

Prj\_3312

## Award Form – Green Finance Toolkit

This Award Form creates this Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

<b>Buyer</b>	Department for Energy Security and Net Zero acting as part of the Crown (the Buyer). Its offices are on: 3-8 Whitehall Place, London SW1A 2AW
<b>Supplier</b>	Name: Grant Thornton UK LLP  Address: 30 Finsbury Square London EC2A 1AG  Registration number: OC307742 SID4GOV ID: 73-856-0304 [DUNS]
<b>Contract</b>	This Contract between the Buyer and the Supplier is for the supply of Deliverables, see Schedule 2 (Specification) for full details.  This opportunity is advertised in this Contract Notice in Find A Tender, reference 2024/S 000-010784 (FTS Contract Notice).
<b>Contract reference</b>	Prj_3312 / con_6470
<b>Buyer Cause</b>	Any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier
<b>Collaborative working principles</b>	The Collaborative Working Principles apply to this Contract. See Clause 3.1.3 for further details.
<b>Financial Transparency Objectives</b>	The Financial Transparency Objectives do not apply to this Contract See Clause 6.3 for further details.
<b>Start Date</b>	23 <sup>rd</sup> July 2024
<b>Expiry Date</b>	3 <sup>rd</sup> March 2025
<b>Extension Period</b>	The Contract is expected to end by 3 <sup>rd</sup> March 2025, unless terminated or extended by the Buyer in accordance with the terms of the Contract. This is an estimated end date and there is some flexibility for the delivery of certain parts of the contract. The Contract may be extended if there are unanticipated delays to delivery which could not have been reasonably foreseen by the Supplier, or if during delivery the research identifies additional task(s) which had not been previously identified as part of the primary questions yet would contribute to the quality or value of the deliverables. Any extension would be subject to agreement and based on the provided rates and contract terms and conditions, in line with provisions for extension detailed in Public Contract Regulations 2015.

<b>Ending this Contract without a reason</b>	The Buyer shall be able to terminate this Contract in accordance with Clause 14.3.
<b>Incorporated Terms (together these documents form the "this Contract")</b>	<p>The following documents are incorporated into this Contract. Where numbers are missing we are not using these Schedules. If there is any conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> <li>(a) This Award Form</li> <li>(b) Any Special Terms (see Section 14 (Special Terms) in this Award Form)</li> <li>(c) Core Terms</li> <li>(d) Schedule 36 (Intellectual Property Rights)</li> <li>(e) Schedule 1 (Definitions)</li> <li>(f) Schedule 6 (Transparency Reports)</li> <li>(g) Schedule 20 (Processing Data)</li> <li>(h) Schedule 2 (Specification)</li> <li>(i) Schedule 3 (Charges)</li> <li>(k) The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> <li>a. Schedule 5 (Commercially Sensitive Information)</li> <li>b. Schedule 7 (Staff Transfer)</li> <li>c. Schedule 8 (Implementation Plan &amp; Testing)</li> <li>d. Schedule 10 (Service Levels)</li> <li>e. Schedule 11 (Continuous Improvement)</li> <li>f. Schedule 13 (Contract Management)</li> <li>g. Schedule 14 (Business Continuity &amp; Disaster Recovery)</li> <li>h. Schedule 16 (Security)</li> <li>i. Schedule 17 (Service Recipients)</li> <li>j. Schedule 18 (Supply Chain Visibility)</li> <li>k. Schedule 19 (Cyber Essentials)</li> <li>l. Schedule 21 (Variation Form)</li> <li>m. Schedule 22 (Insurance Requirements)</li> <li>n. Schedule 24 (Financial Difficulties)</li> <li>o. Schedule 25 (Rectification Plan)</li> <li>p. Schedule 26 (Sustainability)</li> <li>q. Schedule 27 (Key Subcontractors)</li> <li>r. Schedule 29 (Key Supplier Staff)</li> <li>s. Schedule 30 (Exit Management)</li> <li>t. Schedule 32 (Background Checks)</li> </ul> </li> </ul> <p>(l) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that part of the Tender will take precedence over the documents above.</p>
<b>Special Terms</b>	None
<b>Social Value Commitment</b>	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and provide the Social Value Reports as set out in Schedule 26 (Sustainability)
<b>Buyer's Security Requirements</b>	As set out in Schedule 16 (Security).

<b>and Security and ICT Policy</b>	
<b>Charges</b>	Details in Schedule 3 (Charges)
<b>Estimated Year 1 Charges</b>	£268,743.00 excluding VAT
<b>Reimbursable expenses</b>	As set out in Schedule 3 (Charges)
<b>Payment method</b>	As set out in Schedule 3 (Charges)
<b>Service Levels</b>	Not Applicable
<b>Liability</b>	<p>In accordance with Clause 15.1, each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of £4 million or 150% of the Estimated Yearly Charges.</p> <p>The Data Protection Liability Cap is £10,000,000.</p> <p>Please also see the Clarification Log included as an annex to Schedule 2 (Specification)</p>
<b>Cyber Essentials Certification</b>	Details in Schedule 19 (Cyber Essentials Scheme). A Cyber Essentials Certificate is not required for this Contract.
<b>Progress Meetings and Progress Reports</b>	The Buyer will manage the Contract and have regular performance discussions with the Supplier, at least every two weeks
<b>Guarantor</b>	Not applicable
<b>Virtual Library</b>	In accordance with Paragraph 2.2. of Schedule 30 (Exit Management)
<b>Supplier's Contract Manager</b>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<b>Supplier Authorised Representative</b>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<b>Supplier Compliance Officer</b>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<b>Supplier Data Protection Officer</b>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>Data Protection Officer Grant Thornton UK LLP 30 Finsbury Square London EC2A 1AG</p> <p>[REDACTED]</p>
<b>Supplier Marketing Contact</b>	<p>[REDACTED]</p> <p>[REDACTED]</p>

	<div></div> <div></div> <div></div>
<b>Key Subcontractors</b>	<p>See Schedule 4</p> <p>The suppliers listed in Schedule 4 are collectively key for the project. Individually though they are &lt;10% of overall price and not key to the project. If required Grant Thornton UK (GT UK) can substitute them (after discussion with and written agreement of the DESNZ team) for other countries sourced from within the Grant Thornton International network. Further we note this has not been requested to date based on the list provided in the proposal.</p> <p>We also note that Grant Thornton UK LLP are contracting the relevant Grant Thornton firms listed in Schedule 4 through a pre-agreed format within the Grant Thornton International network. The DESNZ agreement will be with GT UK who will hold all the liability. This will not be passed down to its member firms. Likewise the terms and conditions (including payment terms) of the DESNZ contract will be taken up by GT UK and will not be passed down to the respective member firms. This is to reflect proportionality within the contract with the Grant Thornton member firms given their level of contribution to this project. However, Grant Thornton UK will take the responsibility to ensure the overall adherence on behalf of the member firms and to manage and mitigate any risks arising from this set up.</p>
<b>Buyer Authorised Representative</b>	<div></div> <div></div> <div></div> <div></div>

This Contract will be signed electronically through the Buyer's e-signature portal. Signatures will be attached to the Contract upon execution.

## **Core Terms – Mid-tier**

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**1. Definitions used in the contract**

Interpret this Contract using Schedule 1 (Definitions).

**2. How the contract works**

- 2.1 If the Buyer decides to buy Deliverables under this Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:
  - 2.1.1 make changes to the Award Form;
  - 2.1.2 create new Schedules;
  - 2.1.3 exclude optional template Schedules; and
  - 2.1.4 use Special Terms in the Award Form to add or change terms.
- 2.2 The Contract:
  - 2.2.1 is between the Supplier and the Buyer; and
  - 2.2.2 includes Core Terms, Schedules and any other changes or items in the completed Award Form.
- 2.3 The Supplier acknowledges it has all the information required to perform its obligations under this Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.
- 2.4 The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:
  - 2.4.1 the Buyer's requirements for the Deliverables;
  - 2.4.2 the Buyer's operating processes and working methods; and
  - 2.4.3 the ownership and fitness for purpose of the Buyer Assets, and it has advised the Buyer in writing of:
    - 2.4.4 each aspect, if any, of the Buyer's requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;
    - 2.4.5 the actions needed to remedy each such unsuitable aspect; and
    - 2.4.6 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,and such actions, timetable and costs are fully reflected in this Contract.
- 2.5 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - 2.5.1 verify the accuracy of the Due Diligence Information; and



- 2.5.2 properly perform its own adequate checks.
- 2.6 The Buyer will not be liable for errors, omissions or misrepresentation of any information.
- 2.7 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

### **3. What needs to be delivered**

#### **3.1 All deliverables**

##### **3.1.1 The Supplier must provide Deliverables:**

- (a) that comply with the Specification, the Tender Response and this Contract;
- (b) using reasonable skill and care;
- (c) using Good Industry Practice;
- (d) using its own policies, processes and internal quality control measures as long as they don't conflict with this Contract;
- (e) on the dates agreed; and
- (f) that comply with Law.

##### **3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.**

##### **3.1.3 Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:**

- (a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
- (b) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;
- (c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- (d) providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and

- (e) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

### 3.2 **Goods clauses**

- 3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- 3.2.2 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
- 3.2.3 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 3.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.5 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.6 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.7 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.8 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.9 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.10 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- 3.2.11 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- 3.2.12 The Buyer will not be liable for any actions, claims and Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation

then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

### **3.3 Services clauses**

- 3.3.1 Late Delivery of the Services will be a Default of this Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of this Contract.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to this Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.
- 3.3.7 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.8 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under this Contract.

## **4. Pricing and payments**

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.
- 4.2 All Charges:
  - 4.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and
  - 4.2.2 include all costs connected with the Supply of Deliverables.
- 4.3 The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the invoice or in the Award Form.

- 4.4 A Supplier invoice is only valid if it:
  - 4.4.1 includes all appropriate references including this Contract reference number and other details reasonably requested by the Buyer; and
  - 4.4.2 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).
- 4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 4.6 The Supplier must ensure that all Subcontractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

## **5. The buyer's obligations to the supplier**

- 5.1 If Supplier Non-Performance arises from a Buyer Cause:
  - 5.1.1 the Buyer cannot terminate this Contract under Clause 14.4.1;
  - 5.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
  - 5.1.3 the Supplier is entitled to additional time needed to make the Delivery;
  - 5.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.
- 5.2 Clause 5.1 only applies if the Supplier:
  - 5.2.1 gives notice to the Buyer of the Buyer Cause within ten (10) Working Days of becoming aware;
  - 5.2.2 demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and
  - 5.2.3 mitigated the impact of the Buyer Cause.

## **6. Record keeping and reporting**

- 6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.
- 6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of this Contract during the Contract Period and for seven (7) years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.

- 6.3 Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:
  - 6.3.1 on or before the Effective Date;
  - 6.3.2 at the end of each Contract Year; and
  - 6.3.3 within six (6) Months of the end of the Contract Period,
  - 6.3.4 and the Supplier must meet with the Buyer if requested within ten (10) Working Days of the Buyer receiving a Financial Report.
- 6.4 If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
  - 6.4.1 Supplier's currently incurred or forecast future Costs; and
  - 6.4.2 forecast Charges for the remainder of this Contract,
  - 6.4.3 then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.
- 6.5 The Buyer or an Auditor can Audit the Supplier.
- 6.6 The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:
  - 6.6.1 complies with the Supplier's operating procedures; and
  - 6.6.2 does not unreasonably disrupt the Supplier or its provision of the Deliverables.
- 6.7 During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:
  - 6.7.1 all information within the permitted scope of the Audit;
  - 6.7.2 any Sites, equipment and the Supplier's ICT system used in the performance of this Contract; and
  - 6.7.3 the Supplier Staff.
- 6.8 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 6.9 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
  - 6.9.1 correcting any identified Default;
  - 6.9.2 rectifying any error identified in a Financial Report; and
  - 6.9.3 repaying any Charges that the Buyer has overpaid.

- 6.10 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
  - 6.10.1 tell the Buyer and give reasons;
  - 6.10.2 propose corrective action; and
  - 6.10.3 provide a deadline for completing the corrective action.
- 6.11 Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

## **7. Supplier staff**

- 7.1 The Supplier Staff involved in the performance of this Contract must:
  - 7.1.1 be appropriately trained and qualified;
  - 7.1.2 be vetted using Good Industry Practice and the Security Policy (is used); and
  - 7.1.3 comply with all conduct requirements when on the Buyer's Premises.
- 7.2 Where the Buyer decides one of the Supplier's Staff is not suitable to work on this Contract, the Supplier must replace them with a suitably qualified alternative.
- 7.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.
- 7.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 7.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

## **8. Supply chain**

### **8.1 Appointing Subcontractors**

- 8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:
  - (a) manage Subcontractors in accordance with Good Industry Practice;
  - (b) comply with its obligations under this Contract; and

- (c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

## **8.2 Mandatory provisions in Sub-Contracts**

8.2.1 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:

- (a) where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or
- (b) where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
- (c) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
- (d) require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and
- (e) allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.

## **8.3 When Sub-Contracts can be ended**

8.3.1 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4;
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- (d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- (e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.

## **8.4 Competitive terms**

8.4.1 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

8.4.2 If the Buyer uses Clause 8.4.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

## **8.5 Ongoing responsibility of the Supplier**

The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

## **9. Rights and protection**

9.1 The Supplier warrants and represents that:

9.1.1 it has full capacity and authority to enter into and to perform this Contract;

9.1.2 this Contract is entered into by its authorised representative;

9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;

9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform this Contract;

9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under this Contract and for the Buyer to receive the Deliverables;

9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Contract;

9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event; and

9.1.8 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Effective Date or been subject to an investigation relating to a Prohibited Act.

9.2 The warranties and representations in Clauses 2.7 and 9.1 are repeated each time the Supplier provides Deliverables under this Contract.

9.3 The Supplier indemnifies the Buyer against each of the following:



- 9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts this Contract; and
- 9.3.2 non-payment by the Supplier of any tax or National Insurance.
- 9.4 All claims indemnified under this Contract must use Clause 30.
- 9.5 The description of any provision of this Contract as a warranty does not prevent the Buyer from exercising any termination right that it may have for Default of that clause by the Supplier.
- 9.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

## **10. Intellectual Property Rights (IPRs)**

- 10.1 The Parties agree that the terms set out in Schedule 36 (Intellectual Property Rights) shall apply to this Contract.
- 10.2 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 10.3 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
  - 10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or
  - 10.3.2 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 10.4 If the Buyer requires that the Supplier procures a licence in accordance with Clause 10.3.1 or to modify or replace an item pursuant to Clause 10.3.2, but this has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clauses 14.5.1 shall apply.

## **11. Rectifying issues**

- 11.1 If there is a Notifiable Default, the Supplier must notify the Buyer within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within ten (10) Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.
- 11.2 When the Buyer receives a requested Rectification Plan it can either:
  - 11.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or

11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.

11.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:

11.3.1 will give reasonable grounds for its decision; and

11.3.2 may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

## **12. Escalating issues**

12.1 If the Supplier fails to:

12.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; and

12.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.

12.2 The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five (5) Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.

12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses 14.5.1 shall apply as if the contract were terminated under Clause 14.4.1.

## **13. Step-in rights**

13.1 If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13.1 and setting out:

13.1.1 whether it will be taking action itself or with the assistance of a third party;

13.1.2 what Required Action the Buyer will take during the Step-In Process;

13.1.3 when the Required Action will begin and how long it will continue for;

- 13.1.4 whether the Buyer will require access to the Sites; and
- 13.1.5 what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.
- 13.2 For as long as the Required Action is taking place:
  - 13.2.1 the Supplier will not have to provide the Deliverables that are the subject of the Required Action;
  - 13.2.2 no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and
  - 13.2.3 the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 13.3 The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within twenty (20) Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.
- 13.4 If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.
- 13.5 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 13, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:
  - 13.5.1 limbs (f) or (g) of the definition of a Step-In Trigger Event; or
  - 13.5.2 limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause 13.1 is identified as not being the result of the Supplier's Default).

#### **14. Ending the contract**

- 14.1 The Contract takes effect on the Effective Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.
- 14.2 The Buyer can extend this Contract for the Extension Period by giving the Supplier written notice before this Contract expires as described in the Award Form.
- 14.3 **Ending the contract without a reason**

The Buyer has the right to terminate this Contract at any time without reason by giving the Supplier not less than ninety (90) days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clause 14.6.3 applies.
- 14.4 **When the Buyer can end this Contract**

14.4.1 If any of the following events happen, the Buyer has the right to immediately terminate this Contract by issuing a Termination Notice to the Supplier and the consequences of termination in Clause 14.5.1 shall apply:

- (a) there's a Supplier Insolvency Event;
- (b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Buyer, are acceptable;
- (c) there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
- (d) the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;
- (e) there's any Material Default of this Contract;
- (f) there's any Material Default of any Joint Controller Agreement relating to this Contract;
- (g) there's a Default of Clauses 2.8, 12, 31 or Schedule 28 (ICT Services) (where applicable);
- (h) the performance of the Supplier causes a Critical Service Level Failure to occur;
- (i) there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- (j) there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- (k) the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time this Contract was awarded;
- (l) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
- (m) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables; or
- (n) the Supplier fails to enter into or to comply with an Admission Agreement under Part D of Schedule 7 (Staff Transfer).

14.4.2 If any of the events in 73 (1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate this Contract and Clauses 14.5.1(b) to 14.5.1(g) apply.

#### **14.5 What happens if the contract ends**

14.5.1 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply:

- (a) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- (b) The Buyer's payment obligations under the terminated Contract stop immediately.
- (c) Accumulated rights of the Parties are not affected.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).
- (g) The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.

14.5.2 If either Party terminates this Contract under Clause 24.3:

- (a) each party must cover its own Losses; and
- (b) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.5.3 The following Clauses survive the termination or expiry of this Contract: 3.2.10, 4, 6, 7.4, 7.5, 10, 14.5, 14.6.3, 15, 18, 19, 20, 21, 22, 23, 35.3.2, 39, 40, Schedule 1 (Definitions), Schedule 3 (Charges), Schedule 7 (Staff Transfer), Schedule 30 (Exit Management)) (if used), Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

#### **14.6 When the Supplier (and the Buyer) can end the contract**

14.6.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate this Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within thirty (30) days of the date of the Reminder Notice.

- 14.6.2 The Supplier also has the right to terminate this Contract in accordance with Clauses 24.3 and 27.5.
- 14.6.3 Where the Buyer terminates this Contract under Clause 14.3 or the Supplier terminates this Contract under Clause 14.6.1 or 27.5:
  - (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
  - (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if this Contract had not been terminated; and
  - (c) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

#### **14.7 Partially ending and suspending the contract**

- 14.7.1 Where the Buyer has the right to terminate this Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends this Contract it can provide the Deliverables itself or buy them from a third party.
- 14.7.2 The Buyer can only partially terminate or suspend this Contract if the remaining parts of this Contract can still be used to effectively deliver the intended purpose.
- 14.7.3 The Parties must agree any necessary Variation required by this Clause 14.7 using the Variation Procedure, but the Supplier may not either:
  - (a) reject the Variation; or
  - (b) increase the Charges, except where the right to partial termination is under Clause 14.3.
- 14.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.7.

#### **15. How much you can be held responsible for?**

- 15.1 Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.
- 15.2 Neither Party is liable to the other for:
  - 15.2.1 any indirect Losses; and/or
  - 15.2.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

- 15.3 In spite of Clause 15.1, neither Party limits or excludes any of the following:
  - 15.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
  - 15.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and
  - 15.3.3 any liability that cannot be excluded or limited by Law.
- 15.4 In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.4, 7.5, 9.3.2, 10.2, 35.3.2 or Schedule 7 (Staff Transfer) of this Contract.
- 15.5 In spite of Clause 15.1, The Buyer does not limit or exclude its liability for any indemnity given under Clause 7 or Schedule 7 (Staff Transfer) of this Contract.
- 15.6 In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability Cap.
- 15.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Contract, including any indemnities.
- 15.8 When calculating the Supplier's liability under Clause 15.1 the following items will not be taken into consideration:
  - 15.8.1 Deductions; and
  - 15.8.2 any items specified in Clause 15.4.
- 15.9 If more than one Supplier is party to this Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

## **16. Obeying the law**

- 16.1 The Supplier shall comply with the provisions of Schedule 26 (Sustainability).
- 16.2 The Supplier shall comply with the provisions of:
  - 16.2.1 the Official Secrets Acts 1911 to 1989; and
  - 16.2.2 section 182 of the Finance Act 1989.
- 16.3 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with this Contract.
- 16.4 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.1 and Clauses 31 to 36.

## **17. Insurance**

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Schedule 22 (Insurance Requirements).

**18. Data protection and security**

- 18.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).
- 18.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 18.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via a secure encrypted method upon reasonable request.
- 18.4 The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the Cyber Essentials Schedule (if used), the Security Schedule (if used), the Security Policy and the security requirements specified in the Award Form. and otherwise as required by Data Protection Legislation.
- 18.5 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 18.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
  - 18.6.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than five (5) Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and
  - 18.6.2 restore the Government Data itself or using a third party.
- 18.7 The Supplier must pay each Party's reasonable costs of complying with Clause 18.6 unless the Buyer is at fault.
- 18.8 The Supplier:
  - 18.8.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;
  - 18.8.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - 18.8.3 must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data



which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers;

- 18.8.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer (and certify to the Buyer that it has done so) unless and to the extent required by Law to retain it other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers; and
- 18.8.5 indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 or any Data Protection Legislation.

## **19. What you must keep confidential**

### **19.1 Each Party must:**

- 19.1.1 keep all Confidential Information it receives confidential and secure;
- 19.1.2 not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under this Contract; and
- 19.1.3 immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

### **19.2 In spite of Clause 19.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:**

- 19.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- 19.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- 19.2.3 if the information was given to it by a third party without obligation of confidentiality;
- 19.2.4 if the information was in the public domain at the time of the disclosure;
- 19.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
- 19.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;

- 19.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
- 19.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 19.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under this Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.
- 19.4 The Buyer may disclose Confidential Information in any of the following cases:
  - 19.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
  - 19.4.2 on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
  - 19.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
  - 19.4.4 where requested by Parliament;
  - 19.4.5 under Clauses 4.6 and 20; and
  - 19.4.6 on a confidential basis under the audit rights in Clauses 6.5 to 6.9 (inclusive), Clause 13 (Step-in rights), Schedule 7 and Schedule 30 (if used).
- 19.5 For the purposes of Clauses 19.2 to 19.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 19.
- 19.6 Transparency Information and any information which is exempt from disclosure by Clause 20 is not Confidential Information.
- 19.7 The Supplier must not make any press announcement or publicise this Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

## **20. When you can share information**

- 20.1 The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.

- 20.2 In accordance with a reasonable timetable and in any event within five (5) Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
- 20.2.1 publish the Transparency Information; and
  - 20.2.2 comply with any Request for Information.
- 20.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause 20.1. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

## **21. Invalid parts of the contract**

If any provision or part provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

## **22. No other terms apply**

The provisions incorporated into this Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

## **23. Other people's rights in this Contract**

- 23.1 The provisions of Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3 and 3.1 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").
- 23.2 Subject to Clause 23.1, no third parties may use the CRTPA to enforce any term of this Contract unless stated (referring to CRTPA) in this Contract. This does not affect third party rights and remedies that exist independently from CRTPA.
- 23.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 23.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 23.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

## **24. Circumstances beyond your control**

- 24.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under this Contract while the inability to perform continues, if it both:
  - 24.1.1 provides a Force Majeure Notice to the other Party; and
  - 24.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 24.2 Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.
- 24.3 Either party can partially or fully terminate this Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for ninety (90) days continuously.

## **25. Relationships created by the contract**

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **26. Giving up contract rights**

A partial or full waiver or relaxation of the terms of this Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **27. Transferring responsibilities**

- 27.1 The Supplier cannot assign, novate or in any other way dispose of this Contract or any part of it without the Buyer's written consent.
- 27.2 Subject to Schedule 27 (Key Subcontractors), the Supplier cannot subcontract this Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:
  - 27.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 27.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or

- 27.2.3 the proposed Subcontractor employs unfit persons.
- 27.3 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 27.4 When the Buyer uses its rights under Clause 27.3 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 27.5 The Supplier can terminate this Contract novated under Clause 27.3 to a private sector body that is experiencing an Insolvency Event.
- 27.6 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 27.7 If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
  - 27.7.1 their name;
  - 27.7.2 the scope of their appointment;
  - 27.7.3 the duration of their appointment; and
  - 27.7.4 a copy of the Sub-Contract.

## **28. Changing the contract**

- 28.1 Either Party can request a Variation to this Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.
- 28.2 The Supplier must provide an Impact Assessment either:
  - 28.2.1 with the Variation Form, where the Supplier requests the Variation; and
  - 28.2.2 within the time limits included in a Variation Form requested by the Buyer.
- 28.3 If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:
  - 28.3.1 agree that this Contract continues without the Variation; and
  - 28.3.2 refer the Dispute to be resolved using Clause 39 (Resolving Disputes).
- 28.4 The Buyer is not required to accept a Variation request made by the Supplier.
- 28.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:
  - 28.5.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person

or that it would result in the Deliverables being provided in a way that infringes any Law; or

28.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.

28.6 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.

28.7 If there is a Specific Change in Law or one is likely to happen during this Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or this Contract and provide evidence:

28.7.1 that the Supplier has kept costs as low as possible, including in Subcontractor costs; and

28.7.2 of how it has affected the Supplier's costs.

28.8 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.1 to 28.4.

## **29. How to communicate about the contract**

29.1 All notices under this Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

29.2 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.

29.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **30. Dealing with claims**

30.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.

30.2 At the Indemnifier's cost the Beneficiary must both:

30.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and

30.2.2 give the Indemnifier reasonable assistance with the claim if requested.

- 30.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- 30.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.
- 30.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 30.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- 30.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
  - 30.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and
  - 30.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.

### **31. Preventing fraud, bribery and corruption**

- 31.1 The Supplier must not during the Contract Period:
  - 31.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);
  - 31.1.2 do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.
- 31.2 The Supplier must during the Contract Period:
  - 31.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
  - 31.2.2 keep full records to show it has complied with its obligations under this Clause 31 and give copies to the Buyer on request; and
  - 31.2.3 if required by the Buyer, within twenty (20) Working Days of the Effective Date of this Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause 31, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

- 31.3 The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses 31.1 or has any reason to think that it, or any of the Supplier Staff, have either:
  - 31.3.1 been investigated or prosecuted for an alleged Prohibited Act;
  - 31.3.2 been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
  - 31.3.3 received a request or demand for any undue financial or other advantage of any kind related to this Contract; and
  - 31.3.4 suspected that any person or Party directly or indirectly related to this Contract has committed or attempted to commit a Prohibited Act.
- 31.4 If the Supplier notifies the Buyer as required by Clause 31.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 31.5 If the Supplier is in Default under Clause 31.1 the Buyer may:
  - 31.5.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and
  - 31.5.2 immediately terminate this agreement in accordance with Clause 14.4.1 and the consequences of termination in Clauses 14.5.1 shall apply.
- 31.6 In any notice the Supplier gives under Clause 31.4 it must specify the:
  - 31.6.1 Prohibited Act;
  - 31.6.2 identity of the Party who it thinks has committed the Prohibited Act; and
  - 31.6.3 action it has decided to take.

## **32. Equality, diversity and human rights**

- 32.1 The Supplier must follow all applicable equality Law when they perform their obligations under this Contract, including:
  - 32.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
  - 32.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 32.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and



Human Rights Commission (or any successor organisation) when working on this Contract.

**33. Health and safety**

- 33.1 The Supplier must perform its obligations meeting the requirements of:
  - 33.1.1 all applicable Law regarding health and safety; and
  - 33.1.2 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.
- 33.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of this Contract.

**34. Environment**

- 34.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 34.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

**35. Tax**

- 35.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate this Contract where the Supplier has not paid a minor tax or social security contribution.
- 35.2 Where the Charges payable under this Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:
  - 35.2.1 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
  - 35.2.2 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 35.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Contract, the Supplier must both:
  - 35.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and

35.3.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

35.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

35.4.1 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 35.3.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

35.4.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;

35.4.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 35.3.1 or confirms that the Worker is not complying with those requirements; and

35.4.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

### **36. Conflict of interest**

36.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.

36.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

36.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 14.5.1(b) to 14.5.1(g) shall apply.

### **37. Reporting a breach of the contract**

37.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected:

- 37.1.1 breach of Law;
- 37.1.2 Default of Clause 16.1; and
- 37.1.3 Default of Clauses 31 to 36.

37.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause 37.1 to the Buyer or a Prescribed Person.

### **38. Further Assurances**

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

### **39. Resolving disputes**

- 39.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty eight (28) days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.
- 39.2 If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.4 to 39.6.
- 39.3 Unless the Buyer refers the Dispute to arbitration using Clause 39.5, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
  - 39.3.1 determine the Dispute;
  - 39.3.2 grant interim remedies; and
  - 39.3.3 grant any other provisional or protective relief.
- 39.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 39.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 39.4, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.5.

39.6 The Supplier cannot suspend the performance of this Contract during any Dispute.

**40. Which law applies**

This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.

# Schedule 1 (Definitions)

## 1. Definitions

- 1.1 In this Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Contract, unless the context otherwise requires:
  - 1.3.1 reference to a gender includes the other gender and the neuter;
  - 1.3.2 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
  - 1.3.3 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act 2023);
  - 1.3.4 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
  - 1.3.5 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.6 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under this Contract;
  - 1.3.7 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
  - 1.3.8 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;

- 1.3.9 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
- 1.3.10 where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole; and
- 1.3.11 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.
- 1.4 In this Contract, unless the context otherwise requires, the following words shall have the following meanings:
- |                                      |  |
|--------------------------------------|--|
| <b>"Achieve"</b>                     | in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and <b>"Achieved"</b> , <b>"Achieving"</b> and <b>"Achievement"</b> shall be construed accordingly; |
| <b>"Additional FDE Group Member"</b> | means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);  |
| <b>"Affected Party"</b>              | the party seeking to claim relief in respect of a Force Majeure Event;   |
| <b>"Affiliates"</b>                  | in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;   |
| <b>"Allowable Assumptions"</b>       | means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);   |
| <b>"Annex"</b>                       | extra information which supports a Schedule;   |
| <b>"Approval"</b>                    | the prior written consent of the Buyer and <b>"Approve"</b> and <b>"Approved"</b> shall be construed accordingly;  |
| <b>"Associates"</b>                  | means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly,  |

between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;

**"Audit"**

the Buyer's right to:

- (a) verify the integrity and content of any Financial Report;
- (b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with this Contract);
- (c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;
- (d) verify the Open Book Data;
- (e) verify the Supplier's and each Subcontractor's compliance with the applicable Law;
- (f) identify or investigate actual or suspected breach of Clauses 3 to 37 and/or Schedule 26 (Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
- (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;
- (h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;

	(j)	carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;
	(k)	enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
<b>"Auditor"</b>	(a)	the Buyer's internal and external auditors;
	(b)	the Buyer's statutory or regulatory auditors;
	(c)	the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
	(d)	HM Treasury or the Cabinet Office;
	(e)	any party formally appointed by the Buyer to carry out audit or similar review functions; and
	(f)	successors or assigns of any of the above;
<b>"Award Form"</b>		the document outlining the Incorporated Terms and crucial information required for this Contract, to be executed by the Supplier and the Buyer;
<b>"Beneficiary"</b>		a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Buyer"</b>		the public sector purchaser identified as such in the Order Form;
<b>"Buyer Assets"</b>		the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of this Contract;
<b>"Buyer Authorised Representative"</b>		the representative appointed by the Buyer from time to time in relation to this Contract initially identified in the Award Form;
<b>"Buyer Cause"</b>		has the meaning given to it in the Award Form;
<b>"Buyer Existing IPR"</b>		means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Crown Body, any Crown IPR, and which are or



	have been developed independently of this Contract (whether prior to the Effective Date or otherwise) but excluding Buyer Software;
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"Buyer Property"</b>	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract;
<b>"Buyer Software"</b>	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;
<b>"Buyer System"</b>	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
<b>"Buyer Third Party"</b>	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
<b>"Buyer's Confidential Information"</b>	<p>(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with this Contract; and</p> <p>information derived from any of the above;</p>
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of this Contract which comes into force after the Effective Date;

<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under this Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under this Contract less any Deductions;
<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in Schedule 5 (Commercially Sensitive Information (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " <b>confidential</b> ") or which ought reasonably to be considered to be confidential;
<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under this Contract, in the reasonable opinion of the Buyer;
<b>"Contract"</b>	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
<b>"Contract Period"</b>	the term of this Contract from the earlier of the: <ul style="list-style-type: none"> <li>(a) Start Date; or</li> <li>(b) the Effective Date,</li> </ul>

	until the End Date;
<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under this Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Effective Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Core Terms"</b>	the Buyer's terms and conditions which apply to and comprise one part of this Contract set out in the document called <b>"Core Terms"</b> ;
<b>"Costs"</b>	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"><li>(a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including:<ul style="list-style-type: none"><li>(i) base salary paid to the Supplier Staff;</li><li>(ii) employer's National Insurance contributions;</li><li>(iii) pension contributions;</li><li>(iv) car allowances;</li><li>(v) any other contractual employment benefits;</li><li>(vi) staff training;</li><li>(vii) work place accommodation;</li><li>(viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and</li><li>(ix) reasonable recruitment costs, as agreed with the Buyer;</li></ul></li></ul>

- (b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;
- (c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and
- (d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;

but excluding:

- (a) Overhead;
- (b) financing or similar costs;
- (c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;
- (d) taxation;
- (e) fines and penalties;
- (f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and
- (g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

**"COTS Software" or "Commercial off the shelf Software"**

non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;

**"Critical Service Level Failure"**

has the meaning given to it in the Award Form;

<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Crown IPR"</b>	means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Data Loss Event"</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>"Data Protection Legislation"</b>	(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;
<b>"Data Protection Liability Cap"</b>	has the meaning given to it in the Award Form;
<b>"Data Protection Officer"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Data Subject"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Data Subject Access Request"</b>	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;
<b>"Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under this Contract;

<b>"Default"</b>	any breach of the obligations of the Supplier (including abandonment of this Contract in breach of its terms) or any other default (including Material Default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Buyer;
<b>"Defect"</b>	<p>any of the following:</p> <ul style="list-style-type: none"><li>(a) any error, damage or defect in the manufacturing of a Deliverable; or</li><li>(b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or</li><li>(c) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract; or</li><li>(d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;</li></ul>
<b>"Delay Payments"</b>	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
<b>"Deliverables"</b>	Goods, Services or software that may be ordered and/or developed under this Contract including the Documentation;
<b>"Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of this Contract as confirmed and accepted by the Buyer by the either

	(a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>"Dependent Parent Undertaking"</b>	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
<b>"Disaster"</b>	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
<b>"Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);
<b>"Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with this Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of this Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
<b>"Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
<b>"Documentation"</b>	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be

supplied by the Supplier to the Buyer under this Contract as:

- (a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables
- (b) is required by the Supplier in order to provide the Deliverables; and/or
- (c) has been or shall be generated for the purpose of providing the Deliverables;

<b>"DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC 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;
<b>"DPA 2018"</b>	The Data Protection Act 2018;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date;
<b>"Effective Date"</b>	the date on which the final Party has signed this Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;
<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
<b>"End Date"</b>	the earlier of: <ul style="list-style-type: none"> <li>(a) the Expiry Date as extended by the Buyer under Clause 14.2; or</li> <li>(b) if this Contract is terminated before the date specified in (a) above, the date of termination of this Contract;</li> </ul>
<b>"End User"</b>	means a party that is accessing the Deliverables provided pursuant to this Contract (including the



	Buyer where it is accessing services on its own account as a user);
<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Escalation Meeting"</b>	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;
<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
<b>"Estimated Yearly Charges"</b>	means for the purposes of calculating each Party's annual liability under Clause 15.1: <ul style="list-style-type: none"> <li>(a) in the first Contract Year, the Estimated Year 1 Charges; or</li> <li>(b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or</li> <li>(c) after the end of this Contract, the Charges paid or payable in the last Contract Year during the Contract Period;</li> </ul>
<b>"EU GDPR"</b>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of this Contract (whether prior to the Start Date or otherwise);
<b>"Exit Plan"</b>	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan);

<b>"Expiry Date"</b>	the date of the end of this Contract as stated in the Award Form;
<b>"Extension Period"</b>	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
<b>"FDE Group"</b>	the Supplier and any Additional FDE Group Member;
<b>"Financial Distress Event"</b>	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none"><li>(a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;</li><li>(b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;</li><li>(c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;</li><li>(d) any FDE Group entity commits a material breach of covenant to its lenders;</li><li>(e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;</li><li>(f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than nine (9) months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;</li><li>(g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;</li><li>(h) the directors and/or external auditors of any FDE Group entity conclude that a</li></ul>

material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;

- (i) any of the following:
  - (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
  - (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
  - (iii) non-payment by any FDE Group entity of any financial indebtedness;
  - (iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;
  - (v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or
  - (vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,

in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with this Contract; or

- (j) any one of the Financial Indicators set out in Part C of Annex 2 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target Threshold;

**"Financial Report"**

a report provided by the Supplier to the Buyer that:

- (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;
- (b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);
- (c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Effective Date for the purposes of this Contract; and
- (d) is certified by the Supplier's Chief Financial Officer or Director of Finance;

**"Financial Transparency Objectives"**

means:

- (a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;
- (b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
- (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;
- (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;
- (e) the Parties challenging each other with ideas for efficiency and improvements; and
- (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;

<b>"FOIA"</b>	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"><li>(a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;</li><li>(b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</li><li>(c) acts of a Crown Body, local government or regulatory bodies;</li><li>(d) fire, flood or any disaster; or</li><li>(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:<ul style="list-style-type: none"><li>(i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;</li><li>(ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</li><li>(iii) any failure of delay caused by a lack of funds,</li></ul></li></ul> <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
<b>"Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;

<b>"General Anti-Abuse Rule"</b>	<p>(a) the legislation in Part 5 of the Finance Act 2013; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;</p>
<b>"General Change in Law"</b>	<p>a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;</p>
<b>"Goods"</b>	<p>goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;</p>
<b>"Good Industry Practice"</b>	<p>At any time the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced person or body engaged within the relevant industry or business sector;</p>
<b>"Government"</b>	<p>the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;</p>
<b>"Government Data"</b>	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:</p> <ul style="list-style-type: none"> <li>(i) are supplied to the Supplier by or on behalf of the Buyer; and/or</li> <li>(ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</li> </ul> <p>(b) any Personal Data for which the Buyer is Controller;</p>

<b>"Government Procurement Card"</b>	the Government's preferred method of purchasing and payment for low value goods or services <a href="https://www.gov.uk/government/publications/government-procurement-card--2">https://www.gov.uk/government/publications/government-procurement-card--2</a> ;
<b>"Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
<b>"Halifax Abuse Principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HMRC"</b>	His Majesty's Revenue and Customs;
<b>"ICT Environment"</b>	the Buyer System and the Supplier System;
<b>"ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Award Form (if used), which is in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>"Impact Assessment"</b>	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"><li>(a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under this Contract;</li><li>(b) details of the cost of implementing the proposed Variation;</li><li>(c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</li><li>(d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</li><li>(e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;</li></ul>

<b>"Implementation Plan"</b>	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>"Incorporated Terms"</b>	the contractual terms applicable to this Contract specified in the Award Form;
<b>"Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>"Independent Controller"</b>	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
<b>"Indexation"</b>	the adjustment of an amount or sum in accordance with this Contract;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of this Contract specified in the Award Form;
<b>"Insolvency Event"</b>	<p>with respect to any person, means:</p> <ul style="list-style-type: none"><li>(a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:<ul style="list-style-type: none"><li>(i) (being a company or an LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or</li><li>(ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</li></ul></li><li>(b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a</li></ul>



moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;

