Department
for Environment
Food & Rural Affairs

Conditions of Contract

Short Form Enhanced

October 2021

Contents

Order Form

1. Contract Reference	C5671
2. Date	23 January 2023
3. Authority	Defra Horizon House Deanery Road Bristol BS1 5AH
4. Supplier	Environment Resources Management Ltd (ERM) 2nd Floor Exchequer Court 33 St Mary Ave London EC3A 8AA Company number 01014622
4a. Supplier Account Details	Supplier to provide account details on invoice.
5. The Contract	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***. Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions. 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: 1. Order Form, Annex 2 (*Specification*) and Annex 3 (*Charges*) with equal priority. 2. Conditions and Annex 1 (*Authorised Processing Template*) with equal priority. 3. Annexes 4 (*Tender Submission*) and 5 (*Sustainability*). In the event of any inconsistency between the provisions of Annexes 4 and 5, Annex 5 shall take precedence over Annex 4. **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.**
6. Deliverables	**Services** To be performed at ERM offices or under work-from-home arrangements that ERM has with its employees.

7. Specification	The specification of the Deliverables is as set out in Annex 2.
8. Term	The Term shall commence on **06 February 2023** and the Expiry Date shall be **31 July 2023** unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract. The Authority may extend the Contract for a period of up to 6 months' by giving not less than 10 working days' 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. Any proposed extension will be reviewed with regards to Value for Money, to determine if the extension is utilised.
9. Charges	The Charges for the Deliverables shall be as set out in Annex 3.
10. Payment	The Authority's preference is for all invoices to be sent electronically, quoting a valid Purchase Order Number (PO Number), to: The Contract Manager: Alternatively, you may post to: Shared Services Connected Ltd DEF Procure to Pay PO Box 790 Newport Gwent NP10 8FZ 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. 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. If you have a query regarding an outstanding payment, please contact the Authority's Authorised Representative(s).

11. Authority Authorised Representative(s)	For general liaison your contact will continue to be or, in their absence,
12. Address for notices	**Authority:** **Supplier:**
13. Key Personnel	**Authority:** **Supplier:**
14. Procedures and Policies	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. 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.
15. Limitation of Liabilities	Clause 12.1 of the Contract applies

16. Insurance	The Supplier shall hold the following insurance cover from the 23 January 2023 for the duration of the Contract in accordance with this Order Form Professional Indemnity insurance £1 million per occurrence and in the aggregate Public Liability insurance £1 million per occurrence and in the aggregate Employers Liability insurance £5 million per occurrence and in the aggregate

Signed for and on behalf of the **Supplier**	Signed for and on behalf of the **Authority**
Name:	Name:
Date:	Date:
Signature:	Signature:

Annex 1 – Authorised Processing Template

Contract:	**[XXXX]**
Date:	
Description Of Authorised Processing	**Details**
Subject matter of the Processing	
Duration of the processing	
Nature and purposes of the processing	
Type of Personal Data	
Categories of Data Subject	

Annex 2 – Specification

Request for Quotation

Offshore Wind Environmental Standards

ITT

November 2022

Request for Quotation

Offshore Wind Environmental Standards

You are invited by Defra Group Commercial on behalf of Defra to submit a quotation for the requirements described in the specification below.

Please submit your quotation via the Atamis system on, or before, the deadline given below.

Action	Date	
Publish advertisement for the procurement	23/11/2022	
Deadline for clarification questions	01/12/2022	
Deadline for receipt of Quotation	16/12/2022	
Evaluation of Quotations	Starts	20/12/2022
	Ends	30/12/2022
Evaluation Meeting	03/01/2023	
Contract Award Notice	Week of 09/01/2022	
Intended date of Contract Award	Week of 09/01/2022	
Intended Contract Start Date	16/01/2022	
Intended Delivery Date / Contract Duration	6 months (estimated)	

Glossary

Unless the context otherwise requires, the following words and expressions used within this Request for Quotation shall have the following meanings (to be interpreted in the singular or plural as the context requires);

Words/Expression	Meaning
"Authority"	Means the Department for Environment, Food and Rural Affairs acting as part of the Crown.
"Atamis"	Means the e-tendering system used by the

	Authority for conducting this procurement which can be found at: [X].
"Contract"	Means the contract to be entered into by the Authority and the successful supplier.
"RFQ"	Means this Request for Quotation and all related documents published by the Authority and made available to suppliers.

