



Department
for Environment
Food & Rural Affairs

Supply of Gases to Air Quality Monitoring Network

Conditions of Contract Short Form Enhanced

C25986

August 2024

Contents

Order Form	4
Annex 1 – Authorised Processing Template	10
Annex 2 – Specification.....	11
Annex 3 – Charges	12
Annex 4 – Contract Management and Performance Indicators.....	16
Annex 5 – Exit Management	25
Annex 6 – Tender Submission.....	34
Annex 7 – Sustainability	35
Annex 8 – Change Control	40
Short Form Terms	42
1. Definitions used in the Contract.....	42
2. Understanding the Contract.....	47
3. How the Contract works	48
4. What needs to be delivered	48
5. Pricing and payments	51
6. The Authority's obligations to the Supplier	52
7. Record keeping and reporting	53
8. Supplier staff.....	54
9. Rights and protection.....	55
10. Intellectual Property Rights (IPRs).....	56
11. Ending the contract	57
12. How much you can be held responsible for	59
13. Obeying the law	60
14. Insurance	61
15. Data protection	61
16. What you must keep confidential.....	66
17. When you can share information	67
18. Invalid parts of the contract.....	68
19. No other terms apply	68
20. Other people's rights in a contract	68
21. Circumstances beyond your control	68
22. Relationships created by the contract.....	68
23. Giving up contract rights	69
24. Transferring responsibilities	69
25. Changing the contract	69
26. How to communicate about the contract	69
27. Preventing fraud, bribery and corruption	70
28. Health, safety and wellbeing	70
31. Tax.....	72
33. Conflict of interest.....	73
34. Reporting a breach of the contract	73
35. Resolving disputes	74
36. Which law applies.....	75



Department
for Environment
Food & Rural Affairs

BOC Limited

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

Attn: [REDACTED]

[REDACTED]

Date: 23/08/2024
Our ref: **C25986**

Dear [REDACTED],

Supply of Gases to Air Quality Monitoring Network

Following your tender/ proposal for the supply of Gases to Air Quality Monitoring Network to the Environment Agency (EA) , we are pleased confirm our intention to award this contract to you.

The attached contract details ("**Order Form**"), contract conditions and the **Annexes** set out the terms of the contract between EA and **BOC Limited** for the provision of the deliverables set out in the Order Form.

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the deliverables. Please confirm your acceptance of the Conditions by accepting this contract on DocuSign within 7 days from the date of this letter, which will create a binding contract between us. No other form of acknowledgement will be accepted. Please remember to include the reference number above in any future communications relating to this contract.

We will then arrange for the Order Form to be countersigned so that you have a signed copy of the Order Form for your records.

Yours faithfully,

[REDACTED]

Senior Commercial Manager | DEFRA Group Commercial

Order Form

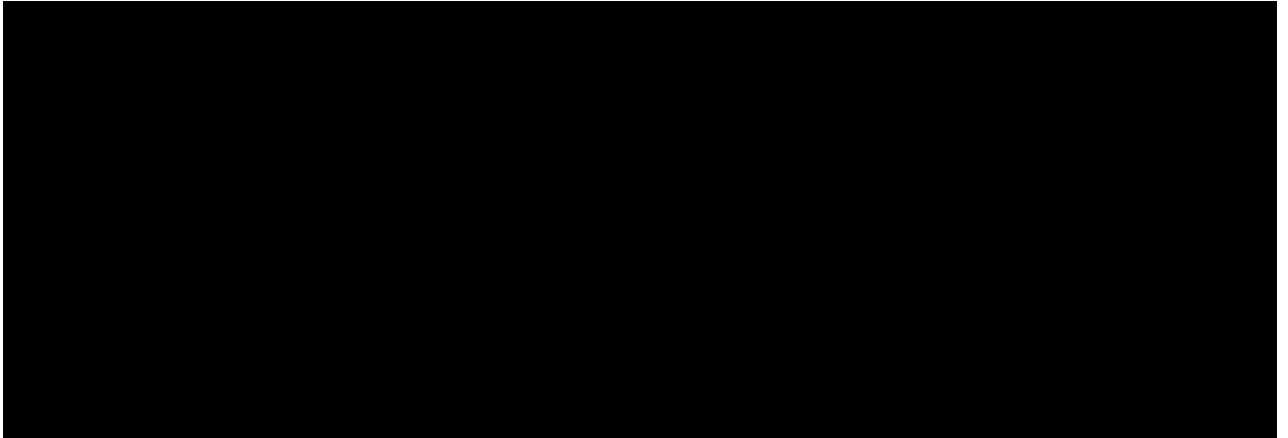
1. Contract Reference	C25986
2. Date	23/08/2024
3. Authority	The Environment Agency acting on behalf of the Department for Environment, Food & Rural Affairs (DEFRA).
4. Supplier	<div><div></div><div></div><div></div><div></div><div></div><div></div></div>
4a. Supplier Account Details	<div><div></div><div></div></div>

5. The Contract	<p>The Supplier shall supply the Deliverables described below on the terms set out in this Order Form and the attached contract conditions ("Conditions") and any Annexes.</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.</p> <p>In the event of any inconsistency between the provisions of the Order Form, the Conditions and the Annexes, the inconsistency shall be resolved by giving precedence in the following order:</p> <ol style="list-style-type: none"> 1. Order Form, Annex 2 (<i>Specification</i>), Annex 3 (<i>Charges</i>) with equal priority. 2. Conditions, Annex 1 (<i>Authorised Processing Template</i>), Annex 4 (Contract Management) and Annex 5 (Exit Management) with equal priority. 3. Annexes 6 (<i>Tender Submission</i>), 7 (<i>Sustainability</i>) and 8 (Change Control). <p>In the event of any inconsistency between the provisions of Annexes 6 and 7, Annex 7 shall take precedence over Annex 6.</p> <p>Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Authority and may delay conclusion of the Contract.</p>	
6. Deliverables	Goods	Gas cylinders delivered in accordance with the Specification to multiple AURN sites and Contractors at other stated addresses across the UK.
	Services	Ongoing rental and collection of empty cylinders as per the Specification.
7. Specification	The specification of the Deliverables is as set out in Annex 2.	
8. Term	<p>The Term shall commence on 1 September 2024 (the Start Date)</p> <p>and the Expiry Date shall be 31 August 2025 unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.</p> <p>The Authority may extend the Contract up to five times, for a period of up to 12 months' each time, by giving not less than 3 months' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.</p>	
9. Charges	<div></div>	

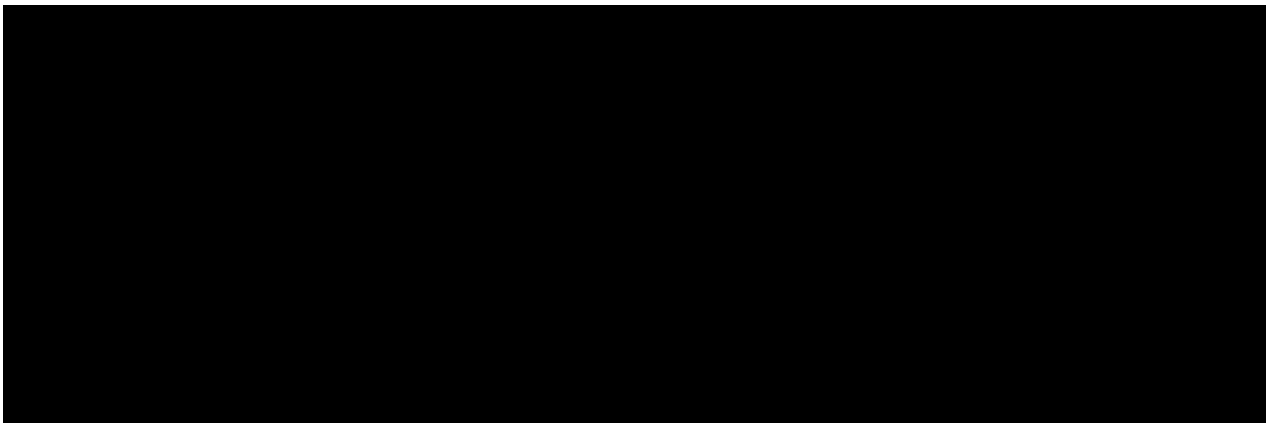
10. Payment	<p>The Authority's preference is for all invoices to be sent electronically, quoting a valid Purchase Order Number (PO Number), to:</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Within 10 Working Days of receipt of your countersigned copy of this Order Form, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant with Annex 3 Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment please contact the Authority's Authorised Representative(s).</p>																						
11. Authority Authorised Representative(s)	<p>For general liaison your contact will continue to be</p> <p>[Redacted]</p> <p>or, in their absence,</p> <p>[Redacted]</p>																						
12. Address for notices	<table border="0"> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> <tr> <td>[Redacted]</td><td>[Redacted]</td></tr> </table>	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
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14. Procedures and Policies	<p>The Authority may require the Supplier to ensure that any person employed in the delivery of the Deliverables has undertaken a Disclosure and Barring Service check. The Supplier shall ensure that no person who discloses that they have a conviction that is relevant to the nature of the Contract, relevant to the work of the Authority, or is of a type otherwise advised by the Authority (each such conviction a "Relevant Conviction"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.</p> <p>The Authority's security / data security requirements are contained here.</p> <p>The Authority has corporate commitments to meet Net Zero carbon by 2030 and can be found here.</p> <p>The Authority's equality and diversity strategy can be found here.</p> <p>The Authority's regulatory statement sets out the strategic regulatory goals and describes the ambitious programme of improvements to the way regulation is delivered.</p> <p>The Supplier is required to familiarise themselves and comply with the Authority's health and safety policies which can be found in Appendix 7 UK Air Quality Monitoring Networks Health and Safety Guidance and Appendix 8 Environment Agency Code of Practice</p> <p>For the avoidance of doubt, if other policies of the Authority are referenced in the Conditions and Annexes, those policies will also apply to the Contract on the basis described therein.</p>
15. Limitation of Liabilities	<p>As set out in Clause 12.1</p>
16. Insurance	<div style="background-color: black; height: 15px; width: 100%;"></div> <div style="background-color: black; height: 15px; width: 100%;"></div> <div style="background-color: black; height: 15px; width: 15%;"></div> <div style="margin-top: 10px;"> <div style="display: flex;"> <div style="width: 15px; height: 15px; background-color: black; margin-right: 5px;"></div> <div style="background-color: black; height: 15px; width: 85%;"></div> </div> <div style="display: flex;"> <div style="width: 15px; height: 15px; background-color: black; margin-right: 5px;"></div> <div style="background-color: black; height: 15px; width: 85%;"></div> </div> <div style="display: flex;"> <div style="width: 15px; height: 15px; background-color: black; margin-right: 5px;"></div> <div style="background-color: black; height: 15px; width: 85%;"></div> </div> </div>

