the Authority against all claims and proceedings, and all costs and expenses incurred by it in connection therewith, made or brought against the Authority by any person in respect of the Data Protection Legislation or equivalent applicable legislation in any other country which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor, its sub-contractors and/or and Sub-Processors and hold it harmless against all costs, fines, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in the Authority being in breach of its obligations under the Data Protection Legislation or equivalent applicable legislation in any other country.

(17) Upon expiry or earlier termination of this Contract for whatever reason, the Contractor shall, unless otherwise specified in Annex 1, or required by Law, immediately cease any processing of the Personal Data on the Authority's behalf and at the written direction of the Authority:

(a) provide the Authority with a complete and uncorrupted version of the Personal Data in electronic form (or such other format as reasonably required by the Authority); and

(b) delete the Personal Data (and any copies of it) including from any computers, storage devices and storage media that are to be retained by the Contractor after the expiry of the Contract. The Contractor will certify to the Authority that it has completed such deletion.

(19) Where the Contractor is required to collect any Personal Data on behalf of the Authority, it shall ensure that it provides the relevant Data Subjects from whom the Personal Data are collected with a privacy notice in a form to be agreed with the Authority.

### **32. Payment of taxes: income tax and NICs**

(1) Where the Contractor is liable to be taxed in the UK in respect of consideration received under the Contract, the Contractor shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

(2) Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under the Contract, the Contractor shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.

(3) The Authority may, at any time during the term of the Contract, require the Contractor to provide information to demonstrate that:

the Contractor has complied with paragraphs (1) and (2) above; or

the Contractor or its staff are not liable to the relevant taxes.

(4) A request under paragraph (3) above may specify the information which the Contractor must provide and a reasonable deadline for response.

(5) The Authority may supply any information which it receives under paragraph (3) to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

(6) The Contractor shall ensure that any subcontractors (including consultants) and agents engaged by the Contractor for the purpose of the Services are engaged on, and comply with, conditions equivalent to those in paragraphs (1) to (5) above and this paragraph (6), and the Contractor shall, on request, provide the Authority with evidence to satisfy the Authority that the Contractor has done so. Those conditions shall provide both the Contractor and the Authority with the right to require the subcontractor or agent to provide information to them equivalent to paragraph (3), and the Contractor shall obtain that information where requested by the Authority.

(7) The Authority may terminate the Contract with immediate effect by notice in writing where:

the Contractor does not comply with any requirement of this Condition 32; or

the Contractor's subcontractors or agents do not comply with the conditions imposed on them under paragraph (6) above.

(8) In particular (but without limitation), the Authority may terminate the Contract under paragraph (7) above:

in the case of a request under paragraph (3):

the Contractor fails to provide information in response to the request within the deadline specified; or

the Contractor provides information which is inadequate to demonstrate how the Contractor or (where relevant) its subcontractors and agents have complied with the conditions set out or referred to in paragraphs (1) to (6);

or

the Authority receives information which demonstrates, to its reasonable satisfaction, that the Contractor, its subcontractors or agents, are not complying with those conditions.

### **33. Payment of taxes: Occasions of Tax Non-compliance**

(1) This Condition 33 applies where the consideration payable by the Contractor under the Contract equals or exceeds £5,000,000 (five million pounds).

(2) The Contractor represents and warrants that it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non Compliance.

(3) If, at any point during the term of the Contract, an Occasion of Tax Non-Compliance occurs, the Contractor shall:

notify the Authority in writing of such fact within 5 Working Days of its occurrence; and promptly provide to the Authority:

details of the steps which the Contractor is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

(4) In the event that:

the warranty given by the Contractor pursuant to paragraph (2) of this Condition is materially untrue;

the Contractor commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by paragraph (3) of this Condition; or

the Contractor fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Authority, are acceptable,

the Authority may terminate the Contract with immediate effect by notice in writing.

(5) In this Condition 33, "Occasion of Tax Non-Compliance" means:

any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:

a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;

the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime;

and/or

any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction

for tax related offences which is not spent at the commencement of the Contract or to a penalty for civil fraud or evasion.

(6) For the purpose of paragraph (5):

“DOTAS” means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;

“General Anti-Abuse Rule” means:

the legislation in Part 5 of the Finance Act 2013; and

any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;

“Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others; and

“Relevant Tax Authority” means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

### **34. Equality and non-discrimination**

(1) The Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and any other anti-discrimination legislation in relation to the provision of the Services or otherwise and shall take all reasonable steps to ensure that its staff, subcontractors and agents do not do so.

(2) The Contractor shall comply with the Authority’s equality scheme as published on the Authority’s website, and shall take all reasonable steps to ensure that its staff, subcontractors and agents do so.

(3) The Authority may (without prejudice to its other rights under the Contract) terminate the Contract with immediate effect by notice in writing where the Contractor fails (or the Contractor’s staff, subcontractors or agents fail) to comply with paragraphs (1) or (2) of this Condition.

### **35. Welsh Language Act**

The Contractor shall for the term of the Contract comply with the principles of the Authority's Welsh Language Scheme.