Conditions applying to the RFQ

You should examine your quotation response according to the RFQ and related documents, ensuring it is complete prior to submitting your completed quotation.

Your quotation must contain sufficient information to enable the Authority to evaluate it fairly and effectively. You should ensure that you have prepared your quotation fully and accurately, and that prices quoted are arithmetically correct for the units stated.

Acceptance of Quotations

By issuing this RFQ the Authority does not bind itself to accept any quotation and reserves the right not to award a contract to any supplier who submits a quotation.

Costs

The Authority will not reimburse you for any costs and expenses incurred preparing and submitting your quotation, even if the Authority amends or terminates the procurement process.

Mandatory Requirements

The RFQ includes mandatory requirements and if you do not comply with them, your quotation will not be evaluated. All mandatory requirements are set out in Atamis.

Clarifications

The Authority reserves the right to discuss, confidentially, any aspect of your quotation with you prior to any award of Contract to clarify matters.

Amendments

The Authority may amend the RFQ at any time prior to the deadline for receipt. If it amends the RFQ the Authority will notify you in writing and may extend the deadline for receipt in order to give you a reasonable time in which to take the amendment into account.

Conditions of Contract

The terms and conditions found in Atamis will be included in any contract awarded as a result of this RFQ process. The Authority will not accept any material changes to these terms and conditions proposed by a supplier.

Specification

The Authority's priorities are to secure a healthy natural environment; a sustainable, low-carbon economy; a thriving farming sector and a sustainable, healthy, and secure food supply.

Background

In April 2022, the British Energy Security Strategy (BESS) set out the Government's ambition to deliver up to 50GW of offshore wind by 2030, including up to 5GW of innovative floating wind. The Government reconfirmed its plan for domestic energy security, including through renewable energy, in the Growth Plan which was announced in September 2022.

The Government is committed to addressing the twin challenge of providing greater energy security and tackling climate change. Defra acknowledges that the scale of proposed offshore wind deployment has the potential to increase harmful environmental impacts on the marine environment. In support of the BESS and the Growth Plan, Defra is implementing a new Offshore Wind Environmental Improvement Package (OWEIP). This aims to accelerate offshore wind deployment while protecting, and offering opportunities to enhance, the marine environment. The measures in the package include:

Reforms to Habitats Regulations Assessments for offshore wind, supporting the Government's ambition for streamlining and deregulation where possible;

Establishing a Marine Recovery Fund to deliver strategic environmental compensation for environmental impacts;

Delivering Offshore Wind Environmental Standards (OWES; previously termed 'nature-based design standards'); and

Implementing a strategic approach to environmental monitoring.

All Nationally Significant Infrastructure Projects, including offshore wind farms, are subject to an Environmental Impact Assessment (EIA) to demonstrate to the examining authority a developer's consideration of the environmental impact of their proposed project. Alongside an EIA, if a project has the potential to impact on a Marine Protected Area (MPA), further site-specific environmental assessments are undertaken by the competent authority. A Habitats Regulation Assessment (HRA) is required if a project has the potential to affect a Special Protected Area (SPA) or Special Area of Conservation (SAC). If the project has the potential to affect a Marine Conservation Zone (MCZ), examining authorities are also required to undertake an MCZ Assessment of the site. While proving information to support their HRA and/or MCZ Assessment, developers will seek advice from Statutory Nature Conservation Bodies (SNCBs) to understand what the specific harmful environmental impacts might be.

Once these are understood, developers are required to follow the mitigation hierarchy 'avoid, reduce, mitigate' to address them. Only after developers have exhausted all options to avoid and reduce the negative environmental impact of their project, should they start considering which mitigation measures they might need. Developing appropriate mitigation measures for an offshore wind application can often be lengthy and require significant engagement between developers and SNCBs. Similarly, once their application has been submitted, the Planning Inspectorate must examine all proposed measures and deem them suitable to mitigate a project's harmful effects on the environment. Again, this requires extra time and resources. In order to increase offshore wind deployment while protecting the marine environment, a more standardised approach to mitigation is required.