Authority Signature:



Supplier Signature:



Annex 1 Authorised Processing Template

Contract:	Supply of Gases to Air Quality Monitoring Network
Date:	The duration of the Contract term including any extension periods.
Subject matter of the processing	To enable the supply of compressed and liquefied gases to the various sites and depots listed in the requirements.
Duration of the processing	Personal Data will be processed only for as long as necessary for provision of the Services and no longer than the expiry of the Contract (and any extension period).
Nature and purposes of the processing	Processing will involve getting in touch with the various Environment Agency teams, Automatic Urban and Rural Network (AURN) stakeholders and Local Site Operators to arrange delivery and collection.
Type of Personal Data	Names, telephone, email address and address of the AURN stakeholders: <ul style="list-style-type: none"> - Authority staff - Quality Assurance Quality Control services' contractor's staff (currently Ricardo AEA and National Physical Laboratory) - Central Management and Co-Ordination Unit contractor's staff (currently Bureau Veritas) - Equipment Support Unit contractor's staff (currently Enviro Technology and Acoem) - Local Site Operators - Supplier staff.
Categories of Data Subject	Authority Staff, Supplier Staff, Staff of Third-Party Contractors

—

Annex 2 Specification

Available within the Atamis Contract Area

Annex 3 Charges

Defined terms within this Annex:

E-Invoicing: Means invoices created on or submitted to the Authority via the electronic marketplace service.

Electronic Invoice: Means an invoice (generally in PDF file format) issued by the Supplier and received by the Authority using electronic means, generally email.

1. How Charges are calculated

1.1 The Charges:

- 1.1.1 shall be calculated in accordance with the terms of this Annex 3; and
- 1.1.2 cannot be increased except as specifically permitted by this Annex.

1.2 Any variation to the Charges payable under the Contract must be agreed between the Supplier and the Authority and implemented using the procedure set out in this Annex.

2. When the Charges are linked to inflation

2.1 Where the Charges are stated to be "subject to indexation" they shall be adjusted in line with changes in the Consumer Price Index ("CPI"). All other costs, expenses, fees and charges shall not be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier.

2.2 Charges shall not be indexed during the first **twelve (12) months** following the Start Date.

2.3 Charges subject to indexation will be indexed on the date which is twelve (12) months after the Start Date and on each anniversary of such date (in each case the "Review Date") to reflect the percentage change in the CPI in the 12 months. The Charge will be indexed using the most recently published CPI figure on the Review Date and the increase will be capped at CPI or 2%, whichever is lower.

Where the CPI Index:

—
2.3.1 used to carry out an indexation calculation is updated then the indexation calculation shall also be updated unless the Authority and the Supplier agree otherwise.

2.3.2 is no longer published or no longer consider appropriate by the Authority acting reasonably, the Authority and the Supplier shall agree a fair and reasonable replacement.

3. Rates and Prices

Available within the Atamis Contract Area

4. Currency

All Supplier invoices shall be expressed in sterling or such other currency as shall be permitted by the Authority in writing.

5. Variations

The Authority may make reasonable changes to its invoicing requirements during the Term after providing 30 calendar days written notice to the Supplier.

6. Electronic Invoicing

6.1 The Authority shall accept for processing any electronic invoice that it is valid, undisputed and complies with the requirements of the Authority's e-invoicing system:

6.2 The Supplier shall ensure that each invoice is submitted in a PDF format and contains the following information:

6.2.1 the date of the invoice

6.2.2 a unique invoice number

6.2.3 the period to which the relevant Charge(s) relate

6.2.4 the correct reference for the Contract

6.2.5 a valid Purchase Order Number

6.2.6 the dates between which the Deliverables subject of each of the Charges detailed on the invoice were performed

6.2.7 a description of the Deliverables

6.2.8 the pricing mechanism used to calculate the Charges (such as fixed price, time and materials)

- 6.2.9 a contact name and telephone number of a responsible person in the Supplier's finance department and/or contract manager in the event of administrative queries; and
 - 6.2.10 the banking details for payment to the Supplier via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number).
- 6.3 The Supplier shall submit all invoices and any requested supporting documentation through the Authority's e-invoicing system or if that is not possible to: Shared Services Connected Ltd, PO Box 797, Newport, Gwent, NP10 8FZ with a copy (again including any supporting documentation) to such other person and at such place as the Authority may notify to the Supplier from time to time.
- 6.4 Invoices submitted electronically will not be processed if:
- 6.4.1 The electronic submission exceeds 4mb in size.
 - 6.4.2 Is not submitted in a PDF formatted document.
 - 6.4.3 Multiple invoices are submitted in one PDF formatted document.
 - 6.4.4 The formatted PDF is "Password Protected".

Annex 4 – Contract Management and Performance Indicators

1. Contract Management

- 1.1 The Authority's Contract Manager will be the point of contact on a day-to-day basis for all matters concerning this Contract and shall be primarily responsible for providing the Supplier with all instructions, approvals and the like and for accepting all deliverables under the scope of work and for dealing with the Supplier's claims for payment.
- 1.2 The Authority will appoint a Contract Manager (CM)
- 1.3 The Supplier shall appoint a Service Manager (SM) as the Supplier's representative who shall be responsible for the overall quality and timeliness of the services to be provided.
- 1.4 An inception meeting will be scheduled following the contract award, within the transition period and preceding the Contract Commencement date at no additional cost to the Authority.
- 1.5 Quarterly review meetings will be held virtually or via telecom between the Contract Manager, and the Contractor's Service Manager. The Contractor will provide the secretariat for these meetings and will prepare and issue a short summary of substantive points and actions arising from these meetings (within two (2) weeks of the meeting).
- 1.6 Table 1 outlines the purpose of each of these meetings and the required attendees.

Table 1 – Contract Management Meeting Schedule

Meeting	Attendance	Content
Specific Issues, ad hoc	The Customer: <ul style="list-style-type: none">Contract Manager The Supplier: <ul style="list-style-type: none">Service Manager Any other Authority or Supplier staff needed to progress the issue.	<ul style="list-style-type: none">Urgent issuesSpecific technical or contractual issues requiring detailed discussion

Inception Meeting	<p>The Authority:</p> <ul style="list-style-type: none"> • CM (Chair) • Any other Business area representative • DGC representative (<i>if required</i>) 	<ul style="list-style-type: none"> • Confirm appointments and contact details. • Confirm contract requirements. • Review Performance Management requirements.
	<p>The Supplier:</p> <ul style="list-style-type: none"> • SM • Any other representative that the Supplier feels relevant from within their organisation 	
Quarterly Review Meeting	<p>The Customer / Authority:</p> <ul style="list-style-type: none"> • CM (Chair) • Any other Business area representative • DGC representative (<i>if required</i>) <p>The Supplier:</p> <ul style="list-style-type: none"> • SM • Secretariat (<i>if not SM</i>) • Any other representative that the Supplier feels relevant from within their organisation 	<ul style="list-style-type: none"> • Review against KPIs • Risk Register • Health and Safety risks • Review of Action Log • Specific service issues (including any escalated issues) • Financial update

1.7 It's a Key Performance Indicator (2) to respond to the Agency's request for information in a timely way. Unless otherwise agreed, emails and enquiries from the Agency shall be answered within 10 working days with an actioned response. Enquiries from AURN network contractors shall be dealt with within the same agreed timescale (for example a requirement for a new cylinder to be replaced as it became oxidised at audit).