### **36. Sustainable Procurement**

(1) The Contractor shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Contractor shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Authority.

(2) The Contractor shall meet all reasonable requests by the Authority for information evidencing compliance with the provisions of this Clause by the Contractor.

(3) All written outputs, including reports, produced in connection with the Contract shall (unless otherwise specified) be produced on recycled paper containing at least 80% post consumer waste and used on both sides where appropriate.

### **37. Other Legislation**

The Contractor shall, and shall procure that its subcontractors, agents and personnel, comply with all other applicable law.

### **38. Contractor Status**

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Authority and the Contractor.

### **39. Transfer of Services**

(1) Where the Authority intends to continue with services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement contractor, the Contractor shall (both during the term of the Contract and, where relevant, after its expiry or termination):

provide all information reasonably requested to allow the Authority to conduct the procurement for any replacement services; and

use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the Authority.

(2) Without prejudice to the generality of paragraph (1) of this Condition, the Contractor shall, at times and intervals reasonably specified by the Authority, provide the Authority

(for the benefit of the Authority, any replacement Contractor and any economic operator bidding to provide the replacement services) such information as the Authority may reasonably require relating to the application or potential application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 including the provision of employee liability information.

(3) Without prejudice to the generality of paragraph (1) of this Condition, the contractor shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic or written form, which the Authority considers necessary.

#### **40. Law and Jurisdiction**

The Contract shall be governed by and construed in accordance with English Law and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

#### **41. Transparency**

(1) In order to comply with the Government's policy on transparency in the areas of procurement and contracts, the Authority will, subject to Conditions 41(2) and (3), publish the Contract and the tender documents issued by the Authority which led to its creation on a designated web site.

(2) The entire Contract and all the tender documents issued by the Authority will be published on that web site save where the Authority, in its absolute discretion, considers that the relevant documents, or their contents, would be exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000.

(3) Where the Authority considers that any such exemption applies, the Authority will redact the relevant documents to the extent that the Authority considers the redaction is necessary to remove or obscure the relevant material, and those documents will be published on the designated web site subject to those redactions.

(4) Where the Parties later agree changes to the contract, the Authority will publish those changes, and will consider any redaction, on the same basis.

(5) In Condition 41(1) the expression "tender documents" means the advertisement issued by the Authority seeking expressions of interest, the pre-qualification questionnaire and the invitation to tender and the contract includes the Contractor's proposal.

#### **42. Monitoring and Management Information**

(1) Where requested by the Authority, the Contractor shall supply to the Authority and/or to the Cabinet Office such information relating to the Services and to the

Contractor's management and performance of the Contract as they may reasonably require.

(2) The information referred to in Condition 42(1) may include, but is not limited to, the following: Line Item Amount, Invoice Line Description, Invoice Line Number, Currency Code, Order Date, VAT Inclusion Flag, VAT Rate, List Price, Number of Items, Unit of Purchase Quantity, Price per Unit, Contractor Service Code, Service description and/or name, UNSPSC Code, Taxonomy Code and/or Name, Geographical, Project Code, Project description, Project Start Date, Project Delivery Date (Estimate and Actual), Total project cost and Project Stage. The information may also, without limitation, include information relating to the capability of the Contractor (and any key subcontractor) to continue to perform the Contract (including information on matters referred to in regulations 23 to 27 of the Public Contracts Regulations 2006).

(3) The information referred to in Condition 42(1) shall be supplied in such form and within such timescales as the Authority or the Cabinet Office may reasonably require.

(4) The Contractor agrees that the Authority may provide the Cabinet Office, any other government department or agency or any other person or entity referred to in Condition 43(2) (Information Confidential to the Contractor), with information obtained under this Condition 42 and any other information relating to the Services procured and any payments made under the Contract.

(5) Upon receipt of the information supplied by the Contractor in response to a request under Condition 42(1) or receipt of information provided by the Authority to the Cabinet Office under Condition 42(4) the Contractor hereby consents to the Cabinet Office (acting through the Government Procurement Service):

storing and analysing the information and producing statistics; and

sharing the information or any statistics produced using the information, with any person or entity referred to in Condition 43(2).

(6) The Authority may make changes to the type of information which the Contractor is required to supply and shall give the Contractor at least one calendar month's written notice of any such changes.

(7) Where the Authority notifies the Contractor that it estimates the Charges payable under this Contract are due to exceed £5 million in one or more Contract Years the Contractor agrees and acknowledges that it shall, in addition to any other management information requirements set out in this Contract, at no charge, provide such timely, full, accurate and complete SME management information (MI) reports to the Authority as the Authority shall require which incorporate the data described in the MI Reporting Template which is:

the total contract revenue received directly on a specific contract;

the total value of subcontracted revenues under the contract (including revenues for non-SMEs/non-VCSEs); and

the total value of subcontracted revenues to SMEs and VCSEs.

(8) The SME management information reports referred to in Condition 42(7) shall be provided in the correct format as required by the MI Reporting Template and any guidance issued by the Authority from time to time. The Contractor shall use the initial MI Reporting Template, and which may be changed from time to time (including the data required and/or format) by the Authority by issuing a replacement version. The Authority shall give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.

