



Department
for Environment
Food & Rural Affairs

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Rocket Ecology Limited
46 Galgate
Barnard Castle
DL12 8BH

Our ref: C16379
Date: 24 March 2023

Attn: [REDACTED]
By email to: [REDACTED]
Dear [REDACTED]

Supply of Framework Agreement for the supply of District Level Licencing for Great Crested Newts - Sentinel Monitoring of Ponds -eDNA Sampling and HSI Surveying on behalf of Natural England

Following your tender for the supply of **Sentinel Monitoring of Ponds -eDNA Sampling and HSI Surveying** to Natural England, we are pleased to confirm our intention to award this Framework Agreement to you.

The attached contract details ("**Order Form**"), contract conditions and the **Annexes** set out the terms of the contract between Natural England and your organisation for the provision of the deliverables set out in the Order Form.

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

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

Yours faithfully,

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

Execution of this award notification letter is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000.



Department
for Environment
Food & Rural Affairs



FORM OF AGREEMENT

FRAMEWORK AGREEMENT No: C16379

FRAMEWORK RELATING TO: District Level Licencing for Great Crested Newts - Sentinel Monitoring of Ponds - eDNA Sampling and HSI Surveying.

Framework Agreement dated **24 March 2023** between:

- (1) **Natural England** whose principal office is at Foss House, Kings Pool, 1 – 2 Peaseholme Green, York, YO1 7PX (“Natural England”); and
- (2) **Rocket Ecology Limited** whose registered address is **46 Galgate, Barnard Castle, DL12 8BH** and which is registered with Companies House with Company Number **14273647** (“the Contractor”).

IT IS AGREED as follows:

1. The provisions of the following documents form part of this Framework Agreement:

- the ‘Conditions of Contract — Short Form Enhanced’ below and associated Annexes and Appendices (“the Conditions of Contract”) –
 - Annex 1 – Authorised Processing Template
 - Annex 2 – Advertised Framework Specification
 - Appendix 1 – Lot 1 (Sentinel North) – approximate pond locations
 - Appendix 2 – Lot 2 (Sentinel South) – approximate pond locations
 - Appendix 3 – Request for Quotation Template
 - Appendix 4 – Work Package Order Template
 - Appendix 5 – Document W1067 – Technical Advice Note

■ [REDACTED]

■ [REDACTED]

- Annex 5 – Authority Sustainability Requirements

- [REDACTED]

and, in the case of conflict, have precedence in the order listed.

- 2. Capitalised terms used in this Framework Agreement have the meanings given to them in the Conditions of Contract.
- 3. The framework shall begin on **24th March 2023** and end on **31st March 2025** ("Framework Period").
- 4. The Authority may extend the term of the Contract until **31st March 2027** ("Extension"). The terms of the Contract will apply throughout the period of any Extension.
- 5. The Authority may order Services within the Framework Scope from time to time during the Framework Period by issuing a Call-Off Quotation. The Contractor shall complete and deliver to the Authority such Services in accordance with and subject to the provisions of the relevant Call off Quotation and subsequent Work Package Order (which shall incorporate the Conditions of Contract and the Pricing Schedule).
- 6. No variation to this Framework Agreement shall have effect unless made by a written instrument signed by an authorised representative of each party.
- 7. Execution of the Contract is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000. The Contract is formed on the date on which both Parties communicate acceptance of its terms on the Authority's electronic contract management system ("Atamis").

Signed for and on behalf of the Supplier:	Signed for and on behalf of the Authority:
Date Signed: 27/03/23	Date Signed: 27/03/2023



Department
for Environment
Food & Rural Affairs



Conditions of Contract

Short Form Enhanced

October 2021

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Order Form

1. Contract Reference	C16379	
2. Date	24 March 2023	
3. Authority	Natural England Habitat Delivery, Partnerships and Commissioning Rivers House, East Quay Bridgwater, Somerset, TA6 4YS	
4. Supplier	Rocket Ecology Limited 46 Galgate Barnard Castle DL12 8BH Registration No. 14273647	
4a. Supplier Account Details		
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 [Annex/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 (<i>Specification</i>) and Annex 3 (<i>Charges</i>) with equal priority. 2. Conditions and Annex 1 (<i>Authorised Processing Template</i>) with equal priority. 3. Annexes 4 (<i>Tender Submission</i>) and 5 (<i>Sustainability</i>). 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	Goods	None
	Services	To be performed in accordance with any Call-Off Contract against this Framework Agreement and Annex 2 as required from Rocket Ecology Limited, 46 Galgate, Barnard Castle, DL12 8BH
7. Specification	The specification of the Deliverables is as set out in Annex 2.	

8. Term	The Term shall commence on 24 March 2023 (the Start Date) and the Expiry Date shall be 31 March 2025, 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 24 months' by giving not less than 3 months' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.
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: APinvoices-NEG-U@gov.sscl.com 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 [REDACTED] [REDACTED] or, in their absence, [REDACTED] [REDACTED]
12. Address for notices	Authority Habitat Delivery, Partnerships and Commissioning Rivers House, East Quay Bridgwater, Somerset, TA6 4YS [REDACTED] [REDACTED] Supplier Rocket Ecology Limited

	46 Galgate Barnard Castle DL12 8BH [REDACTED] [REDACTED] [REDACTED]
13. Key Personnel	Authority Habitat Delivery, Partnerships and Commissioning Rivers House, East Quay Bridgwater, Somerset, TA6 4YS [REDACTED] [REDACTED] [REDACTED] Supplier Rocket Ecology Limited 46 Galgate Barnard Castle DL12 8BH [REDACTED] [REDACTED] [REDACTED]
14. Procedures and Policies	For the purposes of the Contract Sustainability Requirements are specified within Annex 2 (Specification) and Annex 5 (Sustainability). 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	See Condition 12.
16. Insurance	The Supplier shall hold the following insurance cover from the start date/commencement date for the duration of the Contract [or earlier or later termination] in accordance with this Order Form - Professional Indemnity insurance [with cover (for a single event or multiple with an aggregate) of not less than] £5m; - Public Liability insurance [with cover (for a single event or multiple with an aggregate) of not less than] £5m; - Employers Liability insurance [with cover (for a single event or multiple with an aggregate) of not less than] £5m.