2. Management Information

2.1 The Supplier shall maintain the following records:

Records to be kept for a period of 3 years from receipt and for the life of the Contract.	
i)	Weekly pressure checks sent by QAQC.
ii)	Ad hoc requests from AURN stakeholders for gas deliveries

<p>iii) Records of arrangements for delivery / collection</p> <p>iv) Records of communications with LSO's or other AURN stakeholders for delivery and collections that result in genuine delays to the collection and delivery by the 30-day Target Date,</p> <p>v) Records that pre-delivery confirmation has been received from LSO that:</p> <ul style="list-style-type: none"> • Low gas pressure on AURN cylinder is genuine / or Ad hoc request is for AURN gas. • Location, contact details, time and day for collection / delivery confirmed. • LSO has cylinder ready for transport (CAP on / Regulator removed) or will have before collection if required. • LSO aware of updated LSO manual guidance from the Contractor
<p>vi) Records of actual delivery and collection information including unique cylinder references delivered.</p> <p>vii) A master record of cylinders with unique references on the AURN and returned to be maintained by the Contractor for rentals, collections and deliveries. The monthly report of cylinders delivered / collected and rented during the month, shall be provided that match the invoice and in a format agreed with the Authority using an excel type spreadsheet or similar. Records of cylinders returned are to be included on this master sheet.</p> <p>viii) Records of complaints for depleted or oxidised cylinders should be kept and tracked in monthly reports. Conclusions for investigations should occur within 6 months and final email or similar report sent.</p> <p>ix) Records of calibration certificates for UKAS span gases. These records need to be sent to the QAQC team within 2 weeks of cylinder delivery. Relevant records and reports relating to the manufacture of the original cylinder shall be kept for 3 years or the life of the cylinder on the AURN.</p> <p>x) Monthly – planned monthly reports should be sent to the AURN stakeholders (CMCU's and QAQC) to provide re-assurance gas exchanges are occurring as planned. Example is provided in Annex 12.</p>

3. Key Performance Indicators and Service Credits)

3.1 As part of the Authority's continuous drive to improve the performance of all Contracts, this Performance Management Framework (PMF) will be used to monitor, measure and control all aspects of the Supplier's performance of contract responsibilities.

3.2 The purpose of the PMF is to set out the obligations on the Supplier, to outline how the Supplier's performance will be evaluated and to detail the sanctions

for performance failure. The Supplier is responsible for the performance of any sub-contractors.

- 3.3 Key Performance Indicators (KPIs) are essential in order to align Contractor performance with the requirements of the Authority and to do so in a fair and practical way. KPIs have to be realistic, measurable and achievable; they also have to be met otherwise indicating that the service is failing to deliver.
- 3.4 The proactive approach to correcting failures and addressing their cause improves the relationship and enables a partnership rather than a confrontational style of working. Its focus is on managing and improving service.
- 3.5 The Authority shall review performance against KPIs and, if appropriate, instigate meetings and work closely with the Contractor to agree action plans. The Authority expects the Contractor to agree and implement these plans.
- 3.6 To ensure performance management on the contract, the KPIs will be reported on a monthly basis to the Authority.
- 3.7 Any performance issues highlighted in the monthly reports will be addressed by the Contractor, who would be required to provide an improvement plan to address all issues highlighted within two (2) weeks of the Authority request.
- 3.8 If KPI 2 or 3 are below expectation performance scores in any given month, then the Authority reserve the right to seek alternative contingency gas suppliers to ensure the AURN and AAM team regulatory monitoring requirements can be met.
- 3.9 The Authority shall hold meetings with the Contractor to discuss and agree the conduct of the Contract if the KPI scoring has any Below Expectations ratings.
- 3.10 The Authority shall use the Quarterly review meetings with the Contractor to review the Contractor's monthly performance management reports and implementation of any improvement plan. These will be upgraded to monthly if the risks are considered significant from any risks to the gas supply.

Table 4 – Key Performance Indicators (KPI)

Metric	KPI	What is required to make this measurable	KPI Measurement	KPI Rating	
				1 – Below Expectations	2 – Meets Expectations
	KPI 1 – Risk and issue management/ resolution, reports, and invoices	<p>Risks to be flagged within two (2) Working Days and mitigation actions suggested, within ten (10) Working Days.</p> <p>Issues to be flagged within two (2) Working Days and actions suggested within ten (10) Working Days.</p> <p>An improvement plan will be required within ten (10) Working Days if the Contractor becomes aware of an issue that will impact the gas supply for longer than ten (10) Working Days.</p> <p>Invoices and reports to be produced within five (5) Working Days of the end of each month or as agreed in writing with the Authority.</p>	<p>New risks to be flagged to Nominated Officer via email.</p> <p>New issues to be flagged to Nominated Officer via phone call and follow up email.</p> <p>Risk and issues register will be updated, including mitigation actions, and shared with Nominated Officer.</p> <p>Longer term gas supply issues flagged to Nominated Officer via phone call and follow up email. Meeting with the Nominated Officer and appropriate AURN Stakeholders to discuss the impact and options, followed by the submission of an improvement plan.</p> <p>Invoices will quote the correct PO, contract number, the Nominated Officer, and qualitative description of the</p>	<p>Key risks and emerging issues not flagged to Nominated Officer or flagged late.</p> <p>Gas supply issues with the potential to last longer than ten (10) Working Days not flagged to Nominated Officer or flagged late.</p> <p>Invoices are over two (2) days late. Capital invoices not separated. Ad hoc costs charged</p>	<p>Risks and issues flagged within two (2) Working Days and mitigation actions submitted to Nominated Officer within ten (10) Working Days.</p> <p>Long term gas supply issues flagged within two (2) Working Days of the Contractor becoming aware that the issue may impact gas supply for more than ten (10) Working Days, improvement plan draft to be submitted to Nominated Officer within ten (10) Working Days of the impacted stakeholders meeting.</p> <p>Invoices are on time. Ad hoc costs agreed in advance and tracked by the Contractor.</p>

			work being done. Associated report should be clearly and	without agreement of the Authority. No Monthly Reports on planned deliveries / orders / gas tracking.	Reports and invoices well itemised and clearly linked.
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Metric	KPI	What is required to make this measurable	KPI Measurement	KPI Rating	
				1 – Below Expectations	2 – Meets Expectations

		<p>Invoices and associated monthly report should be clearly linked.</p> <p>AURN stakeholder or Nominated Officer enquiries/ queries responded to within ten (10) Working Days.</p> <p>Credit notes are consolidated by the Contractor each month and not sent in between invoices, disrupting the EA accounting systems.</p>	<p>explicitly linked to invoices to help financial tracking. Ad hoc work and invoicing of ad hoc work must be agreed in writing with the Authority. Details to be agreed at the inception meeting.</p> <p>Queries/ enquiries to be submitted and responded to via email.</p> <p>Credit notes are only sent with invoices.</p>	<p>Responses to Enquiries and queries not received within ten (10) Working Days.</p> <p>Credit Notes are sent separately to invoices.</p>	<p>Responses to Enquiries within ten (10) Working Days.</p> <p>Credit notes not required due to correct invoicing in the first place or applied correctly with monthly invoices.</p>
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Metric	KPI	What is required to make this measurable	KPI Measurement	KPI Rating	
				1 – Below Expectations	2 – Meets Expectations

	<p>KPI 2 – Achieving the delivery target of 30 days</p>	<p>The monthly reporting tracker should be demonstrating cylinder delivery from point of order within 30 days unless reasonable justification provided as to why this has been exceeded.</p>	<p>It is expected that gas cylinders from point of order should be at the AURN site within 30 days. If this does not happen, the Contractor will need to provide justified reasons why and the new timescale.</p> <p>This KPI will apply pragmatically as the other stakeholder requirements on the AURN means deliver targets over 30 days are going to occur due to external contractor factors. The KPI means these reasons need to be tracked to ensure the Contractor is Exceeding or Meet Expectations.</p> <p>The Contractor must inform the Nominated Officer within five (5) Working Days of the order being placed if they have not been able to contact the LSO to arrange delivery/ collection.</p>	<p>A cylinder has not been delivered within 30 days target, and the reason was down to a Contractor delay or error on behalf of the Contractor.</p> <p>A cylinder outstanding from last month's order has still not been delivered and the reason was gas supply Contractor related.</p> <p>The LSO has not been contacted by the Contractor to organise and check AURN cylinder swap is required.</p> <p>No tracking report on cylinder target deliveries produced.</p> <p>The Contractor was unable to contact the LSO and did not inform the Nominated Officer within five (5) Working Days from the order being placed.</p>	<p>All cylinders delivered within 30 days target or would have been if the LSO / receiver had agreed to the proposed delivery date.</p> <p>Any outstanding gases over the 30-day target delivered or would have been if the LSO / receiver had agreed to the proposed delivery date.</p> <p>The target date has not been achieved, but this is because the LSO / AURN stakeholder required for confirmation of the order has not been responsive, so the KPI measurement does not yet apply. LSO / AURN stakeholder being actively chased to achieve a new proposed delivery date.</p> <p>The Contractor has informed the Nominated Officer within five (5) Working Days of the order being placed that they are unable to contact the LSO. LSO being actively chased to achieve a proposed delivery date. If the target date is not achieved due to being unable to make contact within the required timescales the KPI measurement does not yet apply.</p>
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Metric	KPI	What is required to make this measurable	KPI Measurement	KPI Rating	
				1 – Below Expectations	2 – Meets Expectations
	KPI 3 – No. of cylinders / regulators under investigation & Status of Quality Assurance	Reports sent to the Authority with adequate information of dates for delivery targets and tracking records of cylinders and regulators under investigation.	<p>Ensuring there are no outstanding reports of cylinders under investigation received after 6 months.</p> <p>Making sure quality of supply is maintained so that 5% of total cylinder rental stock is not under investigation, as an indicator of poor quality of gases supplied and so that data quality of calibrations is maintained.</p> <p>No outstanding Quality Assurance queries.</p>	<p>5% or greater of cylinder stock is under investigation.</p> <p>Cylinders under investigation do not have reports issued within 6 months.</p> <p>Reports issued are not satisfactory in their explanation and technical investigation or are not issued.</p> <p>An issue with the supply of gases to the UKAS standard and as per the ISO standards in the spec, has not been addressed promptly</p>	<p><1% of cylinder stock is under investigation.</p> <p>Cylinders under investigation have reports issued within 3 months and monies refunded as required.</p> <p>No quality issues with the supply of gases ongoing or raised with Contractor.</p> <p>Contractor has pro-actively updated on known issues which they are resolving to minimise risk to supply</p>

Annex 5 – Exit Management

Defined terms within this Annex:

Exclusive Assets: Means Supplier Assets used exclusively by the Supplier (or a Key Subcontractor) in the provision of the Deliverables.