- (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;
- (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;
- (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where that person is a company, an LLP or a partnership:
  - (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
  - (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;
  - (iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has

	<p>appointed an administrative receiver; or</p> <p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with this Contract;
<b>"Intellectual Property Rights" or "IPR"</b>	<p>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
<b>"IP Completion Day"</b>	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
<b>"IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR (excluding COTS Software where Part B of Schedule 36 (Intellectual Property Rights) is used), used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under this Contract;

<b>"IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);
<b>"Joint Control"</b>	where two (2) or more Controllers jointly determine the purposes and means of Processing;
<b>"Joint Controllers"</b>	has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires;
<b>"Key Staff"</b>	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);
<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	<p>any Subcontractor:</p> <ul style="list-style-type: none"> <li>(a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</li> <li>(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</li> <li>(c) with a Sub-Contract with this Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract,</li> </ul> <p>and the Supplier shall list all such Key Subcontractors in the Award Form;</p>
<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Effective Date;

<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
<b>"Law Enforcement Processing"</b>	processing under Part 3 of the DPA 2018;
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and <b>"Loss"</b> shall be interpreted accordingly;
<b>"Malicious Software"</b>	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
<b>"Material Default"</b>	a single serious Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied)
<b>"Marketing Contact"</b>	shall be the person identified in the Award Form;
<b>"Milestone"</b>	an event or task described in the Implementation Plan;
<b>"Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
<b>"Month"</b>	a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;

<b>"National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>"New IPR"</b>	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under this Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR <b>or Specially Written Software</b>;</p>
<b>"New IPR Item"</b>	means a deliverable, document, product or other item within which New IPR subsists;
<b>"Notifiable Default"</b>	<p>means:</p> <p>(a) the Supplier commits a Material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
<b>"Object Code"</b>	software and/or data in machine-readable complied object code form;
<b>"Occasion of Tax Non – Compliance"</b>	<p>where:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been,</p>

notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or

- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which 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 Start Date or to a civil penalty for fraud or evasion;

**"Open Book Data"**

complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of this Contract, including details and all assumptions relating to:

- (a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;
- (b) operating expenditure relating to the provision of the Deliverables including an analysis showing:
  - (i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;
  - (iii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;
  - (iv) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and
  - (v) Reimbursable Expenses, if allowed under the Award Form;
- (c) Overheads;
- (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;

- (e) the Supplier Profit achieved over the Contract Period and on an annual basis;
- (f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;
- (g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and
- (h) the actual Costs profile for each Service Period;

<b>"Open Licence"</b>	means any material that is published for use, with rights to access, copy, modify and publish, by any person for free, under a generally recognised open licence including Open Government Licence as set out at <a href="http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/">http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/</a> and the Open Standards Principles documented at <a href="https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles">https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles</a> , and includes the Open Source publication of Software;
<b>"Open Source"</b>	computer Software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;
<b>"Open Licence Publication Material"</b>	means items created pursuant to this Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;
<b>"Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";

<b>"Parent Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Parliament"</b>	takes its natural meaning as interpreted by Law;
<b>"Party"</b>	the Buyer or the Supplier and <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Personal Data"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Personal Data Breach"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in "Whistleblowing: list of prescribed people and bodies", 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Processing"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under this Contract;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Prohibited Acts"</b>	(a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to: (i) induce that person to perform improperly a relevant function or activity; or



	<ul style="list-style-type: none"> <li>(ii) reward that person for improper performance of a relevant function or activity;</li> </ul>
	(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; or
	(c) committing any offence: <ul style="list-style-type: none"> <li>(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>(ii) under legislation or common law concerning fraudulent acts; or</li> <li>(iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or</li> </ul>
	(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
<b>"Protective Measures"</b>	technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation including 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 including those outlined in Schedule 16 (Security);
<b>"Public Sector Body "</b>	means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;
<b>"Recall"</b>	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;
<b>"Recipient Party"</b>	the Party which receives or obtains directly or indirectly Confidential Information;

<b>"Rectification Plan"</b>	<p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:</p> <ul style="list-style-type: none"> <li>(a) full details of the Notifiable Default that has occurred, including a root cause analysis;</li> <li>(b) the actual or anticipated effect of the Notifiable Default; and</li> <li>(c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable);</li> </ul>
<b>"Rectification Plan Process"</b>	<p>the process set out in Clause 11;</p>
<b>"Regulations"</b>	<p>the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);</p>
<b>"Reimbursable Expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> <li>(a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</li> <li>(b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</li> </ul>
<b>"Relevant Requirements"</b>	<p>all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;</p>
<b>"Relevant Tax Authority"</b>	<p>HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;</p>

<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to this Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Action"</b>	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
<b>"Required Insurances"</b>	the insurances required by Schedule 22 (Insurance Requirements);
<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to this Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Award Form (if used), in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;

<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under this Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Award Form;
<b>"Services"</b>	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
<b>"Sites"</b>	<p>any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which:</p> <ul style="list-style-type: none"><li>(a) the Deliverables are (or are to be) provided; or</li><li>(b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;</li><li>(c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided);</li></ul>
<b>"SME"</b>	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 enterprises;
<b>"Social Value"</b>	the additional social benefits that can be achieved in the delivery of this Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);

<b>"Social Value KPIs"</b>	the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used;
<b>"Social Value Report"</b>	the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used;
<b>"Software"</b>	any software including Specially Written Software, COTS Software and software that is not COTS Software;
<b>"Software Supporting Materials"</b>	has the meaning given to it in Schedule 36 (Intellectual Property Rights);
<b>"Source Code"</b>	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
<b>"Special Terms"</b>	any additional terms and conditions set out in the Award Form incorporated into this Contract;
<b>"Specially Written Software"</b>	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Subcontractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Effective Date;
<b>"Specification"</b>	the specification set out in Schedule 2 (Specification);

<b>"Standards"</b>	<p>any:</p> <ul style="list-style-type: none"><li>(a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</li><li>(b) standards detailed in the specification in Schedule 2 (Specification);</li><li>(c) standards agreed between the Parties from time to time;</li><li>(d) relevant Government codes of practice and guidance applicable from time to time;</li></ul>
<b>"Start Date"</b>	the date specified on the Award Form;
<b>"Step-In Process"</b>	the process set out in Clause 13;
<b>"Step-In Trigger Event"</b>	<p>means:</p> <ul style="list-style-type: none"><li>(a) the Supplier's level of performance constituting a Critical Service Level Failure;</li><li>(b) the Supplier committing a Material Default which is irremediable;</li><li>(c) where a right of termination is expressly reserved in this Contract;</li><li>(d) an Insolvency Event occurring in respect of the Supplier or any Guarantor;</li><li>(e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;</li><li>(f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;</li><li>(g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;</li></ul>

	<ul style="list-style-type: none"> <li>(h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or</li> <li>(i) a need by the Buyer to take action to discharge a statutory duty;</li> </ul>
<b>"Step-Out Plan"</b>	means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under this Contract following the completion of the Step-In Process;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>"Sub-Contract"</b>	<p>any contract or agreement (or proposed contract or agreement), other than this Contract, pursuant to which a third party:</p> <ul style="list-style-type: none"> <li>(a) provides the Deliverables (or any part of them);</li> <li>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</li> <li>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</li> </ul>
<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Processor related to this Contract;
<b>"Subsidiary Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Supplier"</b>	the person, firm or company identified in the Award Form;
<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with this Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;

<b>"Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
<b>"Supplier Existing IPR"</b>	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
<b>"Supplier Existing IPR Licence"</b>	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights);
<b>"Supplier Group"</b>	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
<b>"Supplier New and Existing IPR Licence"</b>	means a licence to be offered by the Supplier to the New IPR and Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights); <b><i>but excluding Buyer Software.</i></b>
<b>"Supplier Non-Performance"</b>	where the Supplier has failed to: <ul style="list-style-type: none"> <li>(a) Achieve a Milestone by its Milestone Date;</li> <li>(b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</li> <li>(c) comply with an obligation under this Contract;</li> </ul>
<b>"Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of this Contract for the relevant period;
<b>"Supplier Profit Margin"</b>	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under this Contract;



<b>"Supplier System"</b>	the information and communications technology system used by the Supplier in supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);
<b>"Supplier's Confidential Information"</b>	<ul style="list-style-type: none"> <li>(a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;</li> <li>(b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Contract;</li> <li>(c) information derived from any of (a) and (b) above;</li> </ul>
<b>"Supplier's Contract Manager"</b>	the person identified in the Award Form appointed by the Supplier to oversee the operation of this Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);
<b>"Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under this Contract detailed in the information are properly payable;
<b>"Tender Response"</b>	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
<b>"Termination Assistance"</b>	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;

<b>"Termination Assistance Period"</b>	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of Schedule 30 (Exit Management);
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);
<b>"Termination Notice"</b>	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
<b>"Test Issue"</b>	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in this Contract;
<b>"Test Plan"</b>	a plan: <ul style="list-style-type: none"> <li>(a) for the Testing of the Deliverables; and</li> <li>(b) setting out other agreed criteria related to the achievement of Milestones;</li> </ul>
<b>"Tests and Testing"</b>	any tests required to be carried out pursuant to this Contract as set out in the Test Plan or elsewhere in this Contract and <b>"Tested"</b> shall be construed accordingly;
<b>"Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>"Third Party IPR Licence"</b>	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 36 (Intellectual Property Rights);
<b>"Transparency Information"</b>	the Transparency Reports and the content of this Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none"> <li>(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</li> <li>(b) Commercially Sensitive Information;</li> </ul>

<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance pursuant to this Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
<b>"UK GDPR"</b>	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018;
<b>"Variation"</b>	means a variation to this Contract;
<b>"Variation Form"</b>	the form set out in Schedule 21 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 28 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>"Verification Period"</b>	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
<b>"Work Day"</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>"Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables; and
<b>"Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.



## Schedule 2 (Specification)

### 1. Introduction

#### 1.1 Project Context

In HMG's Green Finance Strategy we committed to work with industry and country partners to develop a new Green Finance Toolkit for optimising our support to emerging markets and developing economies (EMDEs) for the greening of financial systems. **This project will be the key delivery mechanism for developing this Toolkit.**

Putting the conditions in place to align global financial flows with the Paris Agreement and Global Biodiversity Framework goals is a critical enabler of UK climate and nature policy objectives – including to enable low carbon, climate resilient and nature positive growth in EMDEs. EMDEs will require \$2.4 trillion in annual climate finance by 2030 to build sustainable, resilient economies and enable the global transition to net zero (High-Level Expert Group on Climate Finance, 2022). This is not feasible without urgent efforts to align the global financial system with climate and nature outcomes, in addition to direct efforts to mobilise finance.

A number of countries are undertaking measures through the financial sector to align finance with climate and environmental goals. This involves a range of regulatory measures including *inter alia* disclosures, transition planning regimes, taxonomies, incorporation of climate and nature into financial regulatory requirements, and the development of financial instruments such as sustainable bonds. In parallel, a range of efforts are also being adopted to develop and strengthen project pipelines and to match national plans with sources of finance (e.g., through country platforms).

There is a need for a rapid acceleration to maximise the potential of these actions to meet the financing gap and avoid lock-in of investment with poor environmental outcomes. In addition, greening finance measures being adopted in parallel by different jurisdictions risks creating regulatory fragmentation in the international landscape, resulting in reporting burdens for investors, making environmental integrity more difficult to monitor, and potentially acting as a barrier to international finance flows. To ensure the UK's green finance capacity building is contributing to a stronger global system and maximising the potential of the UK's leading financial sector to align global finance flows, it must build on and align with learning from our domestic policy implementation and international best practice standards.

There is a particular need to ensure EMDEs are able to engage with and benefit from the alignment of financial systems, given the scale of the investment challenge in these economies, the need to rapidly build capacity and increase private investment into climate and nature. Challenges are posed by the capacity constraints of governments, regulators and market participants in the Global South, which are compounded by urgent development needs and divergent transition pathways. As well as posing development challenges, this presents a host of other interrelated challenges including implications for policymakers in large financial centres, issues for companies with operations in EMDEs complying with reporting requirements, the ability to generate and track reliable data in EMDEs, and for providers of finance in effectively assessing climate-related risk and opportunity, including the alignment of activities with global goals.

There are parallel concerns that sustainability reporting requirements introduced in advanced economies could cause capital flight from EMDEs if not implemented coherently. These same measures could, however, serve to accelerate growth in green finance for

those able to put in place appropriate enabling frameworks. As standards are developed, assessed and adopted into domestic policy frameworks there is an urgent imperative to assist EMDEs to build up the required green capital market infrastructure to attract investment and mitigate any unintended consequences of a discrepancy in Global North-South policy development.

There are also challenges related to institutional siloes between national climate planning (e.g. NDCs) and financial regulatory measures. It is important that green finance policies are integrated into national planning and that these plans are intelligible to a financial audience - without this, persistent structural issues prevent the creation of fully integrated investment-enabling environments.

Building green finance capability in EMDE governments and financial regulators could be a key enabler for addressing these challenges, including supporting the mobilisation of capital from international and domestic sources. This supports implementation of Article 2.1c of the Paris Agreement: *'Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development'*.

Requests for technical assistance on climate investment from EMDEs often come from environment or planning rather than finance ministries and typically relate to project- or sector-level financing, as these offer direct, immediate and measurable benefits through the development of physical infrastructure or clean technology roll out. However, upstream green finance policy measures can offer systemic long-term benefits in achieving climate investment and sustainable growth so will be an important area for the UK to strategically engage and partner with EMDEs on, both bilaterally and through multilateral initiatives and forums such as the NDC Partnership and the Coalition of Finance Ministers on Climate..

## 1.2 Objectives

The overarching objectives of this project are to:

- Enable the UK to better support the development of effective, high-integrity green finance frameworks, including through our capacity building activities in emerging markets and developing economies.
- Enable the coherent use of different UK levers, including domestic policy, global standards, ICF programming and international engagement.
- Provide tools to improve the understanding of non-specialist policymakers and other stakeholders of how green finance levers can enable sustainable growth.

Previous research and engagement have indicated that there is a strong need for green finance capacity building in EMDEs. In March 2023, PwC ran an international green finance workshop on behalf of DESNZ with involvement from EMDE stakeholders and civil society organisations – the workshop highlighted the need for a holistic approach to policymaking in which the interactions between different components are considered and planned for over the long-term, and highlighted the interface between policy, diplomacy and programming.

Alongside the broader challenges related to EMDE capacity issues outlined in 1.1 'Project Context', the table below summarises what we see as the key challenges in the international landscape which relate directly to this project, as well as opportunities which the UK is in a position to capture through this and related work.

Challenges	Opportunities
<ul style="list-style-type: none"><li>• Rapid development of standards across jurisdictions causing</li></ul>	<ul style="list-style-type: none"><li>• Align international capital flows with environmental objectives and protect</li></ul>

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|--|--|
| <p>regulatory fragmentation, resulting in reporting burdens, risk of greenwashing, and constraining scale of investment.</p> <ul style="list-style-type: none"> <li>• Risk of capital flight from EMDEs due to lack of capacity and clarity on transition pathways.</li> <li>• Despite long-term benefits, suppressed demand for support for 'systemic' upstream policy measures compared to project- or sector-level support which provides more direct and measurable benefits for urgent development needs.</li> <li>• Institutional siloes between national climate planning (such as setting NDCs) and financial regulatory measures constraining the development of integrated enabling environments.</li> </ul> | <p>against greenwashing.</p> <ul style="list-style-type: none"> <li>• Support uptake of measures to deliver sustainable growth in EMDEs.</li> <li>• Demonstrate UK leadership on green finance and share expertise internationally.</li> <li>• Coordinate more effectively with other providers of TA to deliver better outcomes and enhanced access for beneficiaries.</li> </ul> |
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The Green Finance Toolkit will include three deliverables (further information is provided at 2. 'Requirements' and 3. 'Outputs'):

1. A **Technical Report** to government providing research insights and informing the production of the subsequent two deliverables.
2. A **Diagnostic Toolkit**, in the form of a user-friendly document (decision tree or similar) for UK officials, drawing on the findings of (1).
3. A set of **'How-to Guides'** to be shared externally to support UK officials in stakeholder and international engagement.

This project will also enable UK efforts to build green finance capability to be made more strategic as we advance towards an interoperable green financial system, and to remain responsive to local contexts whilst being informed by growing expertise and policy advancement in the UK and elsewhere. These actions will enhance the ability of EMDEs to develop policies, capabilities, and markets to service their financing needs, whilst building closer relationships with the UK and our world leading financial sector.

### 1.3 Scope and Levers

For the purposes of the Toolkit, 'greening financial systems' should be seen to refer to the implementation of policy and regulatory frameworks, in or relevant to the financial sector, which enable systemic shifts towards delivering global and local environmental goals. This includes measures which provide market participants with information to reliably assess risks and opportunities, enabling more informed investment related to such goals and better guide investment. With the exception of the 'How-to guides', for which we would like to also integrate activities which more directly mobilise green finance (see 'Requirements' and 'Outputs' section for more details), this project focuses primarily on measures to 'green' or 'align' financial systems as a set of interventions distinct from those that are targeted at 'financing green' (the direct mobilisation of finance).

Whilst DESNZ's primary focus with this project is centred on climate action and the transition to a net zero economy, we encourage consideration of how broader environmental goals such as biodiversity can be reflected. As well as being an integral part of tackling climate change, these goals are subject to specific alignment efforts analogous to those undertaken for climate change, and development of the toolkit should be mindful of potential synergies in this regard.

The UK has a number of levers to 'green' the global financial system, many of which are outlined in The 2023 [Green Finance Strategy](#) and which this project should reflect on. This includes **(1)** furthering our domestic policy framework<sup>1</sup>; **(2)** supporting and engaging with voluntary standards setting initiatives such as the International Sustainability Standards Board (ISSB), the Taskforce on Nature-related Financial Disclosures (TNFD), Transition Plan Taskforce (TPT), Glasgow Financial Alliance for Net Zero (GFANZ), the Voluntary Carbon Markets Initiative (VCMI), the Integrity Council on Voluntary Carbon Markets (ICVCM), and the International Advisory Panel on Biodiversity Credits; **(3)** engaging in multilateral fora such as the G7, G20, UNFCCC, the International Platform on Sustainable Finance (IPSF), the Network for Greening the Financial System (NGFS) and bilateral engagement; and **(4)** through green finance capacity building for EMDEs delivered through International Climate Finance (ICF)<sup>2</sup>, which contains a number of programmes which support green finance development in EMDEs, including:

- [UK Partnering for Accelerated Climate Transitions \(UKPACT\)](#) which is the flagship UK ICF technical assistance programme. UKPACT provides support on a range of sector-specific issues as well as green finance - through projects and skills shares it has provided support to governments, regulators and FIs, including on disclosures, stress testing, sustainable bond issuance, and green taxonomies.
- Financial Services Centre of Expertise, which supports access to financial services capacity building.
- [NDC Partnership](#), which is a multilateral initiative (recently co-chaired by the UK) which coordinates support for national planning and financial sector actors, including through its Readiness Support for Greening Central Banks.
- Bank of England support for international capacity building on monetary policy and capital markets, including a focus on climate.
- [The Climate Finance Accelerator \(CFA\)](#), which supports with project pipeline building in EMDEs, including green finance issues related to specific investments.
- The Nature Positive Economy Programme, delivered in partnership with the UNDP's Biodiversity Finance Initiative (BioFin) and Financial Sector Deepening Africa (FSD Africa), provides capacity building and technical assistance to support the transition of developing countries to nature positive economies through supporting the adoption of the Taskforce on Nature-Related Financial Disclosures Framework, the

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<sup>1</sup> ISSB and the TPT both published final guidance documents in 2023. ISSB aims to set a global baseline for sustainability reporting, and the TPT aims to set best practice for private sector transition planning. Both initiatives will be key in standardising global corporate practice and disclosure on climate – the UK is consulting on how they should inform domestic legislation and is actively promoting their adoption in other jurisdictions through multilateral fora. The UK has also been one of the largest donors to the TNFD, which produced its final recommendations on nature-related risk management and disclosures in September 2023.

<sup>2</sup> ICF is part of the UK's Official Development Assistance and is delivered by the Department for Energy Security & Net Zero (DESNZ), Department for Science, Innovation and Technology (DSIT), Foreign, Commonwealth & Development Office (FCDO) and Department for Environment, Food & Rural Affairs (Defra).



implementation of Biodiversity Finance Plans, and environmentally-harmful subsidy reform.

Whilst ICF programming has been effective in delivering results within the parameters of these projects, there is a need to consider the specific circumstances of efforts to support systemic 'greening' of financial systems. For instance, the relatively long lead-times for delivering or measuring results from upstream interventions (e.g., disclosure and transition planning regimes and taxonomies) compared to the short-term tangible impacts of blended finance interventions and project-level TA may temper demand even if overall impacts are higher. Other considerations include interoperability across jurisdictions and synergies with broader policy measures.

The landscape of green finance capacity building is complex and dynamic, and it will be important that the UK's activities seek to, where appropriate, align and build on these existing programmes and other major initiatives. A key crosscutting component of the research will therefore be to investigate opportunities for collaboration and coordination, and whether there are gaps in the international landscape or deficiencies in current operating models which can be addressed through additional or refined UK activities. This should include consideration of where the UK is best placed to play a leadership role in an individual capacity, versus where it may be more effective to operate through partnerships and multilateral initiatives.

Examples of wider initiatives and organisations that this work should seek to build on include, but are not limited to:

- Work from the IFRS Foundation in supporting regulators and preparers to adopt ISSB disclosures, including the [ISSB Partnership Framework for capacity building](#) and their upcoming Jurisdictional Guide.
- Work from the [Transition Plan Taskforce](#) in engaging with, and supporting adoption in, EMDEs.
- [Principles for Responsible Investment \(PRI\) Taskforce on Net Zero Policy](#) which has three objectives: (1) Establishing a collaborative space for policymakers and regulators; (2) Providing research and technical support for companies and developing countries; and (3) Identifying opportunities within regulatory frameworks that support the implementation of the UN HLEG recommendations.
- [GFANZ Global Capacity Building Coalition](#) will provide climate finance capacity building and technical assistance for financial institutions in EMDEs seeking support for developing their climate strategies.
- [Capacity Building Alliance on Sustainable Investment \(CASI\)](#) – a new global initiative on sustainable finance capacity building for EMDEs in collaboration with over 30 global institutions.
- [UN Sustainable Stock Exchange \(SSE\) Initiative capacity building](#) – SSE have partnered with GRI and others to provide capacity building to global exchanges to support with sustainability reporting requirements.
- [WWF Greening Financial Regulation Initiative](#) - supports central banks and financial supervisors to integrate climate and environmental risks into decision-making, providing research, tools, support and training to help achieve global sustainability goals.
- Capacity building provided and coordinated by the [Coalition of Finance Ministers for Climate Action](#).

## **2. Requirements**

As above, the overarching objectives of this project are to:

- Enable the UK to better support the development of effective, high-integrity green finance frameworks, including through our capacity building activities in emerging markets and developing economies.
- Enable the coherent use of different UK levers, including domestic policy, global standards, ICF programming and international engagement.
- Provide tools to improve the understanding of non-specialist policymakers and other stakeholders of how green finance levers can enable sustainable growth.

To deliver these objectives, the successful Supplier will develop the Green Finance Toolkit package, which will include three elements:

1. A **Technical Report** providing a holistic review of current green finance programming and international influencing tools, detailing priority gaps and opportunities for activities to be optimised.
2. A **Diagnostic Toolkit** drawing on report findings (with input from HMG) to support UK officials in their engagements and strategy development, including to guide prioritisation and triaging of support requests in reactive programming.
3. A set of comms tools, or '**How-to Guides**', setting out how to put green finance policy frameworks in place incorporating learning from the UK's approach, to be used in international stakeholder engagement.

The report and subsequent deliverables will be HMG-owned products. The Technical Report and Diagnostic Toolkit will be internal documents whereas the How-to Guides will be shared externally.

Given the close links between deliverables 1 and 2 there are benefits to these being delivered by the same supplier. The different requirements related to presentation and target audience for deliverable 3 mean this could feasibly be delivered by a separate supplier with close collaboration as part of consortia. Given the diverse interest in this work, we are open to a range of procurement routes and suggestions.

The Supplier will be expected to produce the deliverables in line with the following specifications.

### Technical Report

The report will be internal and is not intended to be shared externally. It will include recommendations to government on updates to internal processes, programme design and delivery, and external engagement (i.e. the full range of HMG levers for greening the financial system). This will include identifying and highlighting opportunities to enhance UK ICF programming or other relevant opportunities to support the development of capability and capacity in EMDEs.

Research insights will inform the development of the other project deliverables (Diagnostic Toolkit and How-to Guides).

The research must include literature reviews covering:

- The landscape and drivers of technical assistance for greening financial systems (including but not limited to the UK's portfolio), including where there may be gaps and what the UK's role could be in filling them. This should include mapping the global landscape of support needs, capacity building initiatives, standards development, emerging market investment, and other related topics.
- The UK's green finance policy approach and other examples of best practice to promote alignment of capital with environmental goals, with a focus on financial regulation and wider government planning and policy, and considerations for how this could interact with similar efforts in EMDEs.
- Other relevant topics.

The report shall also consider how the UK can leverage its convening power, multilateral shareholdings, collaboration with independent initiatives and wider engagements to better support the delivery of our greening finance objectives, work more efficiently with partners, and enhance and simplify access to support for EMDEs.

The Supplier shall conduct interviews with a broad range of stakeholders (e.g. HMG officials, beneficiary countries, green finance TA providers, private financial institutions, civil society organisations, voluntary standards setting initiatives). An estimate of the level of engagement required is 25 interviews (not including engagement with HMG officials) and two-three focus groups. The focus groups could be carried out, for example, with one or two group(s) of green finance TA beneficiaries and one group of providers. Expert input will be required from practitioners on a range of areas, such as green finance, development finance, regulatory frameworks and corporate reporting – this should include knowledge of relevant investment trends, capital market dynamics, portfolio management strategies and Global South transition pathways and capacity issues.

The Report will address the following set of research questions, which should be seen as a draft guide and may be updated following deliberation with the agreed Supplier:

1. What are the key blockers to building long-term green finance capacity in EMDEs and what lessons can be learned from (a) green finance policy implementation in the UK and elsewhere; and (b) previous TA projects delivered by the UK and others?  
Including:
  - Setting out the 'building blocks' for comprehensive, well-functioning green finance policy frameworks, and determining the fundamental prerequisites for effective long-term policy implementation.
  - An investigation into the status of green finance capacity in EMDEs.
  - Looking at how best to deliver system-wide shifts in EMDEs to create the conditions to align all forms of capital, including:
    - Exploring how greening finance measures should be implemented in a range of country contexts without viewing EMDE countries as a uniform bloc.
    - Comparing the wider transition in EMDEs and developed countries and the optimal timing, sequencing, pace and route for the development of greening finance frameworks.
    - Optimising policy frameworks and regulatory environments to enable better data generation and analysis.

- Evaluation of results achieved by previous TA projects and what other approaches could be taken to deliver even greater impact.
2. What gaps are there in the international landscape of capacity building, and what opportunities are there for closer coordination/collaboration with other providers? Including:
- A mapping of global capacity building initiatives in relevant areas.
  - Looking at how the UK can leverage new and existing partnerships to maximise outcomes and value for money, deliver greater alignment, and simplify access to support for EMDEs.
3. How can the barriers that temper demand for systemic green finance TA in EMDEs be overcome? Including:
- An investigation into benefits of upstream green finance policy measures as key tools for sustainable growth and management of risk in EMDEs.
  - How greening finance support can be communicated and designed in a way which responds to urgent development needs, climate politics, and multilateral negotiations.
  - Possible delivery routes and priority recipients for systemic green finance TA.
4. How do we best manage the interface between programming and fast-moving, globally interdependent policy development? Including:
- An investigation into the key standards and policy trends that the UK should seek to influence, and ensure our programming and engagement is reactive to.
  - What are the capacity building requirements raised by the roll-out of global standards, and how could these best be acted on?
  - Consideration of how key global tensions (for instance, the need to consider alignment with both the Paris Agreement's temperature goal and national decarbonisation pathway) could be addressed through both global standards and capacity building.
  - Key processes that could ensure programming and policies are well placed to achieve this.
5. How can we maximise the role of the UK's leading financial services sector in greening the global system? Including:
- High-level mapping of relevant key stakeholder groups and expertise in the UK's financial services sector.
  - High-level mapping of international footprint of the UK's financial services industry for greening the global system, and how greater impact can be unlocked through HMG's greening finance levers.

The length and scope of the report will be subject to deliberation with the agreed Supplier - we anticipate it being at least 60 pages including figures and tables. Given the nature of some elements of the report, it will require extensive engagement from UK government teams based in the UK and in EMDEs (which the lead team in DESNZ will facilitate), as well as the provision of data on UK ICF spend and results. Other data sources will need to be

consulted and HMG will facilitate access to such data where it owns the rights or holds relationships.

### Diagnostic Toolkit

The Diagnostic Toolkit will be an internal, HMG-owned product translating findings from the report into a user-friendly 'decision tree' / toolkit document (likely in PDF format) to support UK officials in their engagement, strategy development, and ICF programme delivery.

Based on research insights, it will provide guidance on triaging, prioritising and sequencing greening finance interventions through the demand-led model of support employed by existing programmes. It will be designed specifically with the UK's delivery channels and processes in mind, providing an adaptable framework to inform decision making and enabling more strategic choices to be made within current programming. The benefits to partner countries will be to receive a more comprehensive and holistic support offer which builds green finance capacity in a way which better enables them to access and contribute to the international green finance system.

It will set out the necessary domestic and international considerations for effective green finance policy implementation and will provide guidance on key principles and best practice, this could include considerations related to *inter alia* sustainable investment strategy development, domestic regulatory capacity, interdepartmental coordination, private sector consultation, and international interoperability. It will include considerations for meeting country support needs in a way which strengthens the global system, taking into account country circumstances, global environmental goals, the requirements of domestic and international financial institutions, and considerations relating to the sequencing of policy implementation. A support package can then be tailored in partnership with the beneficiary based on the status of these key dependencies and prioritised and sequenced accordingly (e.g. through UKPACT country strategy development).

By providing standardised guidance in an adaptable framework, the Diagnostic Toolkit will serve as a mechanism to promote alignment across the full range of HMG levers. This will ensure that our interventions and stakeholder engagement act synergistically to achieve our greening finance objectives.

The Diagnostic Toolkit can be updated over time (through internal HMG processes) based on learning from implementation and as the green finance policy landscape develops. Through this process it will create a framework to promote joint working and learning across HMG's green finance programming and engagement, ensuring the support we provide is responsive to global policy trends and emerging best practice.

### How-to Guides

The How-to Guides will be a set of comms tools setting out how to put green finance policy frameworks in place incorporating learning from the UK's approach, to be used in stakeholder and international engagement.

Targeted at a non-expert audience, these guides will aim to demystify key policies for greening financial systems (sustainability disclosures, transition planning, taxonomies) and

how these should be underpinned by national net zero and nature targets and sector-level transition investment plans. They will be used in international engagement to set out the benefits of implementing such policies with respect to mobilising and aligning capital flows. The ambition is to provide standardised engagement tools for working with EMDE stakeholders (and support wider engagement as relevant), including for country Posts and for the purposes of international climate and environmental negotiations.

Given the How-to Guides will be aimed at providing context and rationale for greening finance policies, they will also include more information on 'financing green' interventions as a way of demonstrating benefits and linking investment mobilisation to broader policy and fiscal measures, including the development of effective intermediation strategies between financiers and green/transition investments.

### **3. Outputs**

If bidding as part of a consortium, the lead supplier must set out a workplan for how the three components of the Toolkit package will be delivered, including arrangements for data sharing and integration of report findings in other deliverables.

#### **Technical Report**

The Supplier shall deliver the report through a mixed-methods research approach meeting the objectives and specifications set out in the 'Requirements' section above. A list of the interim deliverables that we want the Supplier to provide throughout include:

- Regular updates on emerging findings and project progress (weekly meetings).
- Skeleton report.
- Stakeholder engagement plan.
- List of planned data sources.
- First-draft interim report of findings.
- Quality assured final report including an executive summary.
- Spreadsheets/workbook of any relevant background analysis (on top of the key findings which make the report).
- A presentation on the research findings and the supplier's resultant policy recommendations.

This analysis must include:

- An evidence-based assessment of the relative benefits and trade-offs of recommendations.
- Quantitative and qualitative case studies where relevant.

We invite bids that propose an approach or methodology that best meets the needs of the requirements, this can then be refined with DESNZ as required. Data collection methods may include, but are not limited to literature reviews, case studies, interviews, and focus groups. We welcome suggestions for supplementary methodological approaches.

To deliver on the Buyer's expectations of quality assurance and data collection, the Supplier shall provide:

- An opportunity to review and comment on all data collection materials prior to use.
- An opportunity to review and comment on data collection plans.

See section below for a timetable of expected deliverables, including a skeleton report and stakeholder engagement plan in June/July 2024, and first-draft interim report in August 2024. The final report should include an executive summary. Annexes with additional

information and data to be made available to the Buyer where appropriate, with the potential to be used for further internal analysis by the Buyer. We expect the Supplier to present the findings of the report to government colleagues at the end of the contract, which should be factored into the bid response.

### Diagnostic Toolkit

The Supplier shall deliver a first draft of the Diagnostic Toolkit alongside or shortly after the first-draft research outcomes from the Technical Report.

The Supplier shall deliver a Diagnostic Toolkit which will likely be a single PDF document (which should also be provided as an editable Word document to enable further iterations to be produced internally) setting out best practice capacity building approaches separately for sustainability disclosures (e.g. ISSB), private sector transition planning regulation, taxonomies, and any other relevant financial regulatory or policy measures to support the alignment of capital with environmental goals, insofar as they are deliverable through the UK's greening finance levers as set out in this document.

Alongside the final Diagnostic Toolkit, the Supplier will develop use cases and a user guide/manual to support implementation by UK officials. This could include recommendations for ongoing monitoring and evaluation and key performance indicators.

### How-to Guides

The How-to Guides will be informed by relevant report findings on how best to communicate benefits and best practice for green finance measures, with a wider scope than the 'greening finance' content in lots 1 and 2. This will be a series of PDF documents and/or slides with specific considerations for disclosures, transition planning, taxonomies, regulatory oversight, pipeline development, private sector engagement, carbon pricing and markets and other relevant measures and considerations in line with the 'Requirements' section above (along with 50-100 physical printouts of each guide for use at international events). We envisage a series of c. 6-8 guides in total, though there is some flexibility in how subject matter would be divided between them.

The Supplier shall complete the How-to Guides for use at COP29 – with a draft version submitted by the week commencing 30 September 2024.

## **4. Timeline and Deliverables**

The table below sets out our key deliverables, which includes a skeleton report in June/July which will allow the Buyer to see an outline of the proposed report content for review (this should include chapter headings, but we do not expect detailed content at this stage), a light touch stakeholder engagement plan should also be submitted alongside this. This will be followed by a draft interim report and outline of the Diagnostic Toolkit in September for our comment, prior to products being finalised. The How-to Guides should be finalised by COP29 (11 Nov) - there is some flex in the delivery of the other products and our intention is to prioritise quality over expedience of delivery (as part of bids we welcome views about any trade-offs with regard to the delivery timeline for the Technical Report and Diagnostic Toolkit).

Suppliers should detail how they propose to engage with the Buyer throughout.

The Buyer will coordinate obtaining comments on drafts from internal stakeholders and will endeavour to return these promptly and succinctly. Please facilitate at least a week for the Buyer to provide comment on a draft version of deliverables. It would be prudent that the Supplier also assumes there may be comments which would require addressing on the final deliverables prior to the Buyer signing these off as completed. As such, engagement throughout the process will be key to ensure that comments in the first issue of final deliverables are non-substantial.

<b>Draft timeline</b>	
June 24	Start of research project. Inception meeting to be held between supplier and Buyer.
June/July 24	First draft skeleton report, stakeholder engagement plan, and data gathering methodologies
September 24	Draft research outcomes and outline of Diagnostic Toolkit
October 24	How-to Guides completed
January-March 2025	Final Technical Report and Diagnostic Toolkit completed
March 25	Supplier presentation of results

## **5. Governance and Working Arrangements**

The Supplier will be expected to identify one named point of contact through whom all enquiries can be filtered, this includes where bidding as part of a consortium (where they differ, named leads for each deliverable should also be identified). Where requested, access to the Supplier's analysts, including but not necessarily limited to assisting with analytical queries and discussing analysis, should also be facilitated by the point of contact.

A project manager from the Buyer will be assigned to the project and will be the central point of contact for the Supplier. The project manager will be available to answer queries and support development regularly, at least at a frequency of once every two weeks. This can be assessed with the Supplier if greater frequency is required, for example towards the start and end of the project.

The project manager, the Analytical lead, and the Deputy Director of the Buyer's team from which this funding comes, will be responsible for signing off the final outputs of the research project.

## **6. Ownership and Publication**

The Buyer will own the intellectual property of all deliverables. Deliverables 1 and 2 (Technical Report and Diagnostic Toolkit) will be internal documents and will not be published, therefore the Supplier does not need to produce redacted and unredacted versions. The Buyer reserves the right to make decisions about whether and how to publish or share externally certain elements of deliverables 1 and 2, in line with internal protocols on publication approvals, publication template, branding, accessibility, publication location, and communications handling advice.



Deliverable 3 (How-to Guides) will be shared externally and must be prepared as such, the Buyer reserves the right to make decisions about how to publish, as above.

All deliverables should be in English and in a clear and accessible language.

The Buyer will be authorised to reproduce products and information in internal and external documents with the source of information attributed to the Supplier.

## 7. Quality Management

The Supplier should have measures in place to ensure that **all** deliverables produced are of a high quality.

In particular, the final deliverable must be:

- Inclusive of, as minimum standards, those measures detailed in the Government Social Research Code, The Green Book and The Magenta Book where appropriate.
- Appropriate for publication by a Government department.
- **Free from any errors** (such as, but not limited to, factual, grammatical, and formatting errors).
- Appropriately and robustly quality assured; approved by a senior member of the Supplier's team; and supported by a quality assurance log.
- Reflective and inclusive of the proposals made by the Supplier in their original tender.
- In alignment with the '[Aqua Book](#)' guidance on producing quality analysis, or in alignment with the Supplier's own quality assurance processes, as long as the Authority deems this to be of sufficient quality.

If the Authority deems that the final deliverable is of unsatisfactory quality, for example, it contains grammatical errors or is insufficiently quality assured, then the Authority reserves the right to make rounds of comments on areas that require addressing on the final deliverable. The Authority also reserves the right to withhold final payment until a final deliverable of satisfactory quality, as deemed by the Authority, is delivered.

The Authority expects **all** deliverables to be of a high quality. However, the Authority appreciates that other deliverables (this meaning those deliverables that are **not** the final deliverable, such as a draft report) may contain some minor errors.

Suppliers should factor quality assurance measures into workplan timelines.

## 8. Social Value

In addition to the aims, objectives and outcomes of the project, all UK Government contracts are required to contribute to wider social value as an additional benefit of the contract. Social value is a broad term used to describe the wider social, environmental and economic effects of an organisation's actions, and how they contribute to the long-term wellbeing of individuals, communities and societies. More detail can be found [here](#).