Signed for and on behalf of the Supplier:	Signed for and on behalf of the Authority:
Date Signed: 27/03/23	Date Signed: 27/03/2023

Annex 1 – Authorised Processing Template

Contract:	C16379
Date:	24 March 2023
Description Of Authorised Processing	Details
Subject matter of the Processing	The subject matter is data concerning the Project and (a) provided by Natural England to the Sentinel surveyors, or (b) data received by the Sentinel surveyors in the course of the performance of this Contract.
Duration of the processing	The Contract Period.
Nature and purposes of the processing	Data provided by Natural England will include, but not be limited to, computerised mapping data, information about Natural England's points of contact, and information about the implementation of district level licensing for great crested newts within the Area. This data will be stored in electronic form on a shared drive to which only relevant officers of the Sentinel surveyors will have access, subject to password protection. Data received by the Sentinel surveyors will include, but not be limited to: the identities and other details of landowners on whose land pond creation, recreation, monitoring and maintenance activities will or may take place; reports of site visits and contacts with such landowners; reports of site work undertaken; the details of individuals and companies engaged by the Sentinel surveyors in the course of the performance of this Contract, including standard HR information. This data will be stored in password protected spreadsheet form on a shared drive to which only relevant offices of the Sentinel surveyors will have access, subject to password protection. None of the above data may be shared or disseminated by the Sentinel surveyors in any way (save to Natural England) without the express consent of Natural England. The purpose for which the above data is held is the fulfilment of the Project, which is a matter in the public interest and in relation to which Natural England has statutory duties.
Type of Personal Data	Information will include names, addresses, telephone numbers, email addresses, the addresses of landholdings
Categories of Data Subject	Landowners. Employees. Contractors.

Annex 2 – Advertised Framework Specification

This Annex sets out the Authority's advertised requirements.

Project background

- 1.1 Great crested newts (*Triturus cristatus*; GCN) are fully protected under European and domestic legislation and the Habitats Directive places an obligation on the UK to achieve their Favourable Conservation Status (FCS, as defined by Article 2 of the Habitats Directive). Although declining overall, GCN are still widespread and relatively common in some areas in which developments are planned, including in disturbed and urban environments. The Habitats Directive makes it an offence to capture, kill, injure or disturb GCN or to damage key elements of their habitats. The Habitats Directive provides for the derogation from these prohibitions for specified reasons and providing certain conditions are met. Those derogations are transposed into the domestic legislation by way of a licensing regime against which the effects of development on GCN need to be considered.
- 1.2 District Level licensing is an alternative to the site by site great crested newt (GCN) licensing process which has been used for development up till now. It involves district wide survey of the distribution of GCN and assessment of impacts on GCN from all planned development in the district over the whole local plan period. GCN records and other environmental data are used to map zones which indicate where there are highest risks to the local conservation status of GCN and where GCN pose highest risks to development.
- 1.3 District licensing depends upon the creation of a large number of new ponds for great crested newts and the restoration of existing ponds that are currently not suitable for use by great crested newts. Strategic Opportunity Areas (SOA) have been identified where GCN habitat would be best created or restored to provide strategic net gain; pond compensation will be focused within these SOAs.
- 1.4 Developers pay a financial contribution to enter into the DLL scheme which includes the cost of creating compensatory habitat and also a monitoring and maintenance indemnity fund that covers a 25 year period.
- 1.5 DLL Monitoring functions on 3 levels. Outcomes Level involves monitoring of compensation ponds created and restored under the DLL scheme while the Sentinel tier of monitoring is looking at trends in the wider pondscapes where DLL schemes operate and finally there is a contribution to national monitoring through the PondNet programme.
- 1.6 This tender is focused on the Sentinel Tier of the DLL monitoring programme. This comprises long-term monitoring activity designed to maintain a watch over trends in great crested newts (GCN) favourable conservation status (FCS) parameters across areas where there has been uptake of the scheme. These activities form a calculated programme of structured, unbroken monitoring designed to answer key ecological monitoring questions at national and DLL strategy level as best as we are able.

- 1.7 The sentinel surveying has long been planned to investigate trends in background GCN occupancy and habitat suitability within DLL strategy areas. To achieve this the sentinel monitoring methodology aims to:
- Determine GCN and HSI trends in 2,500 ponds in total over a 5-year period; with 500 individual ponds surveyed each year.
 - This would comprise 125 ponds from four NE-led DLL strategy areas each year, covering all DLL strategy areas over the 5-year period. Where possible these ponds will be a random subset of the ponds originally surveyed in those areas, enabling comparison against an existing baseline for those ponds and reducing the effort of obtaining access.
 - Survey ponds in a wide range of habitat and landscape types.
- 1.8 Survey effort will be targeted in two sets of two adjoining DLL scheme areas. For example, One pair in the north of the country, one pair in the south. This is to provide reduced travel and therefore costs.