Exit Information: has the meaning given to it in Paragraph 1.1 of this Annex.

Exit Manager: Means the person appointed by each Party to manage their respective obligations under this Annex.

Non-Exclusive Assets: Means 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.

Replacement Goods: Means any goods which are substantially similar to any of the Goods and which the Authority receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Authority internally and/or by any third party.

Replacement Services: Means any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the End Date, whether those services are provided by the Authority internally and/or by any third party.

Transferrable Assets: Means Exclusive Assets which are capable of legal transfer to the Authority.

Transferring Assets: Has the meaning given to it in Paragraph 6.2.1 of this Annex.

1. Assisting Re-Competition for Deliverables

- 1.1 The Supplier shall, on reasonable notice, provide to the Authority 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 Authority shall reasonably require in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 1.2 The Supplier acknowledges that the Authority 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.

- 1.3 The Supplier shall provide complete updates of the Exit Information on an asrequested basis as soon as reasonably practicable and notify the Authority within ten (10) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Authority in relation to any such changes).
- 1.4 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.

2. Exit Plan

- 2.1 The Supplier shall, within six (6) Months after the Service Commencement Date, deliver to the Authority a plan which complies with the requirements set out in Paragraph 2.3 of this Annex and is otherwise reasonably satisfactory to the Authority (the "**Exit Plan**").
- 2.2 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 2.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 2.3 The Exit Plan shall set out, as a minimum:
- 2.3.1 how the Exit Information is obtained
 - 2.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract
 - 2.3.3 the management structure to be employed during the Termination Assistance Period
 - 2.3.4 a detailed description of both the transfer and cessation processes, including a timetable
 - 2.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Authority
 - 2.3.6 details of any contracts which will be available for transfer to the Authority and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer
 - 2.3.7 the scope of Termination Assistance that may be required for the benefit of the Authority
 - 2.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance

- 2.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 2.4 below) together with a capped estimate of such charges
 - 2.3.10 proposals for providing the Authority or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use
 - 2.3.11 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables
 - 2.3.12 proposals for the identification and return of all Authority Property in the possession of and/or control of the Supplier or any third party
 - 2.3.13 proposals for the disposal of any redundant Deliverables and materials
 - 2.3.14 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
 - 2.3.15 any other information or assistance reasonably required by the Authority or a Replacement Supplier.
- 2.4 Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Annex 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.

2.5 The Supplier shall:

- (a) maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - (i) every twelve (12) months throughout the Contract Period
 - (ii) no later than twenty (20) Working Days after a request from the Authority for an up-to-date copy of the Exit Plan
 - (iii) 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
 - (iv) 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
- (b) jointly review and verify the Exit Plan if required by the Authority and promptly correct any identified failures.
- 2.6 Only if (by notification to the Supplier in writing) the Authority agrees with a draft Exit Plan provided by the Supplier under Paragraph 2.2 or 2.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 2.7 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

3. Termination Assistance

- 3.1 The Authority 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:
- 3.1.1 the nature of the Termination Assistance required; and
- 3.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than six (6) Months after the End Date.
- 3.2 The Authority 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:
- 3.2.1 no such extension shall extend the Termination Assistance Period beyond the date twelve (12) Months after the End Date; and
- 3.2.2 the Authority shall notify the Supplier of any such extension by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 3.3 The Authority shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 3.4 In the event that Termination Assistance is required by the Authority but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 2, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Annex and the last Authority approved version of the Exit Plan (insofar as it still applies).

4. Termination Assistance Period

4.1 Throughout the Termination Assistance Period the Supplier shall:

4.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Authority, provide the Termination Assistance

4.1.2 provide to the Authority and/or its Replacement Supplier any reasonable assistance and/or access requested by the Authority 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 Authority and/or its Replacement Supplier

4.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Authority

4.1.4 subject to Paragraph 4.2, 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

4.1.5 at the Authority's request and on reasonable notice, deliver up-to-date Contract information to the Authority; and

4.1.6 seek the Authority's prior written consent to access any Authority Premises from which the de-installation or removal of Supplier Assets is required.

4.2 If the Supplier demonstrates to the Authority'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.

5. Obligations when the contract is terminated

5.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.

5.2 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:

5.2.1 cease to use the Government Data

5.2.2 vacate any Authority Premises

5.2.3 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; and

5.2.4 provide access during normal working hours to the Authority and/or the Replacement Supplier for up to six (6) Months after expiry or termination to:

- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier

5.3 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 Annex), 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.

6. Assets and Sub-contracts

6.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Authority's prior written consent:

6.1.1 terminate, enter into or vary any Sub-contract in connection with the Deliverables; or

6.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

6.2 Within twenty (20) Working Days of receipt of the up-to-date relevant Contract Information provided by the Supplier, the Authority shall notify the Supplier setting out:

6.2.1 which, if any, of the Transferable Assets the Authority requires to be transferred to the Authority and/or the Replacement Supplier ("**Transferring Assets**")

6.2.2 which, if any, of:

- (a) the Exclusive Assets that are not Transferable Assets; and

- (b) the Non-Exclusive Assets,

the Authority and/or the Replacement Supplier requires the continued use of.

6.3 Risk in the Transferring Assets shall pass to the Authority or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.

6.4 Where the Authority 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:

6.4.1 procure a suitable alternative to such assets, the Authority or the Replacement Supplier to bear the reasonable proven costs of procuring the same.

7. No charges

7.1 Unless otherwise stated, the Authority shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Annex.

8. Scope of Termination Assistance

8.1 The Authority may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:

8.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed

8.1.2 providing assistance and expertise as necessary to examine Standard Operating Procedures and all reports for the provision of the Deliverables and updating these during the Termination Assistance Period

8.1.3 agreeing with the Authority a handover plan for all of the Supplier's responsibilities

8.1.4 providing an information pack listing the Deliverables for use by the Authority in the procurement of the Replacement Deliverables

8.1.5 answering all reasonable questions from the Authority and/or the Replacement Supplier regarding the Deliverables

8.1.6 providing access to the Authority and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding two (2) Months afterwards for the purpose of the smooth transfer of the provision of the Deliverables to the Authority 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.

8.1.7 knowledge transfer services, including:

- (a) transferring all training material and providing appropriate training to those Authority staff responsible for internal training in connection with the provision of the Deliverables
- (b) providing as early as possible for transfer to the Authority 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; 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).

8.2 The Supplier will:

8.2.1 provide a handover plan referred to in Paragraph 8.1.3 for agreement by the Authority at the time of termination or expiry of this Contract; and

8.2.2 co-operate fully in the execution of the handover plan agreed.

8.3 To facilitate the transfer of knowledge from the Supplier to the Authority 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 Authority and/or the Replacement Supplier.

8.4 The information which the Supplier will provide to the Authority and/or the Replacement Supplier pursuant to Paragraph 8.1.4 shall include:

8.4.1 copies of up-to-date procedures and operations manuals

8.4.2 product information; and

8.4.3 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Authority pursuant to this Annex,

and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

8.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees and suppliers) of the Replacement Supplier and/or the Authority access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

8.5.1 any such agent or personnel (including employees 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 Authority deems reasonable; and

8.5.2 the Authority and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

Annex 6 – Tender Submission

Annex 7 – Sustainability

1. Sustainability

- 1.1 The Supplier must comply with the Authority's Sustainability Requirements set out in this Contract. The Supplier must ensure that all Supplier Staff and subcontractors who are involved in the performance of the Contract are aware of these requirements in accordance with clauses 8.1 (c) and 13.2.
- 1.2 The Authority expects its suppliers and subcontractors to meet the standards set out in the Supplier Code of Conduct in accordance with clause 13.1(c).
- 1.3 The Supplier must comply with all legislation as per clause 13.1.
- 1.4 The Supplier shall ensure that any Goods or Services are designed, sourced, and delivered in a manner which is environmentally and socially responsible, always consistent with best practice environmental management and social standards, policy, and compliant with clause 1.3.
- 1.5 The Supplier is expected to achieve continuous improvement in environmental and social performance.

2. Human Rights

- 2.1 The Authority is committed to ensuring that workers employed within its supply chains are treated fairly, humanely, and equitably. The Authority requires the Supplier to share this commitment and to take reasonable and use reasonable and proportionate endeavours to identify any areas of risk associated with this Contract to ensure that it is meeting the International Labour Organisation International Labour Standards which can be found online - [Conventions and Recommendations \(ilo.org\)](https://www.ilo.org/) and at a minimum comply with the Core Labour Standards, encompassing the right to freedom of association and collective bargaining, prohibition of forced labour, prohibition of discrimination and prohibition of child labour.
- 2.2 The Supplier must ensure that it and its sub-contractors and its supply chain:
 - 2.2.1 pay staff fair wages and
 - 2.2.2 implement fair shift arrangements, providing sufficient gaps between shifts, adequate rest breaks and reasonable shift length, and other best practices for staff welfare and performance.