Social value is not just a policy requirement. Social value directly supports the mission of DESNZ and DESNZ International Net Zero. We require the selected Supplier to deliver social value in the delivery of this contract. Although the whole of the specification of this project could be considered as contributing to social value, this element is specifically

focussed on how the evaluation contract is delivered by the Supplier and is not about the technical delivery methodology per se. Commitments on the inclusivity and benefits of the methodology should be included in the wider technical proposal.

Social value is not a specific costed activity but is an added co-benefit of delivery and an approach to delivery that is expected of all DESNZ suppliers.

## **9. Sub-contractors**

The Supplier must have measures in place to manage any sub-contractors and ensure that their selection is conducted in an open and transparent manner.

## **10. Budget**

The Buyer has created a 'genuine pre-estimate' of costs for this service. The budget is up to an estimated £370,000 exclusive of VAT and non-UK taxes. Payment will be fixed price with payments to be made based on milestones.

Estimated maximum budget breakdown (as part of bids we are open to suggestions as to how the budget could be reapportioned between the three deliverables):

- |                        |          |
|------------------------|----------|
| 1. Technical Report:   | £296,000 |
| 2. Diagnostic Toolkit: | £35,000  |
| 3. How-to Guides:      | £39,000  |

## **11. Payment**

*This Section has been moved to Schedule 3 (Charges)*

## **12. Performance**

The Buyer will manage the Contract and have regular performance discussions with the Supplier, at least every two weeks. Where the quality of deliverables are failing to meet the Buyer's expectations identified in both these requirements and the Tenderer's tender submission, the Buyer will work with the Supplier to identify measures to remedy these performance issues.

Where deliverables are taking significant rounds of comment from the Buyer prior to signing off as complete, the Buyer will only pay the amount given in the Contract and will not pay for additional drafting above and beyond expected. As such engagement with the Buyer during the drafting process to ensure that the final documents will be acceptable is essential.

## Annex A: Early Market Engagement products



# Green Finance Toolkit for 'Greening' the Financial System

Market Engagement Exercise  
20th February 2024



## Agenda

- Introductions and housekeeping
- Context to the project
- Objectives
- Outputs
- Budget and Procurement
- Timeline
- FAQs
- Commercial Approach
- Questions and Answers



## What is this project?

- In the GFS we committed to optimise our green finance capacity building for EMDEs- 'optimise' here meaning:
  - Maximising outcomes for beneficiaries
  - Strengthening the global system
  - Maximising the role of the UK's FS sector
  - Ensure UK levers are acting synergistically
- International Green Finance Workshop and subsequent report by PwC concluded:
  - There is a strong need to improve the green finance architecture in EMDEs
  - There is a strong case for a more long-term, proactive approach to be adopted in our programming, tailored to country demand.



## Global Context

### Opportunities

- Align international capital flows and protect against greenwashing.
- Tools for sustainable growth in EMDEs.
- Demonstrate UK leadership and growth for UK FS sector.

### Challenges

- Rapid development of standards across jurisdictions causing risk of fragmentation.
- Risk of capital flight from EMDEs due to lack of capacity and clarity on transition pathways.
- Despite long-term benefits, suppressed demand for support for 'systemic' upstream policy measures.
- Institutional siloes between 'climate planning' and financial regulatory measures.



## HMG Levers for 'Greening' the Financial System

- Domestic policy framework
  - Net Zero-aligned Financial Centre
  - Disclosures, transition planning and taxonomy (underpinned by clear targets and sector-level plans)
- Establishing, supporting and engaging with global standard setting initiatives
  - ISSB, TPT, GFANZ, VCMI, ICVCM
- International Engagement
  - G7, G20, UNFCCC, IPSF, NGFS and bilateral relationships
- Green finance capacity building for EMDEs delivered through UK ICF
  - UKPACT, CFA, NDC Partnership, others



## Current UK Programming and Strategic Context

- UKPACT – flagship ICF TA programme, provides support on a range of sector -specific issues as well as green finance:
  - Through projects and skills shares provides TA to governments, regulators and FIs, including on disclosures, stress testing, sustainable bond issuance, green taxonomies.
- CFA - supports with project pipeline building in EMDEs including green finance issues related to specific investments.
- BoE - capacity building on monetary policy and capital markets, including climate
- Financial Services Centre of Expertise
- NDCP – coordinates support for central banks and for national planning
- ICF 4 programming
- Effective within current parameters, but:
  - Based on feedback received by EMDEs and UK officials based in these jurisdictions, many interventions have not led to the long-term capacity gains which are needed to the deliver 'system-wide' shifts.
  - Lacks a strategic element to strengthen global system and to demonstrate benefits where there is a lack of demand
  - No formal mechanism to ensure alignment across our programming and other levers



## Objectives

1. Enable the UK to better support the development of effective, high-integrity green finance frameworks, including through our capacity building efforts.
2. Enable greater coherence between UK levers, including between policy, global standards, ICF programming and country engagement.
3. Improve understanding amongst non -specialist policymakers of green finance levers and their importance for sustainable growth.



## Outputs

1. Technical Report
  - o Internal report to government including recommendations for future UK interventions and ways of optimising programme effectiveness
2. Diagnostic Toolkit
  - o Translating report findings into a digestible decision tree / toolkit document (likely PDF) to support UK officials in their engagement and programme delivery.
3. How-to Guides
  - o Comms tools setting out how to put green finance policy 'building blocks' in place, incorporating learning from the UK's approach, to be used in stakeholder and international engagement.



Department for  
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& Net Zero

## Technical Report

### Requirements

- Holistic review of landscape of green finance TA from the UK and others, including where there may be gaps and what the UK's role could be in filling them.
- Focus on greening finance, rather than financing green or direct mobilisation.
- Desk-based research, interviews and focus groups.
- A broad range of stakeholders will be consulted, including HMG officials, beneficiaries and providers of TA, regulators, financial institutions and civil society organisations.
- Expert input from practitioners on e.g. green finance, development finance, regulatory frameworks and corporate reporting.
- The report's recommendations will support the planning and delivery of existing programming and potentially the design of new programming (latter an in-house process).
- Also present considerations of how to optimise wider international engagements through multilateral fora (e.g., G20 Sustainable Finance Working Group, International Platform for Sustainable Finance) and new ways of working.
- Expected to be 60+ pages including figures and tables.

### Research Question topics (to be agreed at contract stage):

- Key blockers to long-term green finance capacity and lessons from previous TA projects (from the UK and others).
- How to maximise the role of the UK FS sector in greening the global system.
- Gaps in the landscape of capacity building, challenges posed by a responsive model and opportunities for collaboration.
- How to overcome barriers that temper demand for systemic green finance TA in EMDEs.
- Managing the interface between programming and a fast-moving global landscape.



Department for  
Energy Security  
& Net Zero

## Diagnostic Toolkit

- The Diagnostic Toolkit will be an internal, HMG-owned product translating findings from the report into a user-friendly 'decision tree' / toolkit document (likely in PDF format) to support UK officials in their engagement, strategy development, and ICF programme delivery.
- Provide guidance on prioritising and sequencing greening finance interventions through the demanded model of support.
- It will be designed specifically with the UK's delivery channels in mind, providing an adaptable framework to inform decision-making and enabling more strategic choices to be made within current programming.
- The benefits to EMDEs will be to receive a more comprehensive and holistic support offer which learns lessons from previous projects and builds capacity in a way that can better account for key interdependencies.
- It will set out the necessary domestic and international considerations for effective policy implementation, this could include considerations related to capital market development, sustainable investment strategy development, domestic regulatory capacity, interdepartmental coordination, private sector consultation, and international interoperability.
- By providing standardised guidance in an adaptable framework, the Diagnostic Toolkit will also serve as a mechanism to promote alignment across the full range of HMG levers.
- It can be updated over time (through internal HMG processes) based on learning from implementation and as the green finance policy landscape develops.



## How-to Guides

- A set of comms tools setting out how to put green finance policy frameworks in place incorporating learning from the UK's approach, to be used in stakeholder and international engagement.
- Demystify key policies for greening financial systems (sustainability disclosures, transition planning, taxonomies, investment plan development) - demonstrating the benefits of implementing such policies, how different elements of the green finance ecosystem relate to each other, and high-level principles for developing and implementing policies.
- The ambition is to provide standardised engagement tools for working with EMDE stakeholders and to support wider engagements, such as improved awareness by non-specialists (e.g. in climate negotiations).
- Informed by research outcomes but content more generic than the Diagnostic Toolkit and targeted at a non-specialist audience – greater scope to include 'financing green' components.
- To be delivered in advance of COP29.



## Budget and Procurement

- £370,000 for all three deliverables

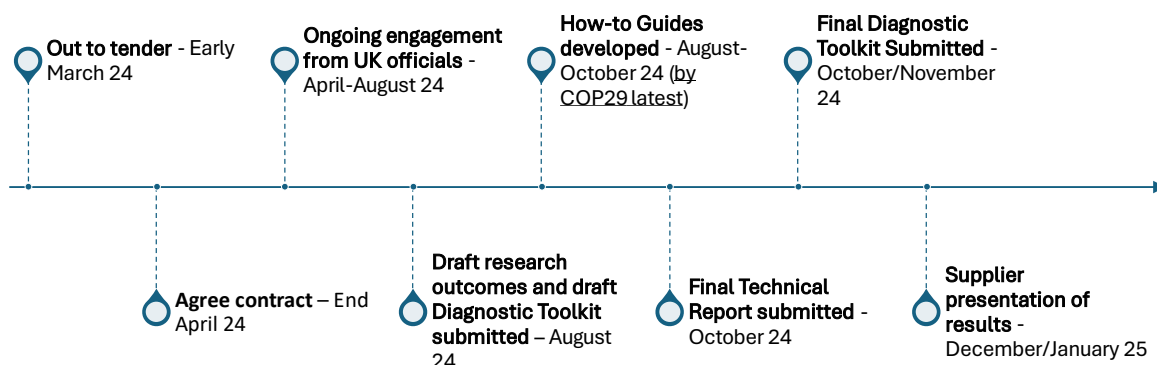
Deliverable	Max. estimated cost
1. Technical Report	£296,000
2. Diagnostic Toolkit	£35,000
3. How-to Guides	£39,000

- Our preference is for (1) and (2) to be delivered by the same supplier given the close links between the two products, though we welcome separate proposals. (3) could be developed by a separate supplier if beneficial and we would welcome proposals from consortia.





## Timeline



## Pre-EME Session FAQs

- **Are there any downstream conflicts of interest for organisations bidding for work that is programmed using the Toolkit?**
  - We're confident that this won't be the case given these will be HMG-owned products and it will be an internal process both to implement and update them over time. We can set this out in the contract.
- **Information about technical criteria**
  - TBC.
  - An understanding of the research questions and an initial proposal for how the questions would be answered, including detail of where there might be limitations.
  - An explanation of how multiple strands of evidence and engagement will be triangulated to provide insights – and high-level views of how this could be implemented through the UK's delivery channels.
- **The project's focus on specific sectors or financial instruments**
  - The core focus of the project is on climate and the transition to net zero – but included within scope could be considerations for how broader goals such as on nature and adaptation could be addressed through similar measures.
  - With regard to specific financial instruments there may be specific considerations (e.g. transition finance), technologies are downstream from creating enabling environments.
- **Which EMDEs will be targeted?**
  - Greening finance interventions typically focus on high-growth emerging markets but we want the focus of this work to be adaptable to all contexts.



## Commercial Approach

- Current expectation is to procure through open tender not through a government framework.
- The market will be informed about any material changes to the timeline or planned procedure as soon as practical.
- The contract length is expected to be around 7 -9 months.
- Procurement will be run via the DESNZ e-sourcing platform – Jaggaer <https://beisgroup.ukp.app.jaggaer.com>
- Notices will be issued on Find a Tender Service, Contracts Finder and on the opportunities board on the jaggaer platform.
- At least 30-day tender window
- Contract terms will be the Mid-Tier Contract. The templates are available on gov.uk <https://www.gov.uk/government/collections/the-mid-tier-contract>
- The Invitation to tender will likely have questions around: proposed methodology, project team, contract management and quality control and social value. Will likely have a short page limit for submissions
- Scoring will likely be through price per quality point (PQP).
- EME materials will be shared with tender pack – attendees will not be listed



## EME Q&A Summary

Q1) Will you be providing access to additional work/data which isn't published as part of the opportunity?

- Once the contract is awarded we will provide relevant data to the supplier on UK ICF spend and results and will leverage government relationships to source additional resources and qualitative input. It is not anticipated that any additional information, beyond what is already public, will be required to support bidders during the tendering process. If there are specific data gaps that are deemed critical to submitting a bid of sufficient rigour, this should be flagged as part of the tendering process and we will assess and respond accordingly. If deemed appropriate, we will provide any additional data to all prospective bidders.

Q2) Will what other governments and providers of TA be part of the landscape assessment component?

- Yes, it should be a significant part.

Q3) Do you have a preference as to what type of organisation you want to appoint for the work?

- No preference on type of organisation but there are requirements related to the expertise in which the organisation(s) can provide or source – further information on this is included in this pack and the draft tender document.

Q4) What is the intended audience of this work?

- The audience will be dependent on the three different deliverables. The Technical Report and Diagnostic toolkit are internal tools and documents. The how-to guides will be external communications which will be used in broad range of engagements.
- Research insights and tools should support UK interventions in a way which meets the support needs of EMDEs and the requirements of domestic and international financial institutions.

Q5) Could you provide further details on the indicative amount of work the requirement will entail?

- It will require extensive engagement with HMG teams and around 25-30 external interviews and additional focus groups. The research component should include an extensive literature review, evaluation of previous interventions from the UK and others, and mapping of the global landscape of support needs, standards development, and capacity building.

## Clarification Response from EME

1. What area of expertise is most important for this project (e.g., financial services, central banking, decarbonisation, sustainable finance)?
  - a. The project has a broad scope and multiple areas of expertise will be required – along with those mentioned, examples of other useful areas of expertise include prudential policy, development finance, emerging market investment, and international climate and environmental negotiations (e.g., through UNFCCC).
2. What types of bids are you willing to consider in terms of team structure?

- a. We are willing to consider all types of bids, including from a single supplier or any type of consortium. Roles, responsibilities, points of contact and costings should be clearly delineated, in line with requirements set out in the tender.

### **Annex B Clarification Log**

This Annex provides additional clarifications on the Specification and should be read in conjunction.

Question Number	Date	Clarification / Question / Comment	Authority response
1	12/04/2024	Could you please share a country list to clarify which countries you mean by Emerging Markets and Development Economies?	Emerging markets and developing economies in this context refers to countries which are deemed eligible to receive official development assistance (ODA) by the <a href="#">OECD Development Assistance Committee</a> .
2	16/04/2024	Please could the commissioner clarify whether, in their view, contractors who would want to evaluate future programmes of the UK Government's International Climate Finance Portfolio (co-managed by DESNZ, FCDO and Defra) would be conflicted out from delivering work packages 2 and 3 (copied below) of this Green Toolkit project:  1. A Technical Report providing a holistic review of current green finance programming and international influencing tools, detailing priority gaps and opportunities for activities to be optimised. 2. A Diagnostic Toolkit drawing on report findings (with input from HMG) to support UK officials in their engagements and strategy development, including to guide prioritisation and triaging of support requests in reactive programming. 3. A set of comms tools, or 'How-to Guides', setting out how to put green finance policy frameworks in place incorporating learning from the UK's approach, to be used in international stakeholder engagement.	We do not envisage any conflicts arising from the delivery of any part of this project.  All three deliverables will be HMG-owned products and it will be an internal process to interpret, implement and update them over time.  Any further clarification or assurance required on this can be confirmed during contract negotiations.
3	17/04/2024	Given that there is a bank holiday right before bid submission, could we request an extension to 17th May?	The deadline for submissions will be extended to 17 May 2024 at 13:00
4	24/04/2024	Thank you for your previous question. Can I confirm whether Least Developed Countries as defined by ODA recipients are included in scope? My understanding is that this is usually not the focus due to their lower mitigation potential.	We recognise that the mitigation potential in Least Developed Countries is not comparable to higher-income groups in the OECD DAC list, nor are they currently as well suited to greening finance support given the urgency of development needs and nature and extent of endemic capacity gaps.  We encourage bidders to focus on countries where there is potential for UK greening finance interventions to achieve greatest impact, but there may also be benefits to surveying a broader range of countries to the extent that this furthers understanding of how UK programming and international engagement can contribute to a strong and interoperable global financial system. We welcome suggestions for how to approach this with respect to the level of resource that can be allocated to this project and the utility of project outcomes.
5	25/05/2024	How flexible are the prices for the individual scopes within the wider £370k? i.e. can we price the technical report over 296k on the basis the how to guides make up the difference?	We are open to alternative proposals for how the maximum budget can be reapportioned between the three deliverables.
6	25/05/2024	Could you define what a TA is?	TA stands for 'technical assistance', a term used interchangeably with 'capacity building'.
7	25/05/2024	On the how-to-guides - is there a preference on branding? Can it be supplier branded (colouring/text/formatting) with DESNZ logos?	We would prefer HMG branding with appropriate attribution to the supplier.

Question Number	Date	Clarification / Question / Comment	Authority response
8	25/05/2024	The how-to guide section mentions using the end deliverable as a printout (50 - 100 physical printouts). Is there any expectation for us to do it and price this in?	We advise bidders to provide costings for this element and if it is deemed undeliverable within the given budget justification should be provided.
9	25/05/2024	Where we have questions or comments on the terms and conditions shared by DESNZ, should we share these questions at this stage, or could this be discussed as part of the contract negotiation / award if successful? Specifically, this refers to circumstances where clauses are incomplete or unclear and or where the interpretation of the clause may have an impact on project liability or cost.	We are happy to accept questions and comments on the terms and conditions at this stage. The Successful Supplier will have the opportunity during contract Award to discuss the contract terms and conditions in further detail. The Current contract shared is a draft version and is not complete, the contract will be completed with the Successful Suppliers input during the contract negotiation stage.
10	02/05/24	Could you please clarify whether the question's page limit is mandatory or suggested, assuming the overall page limit will be respected.	The overall page limit as provided in Section 1 part C is 17 pages and each question has a page limit which is where "Bidder's should seek to limit the response to X sides of A4". Page limits per question response is a guideline, rather than mandated, and we recommend using those page limits identified in order for your response to reflect the weightings we have assigned to each question. The overall submission must not exceed 17 pages (excluding workplan and pricing structure).
11	02/05/24	Given the deadline extension period, can the period for queries also be extended?	The clarification question period has been extended until the 8th May 2024 at 13:00.
12	02/05/24	Data protection queries: What controls and measures does DESNZ expect?	The controls and measures for data protection are provided for in Schedule 20 (Processing Data)
13	02/05/24	Can DESNZ clarify what they classify as personal data? Does this extend past email addresses, names, phone numbers and positions held within DESNZ?	Personal data is defined in Schedule 1 Definitions as being: "Personal Data has the meaning given to it in the UK GDPR or the EU GDPR as the context requires." The Supplier may require additional information when delivering the Service which falls into the definition of Personal Data which is in addition to email addresses, names, phone numbers and positions held by the Authority, if fully justified as necessary to deliver the Service.
14	02/05/24	Would DESNZ be fine if email addresses, names, phone numbers and positions held within DESNZ were held in our sales system whereby there is an indirect transfer of data inside and outside the EU?	See paragraph 2.4.4 of Schedule 20 (Processing Data).
15	02/05/24	There may be an instance whereby we need to retain data for 3 years after the project ends for our audit process – is this fine? What is DESNZ's preferable retention period for data?	DESNZ retains data for 6 years, as indicated in the privacy Notice. A 3 year retention period is likely to be acceptable, but the Authority would be willing to discuss further upon engrossment.
16	03/05/24	- There are conflicting terms as the first sentence describes "total aggregate liability" as the greater of £4 million or 150% of Estimated Yearly Charges. - Second sentence specifies a £10 million cap on liability for data protection, is this correct? - Does this mean £4 million plus £10 million? Meaning total aggregate liability is therefore £14 million? - If the £10 million figure is incorrect and it should in fact be lower, does it form part of the £4 million "total aggregate"?	Please refer to the Mid Tier terms and conditions paragraph 15.6. General liability and data protection liability are two separate pools of liability. Your total aggregate liability per contract year is £4m, <b>and</b> you are liable for up to £10m per contract year if the claim is data protection related. Further, the data protection liability applies to the Supplier's liability to the Buyer under the contract only – it does not act as a cap on any data protection liability that a Supplier may incur to any third party. As per paragraph 15.6, the total aggregate liability in any Contract Year for all clauses is no more than the £10m Data Protection Liability Cap.
17	03/05/24	Limitation of liability: can an amendment to the Supplier's liability cap be made so that the Supplier's total aggregate liability shall not exceed £2m in respect of all breaches under the contract (including under all	We won't be amending the liability cap for this procurement. Please see the response above also.

Question Number	Date	Clarification / Question / Comment	Authority response
		Supplier indemnities and in replacement of the Data Protection Liability Cap)?	
18	03/05/24	In the Award Form, would it be possible to include a requirement to provide the Supplier with complete, accurate and up-to-date information to enable the Supplier to provide the Services? Further, would it be possible to include some wording placing restrictions on the Buyer disclosing the Supplier's work to third parties?	The Authority will endeavour to provide the Supplier with complete, accurate and up-to-date information to enable the Supplier to provide the Services. The Buyer is subject to Transparency requirements as detailed in the Terms and Conditions and Annexes. Please also see the requirements relating to Ownership and Publication, paragraph 6 in Section 2 – Statement of Requirements.
19	03/05/24	What breadth of coverage are you expecting across EMDEs for stakeholder engagement?	Please refer to <u>question 4</u> for guidance on country coverage.  We have provided broad expectations for the level of stakeholder engagement in the tender document (25 interviews and 2/3 focus groups) - we expect EMDE stakeholders to be a significant cohort in this engagement, covering (at minimum) government officials, financial institutions, and civil society groups.
20	07/05/24	In Question 1: Methodology, it was noted that bidders should include "For the 'How-to guides', how the outputs could be communicated in order to reach target audiences in EMDEs". Please can you clarify and provide any examples on this target audience, and whether they will be UK government officials only?	The How-to Guides will be designed to be shared externally by UK officials. This is in response to the need to better set out the fundamentals and benefits of greening finance policies in a range of international engagements. For example, in UNFCCC negotiations to provide context to UK negotiations positions; or when designing capacity building packages with EMDE country partners.  Bidders should consider how key greening finance policies should be communicated in this context, with a focus on non-expert audiences.
21	07/05/24	Given the draft terms around "6. Ownership and Publication" (see below), would you accept that all deliverables will be HMG branded only (unless agreed otherwise)?	We expect deliverables to be HMG branded, but open to discussion on appropriate attribution to the supplier, potentially including placing the supplier logo alongside HMG's.
22	07/05/24	Given the above (that all deliverables will be HMG branded only), we accept the IPR terms for those final deliverables, however can you please clarify that DESNZ will not have ownership of our working papers/internal documents, and that these will remain Supplier property?	The Authority accepts that working internal documents will remain Supplier property, however the exception to this would be interview transcripts if created. The Authority would be happy to explore with the Supplier if there are any additional exceptions.

## **Schedule 3 (Charges)**

### **1. How Charges are calculated**

#### **1.1 The Charges:**

- 1.1.1 shall be calculated in accordance with the terms of this Schedule;
- 1.1.2 cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in the Award Form; and

#### **1.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out in this Schedule.**

### **2. The pricing mechanisms**

The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in this Contract.

### **3. Are costs and expenses included in the Charges**

#### **3.1 the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:**

- 3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

#### **3.1.2 costs incurred prior to the commencement of this Contract.**

### **4. Other events that allow the Supplier to change the Charges**

#### **4.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:**

- 4.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;

- 4.1.2 a request from the Supplier, which it can make at any time, to decrease the Charges;

- 4.1.3 verification of the Allowable Assumptions in accordance with Paragraph 9

### **5. When you will be reimbursed for travel and subsistence**

#### **5.1 Expenses shall only be recoverable where:**

- 5.1.1 the Time and Materials pricing mechanism is used; and
- 5.1.2 the Award Form states that recovery is permitted; and

- 5.1.3 they are Reimbursable Expenses and are supported by Supporting Documentation.
- 5.2 The Buyer shall provide a copy of their current expenses policy to the Supplier upon request.
- 6. The following text was taken from the Specification published with the tender.
  - 6.1 The Supplier will provide an invoice schedule [...] which should be taken into consideration in the estimated budgets and timelines. The Buyer would anticipate at least three invoices during the project delivery (one for each deliverable), but alternatives may be proposed by the Supplier.
  - 6.2 Price will be fixed based on the commercial offers made. Payments, in GBP, will be linked to delivery of deliverables. The indicative milestones and phasing of payments is to be as detailed in this Schedule 3
  - 6.3 Any payment conditions applicable to the prime Supplier must also be replicated with sub-contractors.
  - 6.4 Any expenses incurred by the Supplier must be in line with the Expenses Policy provided in Annex 2 of this Schedule.
  - 6.5 The Buyer aims to pay all correctly submitted invoices as soon as possible with a target of 10 days from the date of receipt and within 30 days at the latest in line with standard terms and conditions of Contract. We expect that this will be replicated in any sub-contractor arrangements and the Buyer may request evidence that this is the case.
  - 6.6 The Buyer reserves the right to amend the Contract to increase the scope of activities required of the Supplier, so long as any additional activities meet the objectives of the Contract. Contract amendments would be managed by a formal variation process and will be made with mutual agreement with the Supplier. This is only permitted if the proposals are compliant within the remit of Public Contracts Regulations 2015.



## **Annex 1: Rates and Prices**

## Annex A: Pricing Schedule

*Instruction: Please complete this annex and include it as a separate attachment to your submission.*

**Please complete a separate version of the pricing schedule for each of the deliverables bid for, and an overall pricing schedule. Separate templates have been provided below.**

*Please complete multiple versions of this if your submission includes variations or options.*

### NOTES:

- 1) *Please see end of this document for International break-up, VAT rates and exchange rates.*
- 2) *Initial VAT advice is that UK VAT will be applied since the supply of services is in the UK / to the UK and the countries involved are inputting information / engaging stakeholders but not providing a service in their local jurisdiction. This will need confirmation at the point of contract finalisation. For completeness, we have listed the local VAT rates we have received from each country. If VAT is charged by the local firm, there will be a need to add UK VAT on top of the charge received.*
- 3) *Exchange rates sourced from [www.xe.com](http://www.xe.com) on 16 May 2024.*

### Technical Report

#### Part A – Staff/project team charges

Set up Costs – please specify	NA
Expenses	NA

<u>*Grade/level of staff</u>	<u>Daily rate (ex VAT) £</u>	<u>No. days offered over course of contract</u>	<u>Tasks to be undertaken on this project</u>	<u>Total price offered per staff member £</u>
██████████ ██████████	██████	██████	████████████████████	██████
██████████ ██████████	██████	██	████████████████████ ████████████████████	██████
██████████ ██████████	██████	██████	████████████████████	██████
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██████████ ██████████	██████	██████	████████████████████	██████
██████████ ██████████ ██████████	██████	██	████████████████████ ████████████████████	██████

### Part B – Non-staff/project team charges

### Part C – Sub-contractor charges

*\*Average price at the same levels differs slightly by activity as the time spent at each level differs slightly.*

### Part D – Full price offered

## Invoicing Schedule

Activity	Date of Invoice	Price (£)	VAT (£)
██████████	██████	██████	██████
████████████████████	██████	██████	██████

### Part A – Staff/project team charges

Set up Costs – please specify	NA
Expenses	NA

<u>*Grade/level of staff</u>	<u>Daily rate (ex VAT) £</u>	<u>No. days offered over course of contract</u>	<u>Tasks to be undertaken on this project</u>	<u>Total price offered per staff member £</u>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<b>Sub-total</b>				[REDACTED]

### Part B – Non-staff/project team charges

<u>Item</u>	<u>No. of items</u>	<u>Price per item (ex VAT)</u>	<u>Total price per offered</u>
		£	£
<b>Sub-total</b>			<b>£</b>

[illegible]

\*Average price at the same levels differ slightly by activity as the time spent at each level differs slightly.

### Part D – Full price offered

Sub-total (Part A + Part B + Part C)		
VAT <b>[Please see VAT note on top]</b>		
TOTAL (Sub-total + VAT)		

## Invoicing Schedule

Activity	Date of Invoice	Price (£)	VAT £
Total			

## How-to Guides

### Part A – Staff/project team charges

Set up Costs – please specify	
Expenses	<div></div> <div></div> <div></div> <div></div>

<u>*Grade/level of staff</u>	<u>Daily rate (ex VAT) £</u>	<u>No. days offered over course of contract</u>	<u>Tasks to be undertaken on this project</u>	<u>Total price offered per staff member £</u>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

### Part B – Non-staff/project team charges

<u>Item</u>	<u>No. of items</u>	<u>Price per item (ex VAT)</u>	<u>Total price per offered</u>
		£	£
<b>Sub-total</b>			<b>£</b>

<u>Item</u>	<u>No. of items Days</u>	<u>Price per item (ex VAT) £*</u>	<u>Total price per offered £</u>
████████████████████	████	████	████
████████████████████	████	████	████
██	████	████	████
████████████████████	████	████	████
████████████████████	████	████	████
Sub-total			████

### Part D – Full price offered

Sub-total (Part A + Part B + Part C)		
VAT [Please see VAT note on top]		
TOTAL (Sub-total + VAT)		

## Invoicing Schedule

### Part A – Staff/project team charges

Set up Costs – please specify	
Expenses	

<u>*Grade/level of staff</u>	<u>Daily rate (ex VAT) £</u>	<u>No. days offered over course of contract</u>	<u>Tasks to be undertaken on this project</u>	<u>Total price offered per staff member £</u>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<b>Sub-total</b>				[REDACTED]

### Part B – Non-staff/project team charges

<u>Item</u>	<u>No. of items</u>	<u>Price per item</u> <u>(ex VAT)</u>	<u>Total price per</u> <u>offered</u>
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		£	£
<b>Sub-total</b>			£

**Part C – Sub-contractor charges**

<u>Item</u>	<u>No. of items</u>	<u>Price per item (ex VAT) (£)*</u>	<u>Total price per offered (£)</u>
P [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<b>Sub-total</b>			[REDACTED]

\* Average price at the same levels differs slightly by activity as the time spent at each level differs slightly.

**Part D – Full price offered**

<b>Sub-total (Part A + Part B + Part C)</b>	£266,743
<b>VAT [Please see VAT note on top]</b>	£53,349
<b>Expenses</b>	£2,000
<b>TOTAL (Sub-total + VAT)</b>	£322,092

**Invoicing Schedule**

<b>Activity</b>	<b>Date of Invoice</b>	<b>Price (£)</b>	<b>VAT (£)</b>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	
<b>Total</b>		£268,743	£53,349

**NEXT SHEET CONTAINS INTERNATIONAL BREAKUP DETAILS**

It was noted in Clarification prior to Signature the following which applies when reading this Annex :

The VAT position within each jurisdiction in the proposal has not been finalised. However given the importance of this piece of work, please consider the price submitted (£268,743 excluding UK VAT) as the final price (excluding UK VAT). We will not increase this price to cover VAT / tax position of other jurisdictions work and will absorb this within our own cost if we are successful.



## INTERNATIONAL PRICING DETAIL

[REDACTED]

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## Annex 2

# Department for Energy Security and Net Zero (DESNZ)

## Expenses Policy and Eligible Costs Guidance

### 1. Background to guidance

[Managing Public Money](#) (2022), HM Treasury guidance on the use of public funds, demonstrates the Government's clear stated policy that taxpayers' money is used as intended. In order to **increase transparency, clarity and consistency** in the spending of funds this eligible expenditure guidance forms part of this contract. In the event of any conflict between the contract or agreement terms and conditions and this document the contract or agreement will take precedence.

This guidance document provides details of both eligible expenditure and items of expenditure that are expressly ineligible and should be referred to when submitting the budget template supporting your proposal. The guidance will help organisations calculate the full cost of a particular project or service, including an appropriate share of all relevant support services and other overheads/indirect costs as appropriate.

The Authority reserves the right to make changes to this document from time to time in line with developments in Government policy.

### 2. Principles of eligibility

The contract amount is to be used solely for costs included in the budget for the delivery of the outputs and outcomes in the log frame or agreed results model framework. These costs must:

- Be actually incurred by the recipient
- Be incurred within the period set out
- Be indicated within the cost budget
- Be incurred in connection with and necessary for implementation
- Be identifiable, verifiable and recorded in the recipient's accounts in accordance with applicable accounting standards and with the beneficiary's usual cost accounting practices
- Be compliant with applicable national law on taxes, labour and any all other relevant national law
- Be reasonable, justifiable and compliant with the principles of sound financial management

**Expenditure cost categories containing specific eligible and ineligible definitions are defined within this guidance and the budget should be completed in line with the guidance.**

### **3. Foreign exchange**

All costs within the budget must be in GBP. Suppliers operating in another currency must convert to GBP at the spot FX rate and the source and value of any exchange rates used should be referenced in the budget.

### **4. Ineligible costs (applicable to all budget categories)**

The following expenditure items are explicitly ineligible across all expenditure cost categories unless permitting them is a specific requirement of the contract (this list is not exhaustive and does not override activities which are deemed eligible and explicitly agreed as part of the contract):

- Lobbying UK government, i.e. activities which aim to influence or attempt to influence Parliament, UK government or political activity, or UK legislative or regulatory action
- Activities which directly enable one part of government to challenge another on topics unrelated to the agreed purpose of the contract
- To petition UK Government for additional funding
- Activities which may lead to civil unrest
- Activities which discriminate against any group on the basis of age, gender reassignment, disability, race, colour, ethnicity, sex and sexual orientation, pregnancy and maternity, religion or belief
- Interest payments or service charge payments for finance leases
- Gifts
- Statutory fines, criminal fines or penalties
- Payments for works or activities that are fully funded by other sources whether in cash or in kind, for example if premises are provided free of charge, DESNZ will not contribute to a notional rent
- Activities in breach of UK Legislation on Subsidy Control
- Bad debts to related parties<sup>1</sup>
- Payments for unfair dismissal or other compensation
- Replacement or refund of any funds lost to fraud, corruption, bribery, theft, terrorist financing or other misuse of funds
- The cost of any fines or charges applied by local Governments or by any local public authority
- Costs or benefits provided to any public official or third party if there is a high likelihood that the payment or benefit was for improper purposes (e.g. facilitation payments)
- Fundraising (with the exception of any agreed allocated costs not attributable to the project (indirect costs))
- Foreign exchange as a standalone budget line
- Contingency or risk premium
- Depreciation (with the exception of any agreed allocated indirect costs)
- Debt repayment
- Auditing or accounting costs associated with the production of Reasonable Assurance Reports for grant claims
- Costs associated with preparing bid or commercial proposal prior to a formal agreement being executed or in the preparation of proposals for the take up of contract extension options
- Costs incurred prior to a formal agreement being executed

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<sup>1</sup> "Related Party" has the same meaning as in international accounting standards.

- **Unless directly attributable to the programme**, advocacy and campaigning, marketing and communications, policy, retainer fees, capital expenditure, land, bank charges and insurance (unless, by exception, explicitly agreed in writing in advance).<sup>2</sup>

Additional exclusions relating to specific expenditure cost categories are detailed in this guidance and are mandated in addition to the above general ineligible costs. In case of any doubt, the delivery partner or supplier should consult DESNZ in advance.

## 5. Expenditure cost categories

In an organisation there are two types of costs that are incurred as a result of running a project or service: Direct Programme Costs and Indirect Costs.

**Direct Programme Costs** are subdivided further into two types of Direct Costs:

- (a) **Direct project costs:** These are all the costs that are clearly and directly *incurred because of the project*. Typically, they include the salaries of project staff, their travel and subsistence, project materials, and all other costs easily identifiable as part of the project.
- (b) **Directly attributable project costs:** These are all the costs that are clearly and directly *attributable to the project*. Typically, they include country office resources specifically allocated to the project.

**Indirect costs** comprise those overhead costs that are not attributable to a project. These costs are incurred by an organisation in order to support the projects that it runs.

## 6. Direct programme costs

Direct programme costs are activities and costs directly incurred in the delivery and implementation of the programme and are directly linked to specific project outcomes and results. This generally includes frontline delivery costs and programme management and support costs.

### 6.1. Staff costs (including payroll taxes and benefits)

All individuals working under an employment contract, a direct contract (consultant), a sub-contractor or an individual seconded and assigned to the programme are eligible costs. Each salaried and non-salaried staff member should be assigned a role and the daily fee rate should be individually listed:

The daily fee rate is deemed to cover the cost of salary remuneration and benefits including superannuation (pension) and payroll taxes. If the cost is that of a sub-contractor, the daily fee rate will be the total invoiced cost chargeable to the project. A line item stating total staff costs will not be accepted.

DESNZ will only reimburse productive days' work.

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<sup>2</sup> There are limited circumstances where it is appropriate to include insurance costs, for example to meet legal obligations or where doing so provides value for money (this is an extract from [Managing Public Money](#))

You should include details in your budget where time is being donated to programmes at no charge (in-kind contributions).

## **6.2. Management fees**

The costs incurred by the Lead Organisation of managing both the recruitment and project work of external consultants and delivery partner programme staff where these are significant – i.e. they result in specific additional direct programme costs that are in excess of normal organisational establishment cost levels are eligible costs.

## **6.3. Frontline programme delivery costs**

Frontline delivery expenditure includes commodities for beneficiaries or participants, transport of commodities (excluding vehicles which are capital expenditure and driver salaries which are included under travel costs, but including freight and logistics), storage of commodities, training and associated costs for beneficiaries or participants, disbursements to beneficiaries or participants, and any other frontline delivery costs associated with the delivery of programme outputs. This excludes staff costs, travel accommodation and subsistence, and capital expenditure which should be detailed separately under expenses.

## **6.4. Capital expenditure items**

Capital expenditure includes specialist equipment, office furniture and equipment, standard and off-road motor vehicles and any other project related equipment. Any aspect of capital expenditure included must be fully justified as contributing to the sustainable outcome of the project. The cost should be recorded in the year in which the purchase is planned; do not spread the cost of a new purchase over the lifetime of the project. **Depreciation is not an allowable expense.**

Ownership of any capital items bought using DESNZ funds is retained by DESNZ throughout the lifetime of the project. The future use of an item will be discussed and agreed on project completion.

There is a requirement for a programme asset register to be maintained for all assets purchased at a value of £500 or more.

## **6.5. Travel, subsistence and accommodation**

Travel undertaken for delivering the programme (including that related to monitoring, evaluation and learning activities) are eligible costs. This includes air, rail, car hire and other travel costs, hotel and accommodation costs, subsistence, travel management fees, travel documentation costs (e.g. passport/visa costs), travel vaccinations. The budget should include as much information as possible about travel plans.

**DESNZ is committed to working towards Net Zero both domestically and internationally. As such all DESNZ suppliers should look to minimise travel as much as possible. Where travel cannot be avoided the greenest option should be chosen.**

### **6.5.1. Ineligible expenses**

The following are ineligible expenses and may not be claimed. Exceptions must be agreed in writing with your DESNZ contract or agreement manager prior to any costs being incurred. DESNZ contract managers may also need to seek senior civil service and/or specialist approval for any exemptions. Any costs incurred without prior written approval are incurred at the supplier's own risk and expense and will not be reimbursed by DESNZ.