The Government, therefore, intends to introduce Offshore Wind Environmental Standards (OWES) to ensure mitigation measures are considered at the earliest possible stage in a project's life cycle. Although OWES will not remove the need for bespoke mitigation entirely, they will significantly reduce the baseline impact of offshore wind projects. Using pre-approved, standardised mitigation measures, when developers identify an impacted receptor, they will be better able to provide to the examining authority evidence of how to mitigate it.

Given the OWEIP aims to accelerate offshore wind deployment while protecting, and offering opportunities to enhance, the marine environment, OWES can be used to not only mitigate impacts but also deliver environmental benefits.

Project Proposal

We are seeking a project proposal to co-design a suite of suitable Offshore Wind Environmental Standards.

Aim:

To deliver a set of co-designed OWES with Defra Group, industry representatives and other identified stakeholders by July 2023.

Scope:

OWES will take the form of a set of standardised measures that can be applied to the design, construction, operation, monitoring and decommissioning of an offshore wind farm which seek to minimise harmful impacts on the marine environment and/or deliver environmental benefits. Their primary aim is to create a clear, consistent approach to avoiding and mitigating the negative environmental impacts of offshore wind projects and, where possible, avoid the need for compensation.

OWES will not remove the need for bespoke mitigation measures or the need to follow the mitigation hierarchy. Rather they will be a suite of pre-approved, standardised mitigation options which easily demonstrate to the examining authority a developer's consideration of the harmful environmental impacts of their proposed project. This should reduce the scope of a project's Rochdale Envelope[1], as a project's potential impacts will be smaller from the outset and smoothen the overall consenting process. For example, one OWES which could be used is a pre-agreed decibel limit for developers when pile-driving. This would provide a developer with a clear option for noise to minimise the project's impact on marine mammals.

While OWES will initially focus on protecting the marine environment – by ensuring developers avoid and/or mitigate their environmental damage – they have the potential to enhance the biodiversity of their surroundings (both inside and outside MPAs). For example, OWES could standardise the incorporation of seabird monitoring technology into a turbine's design. This would improve overall understanding of the impacts of offshore wind development and help evidence further mitigation techniques. Projects could be fitted with oyster reefs to encourage biodiversity and limit the negative effects wind turbine installation has on the surrounding environment. Through The Rich North Sea programme[1], sites across Germany, Demark and the Netherlands are starting to trial this approach.

At present, no OWES have been determined and the examples used above are for illustrative purposes only.

OWES will be introduced for offshore wind only.

All OWES should be designed in collaboration with Defra's OWES Steering Group (Defra, Natural England, the Joint Nature Conservation Committee and the Marine Management Organisation) and industry representatives (including developers, consultants and engineers). With the support of the contractor, Defra OWES Steering Group will identify a range of stakeholders to support OWES design which will include, but are not limited to, policy advisors, SNCBs, devolved administrations where appropriate, the offshore wind industry, environmental non-government organisations and relevant regulatory bodies.

We expect the contractor to work with Defra to agree the geographical scope of the standards. Prior to a decision regarding their implementation, all OWES will be presented back to Defra in a final report at the end of the project and will be subject to public consultation and ministerial/cross-governmental agreement.

Objectives:

Objective 1: Provide a facilitatory function for engagement with Defra Group, industry representatives and all identified stakeholders.

Identify appropriate stakeholders to engage with, review existing engagement structures and design a streamlined project and engagement plan accordingly.

All OWES must be designed in collaboration with the Defra Steering Group and all relevant stakeholders.

We expect the contracted party to work with Defra Steering Group to agree a list of suitable stakeholders and provide a detailed engagement plan of how they intend to utilise their expertise. This list must include policy advisors, statutory nature conservation bodies, the offshore wind industry, environmental non-government organisations and relevant regulatory bodies.

Organise and provide a governance structure for necessary engagement, including a process for gaining agreement during discussion between Defra Group, industry representatives and other identified stakeholders.

Set agendas, arrange and chair meetings, provide briefing information for attendees and take notes from all discussions to directly feed into OWES development.