3. Human Rights - Modern Slavery, Child Labour, Inhumane Treatment

- 3.1 The Supplier must ensure its Supplier Staff and its sub-contractors and its supply chain comply with the provisions of the Modern Slavery Act 2015 including Section 54 of the Act which requires certain organisations to publish annual modern slavery statements and the Supplier throughout the Term:
- 3.1.1 shall not use, nor allow its sub-contractors and its supply chain to use forced, bonded, child or involuntary prison labour throughout operations and supply chains and implement appropriate due diligence procedures to ensure there is no modern slavery in any of its supply chain
 - 3.1.2 shall forbid any supplier staff or subcontractor staff to lodge deposits or identity papers with the employer and they shall be free to leave their employer after reasonable notice
 - 3.1.3 shall take appropriate measures to ensure workers in their operations and workers in sub-contractors are not paying recruitment fees to secure employment and where identified they are remedied
 - 3.1.4 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world
 - 3.1.5 warrants and represents 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
 - 3.1.6 shall make reasonable enquiries to ensure that the Supplier Staff, its subcontractors, and their supply chain have not been convicted of slavery or human trafficking offences anywhere around the world
 - 3.1.7 shall implement due diligence measures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract
 - 3.1.8 shall work with their subcontractors to remedy any labour abuses uncovered in operations or supply chains. This will include the submission, agreement and delivery of an action plan to remedy any modern slavery issues; and
 - 3.1.9 shall not use, nor allow its subcontractors or its or their Supplier Staff 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 sub-contractors.

4. Equality, Diversity, and Inclusion (EDI)

4.1 The Supplier will support the Authority to achieve its [Public Sector Equality Duty](#) by complying with the Authority's policies (as amended from time to time) on EDI. This includes ensuring that the Supplier, Supplier Staff and its subcontractors in the delivery of its obligations under this Contract:

4.1.1 do not unlawfully discriminate either directly or indirectly because of race, colour, ethnic or national origin, disability, sex, sexual orientation, gender reassignment, religion or belief, pregnancy and maternity, marriage and civil partnership or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010;

4.1.2 will not discriminate because of socio-economic background, working pattern or having parental or other caring responsibilities;

4.1.3 eliminates discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010;

4.1.4 advances equality of opportunity between people who share a protected characteristic and those who do not;

4.1.5 foster good relations between people who share a protected characteristic and people who do not share it;

4.1.6 identifies and removes EDI barriers which are relevant and proportionate to the Contract.

4.2 The Supplier is responsible for:

4.2.1 ensuring that it shows due regard for EDI, including within its policies, programmes, projects, and processes and work carried out on its behalf to meet Contract deliverables; and

4.2.2 how it creates and maintains a diverse workforce.

5. Environment

5.1 In this section, the following term has the following meaning:

“Net zero” means the balance between the production of man-made greenhouse gases (GHGs) from sources (such as burning fossil fuels, deforestation and refrigerant gases) and the capture in “sinks” (for example, forests, soil, the ocean and negative emission technologies (NETs)).

5.2 The Supplier must have a documented management system and controls in place to manage the environmental impacts relevant and proportionate to the Contract.

5.3 The Supplier must consider and reduce sustainability impacts which are relevant to the Contract in accordance with 5.2. Without limitation to the generality of paragraph 1.3 of this Annex, when performing its obligations under the Contract the Supplier shall to the reasonable satisfaction of the Authority:

5.3.1 demonstrate that the solutions and the Deliverables eliminate and/or reduce the impacts of embodied carbon and support the Government and Authority in meeting their net zero carbon commitments;

5.3.2 demonstrate that the whole life cycle impacts (including end of use) have been considered and reduced;

5.3.3 minimise the consumption of resources and use them efficiently (including water and energy), working towards a circular economy including designing out waste and non-renewable resources, using reuse and closed loop systems;

5.3.4 look to enhance the natural environment and connect communities with it.

5.4 The Supplier must demonstrate to the Authority the steps that it is taking to further the protection of the environment including:

5.4.1 reducing and eliminating hazardous/harmful substances to the environment; and

5.4.2 preventing pollution.

5.4.3 Should an environmental incident occur or if there is a significant near miss these must be reported to the Environment Agency Incident Hotline at the earliest opportunity, and then to the Authority.

6. Social Value

6.1 The Supplier will support the Authority in highlighting opportunities to provide wider social, economic, or environmental benefits to local and/or national communities through the delivery of the Contract. Where included as part of the Contract the Supplier will provide details to the Authority of the approach taken and benefits delivered.

6.2 The Supplier will ensure that supply chain opportunities are inclusive and accessible to:

6.2.1 new businesses and entrepreneurs;

6.2.2 small and medium enterprises (SMEs);

6.2.3 voluntary, community and social enterprise (VCSE) organisations; and

6.2.4 mutuals; and

6.2.5 other underrepresented business groups.

The Supplier will identify barriers to these organisations and work actively to remove them, ensuring equal opportunities to compete.

6.3 The Contracts Finder website can be used to help advertise any subcontracting opportunities outside the established supply chain. Other routes advertising to SMEs, VCSE organisations and other underrepresented business groups should be sought to highlight opportunities and encourage a diverse and inclusive supply base.

Annex 8 – Change Control

Contract Change Note (“CCN”)

CCN Number	
Contract Reference Number & Title	
Variation Title	
Number of Pages	

WHEREAS the Supplier and the Authority entered into a Contract for the supply of [project name] dated [dd/mm/yyyy] (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this Change Control Notice:

Change Requestor / Originator		
Summary of Change		
Reason for Change		
Revised Contract Price	Original Contract Value	£
	Previous Contract Changes	£
	Contract Change Note [x]	£
	New Contract Value	£
Revised Payment Schedule		
Revised Specification (See Annex [x] for Details)		
Revised Contract Period		
Change in Contract Manager(s)		
Other Changes		

2. Save as amended all other terms of the Original Contract shall remain effective.

3. This CCN takes effect from the date on which both Parties communicate acceptance of its terms via DocuSign.

Short Form Terms

1. Definitions used in the Contract

In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

"Authority"	means the authority identified in paragraph 3 of the Order Form.
"Authority Data"	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 Authority's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Authority; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Authority is the Data Controller.
"Authority Cause"	any breach of the obligations of the Authority or any other default, act, omission, negligence or statement of the Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Authority is liable to the Supplier.
"Central Government Body"	for the purposes of this Contract this means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none">• Government Department;• Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);• Non-Ministerial Department; or• Executive Agency.
"Charges"	means the charges for the Deliverables as specified in the Order Form and Annex 3.
"Confidential Information"	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is agreed by the Parties to be confidential.
"Contract"	means this contract between (i) the Authority and (ii) the Supplier which is created by the Supplier signing the Order Form and returning it to the Authority.

"Controller"	has the meaning given to it in the "UK GDPR".
"Crown Body"	means any department, office or agency of the Crown, including any and all Local Authority bodies.
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
"Data Protection Legislation"	(i) the UK GDPR and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy;
"Data Protection Officer"	has the meaning given to it in the GDPR.
"Data Subject"	has the meaning given to it in the GDPR.
"Data Subject Access Request"	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.
"Date of Delivery"	means that date by which the Deliverables must be delivered to the Authority, as specified in the Order Form.
"Deliver"	means handing over the Deliverables to the Authority at the address and on the date specified in the Order Form, which shall include unloading and any other specific arrangements agreed in accordance with Clause 4. Delivered and Delivery shall be construed accordingly.
"Deliverables"	Goods and/or Services that may be ordered under the Contract including the Documentation.

"Documentation"	<p>descriptions of the Services, 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) that is required to be supplied by the Supplier to the Authority under the Contract as:</p> <p>a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>b) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>c) has been or shall be generated for the purpose of providing the Deliverables.</p>
"Existing IPR"	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise).
"Expiry Date"	means the date for expiry of the Contract as set out in the Order Form.
"FOIA"	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation.
"Force Majeure Event"	<p>any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: 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; 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 iii) any failure of delay caused by a lack of funds.</p>
"Goods"	means the goods to be supplied by the Supplier to the Authority under the Contract.
"Good Industry Practice"	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 from a skilled and experienced person or body engaged within the relevant industry or business sector.
"Information"	has the meaning given under section 84 of the FOIA.

"Information Commissioner"	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.
"Insolvency Event"	occurs in respect of a legal person (for example an individual, company or organisation): i) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; or iv) if the person makes any arrangement with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction whether under the Insolvency Act 1986 or otherwise.
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal) Act 2018.
"Key Personnel"	means any persons specified as such in the Order Form or otherwise notified as such by the Authority to the Supplier in writing.
"Law"	means any law, statute, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of Section 4(1) EU Withdrawal Act 2018 as amended by EU (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 Parties are bound to comply.
"New IPR"	all and any intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR.
"Order Form"	means the letter from the Authority to the Supplier printed above these terms and conditions.
"Party"	the Supplier or the Authority (as appropriate) and "Parties" shall mean both of them.
"Personal Data"	has the meaning given to it in the UK GDPR.
"Personal Data Breach"	has the meaning given to it in the UK GDPR.
"Processing"	has the mean given to it in the UK GDPR.
"Processor"	has the meaning given to it in the UK GDPR.

"Purchase Order Number"	means the Authority's unique number relating to the order for Deliverables to be supplied by the Supplier to the Authority in accordance with the terms of the Contract.
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time.
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply).
"Services"	means the services to be supplied by the Supplier to the Authority under the Contract.
"Specification"	means the specification for the Deliverables to be supplied by the Supplier to the Authority (including as to quantity, description and quality) as specified in Annex 2.
"Staff Vetting Procedures"	means vetting procedures that accord with good industry practice or, where applicable, the Authority's procedures for the vetting of personnel as provided to the Supplier from time to time.
"Start Date"	Means the start date of the Contract set out in the Order Form.
"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract.
"Supplier Staff"	all directors, officers, employees, agents, consultants and Suppliers of the Supplier and/or of any subcontractor engaged in the performance of the Supplier's obligations under the Contract.
"Supplier"	means the person named as Supplier in the Order Form.
"Sustainability Requirements"	means any relevant social or environmental strategies, policies, commitments, targets, plans or requirements that apply to and are set out in the Annex 5.
Tender Submission	means the Supplier's response to the invitation to the bidder pack (including, for the avoidance of doubt, any clarification provided by the Supplier).
"Term"	means the period from the Start Date to the Expiry Date as such period may be extended in accordance with the Order Form or terminated in accordance with Clause 11.