- Alcohol
- Tobacco
- Personal entertainment/recreation or travel
- Per diems (N.B. at cost accommodation and subsistence can still be paid for supported by receipts)
- Business and first-class travel or fully flexible tickets for flights or ground transportation
- Clothing
- Laundry
- Excess baggage
- Extra legroom
- Other travel facilitation costs e.g. charges to select a seat in advance of travel

#### 6.5.2. Travel

Travel and living expenses will be paid at a rate consistent with the [HMRC's schedule of rates](#)<sup>3</sup>.

All journeys by rail or air will be budgeted by a class of travel that is no more than **"standard economy"** unless higher travel classes are representative of improved value for money or are required to adhere to specific legislation, for example the Equality Act 2010. Your DESNZ representative will confirm if this is appropriate, and no travel should be booked in a class higher than "standard economy" **without express written permission**. First class travel will not be permitted under any circumstances. If a supplier books anything other than standard economy travel without prior written approval, these costs are incurred at their own risk and expense.

The most economical form of transportation must always be used. The use of taxis or car rental where safe, frequent and reliable public transport exists must be justified.

For car journeys less than or equal to 10,000 miles in a personal car, these will be reimbursed at 45p per mile.

#### 6.5.3. Subsistence

Alcohol and tobacco are not allowable subsistence items under any circumstances.

Where food, refreshments, transportation, accommodation or other expenses are required for the participants of a workshop, conference, seminar etc. (including staff of the supplier or project partners) all costs must be reasonable and follow these guidelines.

In the event that a supplier is not able to stick to these rates they must contact their DESNZ contract manager to discuss and provide a rationale for any exemption. Exemptions must be provided in writing by DESNZ in advance of any above-rate

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<sup>3</sup> <https://www.gov.uk/government/publications/scale-rate-expenses-payments-employee-travelling-outside-the-uk> -

expenses being incurred. In the event that a supplier incurs above-rate expense without prior written approval, these costs are incurred at their own risk and expense.

As per the guidance in this document, expenses are to be claimed and paid for based on actual expenses incurred supported by receipts. DESNZ will not pay fixed per diems.

## **6.6. Passport and visa costs**

Staff travelling overseas must have a valid passport. In the event that staff do not have and have never owned a full Passport, the costs associated with issuing a new passport may be claimed from the Department. Written approval is required before entering into, or committing to, this process from your DESNZ Contract Manager who will require explicit advance approval from their Finance Business Partner.

**Costs for renewing or replacing expired passports are not reclaimable from the Department.**

In the event that staff are travelling to a country that requires a visa with an associated cost, claims for reimbursement may be made.

## **6.7. Claiming expenses**

To be reimbursed, expenses must be incurred during the period of the project and be linked to the approved budget lines and activities of the project. All expenses must be clearly detailed and evidenced, showing the actual cost incurred supported by receipts, tickets, hotel bills etc.

- Every expense claim should include sufficient information to justify each expense and should include what the expense is, the date it was incurred and the reason why. All travel claims must state the journey start and end location.
- Bank or credit/debit card statements alone are not acceptable evidence, though must also be provided if the receipt does not evidence payment.
- The currency in which the expense was incurred should always be detailed. If this is not GBP, evidence should be provided showing the exchange rate to GBP (ideally a bank statement showing the GBP cost debited or details of the exchange rate from [www.xe.com](http://www.xe.com) or [www.oanda.com](http://www.oanda.com)). There are several accepted approaches. So long as used consistently, reporting can use the exchange rate on the date each expense was paid; the date the invoice was submitted; or the monthly average. For advance payments, the rate used can be the date the money was paid from the bank.
- Per diem rates will not be reimbursed. However, actual expenditure (evidenced by receipts, invoices etc.) on accommodation, subsistence and travel can be reimbursed.
- Air miles or equivalent reward schemes should not be used to pay for the cost of flights as they will not be reimbursed.

## **7. Indirect costs**

Indirect costs are overhead costs that relate to the overall operations, management and identity of the supplier rather than to programme services. These costs are necessary for programmes to function although cannot be clearly linked to specific project outcomes and results (i.e. business expenses not including or related to direct labour, direct materials or third-party expenses that are charged directly to projects).

Typically, they include overall management and employee costs, administration and support, equipment, space and premises costs, and activities that relate to the whole organisation and partly support your project, but also support your other projects. These may include:

### **7.1. Premises and office costs**

This category relates to all costs associated with the organisation's premises and office including rent and imputed rent, mortgage costs, depreciation, management of facilities, building insurance, rates, maintenance and cleaning, groundworks and gardening, utilities, catering, vending services and residential accommodation.

### **7.2. Central function costs**

This category relates to all costs associated with the organisation's Board of Directors including basic salary, maternity and sick pay, other paid leave (sabbatical, vacation, home leave, and paid holidays) overtime, allowances, payroll taxes, pensions, travel and subsistence and telephone.

It also relates to all salary and on-costs associated with the organisation's central functions including but not limited to human resources, finance, information technology, secretarial, internal audit, policy and research and evidence departments, marketing, office management and any other central support functions, travel and subsistence, bank charges and recruitment costs.

### **7.3. Governance and strategic development costs**

This category relates to external expert and professional services expertise brought in when in-house skills are not available, including payments for services contracted to provide strategic or governance direction, financial, management, procurement, legal, audit, human resources or technical advice. This includes any other internal governance and strategic development cost that is not a central function cost or premises and office cost.

### **7.4. Share of indirect costs**

Since different projects make different demands on the organisation it is important to note that indirect costs are not necessarily proportional to the direct costs of a project. Indirect costs should be shared between on a fair and reasonable basis. This means:

- Each programme's share of the indirect cost is appropriate given the nature and extent of its activities (i.e. a programme does not receive a share of overheads that it does not incur).
- There is a rational basis for the method used to share indirect costs that can be justified and supported.
- The allocation of indirect to the programme is only an estimate. The allocation method must be fair and reasonable based on the information you have.

A straight percentage allocation to the budget is not based on an understanding of your organisation's overheads and is therefore unlikely to meet the principles detailed above.



If you intend to raise income for your programme from other sources, we expect those sources to cover their fair share of the programme's indirect costs. DESNZ will only fund its share of the programme's overheads. We would not expect to fund a greater share of indirect costs than the share of the programme direct costs we are funding.

#### **7.5. Accounting and budgeting for indirect costs**

We anticipate that, in the vast majority of cases, indirect costs will be included in the daily fee rates of staff and a further breakdown is not required at the time of bidding. If indirect costs are not included in daily rates and you need to list them separately, please speak to DESNZ.

#### **8. Payment basis and cost verification**

DESNZ and HMG operate on a policy of operational need. Payments are made in arrears according to DESNZ policy rules unless in exceptional circumstances and where otherwise expressly agreed in writing. We expect our partners to follow the same principles downstream with their subcontractors and partners.

An assessment of the eligibility of the costs included within your proposal will be conducted prior to the award of any contract or funding agreement.

## **Schedule 4 (Tender)**

# Question 1 - Methodology

## The context

Emerging Markets and Developing Economies (EMDEs) need \$2.4 trillion<sup>1</sup> in annual climate finance by 2030 to build sustainable, resilient economies and enable the global transition to Net Zero. This level of finance is currently not aligned to flow through to the EMDEs and there is urgent action required to mobilise efforts to attract the flow of finance required.

This project aims to create a green finance toolkit that enables the United Kingdom (“UK”) to progress the development of an aligned global green finance system and optimise its support to EMDEs for greening their financial system and expanding related capacity.

There is extensive movement in the UK and European Union (“EU”), and to a lesser extent in the US, regarding “greening finance”, establishing frameworks and standards of disclosures, and ensuring that there is the capacity to deliver such commitments.

In the UK the Climate Change Act 2008 committed the UK to reducing its greenhouse gas emissions by 80% by 2050 versus a 1990 baseline. This was updated in 2019 to a Net Zero 2050 target. Despite this, the markets in the UK and EU are still evolving to consider how adaptation, nature and just transition can be integrated. These markets still deal with several challenges as they mature their policy, standards and frameworks – including access to skills, lack of data, divergent policies nationally and internationally, stakeholder engagement and credible action plans. While dealing with these challenges, they also need to contribute to the development and alignment of global greening systems as climate change and nature restoration are global issues that need synchronised across geographies.

The regulatory landscape in the EMDEs in relation to green finance is, in contrast, in the early stages of development, despite consistent funding from HMG. There is a broad acknowledgement that there is a need for concerted efforts on in-country capacity development. Some key challenges these markets face include limited access to green finance, policy and regulatory uncertainty, capacity constraints, data absence and information gaps, political and governance challenges, social and cultural factors and external dependencies on technologies, finance and green projects.

## Grant Thornton approach

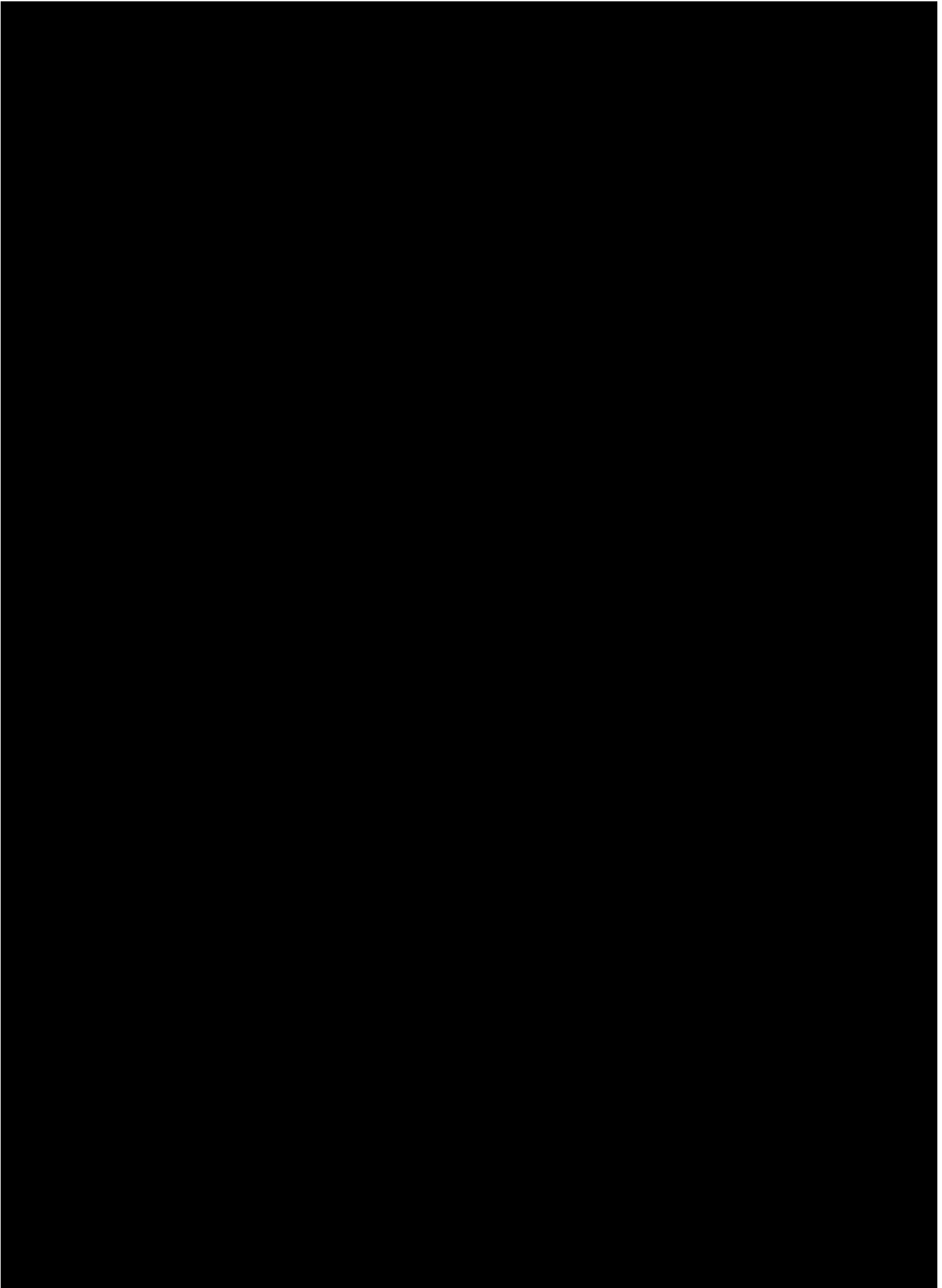
EMDEs have urgent development needs, challenging transition paths ways and capacity constraints to deliver green finance covering regulators, governments, and market participants. The study is required to achieve the following objectives:

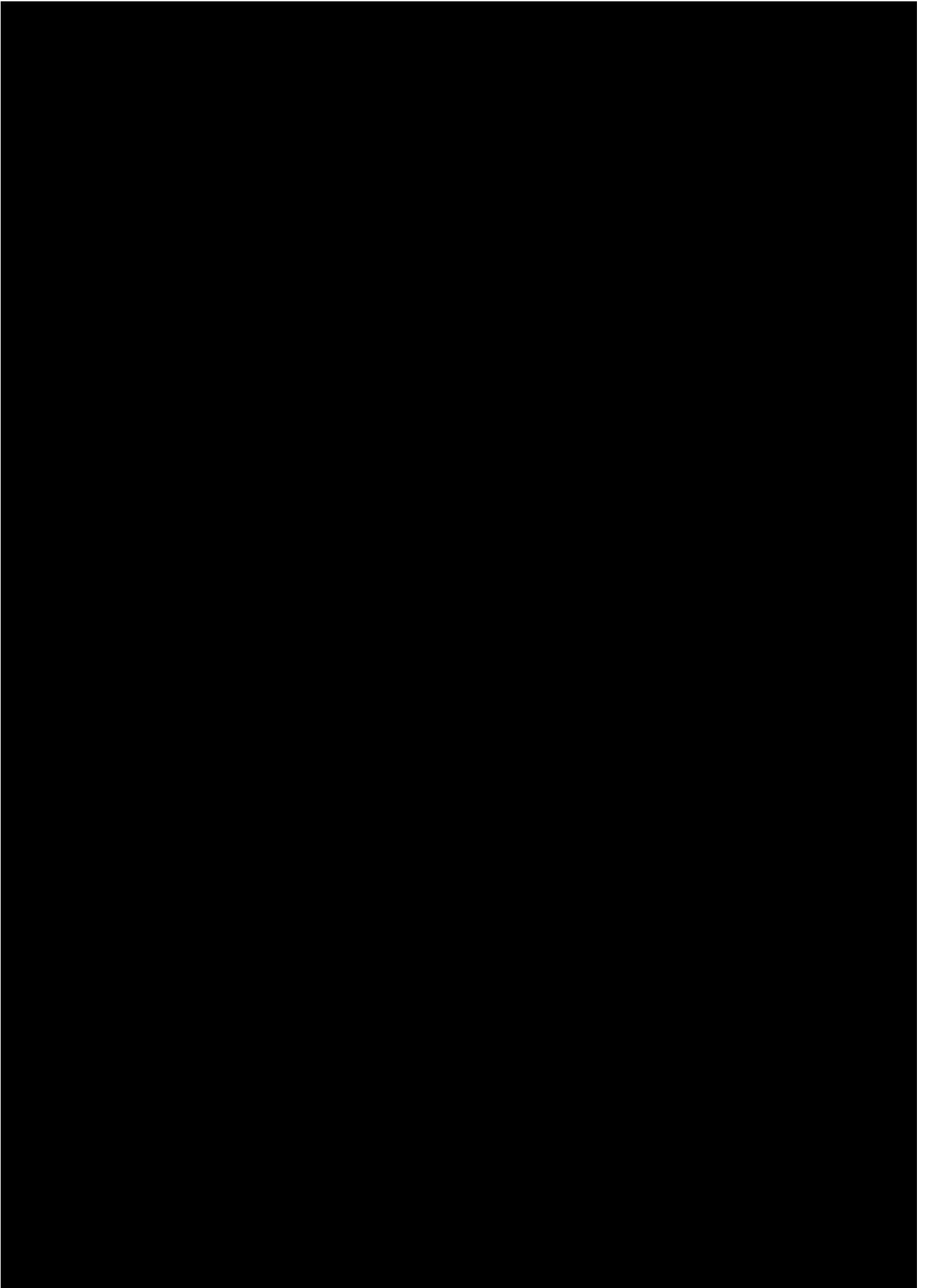
- 1) Enable the UK to better support the development of effective, high-integrity green finance frameworks, including through our capacity-building activities in emerging markets and developing economies.
- 2) Enable the coherent use of different UK levers, including domestic policy, global standards, ICF programming and international engagement.
- 3) Provide tools to improve the understanding of non-specialist policymakers and other stakeholders of how green finance levers can enable sustainable growth.

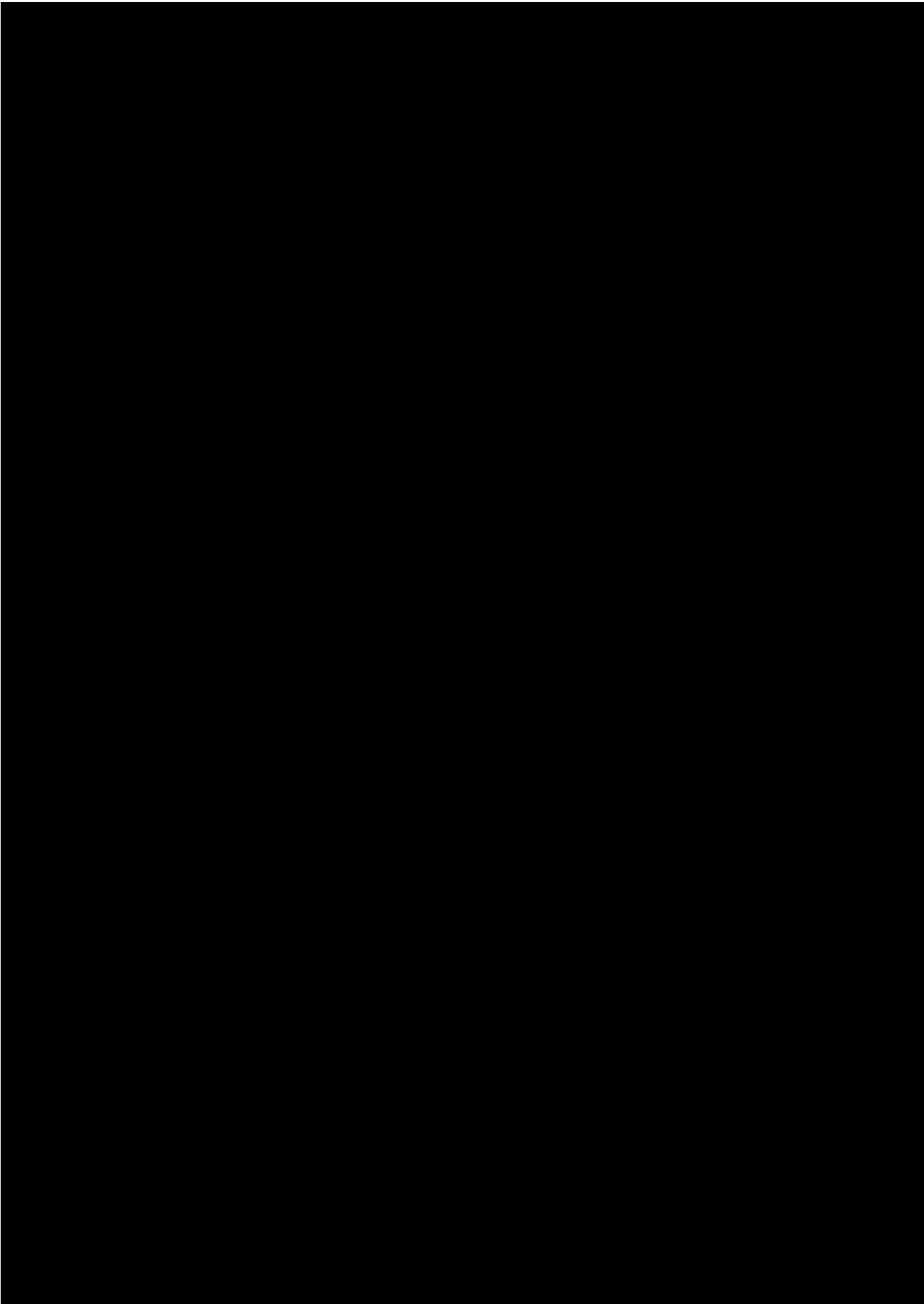
Department for Energy Security and Net Zero (“DESNZ”) have indicated 5 questions for the technical report to consider how to support the overarching objectives. Detailed below is the proposed approach to the research activities needed to sufficiently answer these questions, provide initial considerations regarding the research questions and proposed approach to develop three products, a technical report, a diagnostic tool and a suite of How-to-guides.

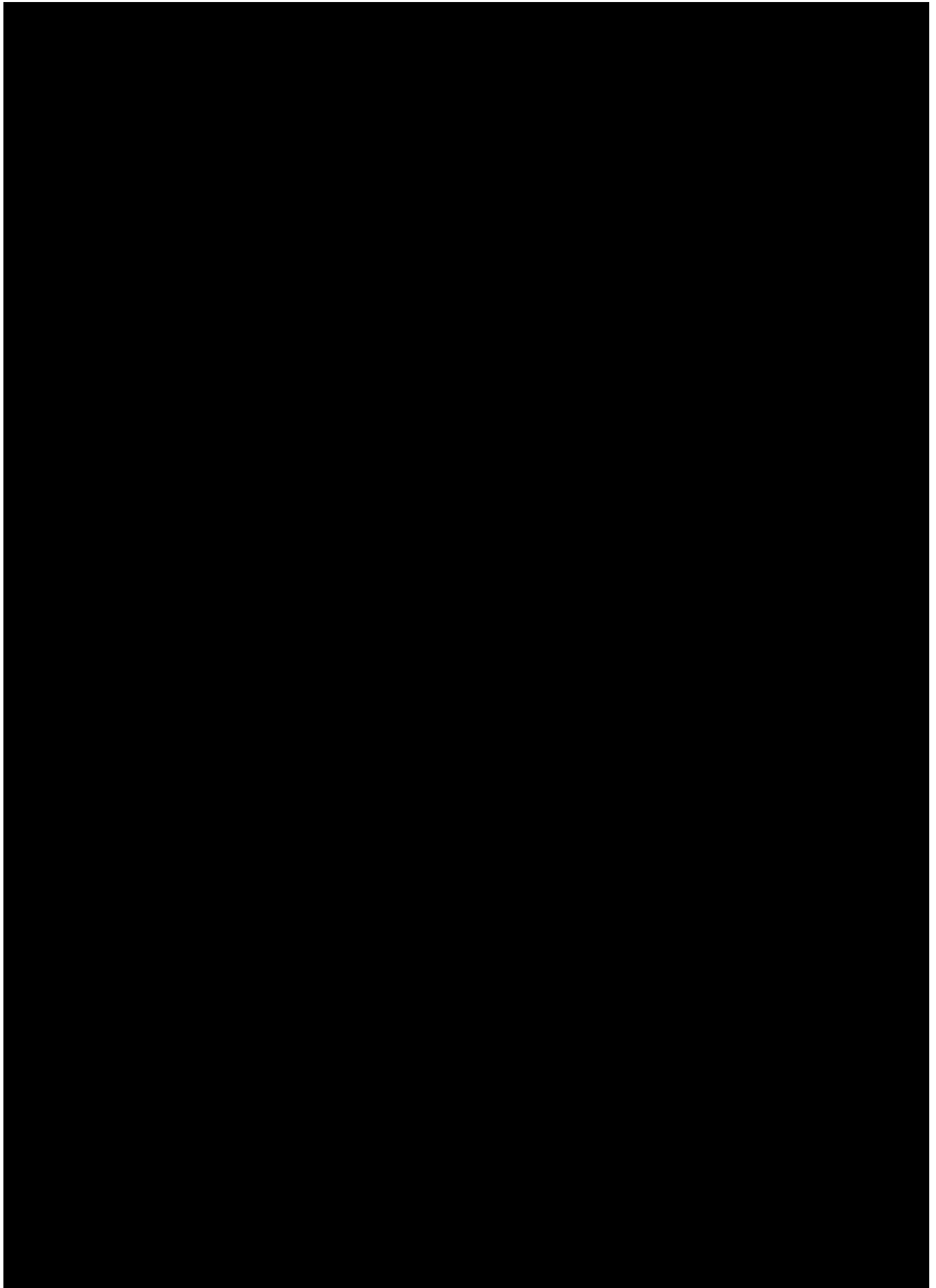
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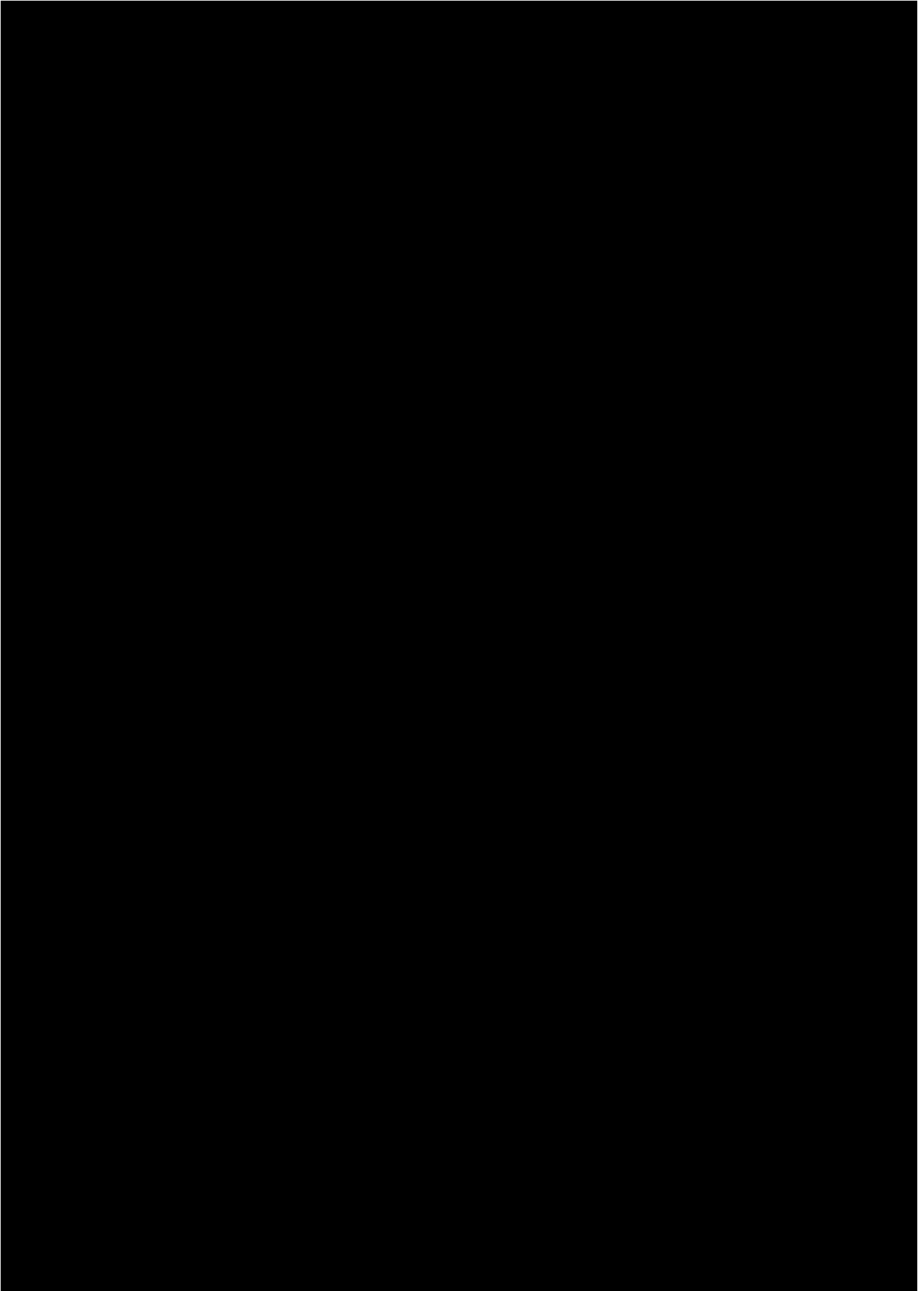
<sup>1</sup> Source: High-Level Expert Group on Climate Finance, 2022



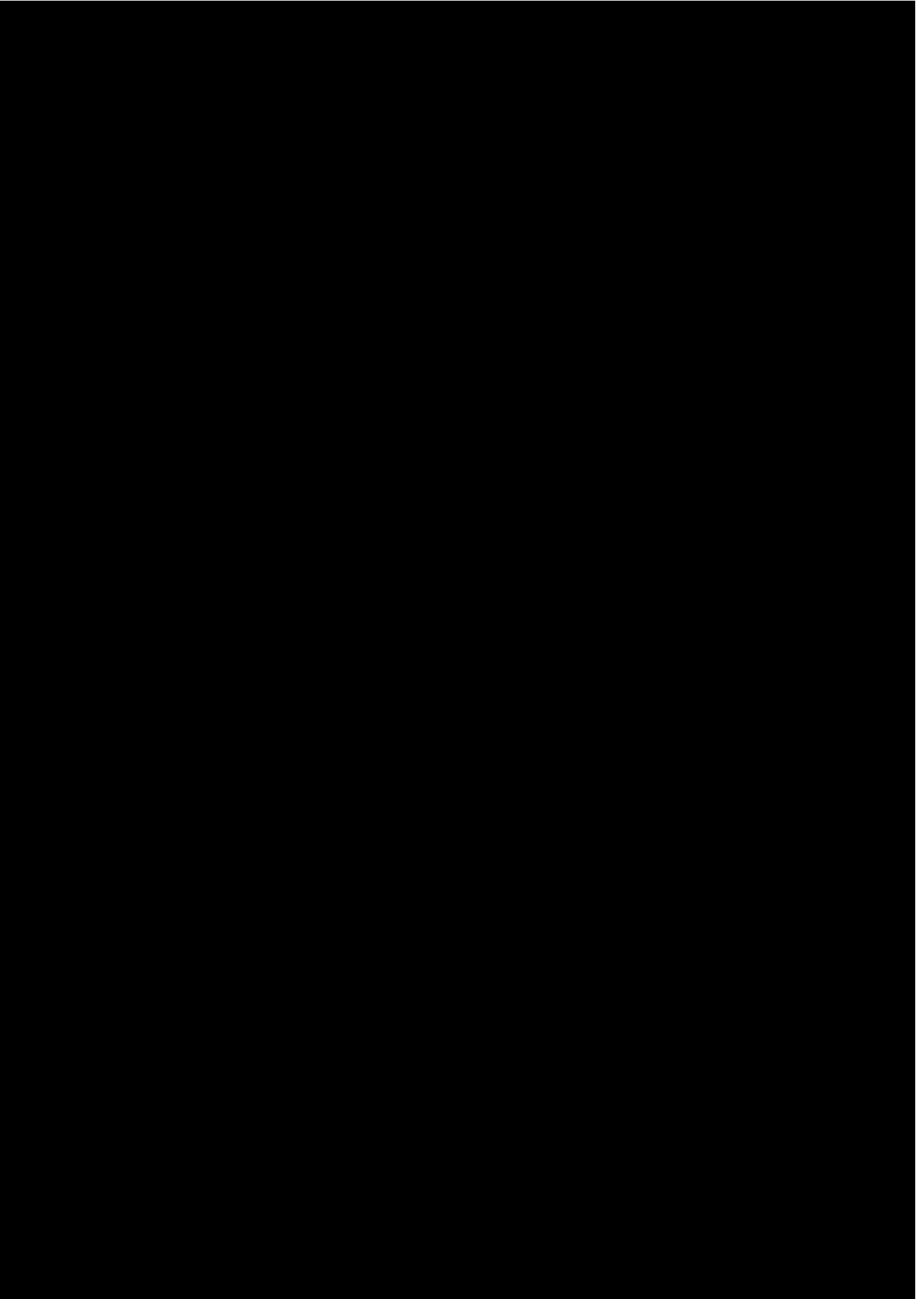


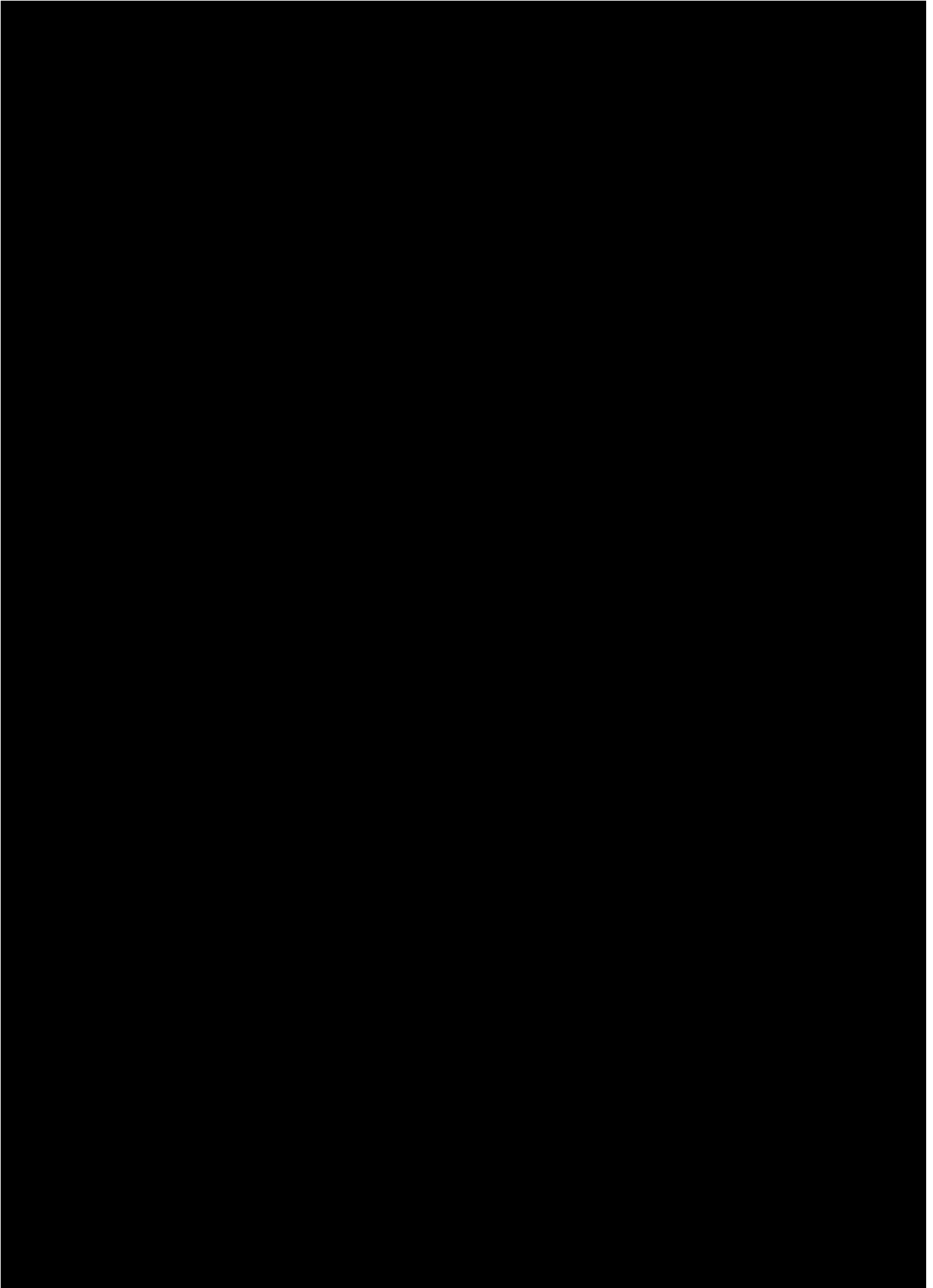












## Question 2: Team, experience and technical expertise

Grant Thornton's expertise in green finance is well established. Our depth of expertise and breadth of global reach will ensure this project is a success. We highlight key aspects below:

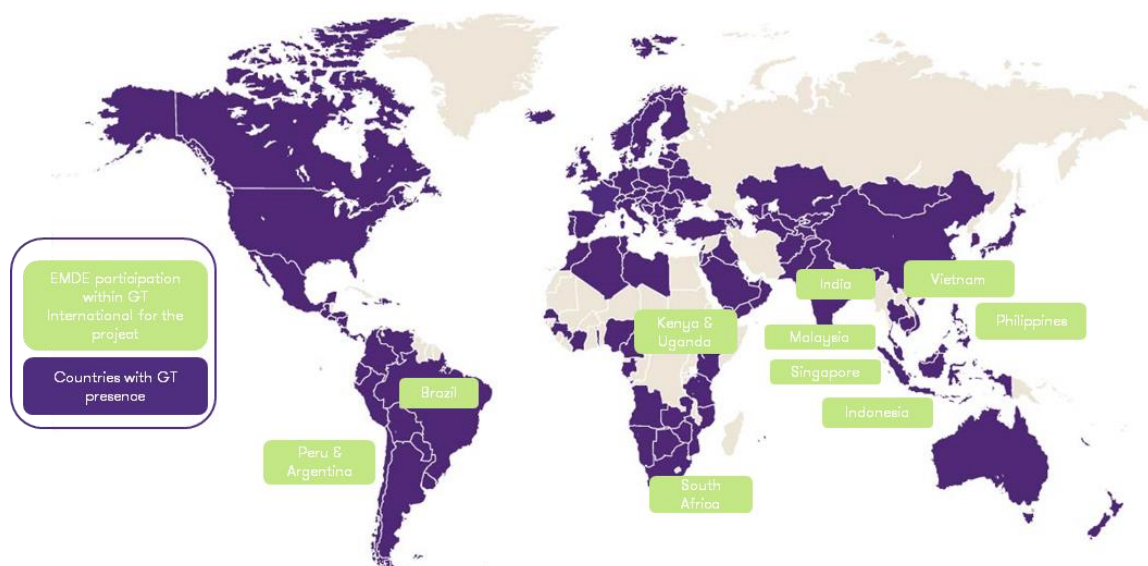
### A) Experience with Green Finance and regulatory changes around transition:

Grant Thornton has deep experience from previous roles within Central Government on developing the UK guidance on TCFD; launch of UK's first Sovereign Green Bond; creating the first UK Green Finance strategy; supporting the establishment of the UK Infrastructure Bank ('UKIB'); and transformative policies for the UK as it transitions to 2050 – for example, creating new nuclear policy including financing this transition.

Grant Thornton has extensively supported companies preparing their first TCFD aligned disclosures and responding to various standard setters on consultations including IFRS Sustainability Standards and the TPT itself. Grant Thornton employees have also been on various linked committees including the UK Endorsement Board and ICAEW's Non-Financial Reporting Committee.

### B) Global network to assist in challenges faced in EMDEs

Grant Thornton is a global firm, with a network across many emerging and developing economies. A team representing 12 EMDE countries (through 10 offices, marked in green in the map below) across Asia, Africa and South America have been engaged and have agreed to participate in this project. This provides us with a strong representative sample and within each geography, the team will engage across multiple institutions to get varied views.