Objective 2: Using the above engagement plan, deliver a set of co-designed OWES for consideration by Defra. All activities must be carried out in collaboration with Defra Group, industry representatives and any identified stakeholders.

At the start of the project, work with the Defra steering group to re-confirm the desired scope of OWES and expectations of the project.

Identify key receptors where standardised mitigation through OWES would reduce environmental impacts of offshore wind developments and deliver a smoother consenting process.

Work with Defra Steering Group members and stakeholders to understand the effectiveness of current mitigation techniques, identify areas for standardisation and any potential risks these mitigation measures may have.

Initial thinking undertaken to date by SNCBs will be shared with the successful contractor.

Work with Defra Steering Group members and stakeholders to understand how mitigation could be standardised whilst taking account of, or be adaptable to, the needs of individual projects. This will include determining where OWES may differ between floating and fixed offshore wind and whether bespoke adaptations might be needed.

In addition to mitigation-related standards, identify where elements of the design, construction, operation, monitoring and decommissioning activities of an offshore wind farm could be standardised to deliver other environmental benefits (e.g., monitoring, environmental enhancement).

For all proposed standards, identify the level of supporting evidence available through evidence reviews.

Identify where standards could benefit from additional evidence and, where possible, support Defra in commissioning bespoke evidence projects to this effect.

Determine supply chain, technological feasibility and financial implications for all OWES, with clear understanding of the tradeoffs between environmental protection and cost to the developers.

For all standards, using information gathered throughout the duration of the project and criteria agreed with the steering group, give consideration to which standards should be prioritised and implemented first, should any phased approach to implementation be required.

Identify how the effectiveness of each OWES could be monitored.

Assist in determining the geographical scope of OWES (through engagement with the Devolved Administrations) and consider any implications for implementation.

Using the current regulatory framework, determine with Defra Group and any identified stakeholders how to implement and enforce OWES.

OWES should align with wider Government workstreams e.g., Onshore Transmission Network Review and consideration should be made during the design of the standards to ensure OWES remain operable under the current, and any future, regulatory regimes.

Considering the speed of technological development, offshore wind construction timeframes and leasing rounds, determine how regularly OWES should be reviewed and updated.

By July 2023, present a detailed package of expertly co-designed standards to Defra in a format that 1) allows OWES to immediately be included in a public consultation; and 2) can be transferred into guidance for immediate implementation and/or piloting.

Deliverables:

Due to the nature of the project, we expect to be in regular contact with the supplier and therefore do not wish to set overly formalised delivery requirements. This provides flexibility for the supplier as they work with Defra to achieve the outcomes of the project. However, we do expect the supplier to:

Conduct weekly meetings with the Project Manager to verbally update on progress.

Identify and conduct engagement sessions with all identified stakeholders, the frequency of which will be discussed with Defra Group colleagues. This could include attending existing Defra's OWES Steering Group meetings (held on a fortnightly basis) to update on progress and develop standards.

Conduct detailed evidence reviews to support the design of the standards in a timely manner to present at stakeholder engagement sessions.

Provide a draft report detailing expected standards by end of June 2023, and a final version of the report by end of July 2023.

The report will include:

A prioritized list of detailed standards, suitable for inclusion in a government consultation;

detailed guidance for developers on how to follow and implement each of the standards;

information on how the standards would be enforced;

information on how to monitor the effectiveness of all standards;

the evidence currently available to support each of the standards;

the anticipated environmental benefits and potential environmental risks of implementing the standards;

supply chain, technological feasibility and financial implications of the standards.

Required Skills:

You must have the following skills in order to undertake the proposed project:

Understanding of the offshore wind sector, with particular focus on the receptors affected by offshore wind-related activities.

Knowledge of the relevant regulatory frameworks and energy and marine environment legislation across the UK.

Previous experience of providing a faciliatory function for engagement between Government bodies, the offshore wind industry and eNGOs.

Previously established relationships with offshore wind developers and other offshore marine operators.

Previously established relationships with relevant SNCBs and/or eNGOs.

Ability to consider external engagement strategically and according to the Government's wider offshore wind agenda.

Sensitivity to the high profile & political nature of the project.

Expertise in **co-designing** policy proposals.