"UK GDPR"	means 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) (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 (and see section 205(4).
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994.
"Workers"	any one of the Supplier Staff which the Authority, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurementpolicy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables.
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

2. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these terms and conditions and references to numbered paragraphs are references to the paragraph in the relevant Annex;
- 2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;
- 2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5 the singular includes the plural and vice versa;
- 2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law;

2.7 any reference in this Contract which immediately before the 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):

- i. any EU regulation, EU decision, EU tertiary legislation or provision of the European Economic Area (“**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; and
- ii. any EU institution or EU authority or other such EU body shall be read on and after the date of exit from the EU as a reference to the UK institution, authority or body to which its functions were transferred.

2.8 the word ‘including’, “for example” and similar words shall be understood as if they were immediately followed by the words “without limitation”;

2.9 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

2.10 any Annexes form part of this Contract and shall have effect as if set out in full in the body of this Contract. Any reference to this Contract includes the Annexes; and

2.11 all undefined words and expressions are to be given their normal English meaning within the context of this Contract. Any dispute as to the interpretation of such undefined words and expressions shall be settled by reference to the definition in the Shorter Oxford English Dictionary.

3. How the Contract works

3.1 The Order Form is an offer by the Authority to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.

3.2 The Supplier is deemed to accept the offer in the Order Form when the Authority receives a copy of the Order Form signed by the Supplier.

3.3 The Supplier warrants and represents that its Tender Submission and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

4. What needs to be delivered

4.1 All Deliverables

- (a) The Supplier must provide Deliverables: (i) in accordance with the Specification and Tender Submission; (ii) to a professional standard; (iii) using all reasonable skill and care; (iv) using Good Industry Practice; (v) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (vi) in accordance with such policies and procedures of the Authority (as amended from time to time) that may be specified in the Contract (vii) on the dates agreed; and (viii) in compliance with all applicable Law.
- (b) Without prejudice to the Specification the Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to the Authority) from Delivery against all obvious damage or defects.

4.2 Goods clauses

- (a) All Goods Delivered must be capable of meeting the requirements set out in the Specification and be either (i) new and of recent origin, (ii) reused or (iii) recycled.
- (b) All manufacturer warranties covering the Goods will be assigned to the Authority on request and for free.
- (c) The Supplier transfers ownership of the Goods on completion of Delivery (including off-loading and stacking) or payment for those Goods, whichever is earlier.
- (d) Risk in the Goods transfers to the Authority on Delivery but remains with the Supplier if the Authority notices any damage or defect following Delivery and lets the Supplier know within three Working Days of Delivery.
- (e) The Supplier must have full and unrestricted ownership of the Goods at the time of transfer of ownership.
- (f) The Supplier must Deliver the Goods on the date and to the specified location during the Authority's working hours.
- (g) The Supplier, its subcontractor(s) and supply chain must minimise packaging used whilst providing sufficient packaging for the Goods to reach the point of Delivery safely and undamaged. The Supplier must take back any primary packaging where it is possible to do so. Packaging must be 100% re-usable,

recyclable or compostable, use recycled content where reasonably practicable and support the Government's commitment to eliminate single use plastic.

- (h) All Deliveries must have a delivery note attached that specifies the order number, type, quantity of Goods, contact and details of traceability through the supply chain.
- (i) The Supplier must provide all tools, information and instructions the Authority needs to make use of the Goods. This will include, where appropriate, any operation manuals which, unless specified otherwise, will be written in English and provided in electronic form.
- (j) The Supplier will notify the Authority of any request that Goods are returned to it or the manufacturer after the discovery of safety issues or defects that might endanger health or hinder performance and shall indemnify the Authority against the costs arising as a result of any such request. Goods must be disposed of in line with the waste management hierarchy as set out in Law. The Supplier will provide evidence and transparency of the items and routes used for disposal to the Authority on request.
- (k) The Authority can cancel any order or part order of Goods which have not been Delivered. If the Authority gives less than 14 calendar days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- (l) The Supplier must at its own cost repair, replace, refund or substitute (at the Authority's option and request) any Goods that the Authority rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Authority's costs including repair or re-supply by a third-party.
- (m) The Authority will not be liable for any actions, claims, costs and expenses 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 Authority or its servant or agent. If the Authority suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify from all losses, damages, costs or expenses (including professional fees and fines) which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or, where related to the Contract, any of its subcontractors or suppliers.

4.3 Services clauses

- (a) Late delivery of the Services will be a breach of the Contract.

- (b) The Supplier must co-operate with the Authority and third-party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Authority must provide the Supplier Staff with reasonable access to its premises at such reasonable times agreed with the Authority for the purpose of supplying the Services.
- (d) The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Authority to the Supplier for supplying the Services remains the property of the Authority and is to be returned to the Authority on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- (f) The Supplier must take all reasonable care to ensure performance does not disrupt the Authority's operations, employees or other contractors.
- (g) On completion of the Services, the Supplier is responsible for leaving the Authority's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Authority's premises or property, other than fair wear and tear and any pre-existing cleanliness, safety or tidiness issue at the Authority's premises that existed before the commencement of the Term.
- (h) The Supplier must ensure all Services, and anything used to deliver the Services, are of the required quality and free from damage or defects.
- (i) The Authority is entitled to withhold payment for partially or undelivered Services or for Services which are not delivered in accordance with the Contract but doing so does not stop it from using its other rights under the Contract.

5. Pricing and payments

5.1 In exchange for the Deliverables delivered, the Supplier shall be entitled to invoice the Authority for the charges in Annex 3. The Supplier shall raise invoices promptly and in any event within 90 days from when the charges are due.

5.2 All Charges:

- (a) exclude VAT, which is payable on provision of a valid VAT invoice and charged at the prevailing rate;
- (b) include all costs connected with the supply of Deliverables.

5.3 The Authority must pay the Supplier the charges within 30 days of receipt by the Authority of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the Order Form.

5.4 A Supplier invoice is only valid if it:

- (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Authority as set out in Annex 3; and
- (b) includes a detailed breakdown of Deliverables which have been delivered (if any).

Details of the Authority's requirements for a valid invoice at the Start Date are set out in Annex 3.

5.5 If there is a dispute between the Parties as to the amount invoiced, the Authority shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 35.

5.6 If any sum of money is recoverable from or payable by the Supplier under the Contract (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Contract), that sum may be deducted unilaterally by the Authority from any sum then due, or which may become due, to the Supplier under the Contract or under any other agreement or contract with the Authority. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any such amount in whole or in part.

5.7 The Supplier must ensure that its subcontractors and supply chain are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Authority can publish the details of the late payment or non-payment.

6. The Authority's obligations to the Supplier

6.1 If the Supplier fails to comply with the Contract as a result of an Authority Cause:

- (a) the Authority cannot terminate the Contract under clause 11 on account of the failure to comply, provided this will not prejudice the Authority's right to terminate for another cause that may exist at the same time;
- (b) the Supplier will be relieved from liability for the performance of its obligations under the Contract to the extent that it is prevented from performing them by the Authority Cause and will be entitled to such

reasonable and proven additional expenses that arise as a direct result of the Authority Cause;

(c) the Supplier is entitled to any additional time needed to deliver the Deliverables as a direct result of the Authority's Cause;

(d) the Supplier cannot suspend the ongoing supply of Deliverables.

6.2 Clause 6.1 only applies if the Supplier:

(a) gives notice to the Authority within 10 Working Days of becoming aware of an Authority Cause, such notice setting out in detail with supporting evidence the known reasons for the Authority Cause;

(b) demonstrates that the failure only happened because of the Authority Cause;

(c) has used all reasonable endeavours to mitigate the impact of the Authority Cause.

7. Record keeping and reporting

7.1 The Supplier must ensure that suitably qualified (and authorised) representatives attend progress meetings with the Authority and provide progress reports when specified in Annex 4.

7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after the date of expiry or termination of the Contract.

7.3 The Supplier must allow any auditor appointed by the Authority access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.

7.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.

7.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

(a) tell the Authority and give reasons;

(b) propose corrective action;

(c) agree a deadline with the Authority for completing the corrective action.

7.6 If the Authority, acting reasonably, is concerned either:

(a) as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract; or

(b) as to the sustainability or health and safety conduct of the Supplier, subcontractors and supply chain in the performance of the Contract;

then the Authority may:

(i) require that the Supplier provide to the Authority (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract (in the case of (a)) or improve its sustainability conduct or performance (in the case of (b)) and the Supplier will make changes to such plan as reasonably required by the Authority and once it is agreed then the Supplier shall act in accordance with such plan and report to the Authority on demand

(ii) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Authority or materially fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Authority notifies).

8. Supplier staff

8.1 The Supplier Staff involved in the performance of the Contract must:

- a) be appropriately trained and qualified;
- b) be vetted using Good Industry Practice and in accordance with the instructions issued by the Authority in the Order Form;
- c) comply with the Authority's conduct requirements when on the Authority's premises including, without limitation, those Sustainability Requirements relating to Equality, Diversity & Inclusion (EDI) contained in Annex 5; and
- d) be informed about those specific requirements referred to in Clause 13.2.