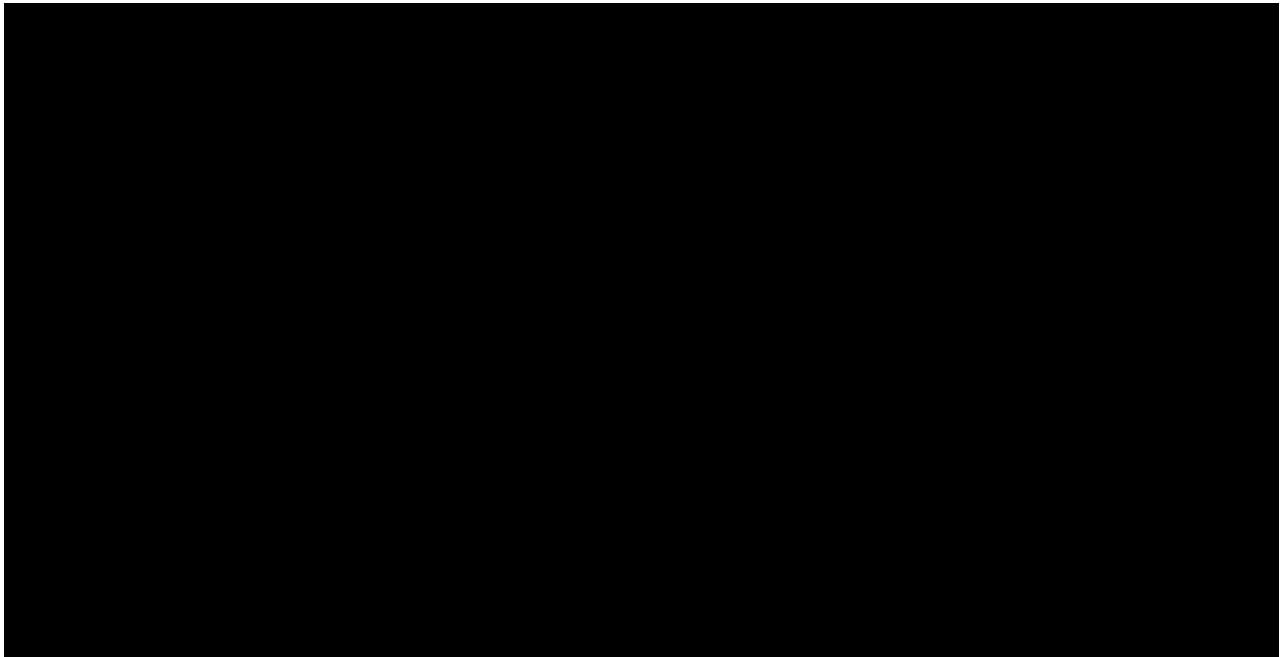
### C) Grant Thornton leads with innovative thought in this evolving space

Some examples listed below:

[Redacted content]

### Team structure

The team chosen has a blend of technical knowledge and geographical breadth, it will be delighted to have a further discussion on the final mix of the EMDE sample to ensure a strong representation of breadth, maturity and challenges to suit the project.



**Core team:**

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]

**Subject Matter Experts:**

[REDACTED]	[REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

The SMEs and core team have networks across standard setters, UK and EU public institutions who have developed greening finance policy and deliver TA programmes and also the private sector that is implementing the guidance and law.

### EMDE network

Grant Thornton's international network is well regarded with assurance and advisory services that cover ESG and climate propositions to different maturities. Each region can respond to the survey with their insights regarding the level of green finance activity in their region and leverage public and private sector networks stakeholder engagement.

Region	Skills and examples of networks
1. India	[REDACTED]
2. Indonesia	[REDACTED]
3. Brazil	[REDACTED]
4. Singapore	[REDACTED]
5. Philippines	[REDACTED]
6. South Africa	[REDACTED]
7. Malaysia	[REDACTED]
8. Vietnam	[REDACTED]
9. Kenya	[REDACTED]
10. Peru and Argentina	[REDACTED]

The following two case studies demonstrate Grant Thornton's experience in work of a similar nature, further examples are available on request.

[REDACTED]





Potential key challenges and proposed mitigations are summarised below:

[illegible]



with Data protection legislation, including the Data Protection Act 2018 (DPA) and the UK General Data Protection Regulations (UK GDPR). The firm is registered as a data controller with the Information Commissioner's Office (ICO) (registration number Z8632993) at tier 2 and the Data Protection Officer (DPO) is [REDACTED], supported by the Data Protection Team. The data provided by survey respondents will be aggregated to provide an overall impression of the developments and will not identify individual participants [REDACTED], the Review Partner, will ensure the project's high quality via regular reviews and adequate and effective assignment supervision and adherence to UK Research Integrity Office's Code of Practice for Research, The Magenta Book, Aqua Book and is free from any errors. As standard, we also implement a second partner review, who will review the report, ensuring an independent and impartial review.

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### **Ethical considerations**

At project kick off, the team will circulate a principles-based ethical considerations list across the jurisdictions included in the wider Grant Thornton team for this project. It will cover umbrella matters, for example supply chain treatment, data gathering, retention, transfer; ethical frameworks within each jurisdiction that need to be complied with; health and safety guidelines; conflict of interest declarations as the project progresses; consideration of participants rights (consent, privacy, confidentiality) and will invite each jurisdiction to flag any requirements of theirs. This document will be shared with DESNZ and the Virtual Team. The regular Virtual Team catch ups will be utilised to ensure adherence to these principles in an ongoing manner.

Grant Thornton is committed to achieving Net Zero by 2045 and thus we intend to focus our time leveraging local networks of international offices rather than delivery via the Core Team flying to undertake stakeholder engagement. The team is experienced in delivering successful stakeholder engagement virtually and is confident it can deliver in this manner for this mandate.

Grant Thornton has a centralised system that scrutinises for conflicts within the UK firm and the international network and these are required to be cleared when flagged by in-country senior staff. This system is used for all our corporate and public sector work.

As part of the sub-contractor agreement with the Grant Thornton International network, the UK firm shares the UK Bribery Act 2010 and Criminal Finances Act 2017. The UK team has already informed international firms of these requirements.



## Grant Thornton's Track Record

Grant Thornton's corporate track record is described below and more importantly, we have detailed below how this will apply to this contract (as required on page 17 of the ITT document).



Grant Thornton has been rated in the Top 10 firms of the Social Mobility Employer Index, the leading authority on employer best practice, since it launched in 2017, and are presently rated #3 in the UK.

In 2022, the firm also won the **Organisation of the Year at the Social Mobility Awards**; reflecting that this broad, intersectional approach has yielded results that may not result from focus on single aspects of inclusion.

Grant Thornton has been recognised as a **leading employer for Working Families**, after being shortlisted as a top 3 finalist for the *allroundflexibility* award. This follows being named as a top ten employer for Working Families for the last two years.

### Routes into employment

- Grant Thornton has made wholesale changes to the way it assessed entry-level talent to remove barriers to people from communities that have historically struggled to access careers in the professional services sector; this includes removing academic entry requirements from all graduate, undergraduate and school leaver programmes (an industry first)
- Accessibility into employment at Grant Thornton has been boosted by investing in different routes, including apprenticeships and internship. For example, work experience is being provided through the Access Accountancy partnership for students from lower socio-economic backgrounds and over 60% of the intake in 2023 were from minority ethnic communities.

### Supporting the next generation

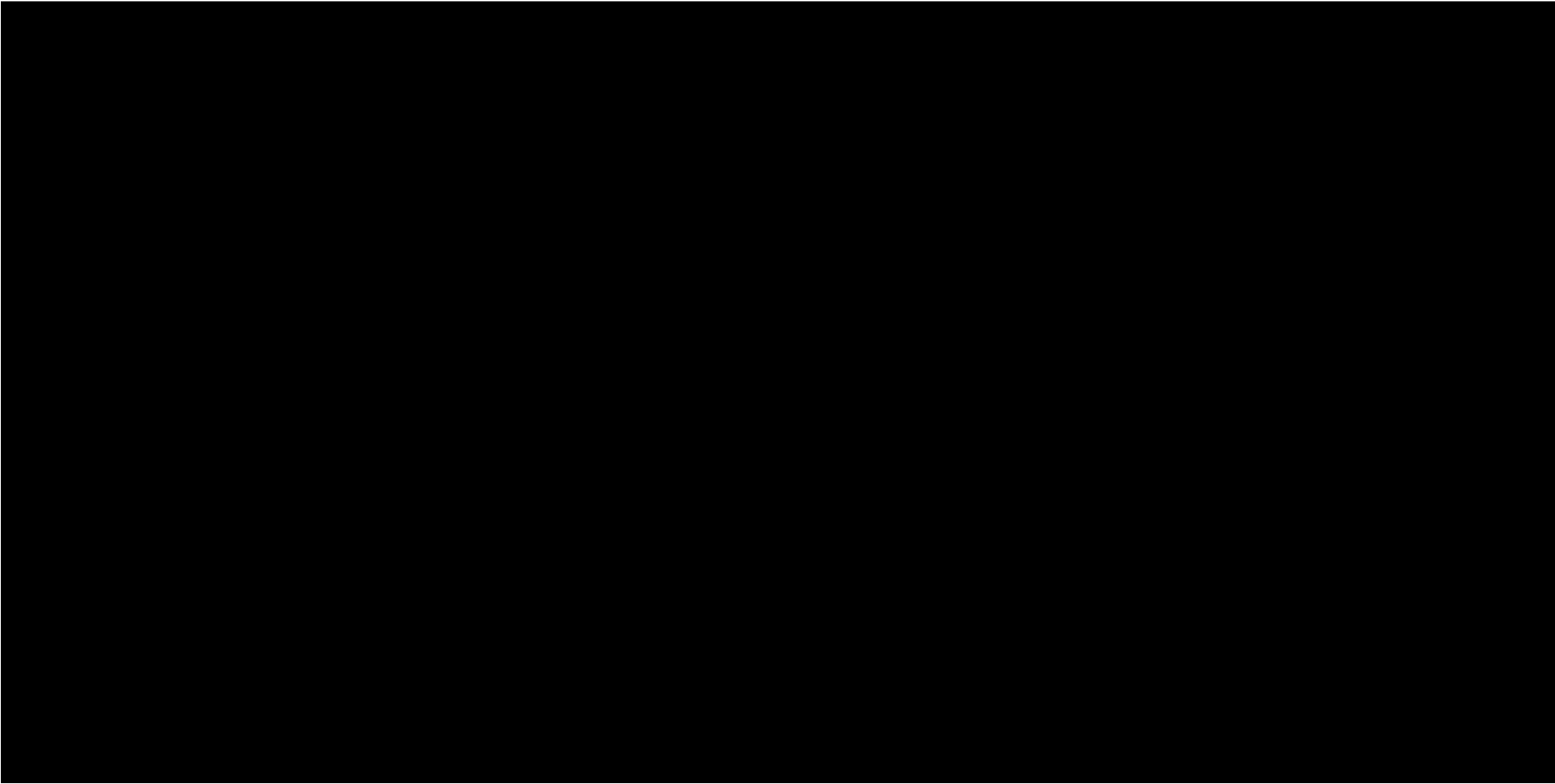
- The RISE initiative, developed in partnership with industry peers, is a school outreach programme focused on employability skills for pupils in social mobility "cold spot" locations across the UK. Grant Thornton has doubled recruitment into its apprenticeship and trainee programmes from these areas since the launch of RISE.

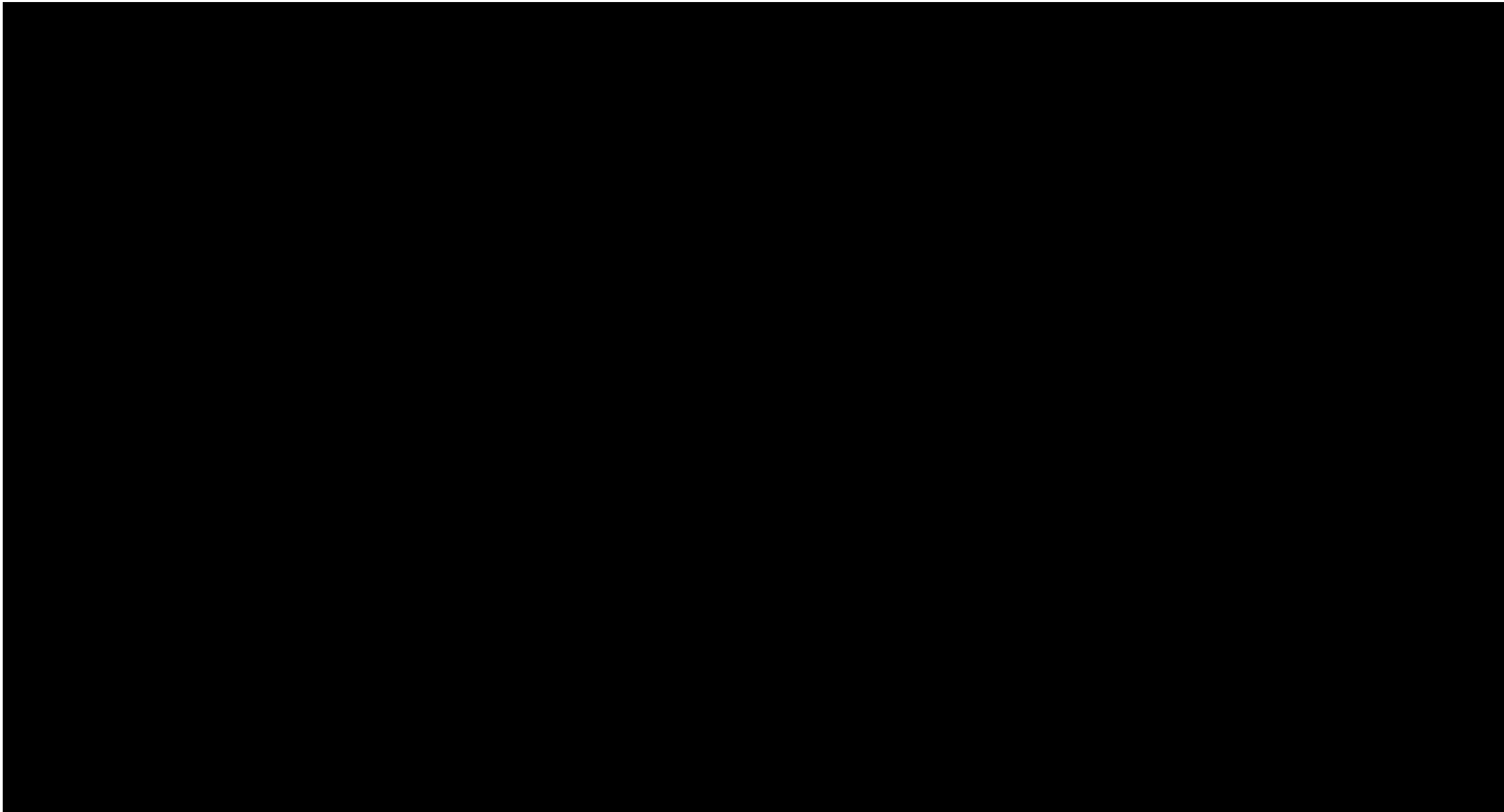
### Monitoring progress

- Using best practice data collection principles, the firm monitors the socio-economic background and the various routes into employment of new entrants into the firm, and publish this data both internally and externally.
- Combining data provided by new entrants with answers from current employee surveys, Grant Thornton is tracking the impact of socio-economic background on progression through the firm and feed conclusions back into of its policies and processes.

### Results in the last year

- Minority ethnic experienced hires increased to 46% (including 15% Black) (from 43% overall and 10% Black in 2021)
- Female representation at director level increased to 29% in 2023 (from 24% in 2021)
- Minority ethnic representation at director level increased to 11% in 2023 (from 10% in 2021); and
- Female representation at partner level increased to 22% in 2023 (from 19% in 2021).





[REDACTED]

[REDACTED]

## Annex 2: Subcontractor List

Member firm	Registration No.	Registered or head office address	Trading status	Registered VAT no	SME	Role	% contractual obligation
Grant Thornton Indonesia		Sampoerna Strategic Square South Tower Lt. 25 Jl. Jend. Sudirman Kav. 45-46 Jakarta Selatan Indonesia 8 Marina View	NA	94.563.152.1-063.000	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Singapore		#40-04/05 Asian Square Tower 1 Singapore (018960)	Live Company - Private Company Limited by Shares	GST No. - 201417761Z	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Malaysia		Level 11, Sheraton Imperial Court, Jalan Sultan Ismail, 50250 Kuala Lumpur, Wilayah Persekutuan, Malaysia.	Active	W10-1912-32000123	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton India		L 41 Connaught Circus, New Delhi, 110001.	Limited Liability Partnership	GST No. - 07AACFG9740K1Z4	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Brazil		Av Engenheiro Luiz Carlos Berrini, 105.			No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Philippines		20F Tower 1 Enterprise Ctr. 6766 Ayala Ave. Legaspi Village City of Makati 1229	Active	000-492-195-000 (Note: under local internal revenue bureau, the Firm has only one registration number for all types of taxes)	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Argentina		Corrientes Ave. 327 Floor 3 (C1043AAD) Buenos Aires, Argentina	SRL (LLP)	Tax ID Number; 30707857478	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Peru		Covered by Argentina	Covered by Argentina	Covered by Argentina	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Kenya		Grant Thornton Advisory East Africa Limited, 5th Floor, Avocado Towers, 75 Muthithi Road, Westlands, P.O. Box 40918 - 00100, Nairobi, Kenya	Limited Liability Company	P051148102Z	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Vietnam		18F, Hoa Binh International Towers, 106 Hoang Quoc Viet, Nghia Do ward, Cau Giay district, Hanoi, Vietnam.	Limited company	101476557	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton South Africa		20 Morris Street East Woodmead, Bryanston 2191 South Africa	To render accounting, auditing, taxation and consulting services	4270224571	No	Survey response, stakeholder engagement facilitation, input and review into products	
Grant Thornton Netherlands		De Passage 150 1101 AX Amsterdam  P.O. Box 2259 2400 CG Alphen a/d Rijn			No	Specialist greening finance support	





## Schedule 5 (Commercially Sensitive Information)

### 1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Buyer's obligation to disclose information in accordance with FOIA or Clause 20 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following information:

No.	Date	Item(s)	Duration of Confidentiality
None identified during tender period			

## Schedule 6 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in this Contract, within three (3) Months of the Effective Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

## Annex A: List of Transparency Reports

Title	Content	Format	Frequency
None identified			

## Schedule 7 (Staff Transfer)

### 1. Definitions

- 1.1 In this Schedule, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Admission Agreement"</b>	either or both of the CSPA Admission Agreement (as defined in Annex D1 : CSPA) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires;
<b>"Employee Liability"</b>	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <ul style="list-style-type: none"><li>(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;</li><li>(b) unfair, wrongful or constructive dismissal compensation;</li><li>(c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;</li><li>(d) compensation for less favourable treatment of part-time workers or fixed term employees;</li><li>(e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Subcontractor if such payment should have been made prior to the Service Transfer</li></ul>

	<p>Date and also including any payments arising in respect of pensions;</p> <p>(f) claims whether in tort, contract or statute or otherwise;</p> <p>(g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;</p>
<b>"Fair Deal Employees"</b>	as defined in Part D;
<b>"Former Supplier"</b>	a supplier supplying the Services to the Buyer before any Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any subcontractor of such supplier (or any subcontractor of any such subcontractor);
<b>"New Fair Deal"</b>	<p>the revised Fair Deal position set out in the HM Treasury guidance: <i>"Fair Deal for staff pensions: staff transfer from central government"</i> issued in October 2013 including:</p> <p>(a) any amendments to that document immediately prior to the Relevant Transfer Date;</p> <p>(b) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;</p>
<b>"Notified Subcontractor"</b>	a Subcontractor identified in the Annex to this Schedule to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
<b>"Old Fair Deal"</b>	<p>HM Treasury Guidance <i>"Staff Transfers from Central Government: A Fair Deal for Staff Pensions"</i> issued in June 1999 including the supplementary guidance <i>"Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues"</i> issued in June 2004;</p>

<b>"Partial Termination"</b>	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 14.4 (When the Buyer can end this contract) or 14.6 (When the Supplier can end the contract);
<b>"Replacement Subcontractor"</b>	a subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any subcontractor of any such subcontractor);
<b>"Relevant Transfer"</b>	a transfer of employment to which the Employment Regulations applies;
<b>"Relevant Transfer Date"</b>	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D. and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;
<b>"Service Transfer"</b>	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>"Service Transfer Date"</b>	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
<b>"Staffing Information"</b>	in relation to all persons identified on the Supplier's Provisional Supplier Staff List or Supplier's Final Supplier Staff List, as the case may be, all information required in Annex E2 (Table of Staffing Information) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably make changes to the format or information requested in Annex E2 from time to time.
<b>"Statutory Schemes"</b>	means the CSPA, NHSPS or LGPS as defined in the Annexes to Part D of this Schedule;

<b>"Supplier's Final Supplier Staff List"</b>	a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;
<b>"Supplier's Provisional Supplier Staff List"</b>	a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
<b>"Transferring Buyer Employees"</b>	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date;
<b>"Transferring Former Supplier Employees"</b>	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and
<b>"Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Relevant Transfer Date.

## **2. Interpretation**

Where a provision in this Schedule imposes any obligation on the Supplier including to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

## **3. Which parts of this Schedule apply**

The following parts of this Schedule shall apply to this Contract:

- 3.1 Part E (Staff Transfer on Exit) of this Schedule will always apply to this Contract, including:
  - 3.1.1 Annex E1 (List of Notified Subcontractors);
  - 3.1.2 Annex E2 (Staffing Information).

## **Part A: Staff Transfer at the Start Date**

### **Transferring Employees from the Buyer to the Supplier**

#### **1. What is a relevant transfer**

1.1 The Buyer and the Supplier agree that:

- 1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and
- 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Buyer Employee.
- 1.1.3 The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Buyer; and (ii) the Supplier and/or any Subcontractor (as appropriate).

#### **2. Indemnities the Buyer must give**

- 2.1 Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:
  - 2.1.1 any act or omission by the Buyer in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date;
  - 2.1.2 the breach or non-observance by the Buyer before the Relevant Transfer Date of:
    - (a) any collective agreement applicable to the Transferring Buyer Employees; and/or



- (b) any custom or practice in respect of any Transferring Buyer Employees which the Buyer is contractually bound to honour;
- 2.1.3 any claim by any trade union or other body or person representing the Transferring Buyer Employees arising from or connected with any failure by the Buyer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
- 2.1.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Buyer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Buyer to the Supplier and/or any Notified Subcontractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
- 2.1.5 a failure of the Buyer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees arising before the Relevant Transfer Date;
- 2.1.6 any claim made by or in respect of any person employed or formerly employed by the Buyer other than a Transferring Buyer Employee for whom it is alleged the Supplier and/or any Notified Subcontractor as appropriate may be liable by virtue of the Employment Regulations; and
- 2.1.7 any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Buyer in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:

2.2.1 arising out of the resignation of any Transferring Buyer Employee before the Relevant Transfer Date on account of substantial detrimental changes to their working conditions proposed by the Supplier and/or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or

2.2.2 arising from the failure by the Supplier or any Subcontractor to comply with its obligations under the Employment Regulations.

2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of the Buyer who is not identified as a Transferring Buyer Employee claims, or it is determined in relation to any employees of the Buyer, that their contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:

2.3.1 the Supplier will, or shall procure that the Subcontractor will, within five (5) Working Days of becoming aware of that fact, notify the Buyer in writing;

2.3.2 the Buyer may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considers appropriate to resolve the matter, within fifteen (15) Working Days of receipt of notice from the Supplier and/or any Subcontractor, or take such other reasonable steps as the Buyer considers appropriate to deal with the matter provided always that such steps are in compliance with the Law;

2.3.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Buyer, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from its employment or alleged employment;

2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within five (5) Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 and in accordance with all applicable proper employment procedures set out in applicable Law, the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in this Paragraph 2.3 provided that the Supplier takes, or procures that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.4 The indemnity in Paragraph 2.3 shall not apply to any claim:

2.4.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership,

- pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or
- 2.4.2 any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure.
- 2.5 The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than six (6) Months from the relevant Transfer Date.
- 2.6 If the Supplier and/or any Subcontractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall, or shall ensure that the Notified Subcontractor shall, (a) comply with such obligations as may be imposed upon it under applicable Law and (b) comply with the provisions of Part D and its Annexes of this Staff Transfer Schedule.

### **3. Indemnities the Supplier must give and its obligations**

- 3.1 Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of:
- 3.1.1 any act or omission by the Supplier or any Subcontractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date;
- 3.1.2 the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:
- (a) any collective agreement applicable to the Transferring Buyer Employees; and/or
- (b) any custom or practice in respect of any Transferring Buyer Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 3.1.3 any claim by any trade union or other body or person representing any Transferring Buyer Employees arising from or connected with any failure by the Supplier or any Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4 any proposal by the Supplier or a Subcontractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Buyer Employees to their material detriment on or after their transfer to the Supplier or the relevant Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of

- any person who would have been a Transferring Buyer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5 any statement communicated to or action undertaken by the Supplier or any Subcontractor to, or in respect of, any Transferring Buyer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer in writing;
- 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Buyer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Buyer to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees in respect of the period from (and including) the Relevant Transfer Date;
- 3.1.8 any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Supplier or any Subcontractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Buyer's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
- 3.1.9 a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.6 above.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.

- 3.3 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Buyer and the Supplier

#### **4. Information the Supplier must provide**

The Supplier shall promptly provide to the Buyer in writing such information as is necessary to enable the Buyer to carry out its duties under regulation 13 of the Employment Regulations. The Buyer shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

#### **5. Cabinet Office requirements**

- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
- 5.2 The Supplier shall, and shall procure that each Subcontractor shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in:
- 5.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
  - 5.2.2 Old Fair Deal; and/or
  - 5.2.3 the New Fair Deal.
- 5.3 The Supplier acknowledges, in respect of those Transferring Authority Employees who were eligible for compensation under the terms of Civil Service Compensation Scheme ("**CSCS**") immediately prior to transfer, that the right to benefits calculated in accordance with the terms of the CSCS will transfer under the Employment Regulations. The Supplier acknowledges and accepts that for any employee who was eligible for compensation under or in accordance with the terms of the CSCS, the right to compensation, is a right to compensation in accordance with the terms of the CSCS applicable at the time at which the employee becomes entitled to such compensation (including voluntary or compulsory redundancy). Suppliers are advised to check the Civil Service Pensions website for the current CSCS terms.

- 5.4 Any changes necessary to this Contract as a result of Changes to, or any replacement of, any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

## **6. Pensions**

The Supplier shall, and/or shall procure that each of its Subcontractors shall, comply with:

- 6.1 the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and
- 6.2 the provisions in Part D. (and its Annexes) to this Staff Transfer Schedule.

## Part E: Staff Transfer on Exit

### 1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
  - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract; and
  - 1.1.3 the date which is twelve (12) Months before the end of the Term; or
  - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any six (6) Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Staff List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Staff List and it shall provide an updated Supplier's Provisional Supplier Staff List at such intervals as are reasonably requested by the Buyer.

- 1.2 At least twenty (20) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor
- 1.2.1 the Supplier's Final Supplier Staff List, which shall identify the basis upon which they are Transferring Supplier Employees and
  - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Staff List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraphs 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Staff List and shall, unless otherwise instructed by the Buyer (acting reasonably):
- 1.5.1 not replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is

- employed on the same terms and conditions of employment as the person they replace
- 1.5.2 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Staff (including any payments connected with the termination of employment);
  - 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
  - 1.5.4 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Staff List;
  - 1.5.5 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
  - 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Staff List save by due disciplinary process;
  - 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor;
  - 1.5.8 give the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor reasonable access to Supplier Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Subcontractor in respect of persons expected to be Transferring Supplier Employees;
  - 1.5.9 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
  - 1.5.10 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Staff List regardless of when such notice takes effect;
  - 1.5.11 not for a period of twelve (12) Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or



- Subcontractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));
- 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
  - 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Supplier;
  - 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract (including identification of the Fair Deal Employees);
  - 1.5.15 promptly provide to the Buyer such documents and information mentioned in Paragraph D which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
  - 1.5.16 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Start Date and up to four times during the last twelve (12) Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within twenty (20) Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:
- 1.6.1 the numbers of Supplier Staff engaged in providing the Services;
  - 1.6.2 the percentage of time spent by each Supplier Staff engaged in providing the Services;
  - 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D); and
  - 1.6.4 a description of the nature of the work undertaken by each Supplier Staff by location.
- 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees

to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Staff List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
  - 1.7.2 details of cumulative pay for tax and pension purposes;
  - 1.7.3 details of cumulative tax paid;
  - 1.7.4 tax code;
  - 1.7.5 details of any voluntary deductions from pay;
  - 1.7.6 a copy of any personnel file and/or any other records regarding the service of the Transferring Supplier Employee;
  - 1.7.7 a complete copy of the information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and
  - 1.7.8 bank/building society account details for payroll purposes.
- 1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3 the Supplier agrees that following within twenty (20) Working Days of a request from the Authority it shall and shall procure that each Sub-contractor shall use reasonable endeavours to comply with any [reasonable] request to align and assign Supplier Staff to any future delivery model proposed by the Authority for Replacement Services within thirty (30) Working Days or such longer timescale as may be agreed.
- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Variation Procedure.

## **2. Staff Transfer when the contract ends**

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a

Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee

- 2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations under the Employment Regulations and in particular obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but excluding) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff List arising in respect of the period up to (but excluding) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Statutory Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part to the period ending on (but excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:
- 2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.
  - 2.3.2 the breach or non-observance by the Supplier or any Subcontractor occurring before but excluding the Service Transfer Date of:
    - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
    - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
  - 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising before but excluding the Service Transfer Date;
  - 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and
    - (b) in relation to any employee who is not identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;
  - 2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (but excluding) the Service Transfer Date);
  - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of this Contract and/or the Employment Regulations; and
  - 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date, Including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to their working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or
  - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.

- 2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that their contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then:
- 2.5.1 the Replacement Supplier and/or Replacement Subcontractor will, within five (5) Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
  - 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within fifteen (15) Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;
  - 2.5.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, the Replacement Supplier and/or Replacement Subcontractor shall immediately release the person from its employment or alleged employment;
  - 2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;
- and subject to the Replacement Supplier's and/or Replacement Subcontractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.6 The indemnity in Paragraph 2.5 shall not apply to:
- 2.6.1 any claim for:
    - (a) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
    - (b) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor; or

- 2.6.2 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.
- 2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than six (6) Months from the Service Transfer Date.
- 2.8 If at any point the Replacement Supplier and/or Replacement Subcontract accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.
- 2.9 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
  - 2.9.1 the Supplier and/or any Subcontractor; and
  - 2.9.2 the Replacement Supplier and/or the Replacement Subcontractor.
- 2.10 The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.11 Subject to Paragraph 2.12, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:
  - 2.11.1 any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.

- 2.11.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List; and/or
  - (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;
- 2.11.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List arising from or connected with any failure by the Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- 2.11.4 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Staff List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.11.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.11.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date; and
  - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier

Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date;

- 2.11.7 a failure of the Replacement Supplier or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List in respect of the period from (and including) the Service Transfer Date; and
  - 2.11.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.
- 2.12 The indemnity in Paragraph 2.11 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Staff List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).



## **Annex E1: List of Notified Subcontractors**

## Annex E2: Staffing Information

### EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor: [Insert name of Transferor]

Number of Employees in-scope to transfer: [     ]

#### **{Guidance notes**

- 1     *If you have any Key Subcontractors, please complete all the above information for any staff employed by such Key Subcontractor(s) in a separate spreadsheet.***
- 2     *This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.***
- 3     *If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.]***

EMPLOYEE DETAILS & KEY TERMS							
Details	Job Title	Grade / band	Work Location	Age	Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?	Continuous service date (dd/mm/yy)	Date employment started with existing employer
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

	<b>EMPLOYEE DETAILS &amp; KEY TERMS</b>							
	<b>Details</b>	<b>Contract end date (if fixed term contract or temporary contract)</b>	<b>Contractual notice period</b>	<b>Contractual weekly hours</b>	<b>Regular overtime hours per week</b>	<b>Mobility or flexibility clause in contract?</b>	<b>Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector</b>	<b>Any collective agreements?</b>
	<b>Emp No 1</b>							
	<b>Emp No 2</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							
	<b>Emp No</b>							

		ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS						
	Detail s	% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequenc y of pay reviews	Agreed pay increases	Next pay review date
	Emp No 1								
	Emp No 2								
	Emp No								
	Emp No								
	Emp No								
	Emp No								
	Emp No								

CONTRACTUAL PAY AND BENEFITS								
Details	Any existing or future commitment to training that has a time-off or financial implication	Car allowance (£ per year)	Lease or company car details	Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)	Private medical insurance (please specify whether single or family cover)	Life assurance (xSalary)	Long Term Disability / PHI (% of Salary)	Any other benefits in kind
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								
Emp No								

CONTRACTUAL PAY AND BENEFITS						
Details	Annual leave entitlement (excluding bank holidays)	Bank holiday entitlement	Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)	Maternity or paternity or shared parental leave entitlement and pay	Sick leave entitlement and pay	Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

<b>PENSIONS</b>						
<b>Details</b>	<b>Employee pension contribution rate</b>	<b>Employer pension contribution rate</b>	<b>Please provide the name of the pension scheme and a link to the pension scheme website</b>	<b>Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?</b>	<b>If the scheme is not an occupational pension scheme, what type of scheme is it? E.g. personal pension scheme?</b>	<b>Type of pension provision e.g. defined benefit (CARE or final salary, and whether a public sector scheme e.g. CSPA, NHS, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?</b>
<b>Emp No 1</b>						
<b>Emp No 2</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						



<b>PENSIONS</b>						
<b>Details</b>	<b>If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.</b>	<b>If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.</b>	<b>If the Employee is in the NHSPS, please provide details of the Direction Letter.</b>	<b>If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.</b>	<b>Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?</b>	<b>If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?</b>
<b>Emp No 1</b>						
<b>Emp No 2</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						

OTHER			
Details	Security Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

## Schedule 8 (Implementation Plan and Testing)

### Part A - Implementation

#### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Delay"</b>	(a) a delay in the Achievement of a Milestone by its Milestone Date; or  (b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
<b>"Deliverable Item"</b>	an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;
<b>"Implementation Period"</b>	has the meaning given to it in Paragraph 7.1;
<b>"Milestone Payment"</b>	a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;

#### 2. Agreeing and following the Implementation Plan

- 2.1 A draft of the Implementation Plan is set out in the Annex to this Schedule. This may be updated from time to time.
- 2.2 The draft Implementation Plan:
- 2.2.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require; and
  - 2.2.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 2.3 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 2.4 The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the

Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.

- 2.5 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Buyer on such performance.

### **3. Reviewing and changing the Implementation Plan**

- 3.1 Subject to Paragraph 4.3, the Supplier shall keep the Implementation Plan under review in accordance with the Buyer's instructions and ensure that it is updated on a regular basis.
- 3.2 The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
- 3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
- 3.4 Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Supplier to comply with the Implementation Plan shall be a Material Default.

### **4. Security requirements before the Start Date**

- 4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Start Date. The Supplier shall ensure that this is reflected in their Implementation Plan.
- 4.2 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.
- 4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.
- 4.4 The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Buyer of any alterations and additions as they take place throughout the Contract Period.
- 4.5 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.
- 4.6 If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.

## 5. What to do if there is a Delay

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
  - 5.1.1 notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
  - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
  - 5.1.3 comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
  - 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

## 6. Compensation for a Delay

- 6.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:
  - 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;
  - 6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:
    - (a) the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 (When the Buyer can end the contract); or
    - (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
  - 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
  - 6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
  - 6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 15 (How much you can be held responsible for).

## 7. Implementation Plan

- 7.1 The Implementation Period will be for the duration of the Agreement.

- 7.2 During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Start Date or as otherwise formally agreed with the Buyer. The Supplier's full service obligations shall formally be assumed on the Start Date as set out in Award Form.
- 7.3 In accordance with the Implementation Plan, the Supplier shall:
- 7.3.1 work cooperatively and in partnership with the Buyer and incumbent supplier, where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;
  - 7.3.2 work with the incumbent supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
  - 7.3.3 liaise with the incumbent supplier to enable the full completion of the Implementation Period activities; and
  - 7.3.4 produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 7.4 The Implementation Plan will include detail stating:
- 7.4.1 how the Supplier will work with the incumbent supplier and the Buyer Authorised Representative to capture and load up information such as asset data; and
  - 7.4.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
- 7.5 In addition, the Supplier shall:
- 7.5.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;
  - 7.5.2 mobilise all the Services specified in the Specification within this Contract;
  - 7.5.3 produce an Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:
    - (a) the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and
    - (b) the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Buyer, then such Dispute

shall be resolved in accordance with the Dispute Resolution Procedure.

- 7.5.4 manage and report progress against the Implementation Plan;
- 7.5.5 construct and maintain an Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
- 7.5.6 attend progress meetings (frequency of such meetings shall be as set out in the Award Form) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier; and
- 7.5.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent supplier and the Supplier.

## **Annex 1: Implementation Plan**

This is provided in Schedule 4 (Tender)



## Part B - Testing

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Component"</b>	any constituent parts of the Deliverables;
<b>"Material Test Issue"</b>	a Test Issue of Severity Level 1 or Severity Level 2;
<b>"Satisfaction Certificate"</b>	a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
<b>"Severity Level"</b>	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
<b>"Test Issue Management Log"</b>	a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;
<b>"Test Issue Threshold"</b>	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
<b>"Test Reports"</b>	the reports to be produced by the Supplier setting out the results of Tests;
<b>"Test Specification"</b>	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;
<b>"Test Strategy"</b>	a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;
<b>"Test Success Criteria"</b>	in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule;

<b>"Test Witness"</b>	any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and
<b>"Testing Procedures"</b>	the applicable testing procedures and Test Success Criteria set out in this Schedule.

## 2. How testing should work

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 2.2 The Supplier shall not submit any Deliverable for Testing:
  - 2.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
  - 2.2.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
  - 2.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 2.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 2.4 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

## 3. Planning for testing

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Effective Date but in any case, no later than twenty (20) Working Days after the Effective Date.
- 3.2 The final Test Strategy shall include:
  - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
  - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
  - 3.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
  - 3.2.4 the procedure to be followed to sign off each Test;
  - 3.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;
  - 3.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;

- 3.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;
- 3.2.8 the technical environments required to support the Tests; and
- 3.2.9 the procedure for managing the configuration of the Test environments.

#### **4. Preparing for Testing**

- 4.1 The Supplier shall develop Test Plans for the relevant Testing as specified in the Implementation Plan and submit these for Approval as soon as practicable but in any case, no later than twenty (20) Working Days prior to the date of the relevant Test.
- 4.2 Each Test Plan shall include as a minimum:
  - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
  - 4.2.2 a detailed procedure for the Tests to be carried out.
- 4.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.

#### **5. Passing Testing**

- 5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

#### **6. How Deliverables will be tested**

- 6.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
- 6.2 Each Test Specification shall include as a minimum:
  - 6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;
  - 6.2.2 a plan to make the resources available for Testing;
  - 6.2.3 Test scripts;
  - 6.2.4 Test pre-requisites and the mechanism for measuring them; and
  - 6.2.5 expected Test results, including:
    - a) a mechanism to be used to capture and record Test results; and
    - b) a method to process the Test results to establish their content.

## **7. Performing the tests**

- 7.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 7.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
- 7.3 The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.
- 7.4 The Buyer may raise and close Test Issues during the Test witnessing process.
- 7.5 The Supplier shall provide to the Buyer in relation to each Test:
  - 7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
  - 7.5.2 the final Test Report within 5 Working Days of completion of Testing.
- 7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
  - 7.6.1 an overview of the Testing conducted;
  - 7.6.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
  - 7.6.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
  - 7.6.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
  - 7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 7.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 7.9 If the Supplier successfully completes the requisite Tests, the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with this Contract.

