

Contract including Order Form and Contract Conditions

Delivery Partner for the Advanced Fuels Fund

1. Contract Reference	TTDC3026	
2. Date	24/10/2023	
3. Buyer	Department for Transport (on behalf of the Secretary of State for Transport), Great Minster House 33 Horseferry Road, London, SW1P 4DR	
4. Supplier	<p>RICARDO-AEA LIMITED, Registered Office Shoreham Technical Centre, Shoreham-by-Sea, West Sussex, BN43 5FG, UK</p> <p>Registration number 08229264</p>	
5. The Contract	<p>The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions ("Conditions") and any [Annex/Annexes]</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.</p> <p>Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.</p>	
6. Deliverables	Services	As detailed in Annex 4 – Ricardo's tender . To be performed at DfT premises, the Supplier's premises and/or a third party's premises.
7. Specification	<p>Date(s) of Delivery: Period of Delivery commences 1 June 2023 through to 30 April 2025.</p> <p>Extension - The Buyer 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.</p>	
8. Term	The Charges for the Deliverables shall be as set out in Annex 3 dated 24/10/2023.	
9. Charges	<p>Payment of undisputed invoices will be made within 30 days of receipt of invoice, which must be submitted promptly by the Supplier.</p> <p>Suppliers must be in possession of a written purchase order (PO), before commencing any work under this contract. The Purchase Order Number for this contract is: TBC. You must quote the aforementioned PO number on all invoices, and these must be submitted as a PDF by email directly to ssa.invoice@sharedservicesavarto.co.uk</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the</p>	

	<p>details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment please contact our Accounts Payable section: ssa.invoice@sharedservicesarvato.co.uk</p>	
10. Data Protection Liability Cap	£1,000,000	
11. Progress Meetings / Reports & Buyers Authorised Representative	For general liaison your contact is [REDACTED]	
12. Supplier Authorised Representative(s)	[REDACTED]	
13. Address for notices	As per points 11 & 12	
Signed for and on behalf of the Supplier		Signed for and on behalf of the Buyer (<i>on behalf of the Secretary of State for Transport</i>)
Name: [REDACTED] [REDACTED]		Name: [REDACTED] [REDACTED]
Date: 2/11/2023		Date: 02/11/2023
Signature [REDACTED]		Signature: [REDACTED]

Annex 1 – Authorised Processing – Data Protection will follow the requirements outlined in the original SPATS2 contract T0229 (TETI10127) - Advanced Fuels Competition Delivery Partner (via Arup)

Annex 2 – Specification

Annex 3 – Charges

Annex 4 – Ricardo's Tender

Contract Conditions

1. Definitions used in the Contract

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

"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls (in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " Controlled " shall be construed accordingly), is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Audit"	the Buyer's right to: <ul style="list-style-type: none"> (a) verify the accuracy of the Charges and any other amounts payable by the Buyer under the Contract (including proposed or actual variations to them in accordance with the Contract); (b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Deliverables; (c) verify the Supplier's and each Subcontractor's compliance with the applicable Law; (d) identify or investigate actual or suspected breach of clauses 4 to 35, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; (e) identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Subcontractors or their ability to provide the Deliverables; (f) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; (g) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; (h) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts; (i) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
"Beneficiary"	A Party having (or claiming to have) the benefit of an indemnity under this Contract;
"Buyer"	the person named as Buyer in the Order Form. Where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole;
"Buyer Cause"	any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
"Charges"	the charges for the Deliverables as specified in the Order Form;
"Claim"	any claim which it appears that the Buyer is, or may become, entitled to indemnification under this Contract;
"Conditions"	means these short form terms and conditions of contract;

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"Confidential Information"	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 marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
"Contract"	the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the cover letter (if used), Order Form, these Conditions and the Annexes;
"Controller"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Crown Body"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this 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"	(a) the UK GDPR, (b) the DPA 2018; (c) all applicable Law about the processing of personal data and privacy and guidance issued by the Information Commissioner and other regulatory authority; and (d) (to the extent that it applies) the EU GDPR (and in the event of conflict, the UK GDPR shall apply);
"Data Protection Liability Cap"	has the meaning given to it in row 13 of the Order Form;
"Data Protection Officer"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"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;
"Deliver"	hand over of the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and stacking and any other specific arrangements agreed in accordance with clause 4.2. "Delivered" and "Delivery" shall be construed accordingly;
"Deliverables"	means the Goods and/or Services to be supplied under the Contract as set out in the Order Form;
"DPA 2018"	the Data Protection Act 2018;