Ability to consider a variety of competing policy priorities to produce an informed position.

Ability to take on board, and be led by, feedback from the Defra OWES Steering Group to deliver a series of agreed standards.

Resources to deliver to short deadlines.

Strong project management skills to ensure that deliverables are produced on time and of the highest quality.

Be able to synthesise existing literature and clearly summarise and describe key findings systematically.

The ability to critically analyse evidence and identify and explain the underlying limitations/drawbacks.

Strong drafting and reporting writing skills, including the ability to communicate complex technical information to a mixed audience.

Risks:

We have detailed a series of risks which could be encountered during the project and which the contractor should consider how to suitably mitigate.

There is a risk that political priorities will change, which could lead to the acceleration/deacceleration of the outlined project timelines.

There is a risk that political priorities will change, which could lead to an adjustment of the project's current aim.

There is a risk that, if other departmental workstreams which relate to offshore wind are not adequately considered, the standards would not fit in with the Government's objectives and would not be operable in the existing and/or any future regulatory regime.

There is a risk that if engagement with external partners is inadequate, the set of standards may not reflect the complex operational needs of the offshore wind industry.

There is a risk that engagement could be delayed with external partners, if the competing resources/priorities for Defra Group and identified stakeholders are not appropriately considered in advance.

There is a risk that if delays to outputs are encountered, we will not meet our BESS requirement to deliver OWES the end of 2023. The project is running to an extremely restricted timetable, and it is essential the final deadline of July 2023 is met.

Timeline:
Contract award date is 16th January 2023.
We expect the project duration to be six months.
We expect the project duration to be six months long. The draft report will be submitted to Defra by the end of June 2023, and final report submitted to Defra by end of July 2023**Price, Fee Schedule and Payments:**
The project will be let on a fixed price basis (excluding VAT). This is an all-inclusive price for the contract and, so long as the scope of the contract remains the same, it is not subject to any review, amendment, or alteration.
Tenderers should provide a breakdown showing the allocation of resources across different components of the project by all key individual members of the proposed team.
A pricing schedule has been attached as **Appendix A** and should be filled out with appropriate activities required to meet the objectives of the ITT.
Tenderers should draft a pricing schedule which will provide information on daily rates, overheads, and other related costs for carrying out the work.
Proposals should include a suggested invoicing schedule based on milestones identified in the programme of work.
A payment schedule will be linked to the delivery of a proposed programme of works which can be found in the table below.

Task:	**Task and Deliverable**	**Completion Date**	**Payment Schedule**
1	Facilitating a series of engagement sessions with stakeholders.	31st May 2023	30%
2	Providing Defra a draft report outlining a suite of proposed OWES.	30th June 2023	30%
3	Providing Defra with a final report outlining a suite of proposed OWES.	30th July 2023 or upon project completion	40%

Quality:
Tenderers should demonstrate how they will ensure high quality is maintained in carrying out the project, including any formal internal quality control procedures.
DEFRA requires the opportunity to comment on draft final reports. The appointed contractor will be responsible for ensuring both the quality of the work as well as the presentation of the material (e.g., proof reading, ensuring clear English).
Any New Intellectual Property Rights 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.

Evaluation Criteria

Evaluation will be based on two assessments: firstly technical/quality evaluation criteria (70%) and secondly commercial/price criteria (30%). These are detailed below.

Technical/Quality Evaluation Criteria (70%)

To enable a consistent and fair evaluation of your tender, the Authority requires the Tenderer to respond to the questions below, making sure you adhere to the page limits detailed in each section. Words submitted beyond these limits will not be evaluated as part of the tender response. All Suppliers should be aware of the timescales set to deliver this requirement and only submit a response where they are confident of being able to deliver within these parameters.

Overall, the evaluation of responses will be weighted 70% on technical quality and 30% on commercial value. The former will be assessed based on the following questions and weightings.