## **8. Discovering Problems**

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Buyer upon request.
- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

## **9. Test witnessing**

- 9.1 The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 9.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 9.3 The Test Witnesses:
  - 9.3.1 shall actively review the Test documentation;
  - 9.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
  - 9.3.3 shall not be involved in the execution of any Test;
  - 9.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
  - 9.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
  - 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 9.4 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

## **10. Auditing the quality of the test**

- 10.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
- 10.2 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 10.3 The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 10.4 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 10.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 10.6 In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

## **11. Outcome of the testing**

- 11.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 11.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
  - 11.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
  - 11.2.2 the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
  - 11.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer's other rights and remedies, such failure shall constitute a Material Default.
- 11.3 The Buyer shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.

- 11.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
- 11.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
  - 11.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 11.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
- 11.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
- 11.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 11.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer's other rights and remedies, such failure shall constitute a Material Default.
- 11.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
- 11.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer's report pursuant to Paragraph 10.5); and
  - 11.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

## **12. Risk**

- 12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:
- 12.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or
  - 12.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

## **Annex 1: Test Issues – Severity Levels**

### **1. Severity 1 Error**

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

### **2. Severity 2 Error**

- 2.1 This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:
  - 2.1.1 causes a Component to become unusable;
  - 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
  - 2.1.3 has an adverse impact on any other Component(s) or any other area of the Deliverables.

### **3. Severity 3 Error**

- 3.1 This is an error which:
  - 3.1.1 causes a Component to become unusable;
  - 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
  - 3.1.3 has an impact on any other Component(s) or any other area of the Deliverables;but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

### **4. Severity 4 Error**

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.

### **5. Severity 5 Error**

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.



## Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

### Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Contract**") [insert Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [insert Buyer name] ("**Buyer**") and [insert Supplier name] ("**Supplier**") dated [insert Effective Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in this Contract.

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

## **Schedule 10 (Service Levels)**

### **1. Performance**

**This element is taken from the Specification which was issued as part of the procurement.**

The Buyer will manage the Contract and have regular performance discussions with the Supplier, at least every two weeks. Where the quality of deliverables are failing to meet the Buyer's expectations identified in both these requirements and the Tenderer's tender submission, the Buyer will work with the Supplier to identify measures to remedy these performance issues.

Where deliverables are taking significant rounds of comment from the Buyer prior to signing off as complete, the Buyer will only pay the amount given in the Contract and will not pay for additional drafting above and beyond expected. As such engagement with the Buyer during the drafting process to ensure that the final documents will be acceptable is essential.

## Schedule 11 (Continuous Improvement)

### 1. Supplier's Obligations

- 1.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 1.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 1.3 In addition to Paragraph 1.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
  - 1.3.1 identifying the emergence of relevant new and evolving technologies;
  - 1.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
  - 1.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
  - 1.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 1.4 The initial Continuous Improvement Plan for the first (1<sup>st</sup>) Contract Year shall be submitted by the Supplier to the Buyer for Approval within six (6) Months following the Effective Date.
- 1.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.

- 1.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 1.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer.
- 1.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 1.5:
  - 1.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
  - 1.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 1.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1<sup>st</sup>) Contract Year) in accordance with the procedure and timescales set out in Paragraph 1.3.
- 1.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 1.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 1.12 At any time during the Contract Period of this Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

## Schedule 13 (Contract Management)

### 1. Definitions

In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Operational Board"</b>	the board established in accordance with Paragraph 4.1 of this Schedule;
<b>"Project Manager"</b>	the manager appointed in accordance with Paragraph 2.1 of this Schedule;

### 2. Project Management

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

### 3. Role of the Supplier Project Manager

- 3.1 The Supplier Project Manager shall be:
  - 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
  - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Project Manager's responsibilities and obligations;
  - 3.1.3 able to cancel any delegation and recommence the position himself; and
  - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Project Manager in regards to this Contract and it will be the Supplier Project Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier Project Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under this Contract.

#### **4. Role of The Operational Board**

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in Annex to the Schedule.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

#### **5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
  - 5.2.1 the identification and management of risks;
  - 5.2.2 the identification and management of issues; and
  - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to this Contract which the Buyer and the Supplier have identified.

## **Annex: Operational Boards**

The project manager, the Analytical lead, and the Deputy Director of the Buyer's team from which this funding comes, will act as the Operational Board and will meet periodically throughout the duration of the Contract.

## Schedule 14 (Business Continuity and Disaster Recovery)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"BCDR Plan"</b>	has the meaning given to it in Paragraph 2.1 of this Schedule;
<b>"Business Continuity Plan"</b>	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
<b>"Disaster Recovery Plan"</b>	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
<b>"Related Supplier"</b>	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
<b>"Review Report"</b>	has the meaning given to it in Paragraph 6.3 of this Schedule; and
<b>"Supplier's Proposals"</b>	has the meaning given to it in Paragraph 6.3 of this Schedule,

### 2. BCDR Plan

- 2.1 At least forty (40) Working Days after the Effective Date the Supplier, if required by the Buyer's Contract Manager prepare and deliver to the Buyer for the Buyer's written approval a plan (a **"BCDR Plan"**), which shall detail the processes and arrangements that the Supplier shall follow to:
- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
  - 2.1.2 the recovery of the Deliverables in the event of a Disaster.
- 2.2 The BCDR Plan shall be divided into three sections:
- 2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
  - 2.2.2 Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and
  - 2.2.3 Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).
- 2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.



### **3. General Principles of the BCDR Plan (Section 1)**

#### **3.1 Section 1 of the BCDR Plan shall:**

- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6 contain a risk analysis, including:
  - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
  - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
  - (c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
  - (d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
  - (e) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and

- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
  - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
  - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
  - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
  - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any Default by the Supplier of this Contract.

#### **4. Business Continuity (Section 2)**

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
  - 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
  - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
  - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
  - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
  - 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
  - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

## **5. Disaster Recovery (Section 3)**

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
  - 5.2.1 loss of access to the Buyer Premises;
  - 5.2.2 loss of utilities to the Buyer Premises;
  - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
  - 5.2.4 loss of a Subcontractor;
  - 5.2.5 emergency notification and escalation process;
  - 5.2.6 contact lists;
  - 5.2.7 staff training and awareness;
  - 5.2.8 BCDR Plan testing;
  - 5.2.9 post implementation review process;
  - 5.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
  - 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
  - 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
  - 5.2.13 testing and management arrangements.

## **6. Review and changing the BCDR Plan**

- 6.1 The Supplier shall review the BCDR Plan:
  - 6.1.1 on a regular basis and as a minimum once every six (6) Months;
  - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
  - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the

Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a **"Review Report"**) setting out the Supplier's proposals (the **"Supplier's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

## 7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
  - 7.1.1 regularly and in any event not less than once in every Contract Year;
  - 7.1.2 in the event of any major reconfiguration of the Deliverables;
  - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with

the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.

- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
  - 7.5.1 the outcome of the test;
  - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

## **8. Invoking the BCDR Plan**

In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

## **9. Circumstances beyond your control**

The Supplier shall not be entitled to relief under Clause 24 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

## Schedule 16 (Security)

### Part A: Short Form Security Requirements

#### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

**"Breach of Security"**

the occurrence of:

- (a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or
- (b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,

in either case as more particularly set out in the Security Policy where the Buyer has required compliance there with in accordance with Paragraph 2.1; and

**"Security Management Plan"**

the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.

#### 2. Complying with security requirements and updates to them

- 2.1 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and ICT Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy and ICT Policy.
- 2.2 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 2.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any

increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.

- 2.4 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

### **3. Security Standards**

- 3.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security for its own system and any cloud services used which:
- 3.2.1 is in accordance with the Law and this Contract;
  - 3.2.2 as a minimum demonstrates Good Industry Practice;
  - 3.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data;
  - 3.2.4 where specified by the Buyer in accordance with Paragraph 2.1 complies with the Security Policy and the ICT Policy; and
  - 3.2.5 complies with the 14 Cloud Security Principles available at: <https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles>. The Supplier must document how it and any cloud service providers they use comply with these principles, and provide this documentation upon request by the Buyer.
- 3.3 The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

### **4. Security Management Plan**

#### **4.1 Introduction**

The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

#### **4.2 Content of the Security Management Plan**

The Security Management Plan shall:

- 4.2.1 comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;

- 4.2.2 identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
  - 4.2.3 detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
  - 4.2.4 be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that information, data and/or the Deliverables;
  - 4.2.5 set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
  - 4.2.6 set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with the Security Policy as set out in Paragraph 2.1; and
  - 4.2.7 be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.
  - 4.2.8 Include the content of Annex 1 of this Schedule.
- 4.3 Development of the Security Management Plan**
- 4.3.1 Within twenty (20) Working Days after the Effective Date and in accordance with Paragraph 4.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
  - 4.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 4.3.1, or any subsequent revision to it in accordance with Paragraph 4.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in



accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

4.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 4.3.2. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 4.2 shall be deemed to be reasonable.

4.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 4.3.3 or of any change to the Security Management Plan in accordance with Paragraph 4.4 shall not relieve the Supplier of its obligations under this Schedule.

#### **4.4 Amendment of the Security Management Plan**

4.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:

- (a) emerging changes in Good Industry Practice;
- (b) any change or proposed change to the Deliverables and/or associated processes;
- (c) where necessary in accordance with Paragraph 2.2, any change to the Security Policy;
- (d) any new perceived or changed security threats; and
- (e) any reasonable change in requirements requested by the Buyer.

4.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include:

- (a) suggested improvements to the effectiveness of the Security Management Plan;
- (b) updates to the risk assessments; and
- (c) suggested improvements in measuring the effectiveness of controls.

4.4.3 Subject to Paragraph 4.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 4.4.1, a

request by the Buyer or otherwise) shall be subject to the Variation Procedure.

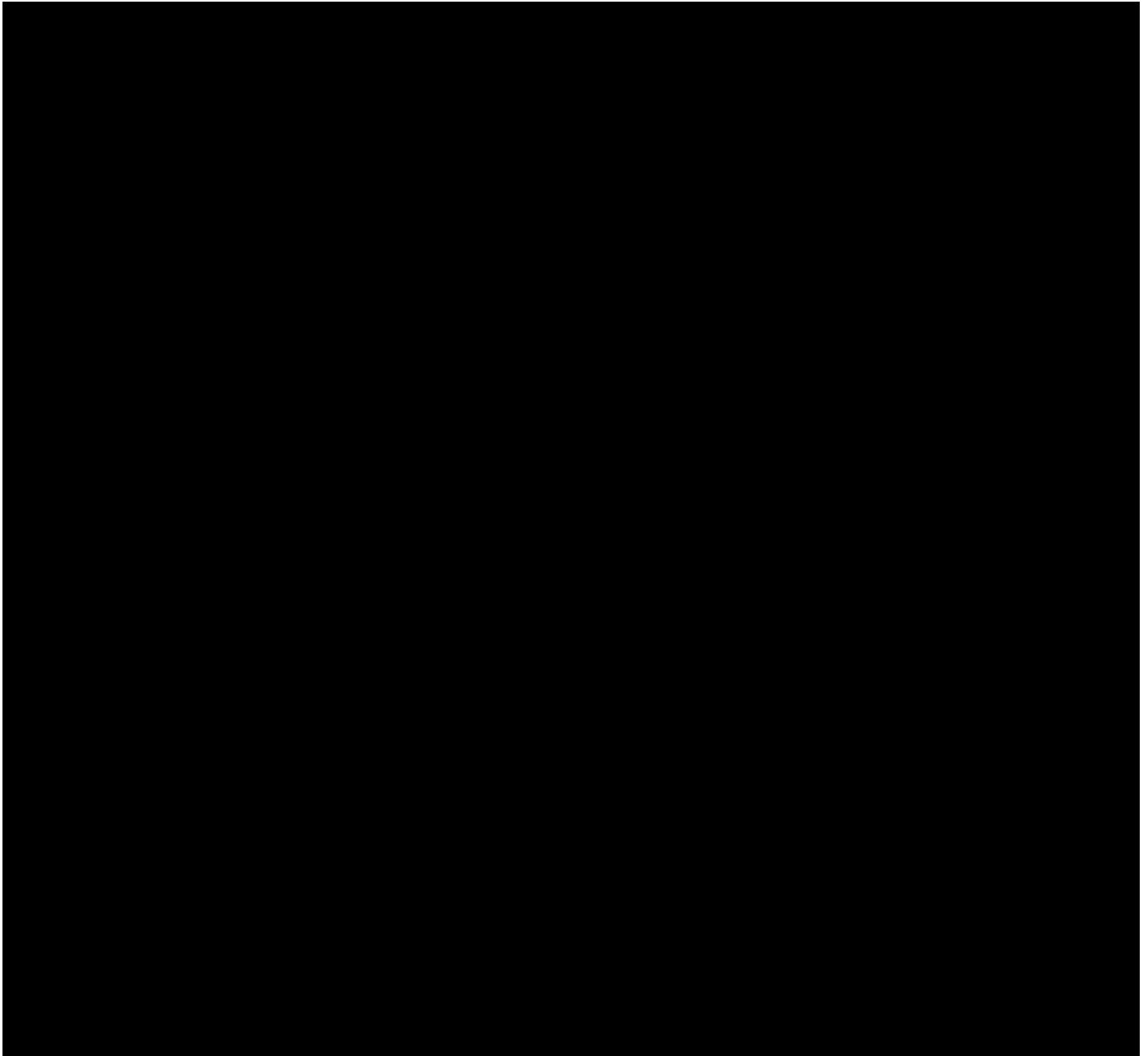
- 4.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## **5. Security breach**

- 5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 5.1 the Supplier shall:
- 5.2.1 immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
  - (b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
  - (c) prevent an equivalent breach in the future exploiting the same cause failure; and
  - (d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.
- 5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph 2.1) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

## **ANNEX 1: SUPPLIER'S INFORMATION SECURITY POLICY**

# Information Systems Security Policy



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# Introduction

Grant Thornton have attained the ISO27001:2013 certification for Information Security Management Systems and the layout of the sections has been designed to correlate with the control groupings of that standard. Additional sections have been added at logical intersections where it has been recognized that the reader may have a specific interest (e.g. encryption, passwords, data at rest).

Within the narrative of the sections there are references to the internal Grant Thornton Information Security policies which have been implemented to provide guidance to the people of the organisation. **PLEASE NOTE – these policies are classified as INTERNAL documents and are not for circulation outside of Grant Thornton.** If confirmation of a certain policy or its coverage is required as a business necessity, please contact the Grant Thornton IS Security Manager who can arrange a suitably secure forum in which the relevant documentation can be viewed.

In line with good security practice the controls described within this document contain sufficient information to provide a general overview of the security posture of Grant Thornton. They do not contain more in-depth detail that could be used to pursue an attack on their systems. If the reader has a query about a specific area, they should direct it to their Grant Thornton contact, who can forward it to the IS Security Manager or IS Service desk as appropriate.

Whilst not a direct subset of Information Security, Data Protection is closely affiliated with the subject and has its own set of policies and procedures. Please find the Grant Thornton Data Protection policy, IS027001 and Cyber Essentials Plus certificates in the appendices of this document.

# Information Security

## 1. Information Security – Certification

Grant Thornton is committed to the principles of Information Security and take their obligations regarding this extremely seriously. Grant Thornton have achieved certification for both the ISO27001:2022 standard for Information Security Management Systems (ISMS) and the Cyber Essentials Plus scheme. Please find a copy of the ISO27001 certificate in the appendices, with Cyber Essentials Plus certification available on request.

## 2. Encryption

To protect the information held on IS assets Grant Thornton have defined a Data Encryption Policy and implemented the Bitlocker Drive Encryption software as part of its standard computer image. The software encrypts data on hard disks and any transferred to a USB mass storage device. It has been configured to provide 128-bit AES (Advanced Encryption Standard) encryption.

Data at rest is encrypted on the Grant Thornton network in the virtualised environment to protect it from risk of accidental or deliberate disclosure.

The term Data Encryption Policy refers to an internal Grant Thornton Information Security document that carries an INTERNAL data sensitivity and is not intended for publication outside of the organisation. Please see introduction for further information.

## 3. Passwords

All users are required to use a unique user ID and password combination to access the data and facilities of the Grant Thornton network, which are distributed to users via an encrypted channel. People are required to choose a password that obeys the password complexity requirements, and it is subject to a regular system-enforced change interval. People are also subject to regular security messages which include the principle of not disclosing passwords or writing them down. Systems Administrators are subject to more complex password requirements due to the greater access their role affords them.

All Grant Thornton staff are made aware of their responsibility to keep their password secure at induction and at regular intervals during their employment. The Grant Thornton Password policy defines good password selection practice and the logical network controls enforce the policy. Grant Thornton do not use generic accounts and do not have generic passwords.

Passwords for utility programmes are maintained within a password management solution that is protected by Multi-Factor Authentication.

## 4. Data Transit/Data at Rest

The Grant Thornton Data Handling Policy states that the following principles apply to all people:

- All sensitive or commercially confidential data is to be transmitted via secure link. This is via either Grant Thornton's Secure File Transfer Protocol (SFTP) link or via the Mimecast Messaging facility (both assured to AES 256 standard);
- All data communications must be between named individual accounts and not to generic or group email addresses;
- Data transfer to USB memory devices is automatically blocked and can only be enabled through the raising of a service desk request. The request must contain a valid business reason and is time limited.
- Data transferred to a Portable Memory Device (PMD) is encrypted using the installed Bitlocker encryption software (if from Grant Thornton machine to client) or by an appropriate similar method if being transferred from the client to a Grant Thornton machine;
- All people are reminded that PMD's should be used as a transfer mechanism only and not for the storage of data. All data files should be removed to the hard drive of their Grant Thornton machine and deleted from the PMD once the transfer is complete;

The term Data Handling Policy refers to an internal Grant Thornton Information Security document that carries an INTERNAL data sensitivity and is not intended for publication outside of the organisation. Please see introduction for further information.

## 5. Information Security Policies

Grant Thornton UK LLP (Grant Thornton) have defined a corporate policy on Information Security that is published as part of the Core Manual and is applicable to all staff and contractors across the whole of the organisation.

Additionally, Grant Thornton have implemented an IS Security Policy framework, consisting of 22 discrete policies relating to the different aspects of IS Security. These are supported by the IS Security controls framework and compliance with them is measured on a regular basis. Examples of the policies contained within the framework include:

- Information Systems Security Policy
- Code of Connection
- Acceptable Use Policy
- Password Policy
- Server Security Policy
- Network Security Policy
- Data Sensitivity policy
- Data Retention Policy
- Data Handling Policy
- Data Encryption Policy
- Physical Security Policy

For an organogram of the complete set of Grant Thornton IS Security Policy framework please see Appendix E.

These policies carry an INTERNAL data sensitivity and are not intended for publication outside of the organisation. Please see introduction for further information.

Both the Corporate Information Security policy and the IS Security policy framework are reviewed on, at least, an annual basis and updated as necessary to reflect changes in policy or technology to ensure their continuing suitability, adequacy and effectiveness.

## 6. Organisation of Information Security



The Chief Operating Officer (COO), who is a member of the Grant Thornton UK LLP Senior Leadership Team (SLT), has overall responsibility for information security, which is managed through the Chief Information Officer (CIO) for Grant Thornton. The IS Security team handle day-to-day operations and report directly to the Chief Information Officer. The COO, CIO and IT Security team, along with other relevant senior members of the firm, meet every quarter as part of the Information Security Management System (ISMS) review to discuss IT Security operations. The minutes and results of the ISMS are reported to the SLT.

Grant Thornton protects their network from the Internet by use of firewalls to enforce a De-Militarized Zone (DMZ) and the internal network is segregated into logical discrete units by the use of internal firewalls. Segregation of duties is a control practiced within all the departments and services lines of Grant Thornton UK. For access to be granted to an information asset, the requester raises a service desk call that is approved by the asset owner before being actioned.

Contacts for the police and other regulatory bodies are maintained within the Grant Thornton IS Physical Security policy. In cases of information breach contact with the Information Commissioners Office (ICO) is maintained by the Quality & Reputation (Q&R) team. Contact with groups such as the Cyber Security Information-sharing Partnership (CiSP), Microsoft and the malware vendor Sophos are maintained to ensure that alerts are received and actioned on a timely basis. Alerts from member firms are received via the Global Incident Response Process (GIRP) channel which utilises the Resolver software to monitor and record incidents. Additionally, Grant Thornton's Security Operations team present a threat intelligence briefing every Thursday morning to selected members of the IS and Cyber Defence teams. This information is disseminated as required across the firm.

The IS team add all potential IS Security threats to the processing, storage and management of client and corporate data and the Grant Thornton network to the corporate Risk Management tool. They are subject to monthly review by the risk owner and quarterly review as part of the ISMS meetings. This process supports and supports the strategic risk management process.

Grant Thornton operate a defined process for all IS projects. Projects are managed through PPM provider software which requires a valid user account before access to project information is granted. Documents are stored within the Grant Thornton Document Management System software and user access is granted to projects on an "as required" basis.

Information Security is considered throughout the whole lifecycle of the project. The IT Security Team advises on aspects of security at the Change Advisory Board and holds a 10% weighting on all appropriate change approvals.

## 7. Human Resource Security

The People & Culture department of Grant Thornton undertake Right to Work checks on new staff. Staff vetting services are outsourced to the service provider

If a member of staff changes role during employment (e.g. promotion or secondment) screening checks are undertaken by an external agency. A risk assessment process is in place if staff are required to commence employment before all checks have been completed. At the recruitment stage for all potential new staff:

- At least two references are required.
- Fit and proper forms must be completed to show financial soundness, competence and capability, honesty, integrity and reputation.
- Evidence of academic and professional qualifications.
- Proof of identification must be produced.
- Credit checks.
- Five-year employment history.

All people are required to maintain the security, confidentiality and integrity of company and financial data and confirm so when signing their contracts, and annually through the completion of the Quality Matters process (formerly known as the Annual Declarations). This is to ensure that staff have read, understood and comply with key policies and procedures as summarised in the Code of Conduct, the Core manual and policies.

The termination or change of employment responsibilities process is applicable to all employees. Staff submit their resignation, or are terminated by their manager (following due process), through the Workday application. The People Manager approves the resignation/termination and Workday automatically controls the process, automatically providing emails and notifications to the other departments.

Any employee maliciously or deliberately contravening the terms of their contract regarding data security is subject to the Grant Thornton disciplinary process and possible legal action.

### Information Security Training

Information security training is conducted during induction and at regular intervals for all people. It is delivered via Computer Based Training (CBT) methods and their attendance /achievements are recorded for analysis and confirmation. All training modules contain a test in which the employee must complete. Contractors are required to affirm their qualifications and compliance with Grant Thornton IS Security policy prior to appointment. Training is conducted monthly and event based (e.g. Lost device, ransomware awareness, etc.)

## 8. Asset Management

All IS assets are recorded on a service support database that is linked with the IS Service desk system. All assets have a defined asset owner recorded within the system. All assets are issued, managed and recovered by the IS department and are returned to the leasing company at the end of their contract (typically two years). Information assets relating to the client are recorded, managed and audited within the Document Management System (DMS). All of Grant Thornton's systems are purchased from the vendor with a common image that has been "hardened" (e.g. unrequired ports and services disabled) to the requisite ISO27001 standard. End of Life (EOL) reviews are carried out on a regular basis and succession planning for software licences and devices are incorporated as part of the CARM.

All network equipment is recorded with a defined asset owner. The Chief Information Officer and the Infrastructure Manager are recorded within the CMDB as the Business Owners of all assets and verification exercises are conducted on a monthly basis.

Rules regarding the appropriate use of the IS systems of Grant Thornton and the processing of information are contained within the Acceptable Use policy, to which all members of staff confirm their compliance with on an annual basis through the Annual Declarations process.

Destruction procedures for laptops and other endpoint devices have been agreed and documented with the leasing company. Server Hard Disk Drives, tape media, CD-ROM's and other memory devices (such as USB memory sticks) are destroyed onsite through chipping in a portable facility. An audit log is maintained of the items destroyed, the date of its destruction and the person responsible. The log is also reviewed on a regular basis by the IS Security Manager.

The leavers process is automated as part of the Broker process and ensures that all issued IS assets are identified and collected from the member of staff prior to them leaving. All laptops are returned to the leasing company at the end of their contract (typically 2 years). The Area IS staff follow the checklist within the IS Service Desk to control the return of assets to the company.

## Printing and Confidential waste disposal

All printing is controlled through the users AD account and people must authenticate to the printer in order to initiate the printing of the document. The photocopying / scanner software only holds files (on an encrypted server) for a maximum of 48 hours, or until they are emailed to their destination or deleted, to maintain document security and cut down on waste.

Confidential waste disposal bins are available at multiple locations in all Grant Thornton offices. These are secured from unauthorised access and the contents are disposed of by a nationally appointed and accredited provider.

## Data Sensitivities (Classification) and Labelling

A Data Sensitivity and Labelling policy has been developed and implemented as part of the IS Security policy framework. Network controls (such as Unified Labelling) ensure that all documents and emails are automatically assigned a Commercial in Confidence label upon creation and store it in a manner commensurate with that sensitivity. The Grant Thornton Sensitivity policy advises all people on the classification of documents and people can change the sensitivity according to its content.

All IS staff are required to apply a data sensitivity to any information asset created and store it in a manner commensurate with that classification, and all Grant Thornton documents are labelled according to the Grant Thornton Data Sensitivity policy to ensure compliance with data sensitivity requirements.

Any historic documentation, created prior to the implementation of Unified Labelling, and without a specific sensitivity is assumed to be commercially sensitive and is stored in manner commensurate with that sensitivity. Any legacy documentation that is viewed or edited is automatically assigned a Commercial in Confidence label upon being saved.

The policy and procedures for the secure transfer of physical media are applicable to all Grant Thornton employees.

## 9. Access Control

An Access Control policy has been established as part of the IS Security Policy framework. It is reviewed on a biannual basis in line with the IS Security policies of Grant Thornton.

All users must authenticate to the network through the Windows Active Directory (AD) controls. Each user has a unique user ID and password that is subject to a system enforced change on a regular basis. The principle of “least privilege” is enforced for all people, network access is reviewed monthly and access rights are reviewed on an annual basis. Admin access is reviewed monthly and covers all network domains and segments. Access controls for system administrators and other people with enhanced access to personal or sensitivity data include additional controls such as MFA and DLP.

Intrusion Detection and Prevention Software (IDPS) is hosted internally, and Data Loss Prevention (DLP) has been incorporated as part of the Office 365 environment. The network is segregated into logical discrete groups that are maintained by access policy.

Grant Thornton operates an internal Security Operations Centre (SOC) as part of the Cyber Defence Centre, that continually monitors its network and assets for threats. Any identified incident is investigated and resolved. The SOC operates on a 24/7 basis and monitors the DLP, IDPS and other security monitoring software across the entire estate.

External access is only permitted through use of the Virtual Private Network (VPN) and is subject to a two-factor authentication routine (either through the use of a digital certificate or Windows Office 365 Multi Factor Authentication).

All Grant Thornton IS assets are enrolled in the Conditional Access register which provides MFA controls and forms part of the MFA chain of authentication when accessing the Grant Thornton network remotely. If accessing the network from a

personal device, all Grant Thornton people utilise Office 365 security to authenticate and required to use MFA to validate their access.

The external network is subject to monthly vulnerability testing, or in response to specific threats, using a CHECK and CREST accredited third party. Penetration testing is conducted on an annual basis by a similarly accredited provider. Where a high-level vulnerability is identified, the incident management process is utilized to quickly resolve the issue and identify any security breaches.

The network is also subject to a regime of internal network testing and audits as part of the Grant Thornton information security and service management certifications. Results from the internal programme are reported as part of the monthly management reporting pack and any issues are resolved according to priority.

Grant Thornton utilises an automated Starters/Transfers/Leavers (STL) process which is driven by the line manager of the employee and controlled and actioned through the People Services department. This automated process allows for the management of access to client data and the removal of access and assets when an employee leaves. Grant Thornton do not use generic accounts and do not have generic passwords. User access provisioning procedures are part of the STL process and is applicable to all Grant Thornton UK staff.

Access to common applications (Office 365, Exchange, OneDrive, Business World, Workday, etc.) is provided for each new starter and specific applications are applied according to the persons role (e.g. access to the AlphaTax application for Tax personnel). Should staff require a change to their access rights or privileges during their employment, the change is requested and managed through the IS Service desk which must be approved by the data owner.

Access to new IS personnel is granted in the same way as it is for all other Grant Thornton staff, through application of the STL process via the IS Service desk and approval by the data owners / line managers.

All staff attest and sign a confidentiality agreement, as well as the IS Security policy, on an annual basis through the Annual Declarations process. New or reinstated users are provided with a temporary password that is transmitted and maintained securely and is subject to an enforced change on first login.

The IS department review user access rights as part of the Internal Audit programme required for ISO20000 and ISO27001, to ensure that only appropriate users can access client data Grant Thornton utilise entry level controls such as:

- Strong access authorisation controls whereby the data owner must grant approve access requests which is recorded in the IS Service desk system and DMS.
- A robust STL process that alerts IS of leavers in a timely manner and denies access to the network, data and applications.
- Monthly review of all network accounts and investigation/disabling of any that have not logged in for the previous 90 days.

All Grant Thornton people are subject to the mandates of the Core Manual that restricts access to information and application system functions. Users are provisioned with access appropriate for their role and any changes to this are controlled and affected through the IS Service desk procedures.

Access to utility programs is restricted via AD Group and policy controls. An industry leading anti-malware solution also restricts all classes of utility software being installed and activated by customers.

## 10. Cryptography

An Encryption policy has been developed, approved and implemented as part of the IS Security policy framework. The policy describes the encryption mechanisms in place (Bitlocker, Mimecast, etc) and how they are applied to the assets of the firm. The policy also advises of the limitations of the software in relation to clients transferring data to a GT asset.

The Core Manual provides guidance on when to use this functionality and an Advisory Note has been produced to inform staff on how to apply Mimecast encryption within the Exchange application.

All Grant Thornton people utilize standardised encryption mechanisms for securing data and for secure communication with clients and other third parties (e.g. MSM, SFTP). All Grant Thornton staff utilise standard encryption mechanisms (e.g. Mimecast Closed Circuit Messaging, TLS) and do not use individual programs, such as PGP, that would require local administration.

The production, management, storage and disposal of cryptographic keys is managed within the IS department as part of the service management procedures.

## 11. Physical and Environmental Security

Physical Security is included within the overall Grant Thornton Information Security policy. Physical security controls for Grant Thornton offices include:

- CCTV
- Reception desk
- Grant Thornton ID security card for all people to gain entry through the electronic barriers into the building.
- Centrally controlled door systems

All visitors must be checked in at the reception desk and escorted at all times, visitor access to the office is only given when the individual has signed the visitors register and is met by the person they are visiting. No visitor is given access to the main floors of the building without supervision. Sensitive or secure areas of the buildings are subject to additional security controls such as key card or keypad controls.

Temperature and humidity controls have been implemented in all the DC's and communication rooms and are monitored by the IS Operations team. Additional environmental controls include either gas-enabled or extinguisher fire detection and suppression systems.

Uninterruptible Power Supplies (UPS's) for all assets in each location are maintained by the installers with biannual maintenance inspections in addition to the IS Operations people who check them daily.

A Clear Desk policy has been implemented within Grant Thornton that is applicable to all people. Screen savers engage after 15 minutes of activity and the policy is policed and enforced by the Q&R team and office managers.

Grant Thornton maintains a Data Centre at its central London site and utilises a co-location facility in Slough for its second data centre. Hyper-Converged infrastructure is located within each site that is connected via multiple links that are diversely routed to ensure resilience. These are replicated to provide real-time data backup and availability. The backup routine is tapeless to ensure that no data is transferred outside of the Grant Thornton network in an unencrypted format.

IS staff operate in secure areas across the Grant Thornton estate to provide access controls to IS assets. All IS equipment is subject to maintenance agreements that ensures the availability and integrity of the information being processed.

Equipment siting is subject to the Health and Safety policies of Grant Thornton with privacy screens and Kensington locks available to staff on request. Grant Thornton conducts PAT testing as part of a regular basis.

Cabling is securely routed within conduits and floor channels to protect from interference and damage.

All staff are required to abide by the physical security policies of Grant Thornton and attest their compliance by completion of the Annual Declarations process. All people receive training on how to secure their IS assets (laptops, mobile phones, etc) when outside of the office environment.

Grant Thornton staff typically work remotely from the office, either for environmental or operational reasons. To protect the data, and the member of staff, a number of controls are in place, namely;

- Logical controls such as password access, hard disk encryption and VPN connection;
- All staff are advised on the secure operation of IT assets away from the office and are required to read and confirm their compliance with the IS Security policy on an annual basis.

All laptop computers are imaged with Bitlocker software that makes the hard drive unreadable to any unauthorised person. They are returned to the leasing company at the end of the contract. Through agreement with the leasing company it is confirmed that: As standard three times overwrite is applied using an industry approved tool that meets one of the following standards;

- HMG Infosec Standard 5 (Higher overwriting standard)
- US DoD 5220.22m
- US NIST Standard SP800-88

Full verification of the wipe is held for each drive with serial numbers. In the event that a wipe fails, or the hard drive cannot be booted, the drive is removed and destroyed by means of degaussing.

Server Hard Disk Drives (HDD), tape media, CD-ROM's and other memory devices (such as USB memory sticks) are destroyed onsite through chipping in a portable facility and an audit log is maintained of the assets destroyed, the date of its destruction and the person responsible. This log is also reviewed on a regular basis by the IS Security Manager.

Grant Thornton has documented operating procedures for all IS assets and operations in line with the ISO20000 certification requirements.

## 12. Operations Security

Grant Thornton protects their network from the Internet by use of firewalls to enforce a De-Militarized Zone (DMZ). The internal network is segregated into logical discrete units through the use of internal firewalls. On the internal network data is stored within the Grant Thornton Document Management system (DMS) which enforces logical controls (such as granular file access and audit trails) to protect the data stored within.

Malware controls have been applied to all Grant Thornton IS assets and are automatically updated on a regular basis using vendor approved releases. Grant Thornton UK LLP patch all of their IS assets monthly, across a 14-day period that has been accredited by the ISO20000 certification. The patch is approved for installation by the Change Advisory Board (CAB), tested in the development environment and a pilot office and then migrated across the estate to limit the impact of any software conflicts. The patching cycle also has a truncated roll-out process for remediation of any emergency or critical vulnerabilities. A common image is used for all devices and only authorised software can be installed. Users are prevented from installing unlicensed or unapproved software on Grant Thornton IS Assets by policy and the limitation of local administration rights.

Grant Thornton have implemented a Change and Release Management (CARM) process, based on the ITIL Service standard that complies with best practice. All system changes are required to be reviewed by the CAB prior to implementation. The DMS logs all activity within the folders and directories of the client, including additions modifications and deletions, as well as the user undertaking the action. The audit log that is inviolate and can only be accessed by the systems administrator.

Event logs are collected by the Security Incident & Event Management (SIEM) tool and used in correlation to identify unusual or suspicious activity. The SIEM will maintain on-line logs for 90 days to allow real-time review of incidents. Access to logs is restricted to authorised personnel and to the administrators of those systems.

Clock synchronization routines are performed automatically on network equipment utilising the Net Time Protocol (NTP) function. All computers in the Grant Thornton estate have the NTP function engaged so that a common time stamp is in place.

Technical vulnerabilities are identified through monthly external scanning or an endpoint continuous scanning tool. Resolution is managed through the Resolving Security Vulnerabilities process and through monthly calls with the IS Team managers.

Grant Thornton manages its patch deployment through the CARM process, implemented as part of the ISO 20000 certification, and utilise Microsoft Endpoint Configuration Manager (MECM) to deploy patches across the IS estate. Systems are patched according to severity / risk and typically released on a staged process. Patches for the server estate are applied automatically through the Azure Update Management (AUM) tool. Users are restricted from preventing the automatic installation of critical patches when their machine is connected to the network but may be allowed to delay the installation of non-critical updates if preferred.

Controls are in place to restrict installation of software on all IS assets for all GT UK staff. If authorised software is required for work and not pre-installed in the machine an IS Service desk ticket is raised and the software is installed.

### Mobile Device Policy

Grant Thornton do not allow the connection of personal devices directly to the network but offer a 'Bring Your Own Device' (BYOD) facility to people and contractors through the Microsoft Intune application.

Network logs are maintained as part of the IS Security controls. The DMS logs all account activity within an audit log that is inviolate and can only be accessed by the systems administrator. Additionally, network events are recorded for use as part of an investigation in the event of an incident. Systems administrators monitor firewall and security software for alerts and respond accordingly.

### Wireless Security

Grant Thornton operates two separate wireless networks at its office locations in the UK. The first is a staff network that requires a valid user account on the company network and utilises Multi Factor Authentication to logon. The second is a for visitors to Grant Thornton offices called Guestnet. Upon connection users are presented with a login screen where they must enter the generic login name and password, which is changed on a weekly basis. Both networks are secured using WPA2.

## 13. Communications Security



Grant Thornton have implemented a robust, resilient network with dual DC's, multiple diversely routed circuits, and nationally available service providers to ensure that the system availability target is met. All data transmitted between Grant Thornton locations are encrypted by SilverPeak SDWAN appliances. The IS team undertake strategic network planning, capacity management and daily maintenance procedures to ensure that service operation is kept at a maximum.

All network access for service providers must be approved by the Chief Information Officer. Prior to being allowed access they are subject to due diligence procedures and review of their security and business continuity arrangements, before signing appropriate contracts and Non-Disclosure Agreements. Given the operational requirements of the Grant Thornton network only suitably qualified national or international providers are invited for tender and are subject to rigorous assessment prior to approval. Once selected all service providers are subject to, at the very least, an annual service review.

A monthly report of alert and response activity is produced by the SOC for the IT Security Manager and Chief Information Officer. The SOC also monitor Threat Intelligence activity on a continuous basis and produce quarterly reports for the ISMS meetings.

Grant Thornton UK LLP utilise Transport Layer Security (TLS) version 1.2 as the primary mechanism for security communication between itself, its clients and other organisations. The TLS protocol provides privacy and data integrity between two or more communicating computer applications (e.g. Outlook) The connection is private (or secure) because symmetric cryptography is used to encrypt the data transmitted. The keys for this symmetric encryption are generated uniquely for each connection and are based on a shared secret that was negotiated at the start of the session. The server and client negotiate the details of which encryption algorithm and cryptographic keys to use before the first byte of data is transmitted. Grant Thornton have also implemented Sender Policy Framework (SPF), Domain-based Message Authentication, Reporting and Conformance (DMARC) and Domain Keys Identified Mail (DKIM) controls to assist in the prevention of fraudulent emails.

Service Level Agreements have been agreed and implemented for supporting and delivering quality IS services to the firm. CAs and NDAs are included as part of all Grant Thornton document management processes and procedures.

All Grant Thornton people are required to consider the utilities available (e.g. Mimecast Large File Send) in order to protect electronic messaging as appropriate. Advice on how to utilise the mechanisms for securely transferring information is enclosed within the Software and Data Encryption policy. The Mimecast Send Secure facility is available to all people for sending large files securely. Grant Thornton also utilise Microsoft Teams messaging for internal Instant Messaging.

All Grant Thornton people are subject to the same information transfer policies and procedures that are published within the IS Data Handling policy. Grant Thornton have implemented the automatic application of sensitivity labels on all emails and documents and applied the Commercial in confidence label as standard. Grant Thornton have also implemented controls to protect any marked as Internal from being sent outside of the network and encrypting any marked as Highly Confidential.