(9) The Contractor further agrees and acknowledges that it may not make any amendment to the current MI Reporting Template without the prior written approval of the Authority.

#### **43. Information confidential to the Contractor**

(1) Unless agreed expressly by both parties in writing, in a confidentiality agreement identifying the relevant information, information obtained by the Authority from the Contractor shall not constitute confidential information relating to the Contractor.

(2) Where any information held by the Authority does constitute confidential information relating to the Contractor, the Authority shall nonetheless have the right to disclose that information:

on a confidential basis to any other government department or agency for any proper purpose of the Authority or of that department or agency;

to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

on a confidential basis to a professional adviser, consultant, Contractor or other person engaged by any of the entities described in sub-paragraph a) (including any benchmarking organisation) for any purpose relating to or connected with the Contract or the Services;

on a confidential basis for the purpose of the exercise of its rights under the Contract; or

on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract.

(3) For the purpose of paragraph (2) of this Condition, references to disclosure on a confidential basis mean disclosure subject to a confidentiality agreement.

## Annex 1 Data Protection

The Contractor will be compliant with the Data Protection Legislation as defined in the terms and conditions applying to this Invitation to Tender. A guide to the UK General Data Protection Regulation published by the Information Commissioner’s Office, can be found [here](#).

**Where the Contractor is a Data Processor, the following section MUST be included.**

The only processing that the Contractor is authorised to do is listed in Annex 1 by BEIS, “the Authority” and may not be determined by the Contractor.

### Annex 1: Processing, Personal Data and Data Subjects

(1) The contact details of the Authority’s Data Protection Officer are:

BEIS Data Protection Officer  
 Department for Business, Energy and Industrial Strategy  
 1 Victoria Street  
 London  
 SW1H 0ET

Email: [dataprotection@beis.gov.uk](mailto:dataprotection@beis.gov.uk)

(2) The contact details of the Contractor’s Data Protection Officer (or if not applicable, details of the person responsible for data protection in the organisation) are: **[To be completed by the Contractor]**

(3) The Contractor shall comply with any further written instructions with respect to processing by the Authority.

(4) Any such further instructions shall be incorporated into this Annex 1.

Description	Details
Data Protection Legislation	The UK GDPR and any applicable national implementing Laws as amended from time to time; or  the DPA 2018 to the extent that it relates to Processing of personal data and privacy; or  all applicable Law about the Processing of personal data and privacy

UK General Data Protection Regulation (UK GDPR)	The retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into UK Law by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.
Subject matter of the processing	<p>The processing is needed in order to ensure that the Contractor can effectively deliver the contract to provide the Low Carbon Hydrogen Supply 2 Competition.</p> <p>The processing of names and business contact details of staff of both the Authority and the Contractor will be necessary to deliver the services exchanged during the course of the Contract, and to undertake contract and performance management.</p> <p>The Contract itself will include the names and business contact details of staff of both the Authority and the Contractor involved in managing the Contract.</p>
Duration of the processing	Processing will take place from 9 August 2021 for the duration of the Contract. The Contract will end on 31 March 2025.
Nature and purposes of the processing	<p>The nature of the processing will include collection, recording, organisation, structuring, storage, consultation, use, dissemination or otherwise making available, restriction, erasure or destruction of data etc.</p> <p>Processing takes place for the purposes of research etc purposes to provide the Low Carbon Hydrogen Supply 2 Competition.</p> <p>The nature of processing will include the storage and use of names and business contact details of staff of both the Authority and the Contractor as necessary to deliver the services and to undertake contract and performance management. The Contract itself will include the names and business contact details of staff of both the Authority and the Contractor involved in managing the Contract.</p>

<p>Type of Personal Data</p>	<p>Types of Personal Data the Contractor will process includes, but is not limited to, names, business telephone numbers and email addresses, office location and position of staff of both the Authority and the Contractor as necessary to deliver the services and to undertake contract and performance management. The Contract itself will include the names and business contact details of staff of both the Authority and the Contractor involved in managing the Contract.</p>
<p>Categories of Data Subject</p>	<p>Types of categories of Data Subject includes, but is not limited to, staff of the Authority and the Contractor, including where those employees are named within the Contract itself or involved within contract management, members of the public, workers in particular industry, applicants or users of a particular service etc.</p>
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under UK GDPR to preserve that type of data</p>	<p>The Personal Data will be retained by the Contractor for a 3 year (36 month) retention period, following which</p> <p>The Contractor will provide the Authority with a complete and uncorrupted version of the Personal Data in electronic form (or such other format as reasonably required by the Authority) and erase from any computers, storage devices and storage media that are to be retained by the Contractor after the expiry of the Contract and the Contractor retention period. The Contractor will certify to the Authority that it has completed such deletion.</p> <p>Where Personal Data is contained within the Contract documentation, this will be retained in line with the Department’s privacy notice found within the Invitation to Tender.</p>

---

This publication is available from: [www.gov.uk/beis](http://www.gov.uk/beis)

If you need a version of this document in a more accessible format, please email [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.