Question	Weighting	Assessed from:
E01: Organisation's capacity and resource	10%	Brief outline of organisation; please explain how you manage your workflow capacity and staff resources particularly in peak periods. Your evidence should include measures you have in place to ensure critical delivery. Please confirm that staff resources are available to complete the entire contract in the timescales required, as shown in the ITT. **Evaluation criteria:** ability to deliver this project to time Please submit no more than 2 pages of A4, Arial, Font 11. Please upload a document with the filename: "E01 – Your Company Name"
E02: Project management and organisation's quality assurance	10%	Please outline your approach to managing the project, in terms of project structure and provision for communication with the Authority. You should include a work plan demonstrating adequate time for review of deliverables. Provide a risk register that assesses risks to the successful delivery of the project and explains how the risks will be mitigated. Explain how you would handle unexpected events and what systems you have in place to deal with these. You should outline how you plan to keep Defra informed of progress made and alert the Project Officer at the earliest opportunity of any difficulties encountered e.g., milestone dates at risk. Please also indicate the level of input and guidance you require from the Project Officer and Steering Group. Please outline your planned project management and internal governance for this project. You should also describe your organisation's approach to project management and how this is implemented. Please outline Quality Assurance measures and processes to ensure quality of research and outputs delivered.

		Evaluation criteria: Simple, transparent management structure, with named individuals and clear accountability How the team will be managed, particularly if managing a multidisciplinary team or a consortium The level of input required from Defra The organisation’s approach to project management and how this will be used to deliver the project deliverables on time, to the expected quality and to budget A risk register that demonstrates an understanding of the likely challenges and issues faced with suitable mitigation strategies Resilience for dealing with unexpected events A credible, effective plan to keep the authority informed of progress made and any difficulties encountered Adequate resources available for drafting report(s) and handling feedback from Defra. Please submit no more than 2 pages of A4, Arial, Font 11. Please upload a document with the filename: “E02 – Your Company Name”
E03: Proposed approach to research and methodology	40%	Please include a detailed account of your proposed project. Please detail your approach and methodology for the objectives, demonstrating a clear understanding of the requirements and consideration of issues. Please specify resources and days allocated for each activity. Your workplan should include adequate time for the review of the deliverables. Please use the aim and objectives as stated in the Specification of Requirement or present a clear explanation if you are considering a proposed approach and methodology. If your proposal will deliver additional objectives or includes optional additional work

		packages, please clarify these and separately cost any optional work packages. **Evaluation criteria:** An understanding of Defra's requirements and the policy context demonstrated through the proposed approach A robust, detailed and credible methodology for meeting or exceeding the objectives set out in the specification A realistic and measurable deliverable workplan A robust quality assurance plan that demonstrates how the quality of inputs and outputs will be ensured Clearly demonstrate the key issues, challenges and risks that your organisation is proposing to address in this project Provide a description of how each piece of work will be delivered: how the work will be conducted in order to ensure that those objectives and steps are met in a transparent and robust fashion; how data will be managed, particularly in accordance with Data Protect legislation. A work plan and detailed programme with key deliverable dates Please submit no more than 2 pages of A4, Arial, Font 11. Please upload a document with the filename: "E03 – Your Company Name"
E04: Capability and Expertise of Proposed Project Team	30%	Brief outline of staff experience, plus CVs, of those who will be involved and outline of how much time each member of staff will spend on the research project. **Evaluation criteria:** Excellent understanding of the subject area that provides confidence in the Tenderer's ability to deliver

		the project Breadth and depth of expertise available within the team How the team's skills, knowledge and experience are relevant to meeting the project requirements Significant relevant experience Staff experience, skills and time (by milestone) are sufficient and appropriately allocated throughout the project, providing confidence in the quality and timeliness of delivery, as well as good value for money in the diverse range of staff and their skill sets Success in delivering relevant projects Please submit no more than 2 pages of A4, Arial, Font 11 for the outline (plus CVs). Please upload a document with the filename: "E04 – Your Company Name"
E05: Knowledge and Records Management	10%	Consider the expected outputs which may arise from this project, identify key audiences for the results and outline your plans for knowledge exchange and communications of results. Provide a list of all proposed project outputs, including datasets, analysis of findings, publications, presentations or demonstrations, and a brief description of how you anticipate the results will be used and by whom. **Evaluation criteria** The list of proposed project outputs, including datasets, publications, presentations or demonstrations The likely long-term usefulness of the project outputs The identified key audiences for the results demonstrate good knowledge of relevant stakeholders and likelihood of successful stakeholder engagement

		Knowledge exchange and communication plans provide confidence that relevant stakeholders will be aware of project outputs, understand their limitations and use them Consideration of presentational issues and language - especially the need to translate between technical language to plain English Please submit no more than 1 page of A4, Arial, Font 11. Please upload a document with the filename: "E05 – Your Company Name"

Questions E01-E05 above will be scored using the following scoring criteria:

For a score of 100: Excellent - Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a best-in-class thorough understanding of the requirement and provides details of how the requirement will be met in full.