"EU GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
"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"	the date for expiry of the Contract as set out in the Order Form;
"FOIA"	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Party seeking to claim relief in respect of a Force Majeure Event (the "Affected Party") which prevent or materially delay the Affected Party from performing its obligations under the Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available <p>but excluding:</p> <ul style="list-style-type: none"> (i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; (ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and (iii) any failure of delay caused by a lack of funds, <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
"Goods"	the goods to be supplied by the Supplier to the Buyer 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;
"Government 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 Buyer's confidential information, and which: (i) are supplied to the Supplier by or on behalf of the Buyer; or (ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or (b) any Personal Data for which the Buyer is the Controller;
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independe"	a party which is Controller of the same Personal Data as the other Party and there is no element

nt Controller"	of joint control with regards to that Personal Data;
"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"	in respect of a person: <ul style="list-style-type: none"> (a) if that person is insolvent; (b) where that person is a company, LLP or a partnership, 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); (c) if an administrator or administrative receiver is appointed in respect of the whole or any part of the person's assets or business; (d) if the person makes any composition with its creditors; or (e) 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;
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
"Joint Controller Agreement"	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in <i>Part B – Joint Controller Agreement</i> of Annex 1 – <i>Processing Personal Data</i> ;
"Joint Controllers"	Where two or more Controllers jointly determine the purposes and means of processing;
"Key Staff"	any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier;
"Law"	any law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
"New IPR"	all and 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;
"New IPR Items"	means a deliverable, document, product or other item within which New IPR subsists;
"Open Licence"	means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ as updated from time to time and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles-as-updated-from-time-to-time ;
"Order Form"	the order form signed by the Buyer and the Supplier printed above these Conditions;

"Party"	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Personal Data Breach"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires and includes any breach of Data Protection Legislation relevant to Personal Data processed pursuant to the Contract;
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies as updated from time to time;
"Processor"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor Personnel"	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;
"Protective Measures"	<p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"> (a) the nature of the data to be protected; (b) harm that might result from Data Loss Event; (c) state of technological development; (d) the cost of implementing any measures; <p>including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
"Purchase Order Number" or "PO Number"	the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the Contract;
"Rectification Plan"	<p>the Supplier's plan (or revised plan) to rectify its material default which shall include:</p> <ul style="list-style-type: none"> (a) full details of the material default that has occurred, including a root cause analysis; (b) the actual or anticipated effect of the material default; and (c) the steps which the Supplier proposes to take to rectify the material default (if applicable) and to prevent such material default from recurring, including timescales for such steps and for the rectification of the material default (where applicable);
"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"	the services to be supplied by the Supplier to the Buyer under the Contract;
"Specification"	the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
"Staff Vetting"	vetting procedures that accord with Good Industry Practice or, where applicable, the Buyer's procedures or policies for the vetting of personnel as specified in the Order Form or provided to

"Procedures"	the Supplier in writing following agreement to the same by the Supplier from time to time;
"Start Date"	the start date of the Contract set out in the Order Form;
"Sub-Contract"	any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party: <ul style="list-style-type: none"> (a) provides the Deliverables (or any part of them); (b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or (c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Subprocessor"	any third party appointed to process Personal Data on behalf of the Processor related to the Contract;
"Supplier"	the person named as Supplier in the Order Form;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
"Transparency Information"	In relation to Contracts with a value above the relevant threshold set out in Part 2 of the Regulations only, the content of the Contract, including any changes to this Contract agreed from time to time, as well as any information relating to the Deliverables and performance pursuant to the Contract required to be published by the Buyer to comply with its transparency obligations, including those set out in Public Procurement Policy Note 09/21 (update to legal and policy requirements to publish procurement information on Contracts Finder) (https://www.gov.uk/government/publications/ppn-0921-requirements-to-publish-on-contracts-finder) as updated from time to time and Public Procurement Policy Note 01/17 (update to transparency principles) where applicable (https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles) as updated from time to time except for: <ul style="list-style-type: none"> (a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (b) Confidential Information;
"Term"	the period from the Start Date to the Expiry Date as such period may be extended in accordance with clause 11.2 or terminated in accordance with the Contract;
"Third Party IPR"	intellectual property rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"UK GDPR"	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Worker"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) as updated from time to time applies in respect of the Deliverables; and
"Working Day"	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 Conditions;
- 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 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.4 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; and
- 2.5 the word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".
- 2.6 Any reference which, immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to section 1A of the European Union (Withdrawal) Act 2018), is a reference to (as it has effect from time to time)
- 2.7 Any (i)(f) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("EU References") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.