8.2 Where an Authority decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.

8.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 8.

8.4 The Supplier must provide a list of Supplier Staff needing to access the Authority's premises and say why access is required.

8.5 The Supplier indemnifies the Authority against all losses, damages, costs or expenses (including professional fees and fines) arising from claims brought

against it by any Supplier Staff caused by an act or omission of the Supplier or any other Supplier Staff.

8.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:

- (a) requested to do so by the Authority;
- (b) the person concerned resigns, retires or dies or is on maternity, adoption, shared parental leave or long-term sick leave; or
- (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated.

9. Rights and protection

9.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform the Contract;
- (b) the Contract is executed by its authorised representative;
- (c) it is a legally valid and existing organisation incorporated in the place it was formed;
- (d) 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 the Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
- (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
- (g) it is not impacted by an Insolvency Event.

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

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

- (a) wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;
- (b) non-payment by the Supplier of any tax or National Insurance.

9.4 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Authority.

9.5 All third-party warranties and indemnities covering the Deliverables must be assigned for the Authority's benefit by the Supplier.

10. Intellectual Property Rights (IPRs)

10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Authority a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to both:

(a) receive and use the Deliverables;

(b) use the New IPR.

10.2 Any New IPR created under the Contract is owned by the Authority. The Authority gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.

10.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.

10.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 10 or otherwise agreed in writing.

10.5 If any claim is made against the Authority for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Authority against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.

10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Authority's sole option, either:

(a) obtain for the Authority the rights in clauses 10.1 and 10.2 without infringing any third-party intellectual property rights;

(b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

11. Ending the contract

11.1 The Contract takes effect on the date of or (if different) the date specified in the Order Form and ends on the earlier of the date of expiry or termination of the Contract or earlier if required by Law.

11.2 The Authority can extend the Contract where set out in the Order Form in accordance with the terms in the Order Form.

Ending the Contract without a reason

[REDACTED]

When the Authority can end the Contract

11.4 (a) If any of the following events happen, the Authority has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:

(i) there is a Supplier Insolvency Event;

(ii) [REDACTED]

(iii) [REDACTED]

(iv) there is a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Authority in writing;

(v) if the Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;

(vi) the Supplier or its affiliates embarrass or bring the Authority into disrepute or diminish the public trust in them;

(vii) where a right to terminate described in clause 27 occurs;

(viii) the Supplier is in breach of any of its health, safety and well-being obligations under clause 28.1(a); and

(ix) where, in accordance with clause 33.3, there is or may be an actual or potential conflict of interest.

(b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Authority has the right to immediately terminate the Contract and clause 11.5(a) to 11.5(g) applies.

11.5 What happens if the Contract ends

Where the Authority terminates the Contract under clause 11.4 all of the following apply:

(a) the Supplier is responsible for the Authority's reasonable costs of procuring replacement deliverables for the remainder of the notice period up to a maximum period in any event of sixty (60) days;

(b) the Authority'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 Authority Data except where required to retain copies by law;

(e) the Supplier must promptly return any of the Authority's property provided under the Contract;

(f) the Supplier must, at no cost to the Authority, give all reasonable assistance to the Authority and any incoming supplier and co-operate fully in the handover and re-procurement;

(g) the following clauses survive the termination of the Contract: 3.3, 7.2, 7.3, 7.4, 9, 10, 12, 13.3, 14, 15, 16, 17, 18, 19, 20, 32, 35, 36 and any clauses or provisions within the Order Form or the Annexes which are expressly or by implication intended to continue.

11.6 When the Supplier can end the Contract

(a) The Supplier can issue a reminder notice if the Authority does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Authority fails to pay an undisputed invoiced sum due and worth over 10% of

the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.

(b) If a Supplier terminates the Contract under clause 11.6(a):

- (i) the Authority must promptly pay all outstanding charges incurred to the Supplier;
- (ii) the Authority must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with satisfactory evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated;
- (iii) clauses 11.5(d) to 11.5(g) apply.

11.7 Partially ending and suspending the Contract

- (a) Where the Authority has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Authority suspends the Contract it can provide the Deliverables itself or buy them from a third party.
- (b) The Authority can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (c) The Parties must agree (in accordance with clause 25) any necessary variation required by clause 11.7, but the Supplier may neither:
 - (i) reject the variation; nor
 - (ii) increase the Charges, except where the right to partial termination is under clause 11.3.
- (d) The Authority can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.

12. How much you can be held responsible for

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:

- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
- (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
- (c) any liability that cannot be excluded or limited by law.

[REDACTED]

[REDACTED]

12.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

13. Obeying the law

13.1 The Supplier must, in connection with provision of the Deliverables:

- (a) comply with all applicable Law;
- (b) comply with the Sustainability Requirements
- (c) use reasonable endeavours to comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier Code of Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)

13.2 The Sustainability Requirements and the requirements set out in Clause 27, 28 and 30 must be explained to the Supplier's Staff, subcontractors and suppliers who are involved in the performance of the Supplier's obligations under the Contract and where it is relevant to their role and equivalent obligations must be included in any contract with any suppliers or subcontractor that is connected to the Contract.

13.3 [REDACTED]

[REDACTED]

13.4 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with the Law and its obligations under the Contract.

13.5 "Compliance Officer" the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal and other obligations under the Contract.

13.6 The Supplier will provide such evidence of compliance with its obligations under this Clause 13 as the Authority reasonably requests.

14. Insurance

14.1 The Supplier must, at its own cost, obtain and maintain the required insurances as set out in the Order Form.

14.2 The Supplier will provide evidence of the required insurances on request from the Authority.

15. Data protection

15.1 The Authority is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.

15.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with this Contract.

15.3 The Supplier shall take all reasonable measures relating to the security of processing which are required pursuant to Article 32 of the UK GDPR including, without limitation, those security measures specified in this clause 15.

15.4 The Supplier must not remove any ownership or security notices in or relating to the Authority Data.

15.5 The Supplier must make accessible back-ups of all Authority Data, stored in an agreed off-site location and send the Authority copies every six Months.

15.6 The Supplier must ensure that any Supplier system holding any Authority Data, including back-up data, is a secure system that complies with the security requirements specified in writing by the Authority.

15.7 If at any time the Supplier suspects or has reason to believe that the Authority Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Authority and immediately suggest remedial action.

15.8 If the Authority Data is corrupted, lost or sufficiently degraded so as to be unusable the Authority may either or both:

- (a) tell the Supplier to restore or get restored Authority Data as soon as practical but no later than five Working Days from the date that the Authority receives notice, or the Supplier finds out about the issue, whichever is earlier;
- (b) restore the Authority Data itself or using a third party.

15.9 The Supplier must pay each Party's reasonable costs of complying with clause 15.8 unless the Authority is at fault.

15.10 Only the Authority can decide what processing of Personal Data a Supplier can do under the Contract and must specify it for the Contract using the template in Annex 1 of the Order Form (*Authorised Processing*).

15.11 The Supplier must only process Personal Data if authorised to do so in the Annex to the Order Form (*Authorised Processing*) by the Authority. Any further written instructions relating to the processing of Personal Data are incorporated into Annex 1 of the Order Form.

15.12 The Supplier must give all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment before starting any processing, including:

- (a) a systematic description of the expected processing and its purpose;
- (b) the necessity and proportionality of the processing operations;
- (c) the risks to the rights and freedoms of Data Subjects;
- (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.

15.13 The Supplier must notify the Authority immediately if it thinks the Authority's instructions breach the Data Protection Legislation.

15.14 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Authority.

15.15 If lawful to notify the Authority, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.

15.16 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:

- (a) are aware of and comply with the Supplier's duties under this clause 15;
- (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;
- (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise allowed by the Contract;
- (d) have undergone adequate training in the use, care, protection and handling of Personal Data.

15.17 The Supplier must not transfer Personal Data outside of the EU unless all of the following are true:

- (a) it has obtained prior written consent of the Authority;
- (b) the Authority has decided that there are appropriate safeguards (in accordance with Article 46 of the UK GDPR);
- (c) the Data Subject has enforceable rights and effective legal remedies when transferred;
- (d) the Supplier meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;

(
[REDACTED]
[REDACTED]
[REDACTED])

- (f) the Supplier complies with the Authority's reasonable prior instructions about the processing of the Personal Data.

15.18 The Supplier must notify the Authority immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law;
- (f) becomes aware of a Data Loss Event.

15.19 Any requirement to notify under clause 15.17 includes the provision of further information to the Authority in stages as details become available.

15.20 The Supplier must promptly provide the Authority with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 15.17. This includes giving the Authority:

- (a) full details and copies of the complaint, communication or request;
- (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
- (c) any Personal Data it holds in relation to a Data Subject on request;
- (d) assistance that it requests following any Data Loss Event;
- (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.

15.21 The Supplier must maintain full, accurate records and information to show it complies with this clause 15. This requirement does not apply where the Supplier employs fewer than 250 staff, unless either the Authority determines that the processing:

- (a) is not occasional;
- (b) 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;
- (c) is likely to result in a risk to the rights and freedoms of Data Subjects.

15.22 The Supplier will make available to the Authority all information necessary to demonstrate compliance with clause 15 and allow for and contribute to audits, including inspections, conducted by the Authority or another auditor appointed by the Authority.

15.23 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Contract and give the Authority their contact details.

15.24 Before allowing any Subprocessor to process any Personal Data, the Supplier must:

- (a) notify the Authority in writing of the intended Subprocessor and processing;
- (b) obtain the written consent of the Authority;
- (c) enter into a written contract with the Subprocessor so that this clause 15 applies to the Subprocessor;
- (d) provide the Authority with any information about the Subprocessor that the Authority reasonably requires.