For a score of 70: Good - Response is relevant and good. The response demonstrates a good understanding and provides details on how the requirements will be fulfilled.

For a score of 50: Acceptable - Response is relevant and acceptable. The response provides sufficient evidence to fulfil basic requirements.

For a score of 20: Poor - Response is partially relevant and/or poor. The response addresses some elements of the requirements but contains insufficient / limited detail or explanation to demonstrate how the requirement will be fulfilled.

For a score of 0: Unacceptable - Nil or inadequate response. Fails to demonstrate an ability to meet the requirement.

Each question will be allocated a score of between 0-100 for the documented response, based on the corresponding evaluation criteria set out in the table above. The scores will be weighted, and a final technical score calculated. The highest technical score will then receive the maximum 70% technical score to be added to the commercial score in the overall tender evaluation. Other tenderer's technical scores will be calculated pro rata to the highest technical score.

The Authority reserves the right to apply a tie-break mechanism, if the tender responses result in a two or more bids receiving an absolute tie in scores. This will consider the scores of each criterion in order of importance (determined according to the weighting given to the criterion).

If you receive a score of 20 or less in respect of any individual question (1 - 5) then you may be eliminated from the procurement for failing to meet the minimum requirements.

Please upload your response to each section (E01 – E05) as an individual document. This will allow evaluators to easily differentiate the response to each section and allow consistent and fair evaluation of bids. Tenderers should not cross reference information provided in each section as they will only be scored on the information requested and provided in each section.

Commercial/Price Evaluation Questions (30%)

Please complete the pricing schedule, providing prices excluding VAT. Please detail any risks and assumptions made and what has been included in the prices and list any additional expected expenses separately. Indicate if VAT will apply to your services and at what rate. We welcome applications from individual organisations or from consortia.

Tenderers are required to submit a total fixed cost for completion of the project and include a breakdown of costs against each objective and against key personnel. Costs will need to be reasonable and competitive and offer value for money.

When completing the pricing schedule (**Appendix A**) Tenderers should ensure they provide the total fixed cost and a breakdown of costs for each task.

Prices submitted should not include any pricing assumptions and should detail exactly what has been included in the price submitted. Any assumptions should be clarified during the clarification period.

Evaluation

The calculation used is the following:

$$\text{Score} = \frac{\text{Lowest Tender Price}}{\text{Tender Price}} \times 30\% \text{ (Maximum available marks)}$$

For example, if three Tender Responses are received and Tenderer A has quoted £3,000 as their total price, Tenderer B has quoted £5,000 and Tenderer C has quoted £6,000 then the calculation will be as follows:

Tenderer A Score = £3000/£3000 x 30% (Maximum available marks) = 30%
Tenderer B Score = £3000/£5000 x 30% (Maximum available marks) = 18%
Tenderer C Score = £3000/£6000 x 30% (Maximum available marks) = 15%

Prices

Prices must be submitted in £ sterling, exclusive of VAT.

Quotation Submission

Details of the Qualification, Technical and Commercial requirements can be located through the Atamis e-tendering portal.

Disclosure

All Central Government Departments, their Executive Agencies and Non-Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement, including ensuring value for money and related aspects of good procurement practice.

For these purposes, the Authority may disclose within Government any details contained in your quotation. The information will not be disclosed outside Government during the procurement.

In addition, the Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, which provide a public right of access to information held by public bodies. In accordance with these two statutes, the Authority may be required to disclose information contained in your quotation to any person who submits a request for information pursuant to those statutes.

You should also note that the Authority will publish the RFQ and the Contract on the Contracts Finder Website.

By submitting a quotation, you consent to these terms as part of the procurement.

Disclaimers

Whilst the information in this RFQ and any supporting information referred to herein or provided to you by the Authority have been prepared in good faith, the Authority does not warrant that this information is comprehensive or that it has been independently verified.

The Authority does not:

make any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the RFQ;

accept any liability for the information contained in the RFQ or for the fairness, accuracy or completeness of that information; or

accept any liability for any loss or damage (other than in respect of fraudulent misrepresentation or any other liability which cannot lawfully be excluded) arising as a result of reliance on such information or any subsequent communication.

Any supplier considering entering into contractual relationships with the Authority following receipt of the RFQ should make its own investigations and independent assessment of the Authority and its requirements for the goods and/or services and should seek it's own professional financial and legal advice.

[1] An established approach to address uncertainties in EIA development proposals under the Planning Act 2008, allowing Applicants to remain compliant with EIA requirements while permitting flexibility in their proposal for those design elements or parameters that cannot reasonably be confirmed through an Environmental Statement to inform the impact analysis. A common example relating to offshore wind infrastructure developments is uncertainty in the types of blades to be installed; flexibility sought in this regard permits developers to take advantage of technological innovations to blade designs as they arise. For more information, see Advice Note Nine: Rochdale Envelope | National Infrastructure Planning (planninginspectorate.gov.uk).

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

How Charges are calculated

The Charges:

shall be calculated in accordance with the terms of this Annex 3;

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.

Rates and Prices

Currency

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

Variations

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

Electronic Invoicing

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:

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

the date of the invoice;

a unique invoice number;

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

the correct reference for the Contract

a valid Purchase Order Number;

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

a description of the Deliverables;

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

any payments due in respect of achievement of a milestone, including confirmation that milestone has been achieved by the Authority's Authorised Representative;

the total Charges gross and net of any applicable deductions and, separately, the amount of any reimbursable expenses properly chargeable to the Authority under the terms of this Contract, and, separately, any VAT or other sales tax payable in respect of each of the same, charged at the prevailing rate;

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

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);

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 790, 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.

Invoices submitted electronically will not be processed if:

The electronic submission exceeds 4mb in size

Is not submitted in a PDF formatted document

Multiple invoices are submitted in one PDF formatted document

The formatted PDF is "Password Protected"

Annex 4 – Tender Submission

Annex 5 – Sustainability

Not used.

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: 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"	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: 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 b) is required by the Supplier in order to provide the Deliverables; and/or c) has been or shall be generated for the purpose of providing the Deliverables;
"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"	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;
"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 contractors 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/procurement-policynote-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):

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 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 2.

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:

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

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:

be appropriately trained and qualified;

be vetted using Good Industry Practice and in accordance with the instructions issued by the Authority in the Order Form;

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 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

11.3 The Authority has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if the Contract is terminated, clause 11.5(b) to 11.5(g) applies.

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) if the Supplier repeatedly breaches the Contract in a way to reasonably justify in the Authority's opinion that the Supplier's conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;

(iii) if the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied. Where a material breach is not capable of remedy, the Authority has the right to immediately terminate the Contract;

(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 rest of the Term ;

(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

12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 200% (two hundred per cent) of the amount of the Charges under each Purchase Order or £5,000,000 (five million pounds) whichever is lower unless specified in the Order Form.

12.2 No Party is liable to the other for:

(a) any indirect or consequential losses;

(b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

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.

12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 4.2(j), 4.2(m), 8.5, 9.3, 10.5, 13.3, or 31.2(b).

12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including where the loss or damage is covered by any indemnity.

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:

comply with all applicable Law;
comply with the Sustainability Requirements
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

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 The Supplier indemnifies the Authority against all losses, damages, costs or expenses (including professional fees and fines) resulting from any default by the Supplier relating to any applicable Law to do with the Contract subject to Clause 12.1.

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.

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;

(e) where the Supplier is not bound by Data Protection Legislation it must use its best endeavours to help the Authority meet its own obligations under Data Protection Legislation; and

(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.

15.20The 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 subject to Clause 12.1.

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 co-operation 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;

the Authority's current health and safety policy and procedures while at the Authority’s premises, as provided to the Supplier.
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.

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:

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;

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:

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;

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;

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;

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.