The aim of this tender and the programme of work required

- 1.9 The aim of this tender is to find suppliers to deliver the fieldwork for 'Sentinel' tier of District Level Licensing scheme monitoring. This will involve eDNA sampling and HSI survey of 125 ponds within each of 4 District Level Licensing scheme areas annually.
- 1.10 Survey effort will be targeted in two sets of adjoining DLL scheme areas. For example, One pair in the north of the country, one pair in the south. This is to provide reduced travel and therefore costs.
- 1.11 Accordingly, the survey work will be divided into two Lots, with Lot 1 covering the Northern scheme areas and Lot 2 covering the Southern scheme areas.
- 1.12 eDNA kits will be provided to the field work supplier. The field work suppliers will be responsible for the cost of returning kits to the laboratory.
- 1.13 Natural England will obtain landowner permissions and provide the field work supplier a list of ponds to be surveyed. The field work supplier will be responsible for contacting the landowner to confirm the timing of the visit.
- 1.14 Successful tenderers will be offered a 4-year framework contract to survey ponds on an annually.
- 1.15 **Summary of tender lots**

Lot 1 Sentinel North - pond eDNA Sampling and HSI survey

Year 1 - Cheshire (125 ponds) and Shropshire (125 ponds)

Year 2 – Yorkshire (125 ponds) and North Lincolnshire (125 ponds)

Subsequent years to include (subject to confirmation): Lancashire, Cumbria, Northumberland, Durham (including Tees Valley), Leicestershire, Derbyshire, Nottinghamshire. Lincolnshire

Note that under Lot 1 of this framework further contracts will be let annually for surveys of 125 per year in each of two scheme areas. The areas to be covered under Lot 1 are **Yorkshire, Lancashire, Greater Manchester, Cumbria, Northumberland, Durham (including Tees Valley), Leicestershire, Derbyshire, Nottinghamshire and Lincolnshire.**

Lot 2 – Sentinel South - pond eDNA sampling and HSI survey

Year 1 – Norfolk & Suffolk (125ponds) and Essex (125ponds)

Year 2 – Somerset (125 ponds), North Somerset and South Gloucestershire (125 ponds)

Subsequent years to include (subject to confirmation): Norfolk, Suffolk, Cambridgeshire, Hertfordshire, Swindon, Wiltshire

Note that under Lot 2 of this framework further contracts will be let annually for surveys of 125 per year in each of 2 scheme areas. The areas to be covered under Lot 2 are **Somerset, North Somerset, South Gloucestershire, Swindon and Wiltshire, Kent, Cambridgeshire, Hertfordshire.**

- 1.16 Pond Locations – The exact pond locations are yet to be confirmed as they are subject to landowner permissions. However, the likely distribution of pond is provided in Appendices 2a and 2b.
- 1.17 Landowner Permissions - Natural England will establish landowner permissions required for the survey.
- 1.18 Natural England will provide suppliers with a list of landowners and pond locations. Suppliers are required to contact with landowners in advance, to politely confirm timing of site visits.
- 1.19 Potential suppliers can tender for either or both lots.
- 1.20 **Contract**

Suppliers will be commissioned on the basis of a framework contract that will enable orders to be raised for work packages associated with Lots 1 and 2 for the first three years of the five year programme cycle.

1.21 Outline of Expected Costs

Natural England is primarily looking for quality outcomes – on this basis 45% of the tender evaluation score will be concerned with the technical elements of the submission. 10% of the tender evaluation score will be concerned with Sustainability and the final 45% of the evaluation will be concerned with costs and maximising delivery against available budget.

For both Lot 1 and Lot 2 pond eDNA sampling and HSI survey Natural England expects to pay up to £149 (plus VAT where applicable) per pond.

1.22 Pond HSI survey and eDNA– requirements of the tender submission

Both Lot 1 and Lot 2 applicants will provide a brief project plan describing how they will:

- Contact landowners prior to survey, fostering positive relationships that encourage long term engagement with the project.
- Collate HSI survey data and report results back to Natural England through a tracker via SharePoint online.
- Undertake eDNA pond sampling between 15 April and 30 June using the supplied kits in accordance with WC1067 Appendix 5
- Store eDNA samples in accordance with the specification detailed in WC1067 Appendix 5, step 9
- Conduct a Habitat Suitability Index survey for each pond as per instructions in Oldham et al. 2000 and [the Amphibian and Reptile Groups of the United Kingdom Advice Note 5](#).
- record field data on the Pond Habitat Survey Recording Form (form to be supplied by Natural England ahead of surveys)
- adhere to biosecurity procedures detailed in [Amphibian and Reptile Groups of the United Kingdom Advice Note 4](#)
- ensure that appropriately trained and/or experienced staff will be undertaking this work.