15.25 The Supplier remains fully liable for all acts or omissions of any Subprocessor.

15.26 At any time the Authority can, with 30 Working Days' notice to the Supplier, change this clause 15 to:

- (a) replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under UK GDPR Article 42;
- (b) ensure it complies with guidance issued by the Information Commissioner's Office.

15.27 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.

15.28 The Supplier:

- (a) must provide the Authority with all Authority Data in an agreed open format within 10 Working Days of a written request;
- (b) must have documented processes to guarantee prompt availability of Authority Data if the Supplier stops trading;
- (c) must securely destroy all storage media that has held Authority Data at the end of life of that media using Good Industry Practice;
- (d) must securely erase or return all Authority Data and any copies it holds when asked to do so by the Authority unless required by Law to retain it;

- (e) indemnifies the Authority against any and all losses, damages, costs or expenses (including professional fees and fines) incurred if the Supplier breaches clause 15 and any Data Protection Legislation.

16. What you must keep confidential

16.1 Each Party must:

- (a) keep all Confidential Information it receives confidential and secure;
- (b) 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 the Contract;
- (c) immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

16.2 In spite of clause 16.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:

- (a) where disclosure is required by applicable law, permitted in respect of an audit pursuant to clause 7.3, or by 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;
- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
- (f) to its auditors or for the purposes of regulatory requirements;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis;
- (h) 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.

16.3 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 the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Authority at its request.

16.4 The Authority may disclose Confidential Information in any of the following cases:

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Authority;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any organisation that the Authority transfers or proposes to transfer all or any part of its business to;
- (c) if the Authority (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- (d) where requested by Parliament; and/or
- (e) under clauses 5.7 and 17.

16.5 For the purposes of clauses 16.2 to 16.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 16.

16.6 Information which is exempt from disclosure by clause 17 is not Confidential Information.

16.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Authority and must take all reasonable steps to ensure that Supplier Staff do not either.

16.8 Where essential to comply with or carry out their statutory functions the Authority may disclose Confidential Information.

17. When you can share information

17.1 The Supplier must tell the Authority within 48 hours if it receives a Request For Information.

17.2 Within the required timescales the Supplier must give the Authority full cooperation and information needed so the Authority can:

- (a) comply with any Freedom of Information Act (FOIA) request;
- (b) comply with any Environmental Information Regulations (EIR) request.

17.3 The Authority may talk to the Supplier to help it decide whether to publish information under clause 17. However, the extent, content and format of the disclosure is the Authority's decision, which does not need to be reasonable.

18. Invalid parts of the contract

If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

19. No other terms apply

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

20. Other people's rights in a contract

No third parties may use the Contracts (Rights of Third Parties) Act 1999 (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

21. Circumstances beyond your control

21.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:

- (a) provides written notice to the other Party;
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

21.2 Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event and the impact of such event lasts for 90 days continuously.

21.3 Where a Party terminates under clause 21.2:

- (a) each party must cover its own losses;
- (b) clause 11.5(b) to 11.5(g) applies.

22. 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.

23. Giving up contract rights

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

24. Transferring responsibilities

24.1 The Supplier cannot assign the Contract, or any rights under it, without the Authority's written consent.

24.2 The Authority can assign, novate or transfer its Contract or any part of it to any Crown Body, any contracting authority within the meaning of the Regulations or any private sector body which performs the functions of the Authority.

24.3 When the Authority uses its rights under clause 24.2 the Supplier must enter into a novation agreement in the form that the Authority specifies.

24.4 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

24.5 If the Authority asks the Supplier for details about its subcontractors and/or supply chain, the Supplier must provide such details as the Authority reasonably requests including, without limitation:

- (a) their name;
- (b) the scope of their appointment; and (c) the duration of their appointment.

25. Changing the contract

25.1 Either Party can request a variation to the Contract which is only effective if agreed in writing and signed by both Parties. No oral modifications to the Contract shall be effective. The Authority is not required to accept a variation request made by the Supplier.

26. How to communicate about the contract

26.1 All notices under the 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 when sent unless an error message is received.

26.2 Notices to the Authority or Supplier must be sent to their address in the Order Form.

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

27. Preventing fraud, bribery and corruption

27.1 The Supplier shall not:

- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
- (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Authority or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.

27.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 27.1 and any fraud by the Supplier, Supplier Staff (including its shareholders, members and directors), any subcontractor and the Supplier's supply chain in connection with the Contract. The Supplier shall notify the Authority immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.

27.3 If the Supplier or the Supplier Staff engages in conduct prohibited by clause 27.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Authority) the Authority may:

- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Authority throughout the remainder of the Contract; or
- (b) recover in full from the Supplier any other loss sustained by the Authority in consequence of any breach of this clause.

28. Health, safety and wellbeing

28.1 The Supplier must perform its obligations meeting the requirements of:

- (a) all applicable Law regarding health and safety;

- (b) the Authority's current health and safety policy and procedures while at the Authority's premises, as provided to the Supplier.
- (c) the Authority's current wellbeing policy or requirements while at the Authority's premises as provided to the Supplier.

28.2 The Supplier and the Authority must as soon as possible notify the other of any health and safety incidents, near misses or material hazards they're aware of at the Authority premises that relate to the performance of the Contract.

28.3 Where the Services are to be performed on the Authority's premises, the Authority and Supplier will undertake a joint risk assessment with any actions being appropriate, recorded and monitored.

28.4 The Supplier must ensure their health and safety policy statement and management arrangements are kept up to date and made available to the Authority on request.

28.5 The Supplier shall not assign any role to the Authority under the Construction (Design and Management) Regulations 2015 (as amended) (the 'CDM Regulations') without the Authority's prior express written consent (which may be granted or withheld at the Authority's absolute discretion). For the avoidance of doubt so far as the Authority may fall within the role of client as defined by the CDM Regulations in accordance with CDM Regulation 4(8) the parties agree that the Supplier will be the client.

29. Business Continuity

29.1 The Supplier will have a current business continuity plan, which has assessed the risks to its business site/s and activities both directly and with regards to reliance on the supply chain and will set out the contingency measures in place to mitigate them and adapt. As part of this assessment, the Supplier will take into account the business continuity plans of the supply chain. The Supplier's business continuity plan must include (where relevant), an assessment of impacts relating to extreme weather, a changing average climate and/or resource scarcity.

29.2 The Supplier's business continuity plan will be reviewed by the Supplier at regular intervals and after any disruption. The Supplier will make the plan available to the Authority on request and comply with reasonable requests by the Authority for information.

30. Whistleblowing

30.1 The Authority's whistleblowing helpline must be made available to the Supplier and Supplier Staff, subcontractors and key suppliers in the supply chain in order to report any concerns.

30.2 The Supplier agrees:

- (a) to insert the following wording into their whistleblowing policy and communicate to all staff:

“If you feel unable to raise your concern internally and it relates to work being carried out for which the ultimate beneficiary (through a contractual chain or otherwise) is the Environment Agency, please contact Peter Kellett, Director of Legal Services at Horizon House, Deanery Road, Bristol BS1 5AH, email peter.kellett@environment-agency.gov.uk mobile 07810 180974”; and

- (b) to ensure that their Sub-contractors have free access to the Authority’s whistleblowing policy”.

31. Tax

31.1 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 Authority cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

31.2 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:

- (a) 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
- (b) indemnify the Authority 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 Term in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

31.3 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:

- (a) the Authority may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 31.2, or why those requirements do not apply, the Authority can specify the information the Worker must provide and the deadline for responding

- (b) the Worker's contract may be terminated at the Authority's request if the Worker fails to provide the information requested by the Authority within the time specified by the Authority
- (c) the Worker's contract may be terminated at the Authority's request if the Worker provides information which the Authority considers isn't good enough to demonstrate how it complies with clause 31.2 or confirms that the Worker is not complying with those requirements
- (d) the Authority may supply any information they receive from the Worker to HMRC for revenue collection and management.

32. Publicity

32.1 The Supplier and any subcontractor shall not make any press announcements or publicise this Contract or its contents in any way; without the prior written consent of the Authority.

32.2 Each Party acknowledges to the other that nothing in this Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

33. Conflict of interest

33.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Authority under the Contract, in the reasonable opinion of the Authority.

33.2 The Supplier must promptly notify and provide details to the Authority if a conflict of interest happens or is expected to happen.

33.3 The Authority can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

34. Reporting a breach of the contract

34.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Authority any actual or suspected breach of Law or breach of its obligations under the Contract.

34.2 Where an actual or suspected breach is notified to the Authority under clause 34.1, the Supplier will take such action to remedy any breach as the Authority may

reasonably require. Where the breach is material, the Authority has the right to terminate under clause 11.4.

34.3 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 34.1.

35. Resolving disputes

35.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.

35.2 If the dispute is not resolved at that meeting, the Parties 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 35.3 to 35.5.

35.3 Unless the Authority refers the dispute to arbitration using clause 35.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- (a) determine the dispute
- (b) grant interim remedies
- (c) grant any other provisional or protective relief.

35.4 The Supplier agrees that the Authority 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.

35.5 The Authority has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 35.3, unless the Authority 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 35.4.

35.6 The Supplier cannot suspend the performance of the Contract during any dispute.

35.7 The provisions of this clause 35 are without prejudice to the Authority's right to terminate or suspend the Contract under clause 11.

36. Which law applies

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

36.2 The courts of England and Wales shall have jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with the Contract or its subject matter or formation.