## 14. Systems Acquisition, Development and Maintenance

Applications are developed according to the process defined within the Application Development Manual. The manual utilises the CARM process which details the stages at which Information Security requirements are defined.

Grant Thornton maintains a test environment on a logically separate network segment that is used to pilot developments to applications prior to their roll out. Transfer of applications between the two environments is subject to CARM controls. Testing is conducted under the authority of the Development Manager using sanitised data.

The Application Development Manual incorporates secure development processes that are commensurate with secure system engineering principles and security considerations have been incorporated as part of its process. The IT Security Manager is consulted as part of the development process and exercises a 10% weighted approval for any change requests



raised that have been flagged as having a potential security implication. Security testing (e.g. penetration testing) is undertaken as part of the development procedure. This may also involve scanning for vulnerabilities prior to release.

Change And Release Management (CARM) procedures for the controlled development of software have been incorporated as part of the ISO 20000 framework. Security has been incorporated as part of the CARM process.

All applications are subject to review by the Change Advisory Board (CAB) before any major platform or network change, to ensure that security has not been affected. This is part of the CARM procedure and recorded within the IS Service desk record. All proprietary software is installed as intended. Deviations from the installation (apart from those intended as part of the configuration parameters of the software) are not allowed to ensure that a strong and stable environment is maintained. New systems development undergo system acceptance testing prior to implementation and are required to meet the SMS Quality Standard checklists. Test data is created for specific tasks and does not include client data.

Access to the test and development SharePoint environments is controlled via Group Policy Objects and the site Access Control List. Access is granted via RFC through the Development Manager.

Grant Thornton may occasionally outsource limited development projects to approved service providers that have been vetted for appropriate security and operational ability. This will be reviewed on a regular basis and thoroughly tested before incorporation into the network.

The scanning of web-enabled applications may be undertaken as part of the systems security testing process and is performed in-house using registered tools.

## 15. Supplier relationships

Where third party service providers are used, Information Security requirements are included as part of the contract. Suppliers are required to either provide evidence of a third-party security certification (ISO27001, Cyber Essentials Plus, SOC2) or be able to satisfactorily complete the Grant Thornton IT Security questionnaire which is based on the ISO27001 standard. Due diligence is conducted by the IT Security Manager prior to approval and the security controls of all suppliers must be reviewed and approved prior to appointment.

All supplier arrangements are subject to regular service management meetings. Any change to an agreed contract is supervised by the manager in charge of the operation and approved by the Chief Information Officer.

Suppliers that do not have a recognised external IT Security certification (e.g. ISO27001, Cyber Essentials Plus, SOC2) are required to complete the IS Security Questionnaire prior to appointment. Results are recorded within the questionnaire and evaluated to ensure that the supplier has appropriate Information Security measures in place. After evaluation the IT Security Manager informs the Service Owner that the Due Diligence process is complete, and the completed questionnaire is stored within the IS Security directory of Livelink under the suppliers name.

## 16. Information Security Incident Management

Incident Management procedures have been implemented as part of both the ISO 20000 and 27001 certifications. All people can report Information Security incidents through the IS Service desk or Finsbury Square, London, main reception which is supported by the Grant Thornton facilities provider on a 24-hour basis. Clients will be informed of any service outage that affects their data or operation as soon as is practicable. Whilst the notification may be dependent on third party suppliers, Grant Thornton endeavour to maintain a notification period of 24 hours or less.

All Grant Thornton people can report suspected security breaches to their Practice Leader, as detailed within the Information Security page of the Core Manual. At the identification of an incident the IS Service desk follow the Incident Management process. Service owners review the areas they are responsible for.

The ultimate point of escalation is the Chief Information Officer. Immediate notification to the Chief Information Officer is required for Major Incidents. The IS Security Manager reviews the IS Service Dashboard on a regular basis and receives notification from the IS Team regarding security events.

All IS staff follow the Incident Management policy once an Information Security incident has been identified. Analysis and review of incidents and the procedures followed are undertaken as part of the Incident Management process. All Major Incidents are documented, and the report used as part of the post-event analysis process.

The collection and preservation of evidence in connection with an Information Security incident has been incorporated as part of the Incident Management process and Forensic Readiness policy.

## **17. Information Security aspects of Business Continuity Management**

Grant Thornton UK LLP have implemented a robust and resilient network that allows its people to access the network facilities and client data from diverse locations in a secure manner. The SDWAN configuration disperses the network traffic so there is no single point of attack. Multiple, diversely routed circuits ensure that high connectivity is maintained.

Grant Thornton have developed Service Continuity Plans (SCP's) for all business-critical services and applications and Business Continuity plans for all office locations. SCPs are designed to ensure that the service remains available should an incident occur. In that regard facilities and resources have been implemented to provide a robust, secure service provision that covers all client operations. Availability & Continuity Management procedures and policies have been developed as part of the SMS.

Incidents would typically be identified or notified to the IS Service desk who are responsible for escalating the issue to the Chief Information Officer as severity dictates.

Any incident involving client data is communicated to the client manager, for onward communication to the client. This is established at the beginning of the engagement and is enacted as soon as circumstances permit. Alerts from member firms are received via the Global Incident Response Process channel.

IS staff are involved in the planning, documentation and delivery of the SCPs. IS staff exercise and test the validity of the IS Continuity plan as per the Service Management System (SMS) documentation around the testing of SCPs.

Business Continuity procedures are published within the Operational Resilience pages of the company Intranet and alerts are broadcast through the Emergency Response Management channel. All Grant Thornton people have access to the Emergency Response Management SharePoint site for the dissemination of emergency messages and alerts.

Grant Thornton systems are designed to incorporate enough capacity to ensure availability of information processing facilities. The IS department has developed an Availability Plan as part of the SMS, in order to meet the requirements for the firm.

Electronic records are backed up on a daily basis using the Commvault software. Additionally, people can request backup of extraneous drives by using the appropriate section of the form.

## **18. Compliance**

The Quality & Reputation (Q&R) department are responsible for conducting internal reviews according to the agreed Internal Audit programme, as well as identifying all relevant legislative and contractual requirements and ensuring that they are complied with. This includes compliance with the firm's professional regulator, the ICAEW.

Grant Thornton is subject to biannual review by their certifying body for the ISO27001 and ISO20000 certifications, and annual review by the Cyber Essentials Plus authority. The IS systems and their controls are also subject to annual external review as part of the regulatory audit of the organisation.

All Grant Thornton people are required to abide with the Grant Thornton policy on copyright and Intellectual Property Rights (IPR) and confirm so as part of their Annual Declarations. People are also informed of their responsibilities with regard to IPR as part of the Terms and Conditions of employment.

All Grant Thornton people are advised on the requirements for securing access in order to protect records as part of the Code of Connection. A Clear Desk policy has been implemented and people confirm their compliance with it on an annual basis.

All people receive training in identifying and protecting Personally Identifiable Information (PII) as part of their Data Protection training, which is undertaken on an annual basis.

All staff are required to use cryptographic controls when the sensitivity of their work requires it. The software and data encryption policy has been defined and published as part of the IS Security policy framework and the Grant Thornton Core Manual.

Managers review compliance with the Information Security policy on an annual basis through the AD process. Additionally, the Operations team conduct a review of all UK network accounts on a monthly basis.

The audit plan follows an 18 month cycle and non-conformities are investigated and resolved. Internal audits are conducted as part of the ISO27001 and ISO20000 certification requirements.

# Appendix A – Glossary

Acronym	Definition
<b>AD</b>	Annual Declarations – the forms completed by each member of staff every year to confirm their objectivity and compliance with the firm's policies. Required as part of the Grant Thornton professional certification with the ICAEW.
<b>Q&amp;R</b>	Quality & Reputation – The firm's 'Internal audit and quality standards' department.
<b>BYOD</b>	Bring Your Own Device – a secure process of facilitating access to work email and calendars on personal phones, tablets, etc. With Grant Thornton, this process is currently provided and controlled via the BES12 application.
<b>CAB</b>	Change Advisory Board – The National IS team leaders who manage the implementation of new applications/facilities onto the network.
<b>CARM</b>	Change and Release Management – a formal process for reviewing and implementing changes to the network and systems environment.
<b>CBT</b>	Computer Based Training – a desktop solution for delivering training.
<b>CD-ROM</b>	Compact Disk – Read Only Memory – Legacy mechanism for writing and storing data on a disk.
<b>DC</b>	Data Centre – hub for managing the network and containing the SAN's.
<b>DMS</b>	Document Management System.
<b>DMZ</b>	De-Militarized Zone – A logical 'middle ground', implemented by the firm, to segregate and protect the firm's internal network from the external network, e.g. the Internet.
<b>DPA</b>	Data Protection Act 2018 – UK legislation that all UK companies are required to abide by.
<b>GDPR</b>	General Data Protection Regulations
<b>ICAEW</b>	Institute of Chartered Accountants of England and Wales – the firm's professional body.
<b>ICO</b>	Information Commissioner's Office – Government department that regulates and enforces the DPA.
<b>ITIL</b>	Information Technology Technical Library – a set of standards describing best practice for IT processes.
<b>ITSC</b>	IT Service Continuity – term for describing Business Continuity processes for Grant Thornton IT systems.
<b>MSM</b>	Mimecast Secure Messaging – a secure email facility that encrypts the message and any attachments.
<b>IS</b>	Information Systems – the firm's IT department
<b>SAN</b>	Storage Area Network – large network device, installed within the DC, used to provide large scale data storage and management.
<b>SFTP</b>	Secure File Transfer Protocol – secure mechanism for transfer large data files.
<b>SOC</b>	Security Operations Centre, an internal department charged with logical security
<b>STL</b>	Starters/Transfers/Leavers – Process for the secure management of staff engagement and removal.
<b>UPS</b>	Uninterruptible Power Supply – hardware design to continue the electricity supply to core systems in the event of a power cut.
<b>VPN</b>	Virtual Private Network – process that uses secure software to allow users to access the firm's network remotely.

# Appendix B – Grant Thornton Data Protection Policy

## Introduction

At Grant Thornton, we process and handle large amounts of personal data daily. This includes data on our staff, suppliers, clients, contacts, targets and others. The firm has registered as a data controller with the Information Commissioner (registration number Z8632993).

All partners and staff are required to understand and comply with the provisions of the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 (DPA).

Compliance with the DPA is achieved through complying with the eight data protection principles. The principles give guidance on all aspects of dealing with personal data including obtaining, processing, accuracy, retention and transfer and disposal of such data.

Each area of our business has identified the personal data it holds whilst carrying out its work, and how it complies with the data protection principles. The results of this exercise have been used to develop the firm's Data Protection Policy.

## Our commitment

The firm is committed to ensuring that all personal information, whether held electronically or in paper files, must be properly obtained, recorded, used and disposed of in accordance with the safeguards set out in the DPA.

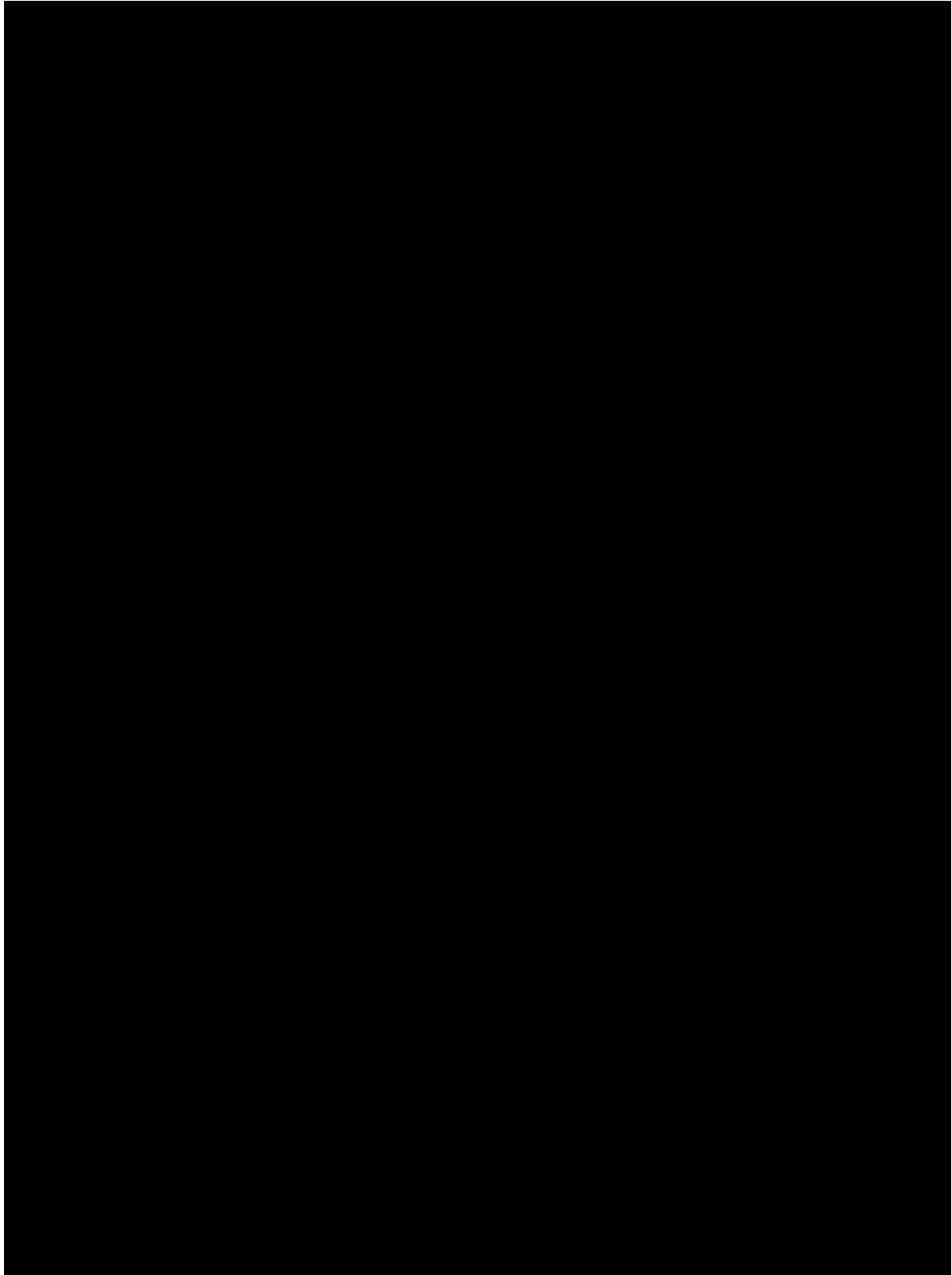
Specifically, to comply with the DPA everyone is required to:

- observe the requirements for the fair collection and use of data, and specifically data which is defined as sensitive
- observe the requirements for the fair collection and use of data, and specifically data which is defined as sensitive
- only use information for the lawful purpose it has been given or collected
- ensure that any personal data held is adequate, relevant and not excessive
- ensure the accuracy of data held
- not hold data for longer than is necessary
- uphold the rights of data subjects
- comply with the firm's technical, organisational and security measures aimed at safeguarding personal information
- not transfer data outside the European Economic Area.

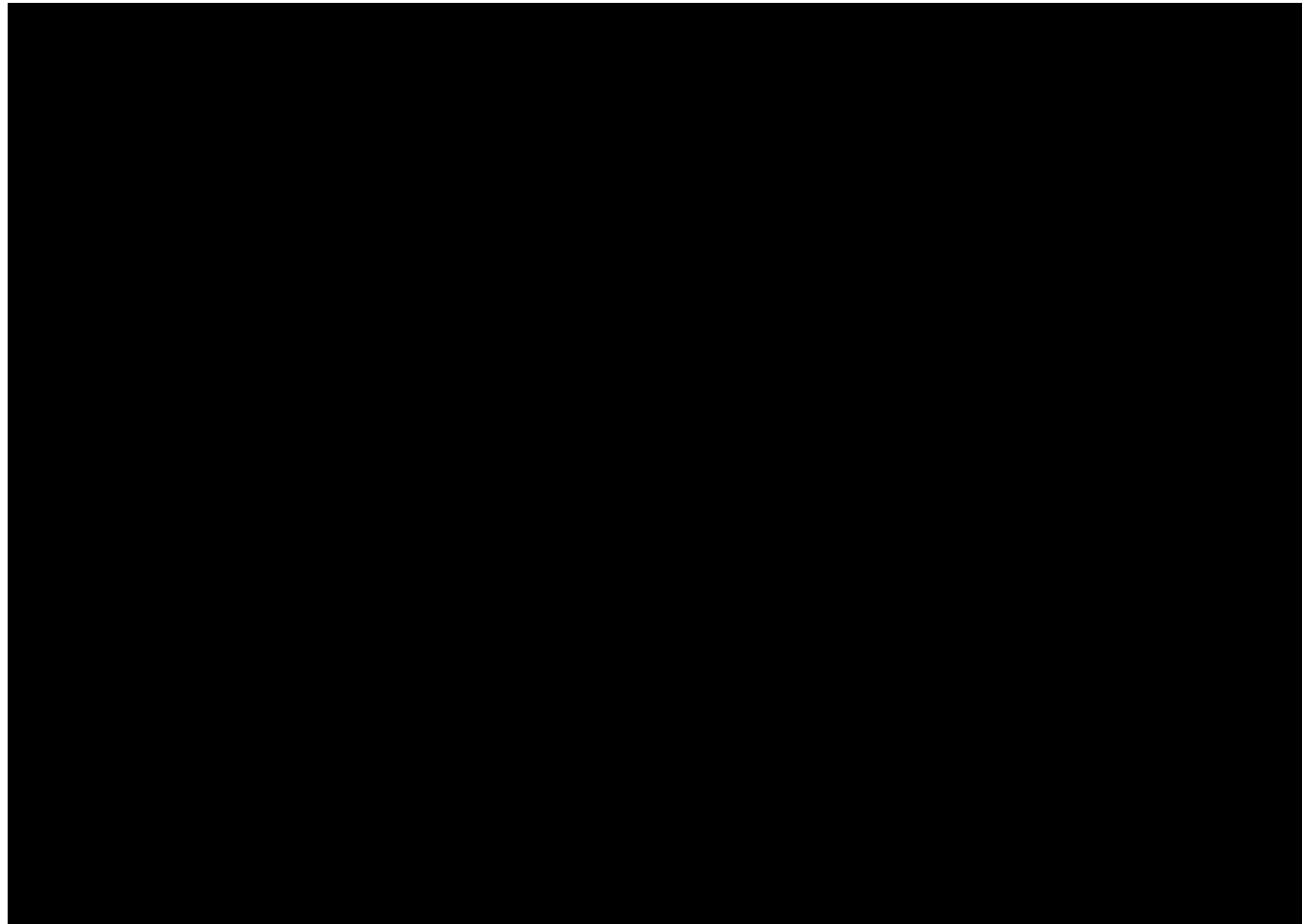
## Our Retention Policy

All records are retained for a period of SEVEN years unless required to be retained for longer due to legal or regulatory reasons.

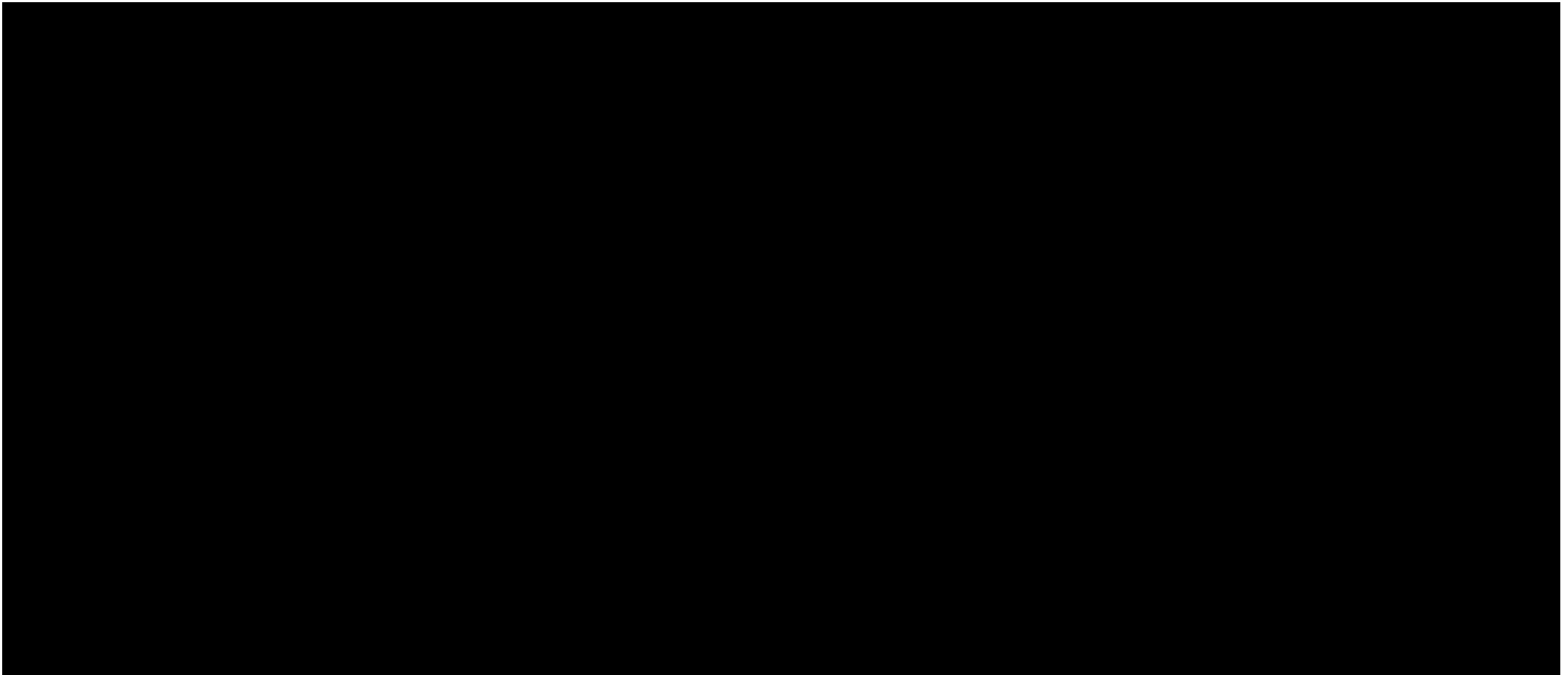
# Appendix C – ISO27001 Certificate



# Appendix D – Grant Thornton Cyber Essentials Plus Certificate



# Appendix E – Grant Thornton IT Security Policy Framework







**Grant Thornton**

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GRT105372

## **Schedule 17 (Service Recipients)**

### **1. When you should use this Schedule**

- 1.1 This Schedule is required where Service Recipients want to join with the Buyer to efficiently contract collectively under a single Contract rather than as separate individual buyers under separate contracts.

### **2. Definitions**

- 2.1 **"Service Recipients"** means a person named as such in Annex A to this Schedule which shall be incorporated into the Award Form.

### **3. Service Recipients benefits under this Contract**

- 3.1 The Buyer has entered into this Contract both for its own benefit and for the benefit of the Service Recipients.
- 3.2 The Service Recipients who are to benefit under this Contract are identified in Annex A to this Schedule which shall be included into the Award Form.
- 3.3 Service Recipients shall have all of the rights granted to the Buyer under this Contract as if they had been parties to this Contract themselves. Accordingly, where the context requires in order to assure the Service Recipients rights and benefits under this Contract, and unless the Buyer otherwise specifies, references to the Buyer in this Contract (including those references to a Party which are intended to relate to the Buyer) shall be deemed to include a reference to the Service Recipients.
- 3.4 Each of the Service Recipients will be a third party beneficiary for the purposes of the CRTPA and may enforce the relevant provisions of this Contract pursuant to CRTPA.
- 3.5 The Parties to this Contract may in accordance with its provisions vary, terminate or rescind this Contract or any part of it, without the consent of any Service Recipient.
- 3.6 The enforcement rights granted to Service Recipients under Paragraph 3.4 are subject to the following provisions:
  - 3.6.1 the Buyer may enforce any provision of this Contract on behalf of a Service Recipient;
  - 3.6.2 any claim from a Service Recipient under the CRTPA to enforce this Contract shall be brought by the Buyer if reasonably practicable for the Buyer and Service Recipient to do so;
  - 3.6.3 the Buyer will ensure that Service Recipients comply with the Dispute Resolution Procedure in respect of any Disputes that involve a Service Recipient; and
  - 3.6.4 the Supplier's limits and exclusions of liability in this Contract shall apply to any claim to enforce this Contract made by the Buyer on behalf of a Service Recipient and to any claim to enforce this Contract made by a Service Recipient acting on its own behalf.

- 3.7 Other terms and conditions applicable to the provision of the Deliverables to any Service Recipient are as follows:
- 3.7.1 if a Service Recipient needs to comply with an obligation or responsibility of the Buyer to allow the Supplier to provide the Deliverables, the Buyer will remain responsible for this compliance, but compliance by the Service Recipient will be deemed to be compliance by the Buyer;
  - 3.7.2 to the extent that the Service Recipient receives the benefit of the Services, the term "Government Data" will be deemed to extend to any data of the Service Recipient;
  - 3.7.3 during the Contract Period, the Buyer and the Supplier may agree in writing to remove or add Service Recipients from the scope of this Contract and, as necessary, adjusting the Charges on an equitable basis, provided that such changes are in all cases compliant with regulation 72 of the Regulations.
- 3.8 If the Buyer and Supplier agree to remove or add a Service Recipient pursuant to Paragraph 3.7.3:
- 3.8.1 the Buyer may request that the Supplier provide Termination Assistance; and
  - 3.8.2 the Supplier will, if requested by the Buyer as a result of any UK Government reorganisation, provide the Services to any new UK Government entity designated by the Buyer.
- 3.9 Notwithstanding that Service Recipients shall each receive the same Services from the Supplier the following adjustments will apply in relation to how this Contract will operate in relation to the Buyer and Service Recipients:
- 3.9.1 Services will be provided by the Supplier to each Service Recipient and Buyer separately;
  - 3.9.2 the Supplier's obligation in regards to reporting will be owed to each Service Recipient and Buyer separately;
  - 3.9.3 the Buyer and Service Recipients shall be entitled to separate invoices in respect of the provision of Deliverables;
  - 3.9.4 the separate invoices will correlate to the Deliverables provided to the respective Buyer and Service Recipients;
  - 3.9.5 the Charges to be paid for the Deliverables shall be calculated on a per Service Recipient and Buyer basis and each Service Recipient and the Buyer shall be responsible for paying their respective Charges;
  - 3.9.6 the Service Levels and corresponding Service Credits will be calculated in respect of each Service Recipient and Buyer, and they will be reported and deducted against Charges due by each respective Service Recipient and Buyer; and
  - 3.9.7 such further adjustments as the Buyer and each Service Recipient may notify to the Supplier from time to time.

## Annex A – Service Recipients

The Deliverables shall also be provided for the benefit of the following Service Recipients:

Name of Service Recipient	Services to be provided	Duration	Special Terms
None Identified			

## Schedule 18 (Supply Chain Visibility)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Contracts Finder"</b>		the Government's publishing portal for public sector procurement opportunities;
<b>"SME"</b>		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;
<b>"Supply Chain Information Report Template"</b>		the document at Annex 1 of this Schedule 18; and
<b>"Unconnected contract"</b>	<b>Sub-</b>	any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6 of The Reporting on Payment Practices and Performance Regulations 2017
<b>"Unconnected contractor"</b>	<b>Sub-</b>	any third party with whom the Supplier enters into an Unconnected Sub-contract

### 2. Visibility of Sub-Contract Opportunities in the Supply Chain

- 2.1 The Supplier shall:
- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
  - 2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
  - 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
  - 2.1.4 provide reports on the information at Paragraph 2.1.3 to the Buyer in the format and frequency as reasonably specified by the Buyer; and
  - 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 18 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligations on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 2.4 Notwithstanding Paragraph 2.1, the Buyer may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

### **3. Visibility of Supply Chain Spend**

- 3.1 In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the "SME Management Information Reports") to the Buyer which incorporates the data described in the Supply Chain Information Report Template which is:
  - 3.1.1 the total contract revenue received directly on this Contract;
  - 3.1.2 the total value of sub-contracted revenues under this Contract (including revenues for non-SMEs/non-VCSEs); and
  - 3.1.3 the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Buyer from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1.1 – 3.1.3 and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Buyer issuing a replacement version. The Buyer agrees to give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Buyer.

### **4 Visibility of Payment Practice**

- 4.1 If this Contract has at the Effective Date an anticipated contract value in excess of £5 million per annum (excluding VAT) averaged over this Contract Period and without prejudice to Clause 4.6, Clause 8.2.1(b) and 8.2.2(b), the Supplier shall:
  - (a) pay any sums which are due from it to any Sub-contractor or Unconnected Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:
    - (i) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or

- (ii) the date that falls sixty (60) days after the day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and
  - (b) include within the Supply Chain Information Report a summary of its compliance with this Paragraph 4.4, such data to be certified every six months by a director of the Supplier as being accurate and not misleading.
- 4.2 If any Supply Chain Information Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall provide to the Buyer within [15] Working Days of submission of the latest Supply Chain Information Report an action plan (the “**Action Plan**”) for improvement. The Action Plan shall include, but not be limited to, the following:
  - (a) identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;
  - (b) actions to address each of the causes set out in Sub-Paragraph (a); and
  - (c) mechanism for and commitment to regular reporting on progress to the Supplier’s Board.
- 4.3 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.
- 4.4 The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Supplier’s Solution (to the extent it is not already included).
- 4.5 If the Supplier notifies the Buyer (whether in a Supply Chain Report or otherwise) that the Supplier has failed to pay 95% or above of its Unconnected Sub-contractors within sixty (60) days after the day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Buyer otherwise discovers the same, the Buyer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

## **Annex 1 - Supply Chain Information Report template**

See Annex 2 in Schedule 4 (Tender)



## Schedule 19 (Cyber Essentials Scheme)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Cyber Essentials Scheme"</b>	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: <a href="https://www.gov.uk/government/publications/cyber-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a> ;
<b>"Cyber Essentials Basic Certificate"</b>	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
<b>"Cyber Essentials Certificate"</b>	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Award Form;
<b>"Cyber Essential Scheme Data"</b>	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
<b>"Cyber Essentials Plus Certificate"</b>	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

### 2. What Certification do you need

- 2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate prior to the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph 2.1 it shall be prohibited from commencing the provision of Deliverables under this Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.
- 2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during this Contract Period of this Contract the Supplier shall deliver to the Buyer evidence of renewal of the Cyber Essentials Certificate on each

- anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.
- 2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data the Supplier shall deliver to the Buyer evidence of:
- 2.3.1 a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and
  - 2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.
- 2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for Material Default and the consequences of termination in Clause 14.5.1 shall apply.
- 2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Scheme Data require the Subcontractor to provide a valid Cyber Essentials Certificate, at the equivalent level to that held by the Supplier. The Supplier cannot require the Subcontractor to commence the provision of Deliverables under the Sub-Contract until the Subcontractor has evidenced to the Supplier that it holds a valid Cyber Essentials Certificate.
- 2.6 The Supplier must manage, and must ensure that all Subcontractors manage, all end-user devices used by the Supplier and the Subcontractor on which Cyber Essentials Scheme Data is processed by ensuring those devices are within the scope of the current Cyber Essentials Certificates held by the Supplier and the Subcontractor, or any ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the Deliverables.
- 2.7 This Schedule shall survive termination or expiry of this Contract.

## **Schedule 20 (Processing Data)**

### **1. Status of the Controller**

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 1.1.1 "Controller" in respect of the other Party who is "Processor";
  - 1.1.2 "Processor" in respect of the other Party who is "Controller";
  - 1.1.3 "Joint Controller" with the other Party;
  - 1.1.4 "Independent Controller" of the Personal Data where the other Party is also "Controller",
- in respect of certain Personal Data under a Contract and shall specify in Annex 1 (Processing Personal Data) which scenario they think shall apply in each situation.

### **2. Where one Party is Controller and the other Party its Processor**

- 2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (Processing Personal Data) by the Controller and may not be determined by the Processor.
- 2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
- 2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
  - 2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;
  - 2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:
- 2.4.1 process that Personal Data only in accordance with Annex 1 (Processing Personal Data) unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;

- 2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
- (a) nature of the data to be protected;
  - (b) harm that might result from a Data Loss Event;
  - (c) state of technological development; and
  - (d) cost of implementing any measures.
- 2.4.3 ensure that:
- (a) the Processor Personnel do not Process Personal Data except in accordance with this Contract (and in particular Annex 1 (Processing Personal Data));
  - (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
    - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
    - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
    - (iii) 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 Controller or as otherwise permitted by this Contract; and
    - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 2.4.4 not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
  - (b) the Controller and/or the Processor have provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:

- (i) where the transfer is subject to UK GDPR:
      - (A) the International Data Transfer Agreement issued by the Information Commissioner under S119A(1) of the DPA 2018 (the "**IDTA**"); or
      - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("**EU SCCs**") together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**"), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018; and/or
    - (ii) where the transfer is subject to EU GDPR, the EU SCCs,  
as well as any additional measures determined by the Controller being implemented by the importing party;
  - (c) the Data Subject has enforceable rights and effective legal remedies;
  - (d) the Processor 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 Controller in meeting its obligations); and
  - (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data.
- 2.4.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of this Contract unless the Processor is required by Law to retain the Personal Data.
- 2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:
- 2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 2.5.2 receives a request to rectify, block or erase any Personal Data;
  - 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

- 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
  - 2.5.5 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
  - 2.5.6 becomes aware of a Data Loss Event.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 2.7.1 the Controller with full details and copies of the complaint, communication or request;
  - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 2.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
  - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 2.8.1 the Controller determines that the Processing is not occasional;
  - 2.8.2 the Controller 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; or
  - 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.

2.11 Before allowing any Subprocessor to Process any Personal Data related to this Contract, the Processor must:

- 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
- 2.11.2 obtain the written consent of the Controller;
- 2.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
- 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.

2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.

2.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office or any other regulatory authority.

### **3. Where the Parties are Joint Controllers of Personal Data**

In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 (Joint Controller Agreement) to this Schedule 20 (Processing Data).

### **4. Independent Controllers of Personal Data**

4.1 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.

4.2 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.

4.3 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 4.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.

4.4 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of this Contract.

4.5 The Parties shall only provide Personal Data to each other:

- 4.5.1 to the extent necessary to perform their respective obligations under this Contract;

- 4.5.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects);
- 4.5.3 where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
  - (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable); or
  - (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include:
    - (i) where the transfer is subject to UK GDPR:
      - (A) the International Data Transfer Agreement (the "**IDTA**") ""as published by the Information Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
      - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or
    - (ii) where the transfer is subject to EU GDPR, the EU SCCs,  
as well as any additional measures determined by the Controller being implemented by the importing party;
  - (c) the Data Subject has enforceable rights and effective legal remedies;
  - (d) the transferring Party 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 non-transferring Party in meeting its obligations); and



- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and
- 4.5.4 where it has recorded it in Annex 1 (Processing Personal Data).
- 4.6 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 4.7 A Party Processing Personal Data for the purposes of this Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 4.8 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract ("**Request Recipient**"):
  - 4.8.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
  - 4.8.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    - (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    - (b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
- 4.9 Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to this Contract and shall:
  - 4.9.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;
  - 4.9.2 implement any measures necessary to restore the security of any compromised Personal Data;

- 4.9.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
- 4.9.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 4.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Annex 1 (Processing Personal Data).
- 4.11 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under this Contract which is specified in Annex 1 (Processing Personal Data).
- 4.12 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 4.2 to 4.12 of this Schedule 20.

## Annex 1 - Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.
  - 1.1 The contact details of the Buyer's Data Protection Officer are:  
DESNZ Data Protection Officer, Department for Energy Security and Net Zero, 3-8 Whitehall Place, London.  
Email: [dataprotection@energysecurity.gov.uk](mailto:dataprotection@energysecurity.gov.uk)
  - 1.2 The contact details of the Supplier's Data Protection Officer are:  
Associate Director  
Data Protection Officer  
Grant Thornton UK LLP  
30 Finsbury Square  
London  
EC2A 1AG  
Email: [DataProtectionOfficer@uk.gt.com](mailto:DataProtectionOfficer@uk.gt.com)
  - 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
  - 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Buyer is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"><li>• 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.</li><li>• 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.</li></ul>

Description	Details
Duration of the Processing	Processing will take place from the contract commencement date for the duration of the Contract [plus a potential extension period.] The Contract will end on 3 <sup>rd</sup> March 2025 but may be extended in line with the proposed extension period of this contract.
Nature and purposes of the Processing	<p>The nature of the processing will include collection of data. Processing takes place for the purposes of the contract.</p> <p>The nature of processing will include the storage and use of names and business contact details of staff of the Authority, the supplier, and business contact details of other inventory stakeholders, 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>
Type of Personal Data being Processed	Names, business telephone numbers and email addresses, 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.
Categories of Data Subject	Contact data, including phone numbers and email addresses.
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under law to preserve that type of data	<p>The Contractor will erase contact details 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.</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>
Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract	See GDPR Statement as Annex 2

Description	Details
Agreement against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event	

## **Annex 2 – Grant Thornton GDPR Statement**

At Grant Thornton we take data protection and privacy very seriously. We process and handle large amounts of personal data daily. This includes data on our people, suppliers, clients, contacts, targets and others. The firm is registered as a data controller with the Information Commissioner's Office (ICO) at tier 2 (registration number Z8632993). We have a dedicated data protection team, led by an experienced Associate Director who fills the role of Data Protection Officer (DPO). This team acts as the focal point for compliance with data protection legislation, including developing and maintaining the necessary policies and procedures and delivering appropriate training and awareness for all our people.

All our people are required to understand and comply with the provisions of UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA). Each area of our business has identified the personal data it holds in the course of carrying out its work, and how it complies with UK GDPR and the DPA. The firm is committed to ensuring that all personal data, whether held electronically or in paper files, must be properly obtained, recorded, used and disposed of in accordance with the safeguards set out in UK GDPR and the DPA.

Specifically, everyone is required to:

- observe the requirements for the transparent fair collection and use of data, and specifically for special categories of personal data
- only use information for the lawful purpose it has been given or collected
- ensure that any personal data held is adequate, relevant and not excessive
- ensure the accuracy of data held
- not hold data for longer than is necessary and in line with our data retention policy
- comply with the firm's technical, organisational and security measures aimed at safeguarding personal data
- maintain accurate records of activities involving the processing of personal data
- uphold the rights of data subjects
- not transfer data outside the UK without adequate safeguards

Our privacy statement is published on our website ([www.grantthornton.co.uk/en/privacy](http://www.grantthornton.co.uk/en/privacy)) and contains further details as to how we use, process and store personal data. This also includes our Data Protection Officer's contact details for any data subject to exercise their rights.

Resilience of processing systems and services: We are committed to the principles of Information Security and take our obligations with regard to this extremely seriously. We have achieved certification for both the ISO27001:2013 standard for Information Security Management Systems (ISMS) and the Cyber Essentials Plus scheme.

We have implemented a policy framework with detailed policies covering all aspects of Information and Information Systems security. These documents are published

internally, reviewed quarterly (more frequently if necessary) and all people are required to affirm their compliance with these policies on an annual basis.

Data subject requests: Typically, we do not have a direct relationship with data subjects as clients have shared their data with us. Therefore, we do not anticipate receiving such requests in this context. Any request we receive that relates to individuals whose data we process on a client's behalf, is communicated to the manager or partner assigned to the client, for onward communication to the client, without undue delay. Where required our Data Protection Officer and their team will be available to support the client in responding to the request.