Governance and Contract Management

- 1.23 In order to ensure that the contract delivers the intended outputs on time and to budget, the following will be required:

- a) An inception telecall will be held at the start of the contract for suppliers of Lot 1 and Lot 2 within a week of confirming the outcome of the tender.
 - b) The supplier(s) and Natural England will review and agree the project risks register and associated mitigations in order that this can be incorporated into the contract.
 - c) Key staff from the suppliers may be required to undertake training provided by Natural England prior to the commencement of works. The training will be delivered using online technologies.
- 1.24 Each supplier shall nominate a Contract Manager to be responsible for the overall delivery and quality of survey and sampling. The principal responsibilities of the supplier Framework Manager are to:
- a) Develop and maintain a good working relationship with the Natural England Framework Manager [REDACTED].
 - b) Where appropriate and on request, attend an annual contract review meeting, and ensure prompt implementation of any actions agreed with the Natural England Framework Manager during these meetings. This maybe a face to face or telephone meeting.
 - c) Maintain oversight of performance against Key Performance Indicators.
 - d) Maintain a documented internal quality assurance process for monitoring the quality of services delivered.
- 1.25 Key risks and mitigation measures as agreed will be assessed by the supplier on a regular basis and their status reported to the Natural England Framework manager at agreed review dates.
- 1.26 Suppliers will provide updates directly to Natural England to an agreed timeframe on progress of project requirements including a review of the key risks to delivery and ongoing quality control of outputs.
- 1.27 At the end of the project a final teleconference or meeting will be held to review the lessons learnt from the operation of the project, individually with both Lot 1 and Lot 2 suppliers.
- 1.28 Supplier and Natural England shall:
- a) make a sincere effort to understand each other's obligations, goals, expectations, duties and objectives in respect of the framework agreement;
 - b) work at all times within a spirit of co-operation to ensure the delivery of the services to the standards stipulated;

- c) resolve differences that may arise by discussion and negotiation, wherever possible;
- d) communicate clearly and effectively, and in a timely manner, on all matters relating to the framework agreement; and
- e) give an early warning to the other party of:
 - i. any mistake, discrepancy or omission that they become aware of, and offer fair and reasonable solutions, where practicable; and
 - ii. any matter that they become aware of that could affect the achievement of any objective, obligation, or the like contained in the framework agreement.

Furthermore, contractors shall:

- f) act with the utmost good faith towards, and at all times co-operate with, Natural England;
- g) comply with all Natural England's reasonable requirements in relation to the services

1.29 Supplier & Natural England Meetings

In addition to the inception and final meetings referenced in 1.22, Lot-level contract review meetings aligned to planning, ordering and monitoring of works, will be organized by the Natural England Framework Manager, and attended by the Supplier Framework Manager and any other contractor or project staff (as agreed between the Natural England Framework Manager and Supplier Framework Manager). Meetings may be face-to-face or via teleconference. Topics will be discussed at a high level, and may include (but are not limited to):

- Progress against overall contract management
- Performance against Key Performance Indicators
- Quality assurance processes and deliverer performance
- Issues arising during the delivery of commissioned activity
- Improvement plans
- Cost effectiveness
- Reporting requirements

- Procurement and payment issues
- Conflicts of interest
- Risk management.

1.30 Performance Management Framework (including Key Performance Indicators (KPIs))

The framework suppliers and Natural England will work together efficiently and effectively to provide a wide range of high quality, value-for-money Great Crested Newt services.

All parties to the framework agreement are required to commit to a relationship of openness, honesty and mutual trust

1.31 Performance criteria

Key Performance Indicators (KPIs) and Service Levels (SLs) are essential in order to align the supplier performance with the requirements of Natural England for the framework and call off contracts and to do so in a fair and practical way. KPIs have to be realistic and achievable; they also have to be met otherwise indicating that the service is failing to deliver. Without the use of Service Credits in such a situation, this service failure places strain on the relationship as delivery fall short of agreed levels. As a result, the only recourse would be to terminate and seek alternative supply.

Natural England may define and include in any Call-Off Contract any reasonable performance management indicators (together with Service Levels and Service Credits if required).

Performance of the contractors will be evaluated in alignment to the delivery of ordered works, using the following criteria:

Metric	KPI	What is required to make this measurable	KPI Measurement	KPI Rating		
Pond HSI survey, eDNA and Water Quality Sampling	KPI 1 Pond Survey and Sampling Service credit L1	Annual Pond Survey and Sampling work plan	Ponds surveyed and samples taken to specification and despatch to land within 5 days	Survey and Sampling requirement not achieved (i.e. shortfall >3 ponds)	Survey and Sampling requirement not achieved (ie shortfall of <3 ponds)	Survey and Sampling requirement achieved
	KPI 2 Sample & Survey Data Return Service credit L2	All pond samples and survey outputs to be added to the pond tracker within agreed timescales	All pond survey samples and reports completed and updated to pond tracker within agreed timescale	<95% of pond samples and survey outputs successfully delivered to Natural England via pond tracker within agreed timescale.	95% of pond samples and survey outputs successfully delivered to Natural England via pond tracker within agreed timescale.	100% of pond samples and survey outputs successfully delivered to Natural England via pond tracker within agreed timescale.

Unless there is written clearance by the Authority any “red” or “amber” scores will result in a reduction in value of the subsequent monthly payment sent to the Authority that the score was awarded. The applicable deductions, resulting from performances in “amber” and “red” in the KPI table are:

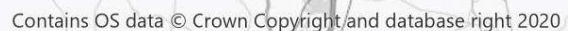
- a). An “amber” score in delivery of two consecutive orders or required deliverables shall result in a 5% reduction of the total value of that order. If an amber score is awarded for more than two consecutive orders or required deliverables, a further 10% reduction of each order will occur for each consecutive order or required deliverables scoring an amber.
- b). A “red” score shall result in a 10% reduction of that order scoring red. A further 10% reduction of each order will occur for each consecutive order or required deliverables scoring red.

The measurement of KPIs will be aligned to the commencement of orders raised under the Framework Agreement by the NE Framework Manager and the suppliers will cooperate fully and in a timely manner in reporting the measurables described in the above KPI table to the NE Framework Manager.

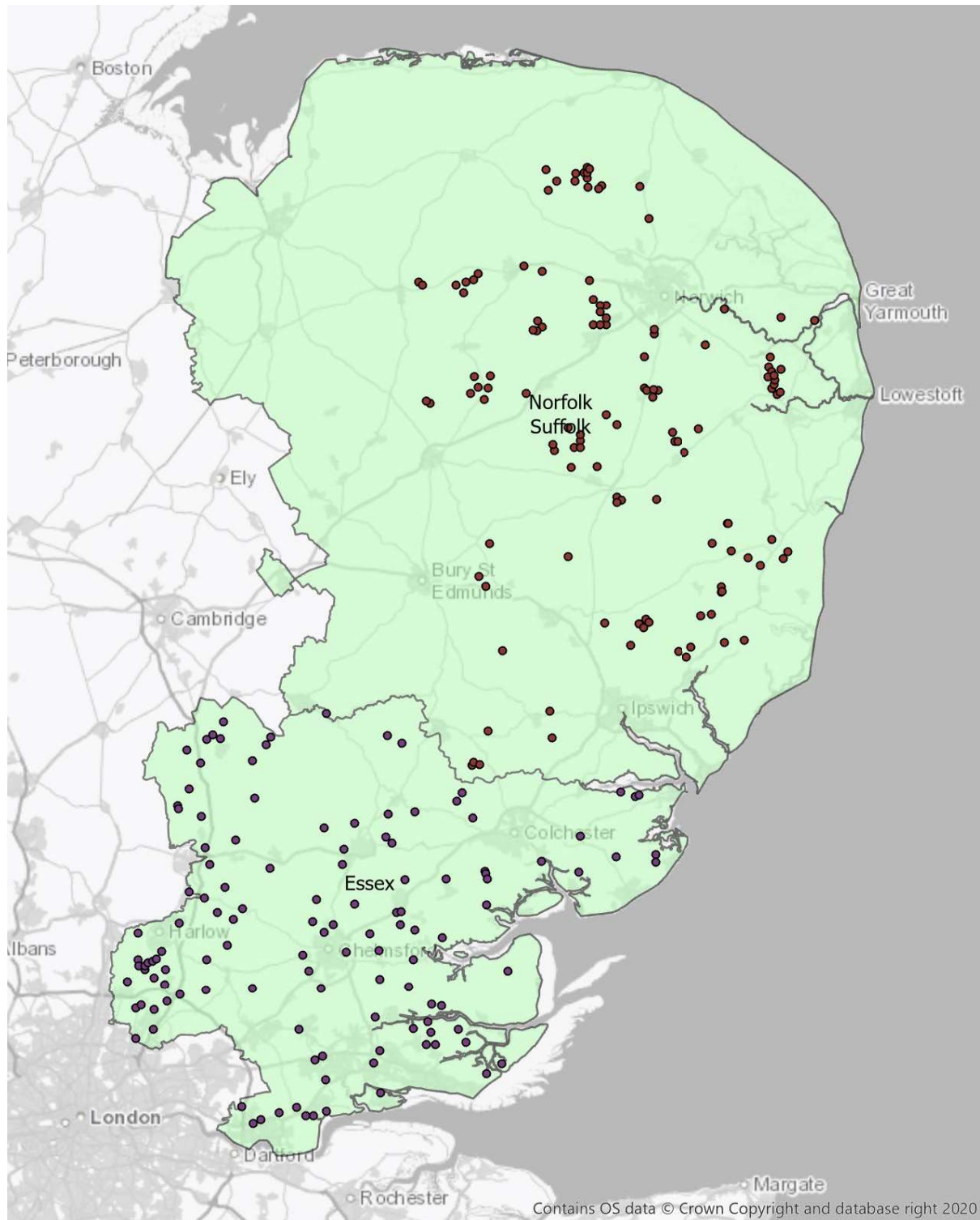
The use of service credits is governed by the following principles:

- Service credits sit within the wider service management approach being pursued by the Supplier and the Authority.
- Achieving the KPI within the next quarter and payment of any outstanding service credits renders that service failure resolved.
- Natural England has full and complete discretion on whether to claim all, part or none of a service credit to which it is due.
- Service credits claimed will reflect in the final invoice to Natural England i.e. reducing the agreed contract cost. Service failure in any KPI for any of the six months in any rolling 12 month period during the life of the contract constitutes a service failure in its own right and may lead to breach of contract for non-performance.

The use of a service credit regime accompanied by a proactive approach to correcting failures and addressing their cause improves the relationship and enables a partnership rather than a confrontational style of working. Its focus is on managing and improving service. It is NOT about taking cost out of the service to Natural England.



Appendix 2 to Annex 2. Lot 2 Sentinel South - pond eDNA Sampling and HSI survey - approximate pond locations



Appendix 3 to Annex 2 - Request for Quotation Template



Call Off Quotation

District Level Licencing (DLL) for
Great Crested Newts - Sentinel
Monitoring of Ponds -eDNA Sampling
and HSI Surveying Framework

For [insert title]

[MMM-YYYY]

Call-Off Quotation

Lot/Area:	
Call-Off Reference:	
Call-Off Title:	

You are invited by Defra group Commercial on behalf of Natural England, to submit a quotation for the requirement described in the specification below as per the District Level Licencing (DLL) for Great Crested Newts - Sentinel Monitoring of Ponds -eDNA Sampling and HSI Surveying Framework.

Please submit your quotation via the Atamis system [ATAMIS eProcurement Portal](#) on or before the deadline given below; Failure to meet this deadline may result in your tender not being accepted. Please be aware that emailed bids will not be accepted. If you should experience any technical difficulties whilst using Atamis, please contact their helpline on 029 2279 0052 or via email Support@Atamis.co.uk

Action	Date
Deadline for Receipt of Quotation	[dd-mmm-yyyy] at [hh:mm BST/GMT]
Intended Date of Call-Off Award	[dd-mmm-yyyy]
Intended Call-Off Start Date	[dd-mmm-yyyy]
Intended Call-Off Duration	[dd-mmm-yyyy] or [dd-mmm-yyyy] to [dd-mmm-yyyy]

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 Natural England
"Atamis"	means the e-tendering system used by the Authority for conducting this procurement which can be found at ATAMIS eProcurement Portal
"Call-Off"	means the formal contract to be entered into by the Authority and the successful supplier
"RFQ"	means this Request for Call-Off Quotation issued under the District Level Licencing (DLL) for Great Crested Newts - Sentinel Monitoring of Ponds -eDNA

	Sampling and HSI Surveying Framework and all related documents published by the Authority and made available to all eligible suppliers.
--	---

Conditions applying to the RFQ

You should examine your quotation response 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.

All information contained in this document is confidential and should only be passed to individuals within your organisation on a need-to-know basis. Under no circumstances should this document be disclosed to a third party without the prior written consent of Natural England

Any tender clarifications or queries must be registered no later than noon on **[dd-mmm-yyyy]** and sent via the messages area in Atamis. All interested parties will receive a response to any queries registered. Clarifications and queries received after the date indicated will not be answered.

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 which you incur preparing and submitting your quotation, even if the Authority amends or terminates the procurement process.

Clarifications

The Authority reserves the right to discuss, confidentially, any aspect of your quotation with you prior to any award of Call-Off 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 Call-Off

The overarching terms and conditions of the Pond Survey & eDNA Sampling Framework contract apply to this RFQ. The Authority will not accept any material changes to these terms and conditions proposed by a tenderer.

Call-Off Specification

[Insert full details here of the requirement]

[Should include as a minimum, Scope of Requirement, Deliverables, Key Timescales and Contract Period]

Prices

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

Quotation Submission

Details of the Technical and Commercial requirements can be located through the Atamis e-tendering portal ([ATAMIS eProcurement Portal](#)).

Scoring Criteria

The following scoring criteria is to be used when evaluating responses to Technical Questionnaire. A Tenderer's response will be assessed against the detailed criteria provided for each question and be assigned a descriptor and score from the table below:

Descriptor	Score	Definition
Very good	100	Addresses all the Authority's requirements with all the relevant supporting information set out in the Bidder Pack. There are no weaknesses and therefore the tender response gives the Authority complete confidence that all the requirements will be met to a high standard.
Good	70	Addresses all the Authority's requirements with all the relevant supporting information set out in the Bidder Pack. The response contains minor weaknesses and therefore the tender response gives the Authority confidence that all the requirements will be met to a good standard.
Moderate	50	Addresses most of the requirements with most of the relevant supporting information set out in the Bidder Pack. The response contains moderate weaknesses and therefore the tender response gives the Authority confidence that most of the requirements will be met to a suitable standard.
Weak	20	Substantially addresses the requirements but not all and provides supporting information that is of limited or no relevance or a methodology containing significant weaknesses and therefore raises concerns for the Authority that the requirements may not all be met.
Unacceptable	0	No response or provides a response that gives the Authority no confidence that the requirement will be met.

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 Call-Off 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 its own professional financial and legal advice.

Appendix 4 to Annex 2 – Work Package Order Template

WORK PACKAGE ORDER	
1. Order Reference -	
2. Order Date -	
3. Authority -	
4. Supplier -	
5. Requirements -	
6. Start Date -	
7. Completion Date -	
8. Total Price (ex VAT) -	
9. Invoicing -	

BY APPROVING THIS ORDER FORM THE CONTRACTOR AGREES to enter a legally binding contract with the Authority to provide to the Authority and Natural England the Services specified in this Order Form, incorporating the rights and obligations in the Call-Off Contract that are set out in the Framework Agreement entered into by the Contractor and Defra on 24 March 2023.

Signed for and on behalf of the Supplier	Signed for and on behalf of the Authority
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Appendix 5 to Annex 2 – WC1067 – Technical Advice Note



Project_C5525_Doc
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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

Part 1. How Charges are calculated

- a. The Charges:
 - i. shall be calculated in accordance with the terms of this Annex 3; and
 - ii. cannot be increased except as specifically permitted by this Annex.
- b. 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.

Part 2. Are costs and expenses included in the Charges

- a. Except as expressly set out in Paragraph 3 below, the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:
 - i. incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or
 - ii. costs incurred prior to the commencement of the Contract.

When the Supplier can ask to change the Charges

- b. The Charges will be fixed for the first 2 years following the Start Date (the date of expiry of such period is a "**Review Date**"). After this Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "Review Date").
- c. The Supplier shall give the Authority at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.
- d. Any notice requesting an increase shall include:
 - i. a list of the Charges to be reviewed;

- ii. for each of the Charges under review, written evidence of the justification for the requested increase.

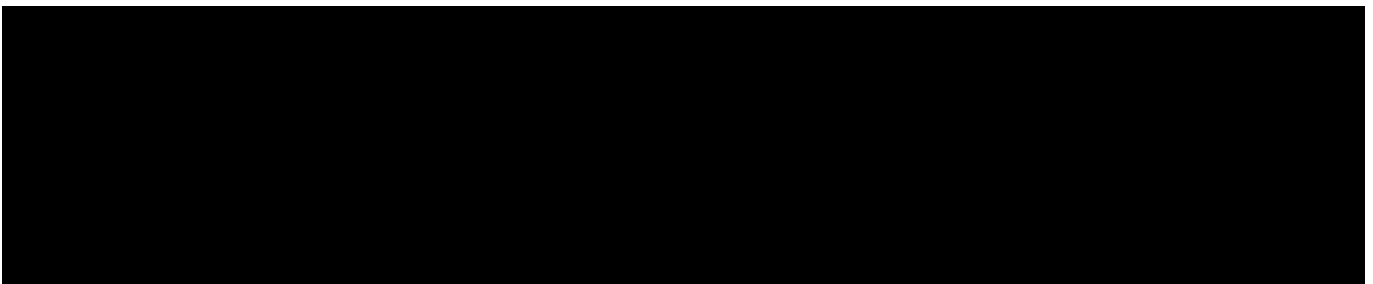
When the Charges are linked to inflation

- e. Where the Charges are stated to be "subject to indexation" they shall be adjusted in line with changes in the Consumer Price Index ("CPI"). All other costs, expenses, fees and charges shall not be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier
- f. Charges shall not be indexed during the first 2 years following the Start Date.
- g. Where paragraph 5 states that a Charge is subject to indexation then it will be indexed on the date which is **2** years after the Start Date and on each anniversary of such date (in each case the "Review Date") to reflect the percentage change in the CPI in the 12 months. The Charge will be indexed using the most recently published CPI figure on the Review Date. [If the percentage change in the CPI is negative on any Review Date, there will be no change to the Charge.]

Where the CPI Index:

- i. used to carry out an indexation calculation is updated then the indexation calculation shall also be updated unless the Authority and the Supplier agree otherwise;
- ii. is no longer published or no longer consider appropriate by the Authority acting reasonably, the Authority and the Supplier shall agree a fair and reasonable replacement.

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

- h. 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:
- i. The Supplier shall ensure that each invoice is submitted in a PDF format and contains the following information:
 - i. the date of the invoice;
 - ii. a unique invoice number;
 - iii. the period to which the relevant Charge(s) relate;
 - iv. the correct reference for the Contract
 - v. a valid Purchase Order Number;
 - vi. the dates between which the Deliverables subject of each of the Charges detailed on the invoice were performed;
 - vii. a description of the Deliverables;
 - viii. the pricing mechanism used to calculate the Charges (such as fixed price, time and materials);
 - ix. 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;
 - x. 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
 - xi. 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);
- j. 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.
- k. Invoices submitted electronically will not be processed if:
 - i. The electronic submission exceeds 4mb in size
 - ii. Is not submitted in a PDF formatted document

- iii. Multiple invoices are submitted in one PDF formatted document
- iv. The formatted PDF is "Password Protected"

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Annex 5 – Authority Sustainability Requirements

1. Sustainability

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

2. Human Rights

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

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

- 3.1. The Supplier must ensure its Supplier Staff and its sub-contractors and its [or their] supply chain comply with the provisions of the Modern Slavery Act 2015 including Section 54 of the Act which requires certain organisations to publish annual modern slavery statements.

4. Equality, Diversity, and Inclusion (EDI)

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

- 4.1.1. do not unlawfully discriminate either directly or indirectly because of race, colour, ethnic or national origin, disability, sex, sexual orientation, gender reassignment, religion or belief, pregnancy and maternity, marriage and civil partnership or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010;
- 4.1.2. will not discriminate because of socio-economic background, working pattern or having parental or other caring responsibilities;
- 4.1.3. eliminates discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010;
- 4.1.4. advances equality of opportunity between people who share a protected characteristic and those who do not;
- 4.1.5. foster good relations between people who share a protected characteristic and people who do not share it;
- 4.1.6. identifies and removes EDI barriers which are relevant and proportionate to the Contract; and
- 4.1.7. shall endeavour to use gender-neutral language when providing the Deliverables and in all communications in relation to the Contract;

4.2. The Supplier is responsible for;

- 4.2.1. ensuring that it shows due regard for EDI, including within its policies, programmes, projects, and processes and work carried out on its behalf to meet Contract deliverables; and
- 4.2.2. how it creates and maintains a diverse workforce.

4.3. The Supplier must take all necessary steps, and inform the Authority 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) in the performance of the Contract.

5. Environment

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

“Net zero” means the balance between the production of man-made greenhouse gases (GHGs) from sources (such as burning fossil fuels, deforestation and

refrigerant gases) and the capture in “sinks” (for example, forests, soil, the ocean and negative emission technologies (NETs).

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

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

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

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

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

5.3.4. reduce use of single use consumable items (including packaging), and avoid single use plastic in line with Government Commitments;

5.3.5. avoid use of products that are linked to unsustainable forest management and deforestation;

5.3.6. comply with [Government Buying Standards](#) applicable to Deliverables and use reasonable endeavours to support the Authority in meeting applicable [Greening Government Commitments](#); and

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

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

5.4.1. understanding and reducing relevant biosecurity risks (including those relating to plant and tree health from harmful pests and diseases and from Invasive Non-Native Species);

5.4.2. reducing and eliminating hazardous/harmful substances to the environment; and

5.4.3. preventing pollution.

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

5.5. In addition, to 5.3.3 and 5.3.4, the Supplier, its sub-contractors; and its [or their] supply chain must;

5.5.1. prioritise waste management in accordance with the waste management hierarchy as set out in Law;

Waste hierarchy;

- (a) prevention;
- (b) preparing for re-use;
- (c) recycling;
- (d) other recovery, e.g. energy recovery; and
- (e) disposal.

5.5.2. be responsible for ensuring that any waste generated by the Supplier and its sub-contractors; and its [or their] supply chain is sent for recycling, disposal or other recovery as a consequence of this Contract and is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with Law;

5.5.3. ensure that it and its sub-contractors; and its [or their] supply chain used to undertake recycling disposal or other recovery as a consequence of this Contract do so in a legally compliant way, undertake reasonable checks on a regular basis to ensure this and provide relevant data and evidence of recycling, recovery and disposal;

5.5.4. inform the Authority within one Working Day in the event that a permit, licence or exemption to carry or send waste generated under this Contract is revoked and in circumstances where a permit, licence or exemption to carry or send waste generated under this Contract is revoked the Supplier shall cease to carry or send waste or allow waste to be carried by any sub-contractor until authorisation is obtained from the Authority.

6. Requirement for Timber – Not Applicable

7. Social Value

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

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

7.2.1. new businesses and entrepreneurs;

7.2.2. small and medium enterprises (SMEs);

7.2.3. voluntary, community and social enterprise (VCSE) organisations; and

7.2.4. mutuals; and

7.2.5. other underrepresented business groups.

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

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

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
"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-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables;
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

2. Understanding the Contract

In the Contract, unless the context otherwise requires:

2.1 references to numbered clauses are references to the relevant clause in these terms and conditions and references to numbered paragraphs are references to the paragraph in the relevant Annex;

2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;

2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;

2.5 the singular includes the plural and vice versa;

2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law;

2.7 any reference in this Contract which immediately before the IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):

- a) 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
- b) 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:

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

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

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

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

8.5 The Supplier indemnifies the Authority against all losses, damages, costs or expenses (including professional fees and fines) arising from claims brought against it by any Supplier Staff caused by an act or omission of the Supplier or any other Supplier Staff.

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

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

9. Rights and protection

9.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform the Contract;
- (b) the Contract is executed by its authorised representative;

(c) it is a legally valid and existing organisation incorporated in the place it was formed;

(d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;

(e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;

(f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and

(g) it is not impacted by an Insolvency Event.

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

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

(a) wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;

(b) non-payment by the Supplier of any tax or National Insurance.

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

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

10. Intellectual Property Rights (IPRs)

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

(a) receive and use the Deliverables;

(b) use the New IPR.

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

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

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

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

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

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

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

11. Ending the contract

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

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

Ending the Contract without a reason

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 the value of the Charges or £5,000,000 (five million pounds) whichever is higher unless specified in the Order Form.

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 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, 15.28(e) 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.

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

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

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

14. Insurance

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

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

15. Data protection

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

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

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

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

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

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

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

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

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

- (b) restore the Authority Data itself or using a third party.

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) full details and copies of the complaint, communication or request;
- (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;

- (c) any Personal Data it holds in relation to a Data Subject on request;
- (d) assistance that it requests following any Data Loss Event;
- (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.

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

- (a) is not occasional;
- (b) includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR;
- (c) is likely to result in a risk to the rights and freedoms of Data Subjects.

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

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

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

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

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

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

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

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

15.28 The Supplier;

- (a) must provide the Authority with all Authority Data in an agreed open format within 10 Working Days of a written request;
- (b) must have documented processes to guarantee prompt availability of Authority Data if the Supplier stops trading;
- (c) must securely destroy all storage media that has held Authority Data at the end of life of that media using Good Industry Practice;
- (d) must securely erase or return all Authority Data and any copies it holds when asked to do so by the Authority unless required by Law to retain it;
- (e) indemnifies the Authority against any and all losses, damages, costs or expenses (including professional fees and fines) incurred if the Supplier breaches clause 15 and any Data Protection Legislation.

16. What you must keep confidential

16.1 Each Party must:

- (a) keep all Confidential Information it receives confidential and secure;
- (b) not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract;
- (c) immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

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

- (a) where disclosure is required by applicable law, permitted in respect of an audit pursuant to clause 7.3, or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;

(e) if the information was independently developed without access to the disclosing Party's Confidential Information;

(f) to its auditors or for the purposes of regulatory requirements;

(g) on a confidential basis, to its professional advisers on a need-to-know basis;

(h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

16.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Authority at its request.

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

(a) on a confidential basis to the employees, agents, consultants and contractors of the Authority;

(b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any organisation that the Authority transfers or proposes to transfer all or any part of its business to;

(c) if the Authority (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;

(d) where requested by Parliament; and/or

(e) under clauses 5.7 and 17.

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

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

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

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

17. When you can share information

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

17.2 Within the required timescales the Supplier must give the Authority full 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;
- (b) the Authority's current health and safety policy and procedures while at the Authority's premises, as provided to the Supplier.
- (c) the Authority's current wellbeing policy or requirements while at the Authority's premises as provided to the Supplier.

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

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

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

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

29. Business Continuity

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

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

30. Whistleblowing

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

30.2. The Supplier agrees:

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

"If you feel unable to raise your concern internally and it relates to work being carried out for which the ultimate beneficiary (through a contractual chain or otherwise) is Defra group, please email Whistleblowing@Defra.gov.uk."

- (e) to ensure that their Sub-contractors have free access to the Authority's whistleblowing policy.

31. Tax

31.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Authority cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

31.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Contract, the Supplier must both:

- 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.