3. How the Contract works

- 3.1 The Order Form is an offer by the Buyer 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 Buyer receives a copy of the Order Form signed by the Supplier.
- 3.3 The Supplier warrants and represents that its tender 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 the Supplier's Tender at Annex 4; (ii) to a professional standard; (iii) using 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) on the dates agreed; and (vii) that comply with all law.

- (b) The Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.

4.2 Goods clauses

- (a) All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- (b) The Supplier transfers ownership of the Goods on completion of delivery or payment for those Goods, whichever is earlier.
- (c) Risk in the Goods transfers to the Buyer on delivery, but remains with the Supplier if the Buyer notices damage following delivery and lets the Supplier know within three Working Days of delivery.
- (d) The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- (e) The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- (f) The Supplier must provide sufficient packaging for the Goods to reach the point of delivery safely and undamaged.
- (g) All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- (h) The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- (i) The Supplier will notify the Buyer 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 Buyer against the costs arising as a result of any such request.
- (j) The Buyer can cancel any order or part order of Goods which has not been delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- (k) The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- (l) The Buyer 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 Buyer or its servant or agent. If the Buyer 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 any losses, charges costs or expenses 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 any of its [sub-suppliers].

4.3 Services clauses

- (a) Late delivery of the Services will be a default of the Contract.
- (b) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Buyer must provide the Supplier with reasonable access to its premises at reasonable times 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 Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of 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 Buyer's operations, employees or other contractors.
- (g) On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.
- (h) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.
- (i) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

5. Pricing and payments

- 5.1 In exchange for the Deliverables, the Supplier shall be entitled to invoice the Buyer monthly for the charges in the Order Form. The Supplier shall raise invoices promptly and in any event within 90 days from when the charges are due.

All Charges:

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

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

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 Buyer;

- (b) includes a detailed breakdown of Deliverables which have been delivered (if any).
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer 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 34.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 5.7 The Supplier must ensure that all subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

6. The Buyer's obligations to the Supplier

If Supplier fails to comply with the Contract as a result of a Buyer Cause:

- (a) the Buyer cannot terminate the Contract under clause 11;
 - (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
 - (c) the Supplier is entitled to additional time needed to deliver the Deliverables;
 - (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 Buyer within 10 Working Days of becoming aware;
 - (b) demonstrates that the failure only happened because of the Buyer Cause;
 - (c) mitigated the impact of the Buyer Cause.

7. Record keeping and reporting

- 7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.
- 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 and in accordance with the UK GDPR or the EU GDPR as the context requires.
- 7.3 The Supplier must allow any auditor appointed by the Buyer 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 Buyer or an auditor can Audit the Supplier
- 7.5 During an Audit, the Supplier must provide information to the auditor and reasonable co-operation at their request.

- 7.6 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a material default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 7.7 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- (a) tell the Buyer and give reasons;
 - (b) propose corrective action;
 - (c) provide a deadline for completing the corrective action.
- 7.8 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:
- (a) require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand
 - (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).
- 7.9 If there is a material default, the Supplier must notify the Buyer within 3 Working Days of the Supplier becoming aware of the material default. The Buyer may request that the Supplier provide a Rectification Plan within 10 Working Days of the Buyer's request alongside any additional documentation that the Buyer requires. Once such Rectification Plan is agreed between the Parties (without the Buyer limiting its rights) the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.

8. Supplier staff

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

- (a) be appropriately trained and qualified;
 - (b) be vetted using Good Industry Practice and in accordance with the instructions issued by the Buyer in the Order Form;
 - (c) comply with all conduct requirements when on the Buyer's premises.
- 8.2 Where a Buyer 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 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.
- 8.4 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

- 8.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.
- 8.6 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 Buyer (not to be unreasonably withheld or delayed);
 - (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
 - (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.

9. Rights and protection

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 entered into 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 Buyer 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 Buyer.
- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.
- 9.6 Supplier shall ensure it has adequate insurance cover for this contract

10. Intellectual Property Rights (IPRs)

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer 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 Buyer. The Buyer 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 Buyer 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 Buyer 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 Buyer's sole option, either:
- (a) obtain for the Buyer 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.
- 10.7 The Supplier shall not use in the Delivery of the Deliverables any Third Party IPR unless it has notified the Buyer that the owner or an authorised licensor of the relevant Third Party IPR will grant a direct licence to the Buyer for the Third Party IPR and that licence has been granted and not rejected. The Buyer, in its absolute discretion, shall have 10 Working Days following the Supplier's notification to reject the grant of the licence. If the Supplier cannot obtain for the Buyer a licence in respect of any Third Party IPR, for whatever reason, the Supplier shall:
- a) Notify the Buyer in writing; and
 - b) Use the relevant Third Party IPR only if the Buyer has provided authorisation in writing, with reference to the acts authorised and the specific intellectual property rights involved
- 10.8. In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it does not constitute an

authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act

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 Buyer can extend the Contract where set out in the Order Form in accordance with the terms in the Order Form.

11.3 Ending the Contract without a reason

The Buyer 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 it's terminated clause 11.5(b) to 11.5(g) applies.

When the Buyer can end the Contract

- (a) If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:
 - (i) there's a Supplier Insolvency Event;
 - (ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify the opinion that its 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;
 - (iv) there's 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 Buyer in writing;
 - (v) if the Buyer 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 courts of the United Kingdom declares that the Contract should not have been awarded to the Supplier because of a serious breach of the Regulations;
 - (vii) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them.
- (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 Buyer has the right to immediately terminate the Contract and clause 11.5(b) to 11.5(g) applies.

What happens if the Contract ends

Where the Buyer terminates the Contract under clause 11.4(a) all of the following apply:

- (a) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement deliverables for the rest of the term of the Contract;
- (b) the Buyer's payment obligations under the terminated Contract stop immediately;
- (c) accumulated rights of the Parties are not affected;
- (d) the Supplier must promptly delete or return the Government Data except where required to retain copies by law;
- (e) the Supplier must promptly return any of the Buyer's property provided under the Contract;
- (f) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;
- (g) the following clauses survive the termination of the Contract: [3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35] and any clauses which are expressly or by implication intended to continue.

When the Supplier can end the Contract

- (a) The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer 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 Buyer must promptly pay all outstanding charges incurred to the Supplier;
 - (ii) the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated;
 - (iii) clauses 11.5(d) to 11.5(g) apply.

Partially ending and suspending the Contract

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
- (b) The Buyer 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 not either:
 - (i) reject the variation;

- (ii) increase the Charges, except where the right to partial termination is under clause 11.3.
- (d) The Buyer 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 125% of the Charges paid or payable to the Supplier.
- 12.2 No Party is liable to the other for:
 - (a) any indirect 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 sub-contractors;
 - (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), 8.4, 9.3, 10.5, 13.2, 14.7(e) or).
- 12.5 In spite of clause 12.1, the Buyer does not limit or exclude its liability for the indemnity given under clause 8.5
- 12.6 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 12.7 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 , in connection with provision of the Deliverables::
 - (a) is expected to meet and have its Subcontractors meet the standards set out in the Supplier Code of Conduct'

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf) as such Code of Conduct may be updated from time to time, and such other sustainability requirements as set out in the Order Form. The Buyer also expects to meet this Code of Conduct;
 - (b) must comply with the provisions of the Official Secrets Act 1911 to 1989 and section 182 of the Finance Act 1989

- (c) must support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
 - (d) must comply with the model contract terms contained in Example 1 of Annex C of the guidance to PPN 05/19 (Tackling Modern Slavery in Government Supply Chains) shall apply to the Contract, as such clauses may be amended or updated from time to time, and
 - (e) must meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs> as updated from time to time.
- 13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.
- 13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 13.1 and Clauses 27 to 32
- 13.4 "Compliance Officer" the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations
- 14. Data protection**
- 14.1 The Supplier must not remove any ownership or security notices in or relating to the Government Data
- 14.2 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via a secure encrypted method upon request.
- 14.3 The Supplier must ensure that any Supplier, Subcontractor or Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified in the Award Form or otherwise in writing by the Buyer (where any such requirements have been provided).
- 14.4 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 14.5 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
 - (b) restore the Government Data itself or using a third party.
- 14.6 The Supplier must pay each Party's reasonable costs of complying with clause 14.5 unless the buyer is at fault.
- 14.7 The Supplier:

- a) must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within 10 Working Days of a written request;
- b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
- c) must securely destroy all storage media that has held Government Data at the end of life of that media using Good Industry Practice;
- d) securely erase all Government Data and any copies it holds when asked to do so by the Buyer (and certify to the Buyer that it has done so) unless and to the extent required by Law to retain it; and
- e) indemnifies the Buyer against any and all losses incurred if the Supplier breaches clause 14 or any Data Protection Legislation.

14.8 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under the Contract dictates the status of each party under the DPA 2018. A Party may act as:

- a) “Controller” in respect of the other Party who is “Processor”;
- b) “Processor” in respect of the other Party who is “Controller”;
- c) “Joint Controller” with the other party;
- d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

In respect of certain Personal Data under the Contract and shall specify in Part A – *Authorised Processing Template* of Annex 1 – *Processing Personal Data* which scenario they think shall apply in each situation.

14.9 Where one Party is Controller and the other Party its Processor

- a) Where a Party is a Processor, the only processing that the Processor is authorised to do is listed in Part A - *Authorised Processing Template* of Annex 1 – *Processing Personal Data* by the Controller and may not be determined by the Processor. The term “processing” and any associated terms are to be read in accordance with Article 4 of the UK GDPR and EU GDPR (as applicable).
- b) The Processor must notify the Controller immediately if it thinks the Controller's instructions breach the Data Protection Legislation.
- c) The Processor must give all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment before starting any processing, which may include, at the discretion of the Controller:
 - i) A systematic description of the expected processing and its purpose;

- ii) The necessity and proportionality of the processing operations;
 - iii) The risks to the rights and freedoms of Data Subjects; and
 - iv) The intended measure to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- d) The Processor must, in relation to any Personal Data processed under this Contract:
- i) process that Personal Data only in accordance with Part A - Authorised Processing Template of Annex 1 – Processing Personal Data unless the Processor is required to do otherwise by Law. If lawful to notify the Controller, the Processor must promptly notify the Controller if the Processor is otherwise required to process Personal Data by Law before processing it.
 - ii) Put in place Protective Measures to protect against a Data Loss Event which must be approved by the Controller.
 - iii) Ensure that
 - (A) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Part A - Authorised Processing Template of Annex 1 – Processing Personal Data);
 - (B) it takes reasonable endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - i. are aware of and comply with the Processor's duties under this clause 14;
 - ii. are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - iii. are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise allowed by the Contract; and
 - iv. have undergone adequate training in the use, care, protection and handling of Personal Data.
- e) the Processor must not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- (i) The destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
 - (ii) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018 and/or Article 46 of the EU GDPR (where applicable)) as determined by the Controller which could include relevant parties entering into:
 - (a) where the transfer is subject to UK GDPR:
 - 1) The UK International Data Transfer Agreement (“the IDTA”) as published by the Information Commissioner’s Office under Section 119A(1) of the DPA 2018 from time to time; or
 - 2) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (“EU SCCs”), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the “Addendum”) as published by the Information Commissioner's Office from time to time; and/or
 - (b) where the transfer is subject to EU GDPR, the EU SCC’s
 - 1. as well as any additional measures determined by the Controller being implemented by the importing party;
 - (iii) the Data Subject has enforceable rights and effective legal remedies;
 - (iv) The Processor meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (v) The Processor complies with the Controller’s reasonable prior instructions about the processing of the Personal Data.
- f) The Processor must at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
- g) The Processor must notify the Controller immediately if it;
 - (i) Receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (ii) Receives a request to rectify, block or erase any Personal Data;
 - (iii) Receives any other request, complaint or communication relating to either Party’s obligations under Data Protection Legislation;

- (iv) Receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
 - (v) 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; and
 - (vi) Becomes aware of a Data Loss Event.
- h) Any requirement to notify under clause (h) includes the provision of further information to the Controller in stages as details become available.
- i) The Processor must promptly provide the Controller with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause (h). This includes giving the Controller:
 - (i) Full details and copies of the complaint, communication or request;
 - (ii) Reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
 - (iii) Any personal data it holds in relation to a Data Subject on request;
 - (iv) Assistance that it requests following a Data Loss Event and;
 - (v) Assistance it requests relating to a consultation with, or request from, the Information Commissioner's Office, or any other regulatory authority.
- j) The Processor must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Processor employs fewer than 250 staff, unless either the Controller determines that the processing:
 - (i) Is not occasional;
 - (ii) includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - (iii) is likely to result in a risk to the rights and freedoms of Data Subjects.
- k) The Processor shall allow for audits of its data processing activity by the Controller or the Controller's designated auditor.
- l) The Parties shall designate a Data Protection Officer if required by Data Protection Legislation.
- m) Before allowing any Subprocessor to process any Personal Data, the Processor must:
 - (i) Notify the Controller in writing of the intended Subprocessor and processing;
 - (ii) Obtain the written consent of the Controller;
 - (iii) Enter into a written contract with the Subprocessor so that this Clause 14 applies to the Subprocessor; and

- (iv) Provide the Controller with any information about the Subprocessor that the Controller reasonably requires.
- n) The Processor remains liable for all acts or omissions of any Subprocessor
- o) The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority.
- p) At any time the Buyer can, with 30 Working Days' notice to the Supplier, change this clause 14 to ensure that it complies with any guidance issued by the Information Commissioner's Office or any other regulatory authority

14.10 Joint Controllers of Personal Data

In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Part B – Joint Controller Agreement of Annex 1 – Processing Personal Data.

14.11 Independent Controllers of Personal Data

In the event that the Parties are Independent Controllers in respect of Personal Data under the Contract, the terms set out in Part C – Independent Controllers of Annex 1 – Processing Personal Data shall apply to this Contract.

15. What you must keep confidential

15.1 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.

15.2 In spite of clause 15.1, 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 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.
- 15.3 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 Buyer at its request.
- 15.4 The Buyer may disclose Confidential Information in any of the following cases:
 - (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
 - (b) on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
 - (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - (d) where requested by Parliament;
 - (e) under clauses 5.7 and 16.
- 15.5 For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 15.
- 15.6 Transparency Information, and Information which is exempt from disclosure by clause 16 is not Confidential Information.
- 15.7 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 Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.
- 16. When you can share information**
- 16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- 16.2 In accordance with a reasonable timetable and in any event within 5 Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
 - (a) comply with any Request for Information.

- (b) If the Contract has a value over the relevant threshold in Part 2 of the Regulations, comply with any of its obligations in relation to publishing Transparency Information.

To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a Request For Information and may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

17. INSURANCE

The Supplier shall ensure it has adequate insurance cover for this Contract.

18. Invalid parts of the contract

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

19. No other terms apply

The provisions 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 (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 which 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 without the Buyer's written consent.
- 24.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 24.3 When the Buyer uses its rights under clause 24.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 24.4 The Supplier can terminate the Contract novated under clause 24.2 to a private sector body that is experiencing an Insolvency Event.
- 24.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 24.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
- (a) their name;
 - (b) the scope of their appointment;
 - (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. The Buyer 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 Buyer 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 Buyer 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 Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer 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 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 Buyer) the Buyer may:
 - (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
 - (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

28. Equality, diversity and human rights

- 28.1 The Supplier must follow all applicable equality law when they perform their obligations under the Contract, including:
 - (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
 - (b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 28.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

29. Health and safety

- 29.1 The Supplier must perform its obligations meeting the requirements of:
 - (a) all applicable law regarding health and safety;
 - (b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.

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

30. Environment

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

31. Tax

- 31.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer 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 the Off Contract, the Supplier must both:
 - (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
 - (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 31.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
 - (a) the Buyer 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 Buyer can specify the information the Worker must provide and the deadline for responding;
 - (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
 - (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 31.2 or confirms that the Worker is not complying with those requirements;
 - (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

32. Conflict of interest

- 32.1 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 Buyer under the Contract, in the reasonable opinion of the Buyer.
- 32.2 The Supplier must promptly notify and provide details to the Buyer if a conflict of interest happens or is expected to happen.
- 32.3 The Buyer 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.

33. Reporting a breach of the contract

- 33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of law, clause 13.1, or clauses 27 to 32.
- 33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 33.1.

34. Resolving disputes

- 34.1 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.
- 34.2 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 34.3 to 34.5.
- 34.3 Unless the Buyer refers the dispute to arbitration using clause 34.4, 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.
- 34.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 34.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 34.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the

Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 34.4.

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

35. Which law applies

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

Annex 1 – Processing Personal Data

Data Protection will follow the requirements outlined in the original contract T0229 – (TET110127) - Advanced Fuels Competition Delivery Partner (via Arup)

Annex 2 – Specification

1. Client's objectives

- 1.1 The Department for Transport is running a £165m capital funding competition to help accelerate the development of advanced fuel plants in the UK. The first application window launched in July 2022; the first five winning projects were announced in December 2022. A second application window ran from April – June 2023, with £55.8 million available to support further UK SAF plant projects. A significant number of applications were received that require assessment and moderation in order for the winning

projects to receive their grant awards in Autumn 2023, followed by monitoring of these winning projects.

2 Background

2.1 Advanced Fuels Fund competition (AFF; 2022-25)

2.1.1 Window 1 - The Advanced Fuels Fund provides capital grant funding to first-of-a-kind (FOAK) commercial and demonstration-scale projects in the UK to accelerate the development of UK sustainable aviation fuel (SAF) plants. The funding period for the AFF has begun and is set to run until March 2025. Under the first application window, a total of £82,248,936 was allocated across five successful projects. These projects are monitored by Ricardo/ERM (previously called 'E4tech') in the same way as the F4C and GFGS. As a result of structural and strategic similarities between the competitions, the AFF shares GFGS' governance structure and Delivery Partner.

2.2 Window 2 - Advanced Fuels Fund Delivery Partner Contract Window 2 Extension

2.2.1 The Delivery Partner contracts of the Advanced Fuels Fund currently covers the first application window and the monitoring of projects successfully awarded from it. An extension is needed to cover the second application window and the monitoring of additional projects. The second application window will be held based on the design of the first window. The Delivery Partner is expected to oversee the administration of the second window application process and funding allocation (the final decision on grant recipients will not fall with the Delivery Partner).

2.2.2 Following the award of significant capital funds from the second application window, expected in November 2023, the Delivery Partner will monitor successful projects and the winners from the first window throughout the remainder of the funding period (FY2022-25). The Delivery Partner will utilise their expertise to validate work conducted by projects; ensure successful outcomes; mitigate identified risks; and ensure value for money. They will also provide advice to the Department on competition delivery upon request.

2.3 Advanced Fuels Fund Window 2 Delivery Partner Direct Award

2.3.1 The above contract extension (£249,822) will cover most of the costs associated with the second window of the Advanced Fuels Fund. However, the remaining total of £290,791.81 will need to be awarded via the direct award process so that the Delivery Partner can fulfil the assessment and moderation requirements for the second application window. This forecasted cost is higher than initially anticipated as the second application window received an additional 10+ applications that need to be processed within the set timeframe.

3 Description of the Service

3.1 The competition and post-award monitoring will be administered by the Delivery Partner, who will be a key asset in supporting the operational activities through monitoring duties and administrative support during the competition application and delivery phases (post-award). The Delivery Partner will be in place for the entire duration of the multi-year competition.

3.2 The Delivery Partner will be required to carry out the following duties:

- Undertake the administrative and technical work associated with the application process for the second application window of the Advanced Fuels Fund competition, including:
 - receive, organise, review applications and conduct eligibility checks against the established eligibility criteria.
 - coordinate the assessment and scoring process and hold briefing sessions for assessors. This includes identifying suitable sector professionals (3-5) to act as independent assessors.
 - offer technical expertise to DfT during the application process and work with the department to provide assistance and answer queries from interested stakeholders as needed.

3.3 Provide technical experts to act as "Monitoring Officers" (MOs) to:

- lead on the agreement and issuing of grant offer letters, work plans, milestone structures and "red lines" for winning projects.

- monitor the progress of winning projects against their agreed work plan, working closely with project leads and conducting regular document reviews and phone calls. This includes acting as the main contact point for projects. Site visits may also be required.
- act as a critical friend to projects – testing their plans and suggesting alternatives using their technical criteria, including verification of milestones, ahead of submission to the department alongside all the relevant documentation.
- conduct checks on grant payment claim evidence, before sending this through to the departments Advanced Fuels team for processing.

3.4 Provide Project Management staff to:

- submit monthly, quarterly and annual reporting that adheres to an agreed template/format, in addition to giving input into project board meetings where necessary.
- manage stakeholder correspondence and the competitions website.

3.5 Commit to ensuring that appropriate monitoring and evaluation structures are put in place for the new competition, preferably in-line with the Magenta Book.

3.6 Contribute to the preparation and delivery of programme board meetings and the management of the new competition's programme project risk register.

3.7 Deliver a programme closedown report, with outcome review and lessons learned.

3.8 Provide “ad hoc” technical and strategic advice and work relating to projects and the wider competition aims, and the wider DfT's advanced fuels programme, where needed by the department.

3.9 Based on the outcome of both application windows, there will be 14 projects selected for funding (this range is susceptible to change but is unlikely to be less than 5). The projects will likely differ in size and monitoring requirements (including possible site visits) – this may impact upon the time and material requirements. The Delivery Partner will be required to provide work and budget flexibility based on the number of selected winning projects and in the case of project withdrawal from the competitions.

4. Completion Date

The work to be completed before the Completion Date is specified below.

Deliverable number	Deliverable description	Date to be delivered
W001	Initial kick-off meeting to agree project milestones, between the Delivery Partner and the department, for the delivery of the competition.	Late-April 2022
W002.1	Administrative duties for Window 1 submissions, checking the eligibility of project, providing support and technical guidance.	April 2022 – June 2022
W002.2	Administrative duties for Window 2 submissions, checking the eligibility of project, providing support and technical guidance.	June 2023 – August 2023
W003.1	Competition kick-off with Window 1 projects, involving the successful agreement of grant and milestones with project MOs and having grant agreements in place.	July 2022 – August 2022

W003.2	Competition kick-off with Window 2 projects, involving the successful agreement of grant and milestones with project MOs and having grant agreements in place.	August 2023 – October 2023
W004.1	Monitoring duties of successful Window 1 projects, including monthly appraisal of projects and grants and site visits.	Monthly, September 2022 – March 2025
W004.2	Monitoring duties of successful Window 2 projects, including monthly appraisal of projects and grants and site visits.	Monthly, October 2023 – March 2025
W004.3	Project Management duties including monthly submission of progress reports, accompanying data for evaluation and regular update meetings with the Department.	Monthly, September 2022 – March 2025
W005	Final competition review reports	April 2025
W006	Ad hoc / Call off fund	Variable

Annex 3 – Charges

Note the table below covers all Arups costs since the original contract award dated 12/05/22 - (T0229 – TET110127 - Advanced Fuels Competition Delivery Partner) + the new Ricardo costs which form part of this Direct Award contract: -

Original Arup Contract Value T0299 -	£499,644.26
Arup Contract Variation CE1 T0229 -	£249,822.00
Direct Award TTDC3012 (this contract) -	£290,791.81 (excluding VAT)

Total Contract Costs (including previous Arup contract) = £1,040,258.07

Ricardo's specific costs for the tasks outlined in this contract are set out in the Pricing schedule below: -

Application & assessment phase – Administrative duties for competition submissions.				
Staff	Role	Rate	Hours	Cost

Call off fund for ad hoc support	
Lump sum	£12,733.55

Annex 4 – Supplier's Tender

This contract covers window 2 activities including: -

- 1. Application & assessment phase – Administrative duties for competition submissions. (June 2023 – November 2023)**
 - a. Assessment of 25 applications under window 2
 - b. Feedback and clarification questions from DfT/Expert panel/Assessors
 - c. Drafting of 9 provisional outcome letters for successful applicants
 - d. Drafting of 16 rejection letters for unsuccessful applicants
 - e. Project Management time for internal team coordination, meetings with DfT and reporting
 - f. Manage conflict of interest and confidentiality for assessors
 - g. Feedback sessions with applicants
- 2. Grant agreements and milestones – Competition kick-off with projects (August 2023 – November 2023)**

- a. Lead on the agreement and issuing of 9 grant offer letters, including milestone negotiations and special conditions
- b. Kick off meeting with 5 projects
- c. Update to reporting templates to accommodate additional projects
- d. Website updates as needed

3. Managing the competition (October 2023 – April 2025)

- a. Coordination of monthly reporting for all 9 projects, producing summary report for DfT from September 2023 to March 2025
- b. Monitoring Officer duties for 5 projects from September 2023 to March 2025
- c. Site visits for each project
- d. Project Management time for internal team coordination, meetings with DfT and reporting

4. Final competition review reports (April 2025)

- a. Programme close down report with outcome review and lessons learned
- b. Close down meeting with DfT

5. Call off fund for ad hoc support (June 2023 – April 2025)

- a. This could include but is not limited to additional stage gate reviews, re-assessment of funds should a project fail, milestone plan updates, requests for NDAs by projects.