Consent based processing: For the services we provide, consent is not the lawful basis of processing when providing services to clients.

Data transfers: We store data on servers within the UK and generally do not transfer client data outside the UK. However, we may transfer personal data outside the UK to member firms of GTIL where this is necessary to provide the service. To enable data transfers between all GTIL member firms around the world, GTIL has an inter-firm data sharing agreement (IFA). This sets out the conditions under which GTIL and its member firms can transfer personal data to each other, and it incorporates the EU standard contractual clauses (model clauses) to ensure GDPR compliance. The IFA is an obligation of membership for all member firms. Where we are asked or instructed by clients to transfer data outside the UK to a recipient (eg a parent company) we rely on their lawful basis for doing so.

Records of personal data processing activities: We have data flow diagrams in place for different areas of our business and records of processing activities (ROPA), these are reviewed and updated at least annually.

Testing and assessment of our data protection measures: The on-going monitoring of our quality control systems is an integral part of the firms quality and risk management framework. The Data Protection team is subject to an internal audit over a three-year cycle, and reports are provided to the Strategic Leadership Team (SLT) on the assurance gained that the Data Protection team are complying with the relevant legislation and implementing key internal controls

## Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing this Contract).

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

1. This Variation must be agreed and signed by both Parties to this Contract and shall only be effective from the date it is signed by the Buyer.
2. Words and expressions in this Variation shall have the meanings given to them in this Contract.



3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.
4. This Variation will be signed electronically using the Buyer's e-signature platform and attached to this document upon execution.

## **Schedule 22 (Insurance Requirements)**

### **1. The insurance you need to have**

- 1.1 The Supplier shall take out and maintain or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Effective Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
- 1.2 The Insurances shall be:
  - 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex Part C which shall be maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### **2. How to manage the insurance**

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
  - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
  - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### **3. What happens if you aren't insured**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which

would entitle any insurer to refuse to pay any claim under any of the Insurances.

- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

#### **4. Evidence of insurance you must provide**

The Supplier shall upon the Effective Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Buyer, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

#### **5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained for the minimum limit of indemnity for the periods specified in this Schedule.
- 5.2 Where the Supplier intends to claim under any of the Insurances for any matters that are not related to the Deliverables and/or this Contract, the Supplier shall, where such claim is likely to result in the level of cover available under any of the Insurances being reduced below the minimum limit of indemnity specified in this Schedule, promptly notify the Buyer and provide details of its proposed solution for maintaining the minimum limit of indemnity specified in this Schedule.

#### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

## **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of this Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of the total Charges relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

## **ANNEX: REQUIRED INSURANCES**

### **PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE**

#### **1. Insured**

The Supplier

#### **2. Interest**

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

2.1.1 death or bodily injury to or sickness, illness or disease contracted by any person; and

2.1.2 loss of or damage to physical property;

happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Deliverables and in connection with this Contract.

#### **3. Limit of indemnity**

3.1 Not less than £268,743 in respect of any one occurrence, with a limit of £10,000,000 in any one occurrence in respect of public and products liability (to the extent insured by the relevant policy)".

#### **4. Territorial limits**

**United Kingdom**

#### **5. Period of insurance**

From the date of this Contract for the period of this Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing.

#### **6. Cover features and extensions**

Indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with this Contract and for which the Supplier is legally liable.

#### **7. Principal exclusions**

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.

7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.

- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.

**8. Maximum deductible threshold**

Not to exceed £ £268,743.00 for each and every third party property damage claim (personal injury claims to be paid in full).

**PART B: UNITED KINGDOM COMPULSORY INSURANCES**

The Supplier shall meet its insurance obligations under applicable Law in full, including, United Kingdom employers' liability insurance and motor third party liability insurance.

**PART C: ADDITIONAL INSURANCES**

No additional identified

## Schedule 24 (Financial Difficulties)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Applicable Financial Indicators"</b>	means the financial indicators from Part C of Annex 2 which are to apply to the Monitored Suppliers as set out in Part B of Annex 3;
<b>"Credit Rating Threshold"</b>	the minimum credit rating level for each entity in the FDE Group as set out in Part A of Annex 2;
<b>"Credit Reference Agencies"</b>	the credit reference agencies listed in Part B of Annex 1;
<b>"Credit Score Notification Trigger"</b>	the minimum size of any downgrade in a credit score, set out in Part B of Annex 2, which triggers a Credit Score Notification Trigger Event;
<b>"Credit Score Notification Trigger Event"</b>	any downgrade of a credit score which is equal to or greater than the Credit Score Notification Trigger;
<b>"Credit Score Threshold"</b>	the minimum credit score level for each entity in the FDE Group as set out in Part B of Annex 2;
<b>"Financial Distress Service Continuity Plan"</b>	a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with this Contract in the event that a Financial Distress Event occurs. This plan should include what the Buyer would need to put in place to ensure performance and delivery of the Deliverables in accordance with this Contract up to and including any Insolvency Event in respect of the relevant FDE Group entity;
<b>"Financial Indicators"</b>	in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at Part C of Annex 2; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
<b>"Financial Target Thresholds"</b>	means the target thresholds for each of the Financial Indicators set out at Part C of Annex 2;

<b>"Primary Metric"</b>	[credit rating pursuant to Paragraph 3.3]/[credit score pursuant to Paragraph 4.3]/[financial indicators pursuant to Paragraph 5.4]
<b>"Monitored Supplier"</b>	those entities specified in Part B of Annex 3; and
<b>"Rating Agencies"</b>	the rating agencies listed in Part A. of Annex 1.

## 2. When this Schedule applies

- 2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the FDE Group and the consequences of a change to that financial standing.
- 2.2 The terms of this Schedule shall survive under this Contract until the termination or expiry of this Contract.

## 3. Credit Ratings

- 3.1 The Supplier warrants and represents to the Buyer that as at the Effective Date the long term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Part A of Annex 2.
- 3.2 The Supplier shall:
  - 3.2.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies; and
  - 3.2.2 promptly (and in any event within five (5) Working Days) notify the Buyer in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group.
- 3.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if credit rating is the Primary Metric, the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have given a credit rating level for that FDE Group entity which is below the applicable Credit Rating Threshold.

## 4. Credit Scores

- 4.1 The Supplier warrants and represents to the Buyer that as at the Effective Date the credit scores issued for each entity in the FDE Group by each of the Credit Reference Agencies are as set out in Part B of Annex 2.
- 4.2 The Supplier shall:
  - 4.2.1 regularly monitor the credit scores of each entity in the FDE Group with the Credit Reference Agencies; and



- 4.2.2 promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing if there is any Credit Score Notification Trigger Event for any entity in the FDE Group (and in any event within five (5) Working Days).
- 4.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if credit score is the Primary Metric, the credit score of an FDE Group entity shall be deemed to have dropped below the applicable Credit Score Threshold if any of the Credit Reference Agencies have given a credit score for that FDE Group entity which is below the applicable Credit Score Threshold.

## 5. Financial Indicators

- 5.1 The Supplier shall monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out for each at Part C of Annex 2 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the accounting reference date
- 5.2 Subject to the calculation methodology set out at Annex 4 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as set out in Appendix I: *Standard Financial Ratios of Assessing and Monitoring the Economic and Financial Standing of Bidders and Suppliers – May 2021* (as amended, supplemented or replaced from time to time) which as at the Effective Date can be found at:  
  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/987132/Assessing\\_and\\_monitoring\\_the\\_economic\\_and\\_financial\\_standing\\_of\\_suppliers\\_guidance\\_note\\_May\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987132/Assessing_and_monitoring_the_economic_and_financial_standing_of_suppliers_guidance_note_May_2021.pdf)
- 5.3 Each report submitted by the Supplier pursuant to Paragraph 5.1 shall:
  - 5.3.1 be a single report with separate sections for each of the FDE Group entities;
  - 5.3.2 contain a sufficient level of information to enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;
  - 5.3.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes; [and]
  - 5.3.4 be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable[.]/[; and]

- 5.3.5 include a history of the Financial Indicators reported by the Supplier in graph form to enable the Buyer to easily analyse and assess the trends in financial performance.]
- 5.4 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if financial indicators are the Primary Metric, the Financial Indicator of an FDE Group entity shall be deemed to have dropped below the applicable Financial Target Threshold if:
  - 5.4.1 a report submitted by the Supplier pursuant to Paragraph 5.1 shows that any FDE Group entity has failed to meet or exceed the Financial Target Threshold for any [one] of the Financial Indicators set out in Part C of Annex 2 of this Schedule;
  - 5.4.2 a report submitted by the Supplier pursuant to Paragraph 5.1 does not comply with the requirements set out in Paragraph 5.3; or
  - 5.4.3 the Supplier does not deliver a report pursuant to Paragraph 5.3 in accordance with the applicable monitoring and reporting frequency.

## **6. What happens if there is a financial distress event**

- 6.1 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.
- 6.2 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Buyer becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 6.4 to 6.6.
- 6.3 [In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Buyer shall not exercise any of its rights or remedies under Paragraph 6.4 without first giving the Supplier ten (10) Working Days to:
  - 6.3.1 rectify such late or non-payment; or
  - 6.3.2 demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.]
- 6.4 The Supplier shall (and shall procure that each Additional FDE Group Member shall):
  - 6.4.1 at the request of the Buyer meet the Buyer as soon as reasonably practicable (and in any event within three (3) Working Days of the

initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of this Contract and delivery of the Deliverables in accordance this Contract; and

6.4.2 where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 6.4.1) that the Financial Distress Event could impact on the continued performance of this Contract and delivery of the Deliverables in accordance with this Contract:

- (a) submit to the Buyer for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event);
- (b) use reasonable endeavours to put in place the necessary measures with each Additional FDE Group Member to ensure that it is able to provide financial information relating to that Additional FDE Group Member to the Buyer; and
- (c) provide such financial information relating to FDE Group entity as the Buyer may reasonably require.

6.5 If the Buyer does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is either:

6.5.1 Approved;

6.5.2 referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Service Continuity Plan has not been Approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Service Continuity Plan (to be held within 28 days of the date of the notice); or

6.5.3 finally rejected by the Buyer.

6.6 Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:

6.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance this Contract and delivery of the Deliverables in accordance with this Contract;

- 6.6.2 provide a written report of the results of each review and assessment carried out under Paragraph 6.6.1 to the Buyer;
  - 6.6.3 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 6.6.1, submit an updated Financial Distress Service Continuity Plan to the Buyer for its Approval, and the provisions of Paragraphs 6.5 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and
  - 6.6.4 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 6.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 6.6.

## **7. When the Buyer can terminate for financial distress**

- 7.1 The Buyer shall be entitled to terminate this Contract for Material Default if:
- 7.1.1 the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 6.1;
  - 7.1.2 the Supplier fails to comply with any part of Paragraph 6.4;
  - 7.1.3 subject to Paragraph 7.2, the Buyer finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 6.5.3;
  - 7.1.4 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not meet within 28 days of the date of the notice of referral pursuant to Paragraph 6.5.2;
  - 7.1.5 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not agree the Financial Distress Service Continuity Plan after it has been referred pursuant to Paragraph 6.5.2; and/or
  - 7.1.6 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 6.6.4,
- and the consequences of termination in Clause 14.5.1 shall apply.
- 7.2 A Material Default may only occur under Paragraph 7.1.3 after the expiry of the first five (5) Working Days period for the Supplier to submit a revised draft of the first draft of the Financial Distress Service Continuity Plan starting on and from the date on which the Buyer first notified the Supplier

that Supplier must submit a revised draft of the first draft Financial Distress Service Continuity Plan.

**8. What happens If your Primary Metric is still good**

Without prejudice to the Supplier's obligations and the Buyer's rights and remedies under Paragraph 6, if, following the occurrence of a Financial Distress Event, the Supplier evidences to the Buyer's satisfaction that the Primary Metric shows that the Financial Distress Event no longer exists, then:

- 8.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 6.4 to 6.6; and
- 8.2 the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 6.4.2(c)).

## **ANNEX 1: RATING AGENCIES AND CREDIT REFERENCE AGENCIES**

**To be identified if required**

## ANNEX 2: CREDIT RATINGS, CREDIT SCORES AND FINANCIAL INDICATORS

### Part A: Credit Rating

Entity	Credit rating (long term)	Credit Rating Threshold
Supplier		
Guarantor		
[Key Subcontractor]		
[Monitored Supplier]		

### Part B: Credit Score

Entity	Credit score	Credit Score Notification Trigger	Credit Score Threshold
Supplier			
Guarantor			
[Key Subcontractor]			
[Monitored Supplier]			

**Part C: Financial Indicators**

Financial Indicator	Calculation <sup>1</sup>	Financial Target Threshold:	Monitoring and Reporting Frequency [if different from the default position set out in Paragraph 5.1]
<p>1</p> <p>[Operating Margin]</p> <p>OR</p> <p>[The higher of (a) the Operating Margin for the most recent 12 month period and (b) the average Operating Margin for the last two 12 month periods]</p>	<p>[Operating Margin = Operating Profit / Revenue]</p>	<p>[&gt; [X%]]</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures for the 12 months ending on the relevant [accounting reference date / half year end]</p>
<p>2</p> <p>[Free Cash Flow to Net Debt Ratio]</p> <p>OR</p> <p>[Net Debt to EBITDA Ratio]</p>	<p>[Free Cash Flow to Net Debt Ratio = Free Cash Flow / Net Debt]</p> <p>OR</p> <p>[Net Debt to EBITDA ratio = Net Debt / EBITDA]</p>	<p>[&gt; [X%]]</p> <p>OR</p> <p>[&lt; [X]] times</p>	<p>Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon [Free Cash Flow / EBITDA] for the 12 months ending on, and Net Debt at, the relevant [accounting reference date / half year end]</p>
<p>3</p> <p>[Net Debt + Net Pension Deficit to EBITDA ratio]</p>	<p>[Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA]</p>	<p>[&lt; [X]] times</p>	<p>Tested and reported yearly in arrears within 120 days of each accounting reference date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the</p>



Financial Indicator	Calculation <sup>1</sup>	Financial Target Threshold:	Monitoring and Reporting Frequency [if different from the default position set out in Paragraph 5.1]
			relevant accounting reference date
4 [Net Interest Paid Cover]	$\text{[Net Interest Paid Cover]} = \frac{\text{Earnings Before Interest and Tax}}{\text{Net Interest Paid}}$	$[> [X]] \text{ times}$	Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures for the 12 months ending on the relevant [accounting reference date / half year end]
5 [Acid Ratio]	$\text{[Acid Ratio]} = \frac{\text{(Current Assets - Inventories)}}{\text{Current Liabilities}}$	$[> [X]] \text{ times}$	Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures at the relevant [accounting reference date / half year end]
6 [Net Asset value]	$\text{[Net Asset Value]} = \text{Net Assets}$	$[> \text{£}0]$	Tested and reported [yearly / half yearly] in arrears within [120 / 90] days of each [accounting reference date / half year end] based upon figures at the relevant [accounting reference date / half year end]
7 [Group Exposure Ratio]	$\text{[Group Exposure / Gross Assets]}$	$[< [X]]\%$	Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures at the relevant accounting reference date

Financial Indicator	Calculation <sup>1</sup>	Financial Target Threshold:	Monitoring and Reporting Frequency [if different from the default position set out in Paragraph 5.1]
Financial Target 8 [etc.]	[etc.]	[etc.]	[etc.]

Key: <sup>1</sup> – See Annex 4 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

## ANNEX 3 – ADDITIONAL FDE GROUP MEMBERS AND MONITORED SUPPLIERS

### Part A: Additional FDE Group Members

**[Guidance: List the entities that the Buyer wants to include in the FDE Group]**

1. [[Guarantor]
2. [Key-Subcontractors]; and
3. [Monitored Suppliers];

### Part B: Monitored Suppliers

Entity Name	Company Number	Applicable Financial Indicators (these are the Financial Indicators from the table in Part C of Annex 2 which are to apply to the Monitored Suppliers)

## Schedule 25 (Rectification Plan)

Request for [Revised] Rectification Plan			
Details of the Notifiable Default:	<b>[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]</b>		
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from request)]		
Signed by Buyer:		Date:	
Supplier [Revised] Rectification Plan			
Cause of the Notifiable Default	[add cause]		
Anticipated impact assessment:	[add impact]		
Actual effect of Notifiable Default:	[add effect]		
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Notifiable Default	[X] Working Days		
Steps taken to prevent recurrence of Notifiable Default	<b>Steps</b>	<b>Timescale</b>	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	

	[...]	[date]	
Signed by the Supplier:		Date:	
<b>Review of Rectification Plan Buyer</b>			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

## Schedule 26 (Sustainability)

### 1. Definitions

- “Waste Hierarchy”** means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011:
- (a) Prevention;
  - (b) Preparing for re-use;
  - (c) Recycling;
  - (d) Other Recovery; and
  - (e) Disposal.

## Part A

### 1. Public Sector Equality Duty

- 1.1 In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under this Contract in a way that seeks to:
- 1.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and
  - 1.1.2 advance:
    - (a) equality of opportunity; and
    - (b) good relations,between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

### 2. Employment Law

The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

### 3. Modern Slavery

- 3.1 The Supplier:
- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
  - 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
  - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;

- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- 3.1.6 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under this Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies;
- 3.1.12 if the Supplier is in Default under Paragraphs 3.1.1 to 3.1.11 of this Part A of Schedule 26 the Buyer may by notice:
  - (a) require the Supplier to remove from performance of this Contract any sub-contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or
  - (b) immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply; and
- 3.1.13 shall, if the Supplier or the Buyer identifies any occurrence of modern slavery connected to this Contract, comply with any request of the Buyer to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance to PPN 02/23 (Tackling Modern Slavery in Government Supply Chains).

- 3.2 If the Supplier notifies the Buyer pursuant to Clause 3.1.11 it shall respond promptly to the Buyer's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with this Contract.
- 3.3 If the Supplier is in Default under Paragraph 3.1 of this Part A of Schedule 26 [Guidance: Include if Optional paragraph 3.3 of Part B of this Schedule is included or Paragraph 3.3. of Part B Schedule 26] the Buyer may by notice:
  - 3.3.1 require the Supplier to remove from performance of this Contract any Sub-Contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or
  - 3.3.2 immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply.

#### **4. Environmental Requirements**

- 4.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 4.2 In performing its obligations under this Contract, the Supplier shall, where applicable to this Contract, to the reasonable satisfaction of the Buyer:
  - 4.2.1 prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
  - 4.2.2 be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and
  - 4.2.3 ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.
- 4.3 In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.
- 4.4 In performing its obligations under this Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21),



publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.

- 4.5 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

## **5. Supplier Code of Conduct**

- 5.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1163536/Supplier\\_Code\\_of\\_Conduct\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf)

The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

## **6. Reporting**

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1-5 of this Part A above within fourteen (14) days of such request, [provided that such requests are limited to [two (2)] per requirement per Contract Year].

## **Schedule 27 (Key Subcontractors)**

### **1. Restrictions on certain subcontractors**

- 1.1 The Supplier is entitled to sub-contract its obligations under this Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
  - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Difficulties)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
  - 1.4.1 a copy of the proposed Key Sub-Contract; and
  - 1.4.2 any further information reasonably requested by the Buyer.

- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
  - 1.5.1 provisions which will enable the Supplier to discharge its obligations under the this Contract;
  - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
  - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
  - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under this Contract in respect of:
    - a) the data protection requirements set out in Clause 18 (Data protection);
    - b) the FOIA and other access request requirements set out in Clause 20 (When you can share information);
    - c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
    - d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
  - 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 14.4 (When the Buyer can end this Contract) and 14.5 (What happens if this Contract ends) of this Contract;
  - 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer; and
  - 1.5.8 a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 13 (Step-in rights).
- 1.6 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.

## Schedule 29 (Key Supplier Staff)

### 1. Key Supplier Staff

- 1.1 The Annex 1 (Key Role) to this Schedule lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date ("**Key Staff**").
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
  - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
  - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom they have replaced.

- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

## **Annex 1- Key Roles**

All those roles and individuals named in Schedule 4 (Tender)

## Schedule 30 (Exit Management)

### 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Exclusive Assets"</b>	Supplier Assets used exclusively by the Supplier [or a Key Subcontractor] in the provision of the Deliverables;
<b>"Exit Information"</b>	has the meaning given to it in Paragraph 3.1 of this Schedule;
<b>"Exit Manager"</b>	the person appointed by each Party to manage their respective obligations under this Schedule;
<b>"Net Book Value"</b>	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
<b>"Non-Exclusive Assets"</b>	those Supplier Assets used by the Supplier [or a Key Subcontractor] in connection with the Deliverables but which are also used by the Supplier [or Key Subcontractor] for other purposes;
<b>"Replacement Goods"</b>	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Transferable Assets"</b>	Exclusive Assets which are capable of legal transfer to the Buyer;
<b>"Transferable Contracts"</b>	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
<b>"Transferring Assets"</b>	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
<b>"Transferring Contracts"</b>	has the meaning given to it in Paragraph 8.2.3 of this Schedule; and
<b>"Virtual Library"</b>	the data repository hosted by the Supplier containing the accurate information about this Contract and the Deliverables in accordance with Paragraph 2.2 of this Schedule.

## **2. Supplier must always be prepared for contract exit**

- 2.1 The Supplier shall within thirty (30) days from the Effective Date, if requested by the Buyer's Contract Manager, provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
- 2.2 During the Contract Period and if the Buyer requests, the Supplier shall within thirty (30) days from the Effective Date (or such other period as is specified in the Award Form) create and maintain a Virtual Library containing:
  - 2.2.1 a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
  - 2.2.2 a configuration database detailing the technical infrastructure, a schedule of the IPRs (consistent with Annex 1 of Schedule 36 (Intellectual Property) which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Schedule 14 (Business Continuity and Disaster Recovery) or Schedule 24 (Financial Difficulties) and operating procedures through which the Supplier provides the Deliverables, and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times. All information contained in the Virtual Library should be maintained and kept up to date in accordance with the time period set out in the Award Form.
- 2.3 The Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Schedule 7 (Staff Transfer)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1, 1.2 of Part E of Schedule 7 (Staff Transfer).
- 2.4 The Supplier shall:
  - 2.4.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and
  - 2.4.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.



- 2.5 Each Party shall appoint an Exit Manager within three (3) Months of the Effective Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

### **3. Assisting re-competition for Deliverables**

- 3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

### **4. Exit Plan**

- 4.1 The Supplier shall, within three (3) Months after the Start Date, if requested by the Buyers Contract Manager, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "**Exit Plan**").
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
- 4.3.1 how the Exit Information is obtained;
  - 4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;
  - 4.3.3 the management structure to be employed during the Termination Assistance Period;
  - 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;

- 4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
  - 4.3.6 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
  - 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
  - 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
  - 4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;
  - 4.3.10 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
  - 4.3.11 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
  - 4.3.12 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
  - 4.3.13 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
  - 4.3.14 proposals for the disposal of any redundant Deliverables and materials;
  - 4.3.15 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
  - 4.3.16 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4 Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Schedule 3 (Charges). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance Services.
- 4.5 The Supplier shall:
- 4.5.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
    - (a) throughout the Contract Period;

- (b) no later than twenty (20) Working Day after a request from the Buyer for an up-to-date copy of the Exit Plan;
  - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
  - (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
- 4.5.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.6 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.7 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

## 5. Termination Assistance

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- 5.1.1 the nature of the Termination Assistance required; and
  - 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
- 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date eighteen (18) Months after the End Date; and
  - 5.2.2 the Buyer shall notify the Supplier of any such extension by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this

Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## **6. Termination Assistance Period**

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
- 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
  - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
  - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
  - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
  - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date contents of the Virtual Library to the Buyer; and
  - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

## **7. Obligations when the contract is terminated**

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
- 7.2.1 cease to use the Government Data;
  - 7.2.2 vacate any Buyer Premises;
  - 7.2.3 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the

Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

- 7.2.4 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
  - (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.
- 7.3 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.

## **8. Assets, Sub-contracts and Software**

- 8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
- 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
  - 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2 Within twenty (20) Working Days of receipt of the up-to-date contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:
- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
  - 8.2.2 which, if any, of:
    - (a) the Exclusive Assets that are not Transferable Assets; and
    - (b) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services. Where requested by the Supplier, the Buyer and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.
- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
  - 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
  - 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
  - 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
  - 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CRTPA.

## **9. No charges**

Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

## **10. Dividing the bills**

All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

- 10.1 the amounts shall be annualised and divided by three hundred and sixty five (365) to reach a daily rate;
- 10.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
- 10.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

## **Annex 1: Scope of Termination Assistance**

### **1. Scope of Termination Assistance**

- 1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
  - 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
  - 1.1.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
  - 1.1.3 providing details of work volumes and staffing requirements over the twelve (12) Months immediately prior to the commencement of Termination Assistance;
  - 1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of twelve (12) Months after the Termination Assistance Period;
  - 1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
  - 1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
  - 1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
  - 1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;
  - 1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;
  - 1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;
  - 1.1.11 providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding six (6) Months afterwards for the purpose of the smooth



transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:

- (a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
- (b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;

1.1.12 knowledge transfer services, including:

- (a) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Buyer and/or the Replacement Supplier (acting reasonably);
- (b) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;
- (c) providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;
- (d) providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and
- (e) allowing the Buyer and/or the Replacement Supplier to work alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions,

and any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

1.2 The Supplier will:

1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.12 for agreement by the Buyer at the time of termination or expiry of this Contract; and

1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.7, providing skills and expertise of a suitable standard.

1.3 To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.

1.4 The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1.1.11 shall include:

1.4.1 copies of up-to-date procedures and operations manuals;

1.4.2 product information;

1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and

1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule,

and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:

(a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and

(b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and

1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

## Schedule 32 (Background Checks)

### 1. When you should use this Schedule

This Schedule should be used where Supplier Staff must be vetted before working on Contract.

### 2. Definitions

**“Relevant Conviction”** means any conviction listed in Annex 1 to this Schedule.

### 3. Relevant Convictions

3.1 The Supplier must ensure that no person who discloses that they have a Relevant Conviction, or a person who is found to have any Relevant Convictions (whether as a result of a police check or through the procedure of the Disclosure and Barring Service (DBS) or otherwise), is employed or engaged in any part of the provision of the Deliverables without Approval.

3.2 Notwithstanding Paragraph 3.1 for each member of Supplier Staff who, in providing the Deliverables, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, the Supplier must (and shall procure that the relevant Sub-Contractor must):

3.2.1 carry out a check with the records held by the Department for Education (DfE);

3.2.2 conduct thorough questioning regarding any Relevant Convictions; and

3.2.3 ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service (DBS),

and the Supplier shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Deliverables any person who has a Relevant Conviction or an inappropriate record.

## **Annex 1 – Relevant Convictions**

Not required

# Schedule 36 (Intellectual Property Rights)

**Part A: Intellectual Property Rights (no ICT Services)..... 1**

- 1. General Provisions and Ownership of IPR ..... 1
- 2. Licences in respect of Supplier Existing IPR ..... 2
- 3. Licences granted by the Buyer ..... 3
- 4. Licences in respect of Third-party IPR ..... 4
- 5. Open Licence Publication..... 5
- 6. Patents ..... 7



# Part A: Intellectual Property Rights (no ICT Services)

## 1. General Provisions and Ownership of IPR

- 1.1. Any New IPR created under this Contract is owned by the Buyer.
- 1.2. Each Party keeps ownership of its own Existing IPR.
- 1.3. Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with Paragraphs 1.1 and 1.2, it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).
- 1.4. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under this Contract or otherwise agreed in writing.
- 1.5. Except as expressly granted elsewhere under this Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.
- 1.6. Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR in the table at Annex 1 to this Schedule and keep this updated throughout the Contract Period.
- 1.7. If the Supplier becomes aware at any time, including after the earlier of the End Date or date of termination, that, in respect of any Deliverable, the Buyer has not received the licences to Supplier Existing IPRs or Third Party IPRs required by Paragraphs 2 and 4, the Supplier must, within 10 Working Days notify the Buyer:
  - 1.7.1. the specific Intellectual Property Rights the Buyer has not received licences to; and
  - 1.7.2. the Deliverables affected.
- 1.8. For the avoidance of doubt:
  - 1.8.1. except as provided for in Paragraphs 2.3.2.2(c)(1) or 4.1.2.2 and 4.1.2.3, the expiry or termination of this Contract does not of itself terminate the licences granted to the Buyer under Paragraphs 2 and 4;
  - 1.8.2. the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:
    - 1.8.2.1. sections 55 and 56 of the Patents Act 1977;

1.8.2.2. section 12 of the Registered Designs Act 1949; or

1.8.2.3. sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

## **2. Licences in respect of Supplier Existing IPR**

2.1. The Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 2.3 in respect of each Deliverable where:

2.1.1. the Supplier Existing IPR is embedded in the Deliverable;

2.1.2. the Supplier Existing IPR is necessary for the Buyer to use the Deliverable for its intended purpose; or

2.1.3. the Deliverable is a customisation or adaptation of Supplier Existing IPR.

2.2. The categories of Supplier Existing IPR described in Paragraph 2.1 are mutually exclusive.

2.3. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:

2.3.1. in the case of Supplier Existing IPR embedded in a Deliverable:

2.3.1.1. has no restriction on the identity of any transferee or sub-licensee;

2.3.1.2. allows the Buyer and any transferee or sub-licensee to use, copy and adapt the Supplier Existing IPR for any of the purposes set out in Paragraph 2.4; and

2.3.1.3. is subject to the restriction that no sub-licence granted to the Supplier Existing IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph;

2.3.2. in the case of Supplier Existing IPR that is necessary for the Buyer to use the Deliverable for its intended purpose or has been customised or adapted to provide the Deliverable:

2.3.2.1. allows the Buyer and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Supplier Existing IPRs for any of the purposes set out in Paragraph 2.4;

2.3.2.2. is transferrable to only:

- (a) a Crown Body;
- (b) any body (including any private sector body) that performs or carries out any of the functions or activities that the Buyer had previously performed or carried out; or
- (c) a person or organisation that is not a direct competitor of the Supplier and that transferee either:
  - (1) enters into a direct arrangement with the Supplier in the form set out in Annex 2; or
  - (2) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential);

2.3.2.3. is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the Replacement Supplier either:

- (a) enters into a direct arrangement with the Supplier in the form set out in Annex 2; or
- (b) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential); and

2.3.2.4. is subject to the restriction that no sub-licence granted to the Supplier Existing IPR shall purport to provide the sub- licensee with any wider rights than those granted to the Buyer under this Paragraph.

2.4. For the purposes of Paragraph 2.3, the relevant purposes are:

- 2.4.1. to allow the Buyer or any End User to receive and use the Deliverables;
- 2.4.2. to allow the Buyer to commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items; and
- 2.4.3. for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.



### **3. Licences granted by the Buyer**

- 3.1. The Buyer grants the Supplier a licence to the New IPR and Buyer Existing IPR that:
  - 3.1.1. is non-exclusive, royalty-free and non-transferable;
  - 3.1.2. is sub-licensable to any Sub-contractor where:
    - 3.1.2.1. the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential); and
    - 3.1.2.2. the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;
  - 3.1.3. allows the Supplier and any sub-licensee to use, copy and adapt any Buyer Existing IPR and New IPR for the purpose of fulfilling its obligations under this Contract; and
  - 3.1.4. terminates at the end of the Contract Period or the end of any Termination Assistance Period, whichever is the later.
- 3.2. When the licence granted under Paragraph 3.1 terminates, the Supplier must, and must ensure that each Sub-contractor granted a sub-licence under Paragraph 3.1.2:
  - 3.2.1. immediately cease all use of the Buyer Existing IPR and New IPR (including the Government Data within which the Buyer Existing IPR or New IPR may subsist);
  - 3.2.2. either:
    - 3.2.2.1. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR, New IPR and the Government Data; or
    - 3.2.2.2. if the Buyer has not made an election within six months of the termination of the licence, destroy the documents and other tangible materials that contain any of the Buyer Existing IPR, the New IPR and the Government Data (as the case may be); and
  - 3.2.3. ensure, so far as reasonably practicable, that any Buyer Existing IPR, New IPR and Government Data held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier.

#### **4. Licences in respect of Third-party IPR**

4.1. The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless:

4.1.1. Approval is granted by the Buyer; and

4.1.2. one of the following conditions is met:

4.1.2.1. the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR Licence on the terms set out in Paragraph 4.2;

4.1.2.2. if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph 4.1.2.1, all the following conditions are met:

(a) the Supplier has notified the Buyer in writing giving details of:

(1) what licence terms can be obtained from the relevant third party; and

(2) whether there are providers which the Supplier could seek to use and the licence terms obtainable from those third parties;

(b) the Buyer has agreed to accept the licence terms of one of those third parties; and

(c) the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Buyer on those terms; or

4.1.2.3. the Buyer has provided authorisation to the use of the Third Party IPR in writing, with reference to the acts authorised and the specific IPR involved.

4.2. The Third Party IPR licence referred to in Paragraph 4.1 is the licence set out in Paragraph 2.3 as if:

4.2.1. the term Third Party IPR were substituted for the term Supplier Existing IPR; and

4.2.2. the term third party were substituted for the term Supplier, in each place they occur.

## 5. Open Licence Publication

- 5.1. Subject to Paragraph 5.5, the Supplier agrees that the Buyer may at its sole discretion publish under Open Licence all or part of the New IPR Items.
- 5.2. The Supplier warrants that:
  - 5.2.1. the New IPR Items are suitable for release under Open Licence;
  - 5.2.2. in developing the New IPR is has used reasonable endeavours to ensure that:
    - 5.2.2.1. the publication by the Buyer will not:
      - (a) allow a third party to use them in any way that could reasonably be foreseen to compromise the operation or security of the New IPRs;
      - (b) cause any harm or damage to any party using them; or
      - (c) breach the rights of any third party;
    - 5.2.2.2. they do not contain any material which would bring the Buyer into disrepute if published.
- 5.3. The Supplier must not include in the New IPR provided for publication by Open Licence any Supplier Existing IPRs unless the Supplier consents to:
  - 5.3.1. their publication by the Buyer under Open Licence; and
  - 5.3.2. their subsequent licence and treatment as Open Licence under the terms of the licence chosen by the Buyer.
- 5.4. The Supplier must supply any or all New IPR Items in a format (whether it is provided in any other format or not) suitable for publication under an Open Licence (the **Open Licence Publication Material**) within thirty (30) Working Days of written request from the Buyer (**Buyer Open Licence Request**).
- 5.5. The Supplier may within fifteen (15) Working Days of Buyer Open Licence Request under Paragraph 5.4 request in writing that the Buyer excludes all or part of:
  - 5.5.1. the New IPR Items; or
  - 5.5.2. Supplier Existing IPR or Third Party IPR that would otherwise be included in the Open Licence Publication Material supplied to the Buyer pursuant to Paragraph 5.4,

from Open Licence publication.

- 5.6. The Supplier's request under Paragraph 5.5 must include the Supplier's assessment of the impact the Buyer's agreeing to the request would have on its ability to publish other New IPR Items under an Open Licence.
- 5.7. Any decision to Approve any such request from the Supplier under Paragraph 5.5 shall be at the Buyer's sole discretion, not to be unreasonably withheld or delayed, or made subject to unreasonable conditions.

## **6. Patents**

- 6.1. Where a patent owned by the Supplier is infringed by the use of the New IPR by the Buyer or any Replacement Supplier, the Supplier hereby grants to the Buyer and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.



## ANNEX 1: FORM OF CONFIDENTIALITY UNDERTAKING

### CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on [date] 20

#### BETWEEN:

- (1) [insert name] of [insert address] (the “Sub-licensee”); and
- (2) [insert name] of [insert address] (the “Supplier” and together with the Supplier, the “Parties”).

#### WHEREAS:

- (A) [insert name of Buyer] (the “Buyer”) and the Supplier are party to a contract dated [insert date] (the “Contract”) for the provision by the Supplier of [insert brief description of services] to the Buyer.
- (B) The Buyer wishes to grant a sub-licence to the Sub-licensee in respect of certain software and intellectual property rights licensed to the Buyer pursuant to this Contract (the “Sub-licence”).
- (C) It is a requirement of this Contract that, before the Buyer grants such sub-licence to the Sub-licensee, the Sub-licensee execute a confidentiality agreement in favour of the Supplier in or substantially in the form of this Agreement to protect the Confidential Information of the Buyer.

#### IT IS AGREED as follows:

##### 1 Interpretation

- 1.1 In this Agreement, unless the context otherwise requires:

**“Confidential Information”**

means:

- (a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Buyer to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:
  - (i) the Supplier; or
  - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;

- (b) the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-licence together with build information, relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Supplier to the Buyer pursuant to or in connection with the Sub-licence;
- (c) other Information provided by the Buyer pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee's attention or into the Sub-licensee's possession in connection with the Sub-licence; and
- (d) Information derived from any of the above,

but not including any Information that:

- (a) was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Buyer;
- (b) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
- (c) was independently developed without access to the Information;

**“Information”**

means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

**“Sub-licence”** has the meaning given to that expression in recital (B) to this Agreement.

1.2 In this Agreement:

- 1.2.1 a reference to any gender includes a reference to other genders;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
- 1.2.4 references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;
- 1.2.5 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
- 1.2.6 references to Clauses are to clauses of this Agreement.

**2 Confidentiality Obligations**

2.1 In consideration of the Buyer entering into the Sub-licence, the Sub-licensee shall:

- 2.1.1 treat all Confidential Information as secret and confidential;
- 2.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- 2.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or except as expressly set out in this Agreement;
- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom;
- 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- 2.1.6 immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- 2.1.7 upon the expiry or termination of the Sub-licence:
  - (a) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;



- (b) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any computer, word processor, voicemail system or any other device; and
- (c) make no further use of any Confidential Information.

### **3 Permitted Disclosures**

- 3.1 The Sub-licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:
  - 3.1.1 reasonably need to receive the Confidential Information in connection with the Sub-licence; and
  - 3.1.2 have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and
  - 3.1.3 have agreed to terms similar to those in this Agreement.
- 3.2 The Sub-licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub-licensee.
- 3.3 Before making a disclosure pursuant to Clause 3.2, the Sub-licensee shall, if the circumstances permit:
  - 3.3.1 notify the Supplier in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
  - 3.3.2 ask the court or other public body to treat the Confidential Information as confidential.

### **4 General**

- 4.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.
- 4.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
  - 4.2.1 to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;
  - 4.2.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
  - 4.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials

provided pursuant to or in anticipation of the Sub-licence.

- 4.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 4.4 Without prejudice to any other rights or remedies that the Supplier may have, the Sub-licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub-licensee of any of the provisions of this Agreement. Accordingly, the Sub-licensee acknowledges that the Supplier shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 4.5 The maximum liability of the Sub-licensee to the Supplier for any breach of this Agreement shall be limited to ten million pounds (£10,000,000).
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.
- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 4.8 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## 5 Notices

- 5.1 Any notice to be given under this Agreement (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.

### 5.2 Any Notice:

5.2.1 if to be given to the Supplier shall be sent to:

[Address]

Attention: [Contact name and/or position, e.g. “The Finance Director”]

5.2.2 if to be given to the Sub-licensee shall be sent to:

[Name of Organisation]

[Address]

Attention: [ ]

## 6 Governing law

- 6.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.
- 6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

**IN WITNESS** of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

**For and on behalf of** [name of Supplier]

Signature: \_\_\_\_\_

Date:

Name:

Position:

**For and on behalf of** [name of Sub-licensee]

Signature: \_\_\_\_\_

Date:

Name:

Position: