
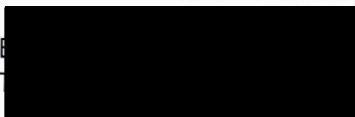


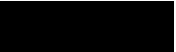

**ORDER**ORDER NO: **SER/ 0728**Date of Order: **30/11 2017***(To be quoted on all correspondence relating to this Order)*

<p>FROM (Customer):</p> <p>Water Services Regulation Authority Centre City Tower 7 Hill Street Birmingham B5 4UA</p> <p>Customer's representative: Laura Masters</p> <p>E: <a href="mailto:laura.masters@ofwat.gsi.gov.uk">laura.masters@ofwat.gsi.gov.uk</a> T: 0121 644 7644</p>	<p>TO (Contractor):</p> <p>Big Blue Door Ltd 28 Marshalsea Road, Borough, London, SE1 1HF</p> <p>Contractor's Representative: </p> <p></p>
<p>SERVICES TO BE DELIVERED TO:</p> <p>Water Services Regulation Authority Centre City Tower 7 Hill Street Birmingham B5 4UA</p>	<p>INVOICE ADDRESS:</p> <p><a href="mailto:finance@ofwat.gsi.gov.uk">finance@ofwat.gsi.gov.uk</a></p> <p>or</p> <p>Finance Team Water Services Regulation Authority Centre City Tower 7 Hill Street Birmingham B4 5UA</p>
<p>Any Contract arising from this Order shall be governed by the Customer's Invitation to Tender (ITT) for Hosting, Support and Maintenance of Ofwat and Open Water websites ref PROC.02.0125 including terms and conditions (reproduced as Appendix B), issued on the mytenders website on 8 November 2017, the Contractor's bid titled Hosting, Support &amp; Maintenance Ofwat &amp; Open Water dated 22 November 2017 and any enhancements thereto and provisions expressly listed herein.</p>	

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## Description of Services Requirement:

Hosting, Support and Maintenance of Ofwat and Open Water websites (PROC.02.0125)

## Contract Period

The Commencement Date shall be 6 December 2017

The expiry date is 5 December 2019, unless both parties agree an extension in which case such extension shall be no more than 6 weeks in duration from end of Contract.

## Clarifications

The following clarifications (questions and answers taken from mytenders) shall apply:

1. **Question**

Can you please disclose an average number of website hits per month for each site?

**Answer**

Ofwat website - average of 55,000 sessions per month Open Water website - average of 8,000 sessions per month

2. **Question**

Do you mention travel budgets to be thorough or do you expect regular site (your offices) visits from a developer as part of the support agreement?

**Answer**

We don't expect regular visits as part of the support agreement

3. **Question**

Can you reveal any specifics of your current server and your expectations/requirements for a new server? (dedicated/Virtualised/Cloud/)

**Answer**

This is a hosted solution, Ofwat just has control over the website content

## Charges

The bid price for the project is £23,431.76, being the maximum amount payable to the Contractor for completion of the project, which can only be exceeded by agreement between the Customer and the Contractor.

The scope of services is as described in the Invitation to Tender Document and the Tender submission by the Contractor dated 22 November 2017.

The Contractor shall invoice the Customer for the actual value of the Services provided according to the charge rates described or referred to in the Order Form.

The Services/deliverables which satisfactorily address any points raised by the Customer and their acceptance by the Customer will signify successful completion of this element of project.

The charge rates are all inclusive with the sole exceptions of:

- Disbursement for travel and subsistence expenses;

- Value Added Tax.

Travel Rates shall be paid with the agreement of the Customer's Representative and in accordance with Appendix A.

**Breakdown of Overall Charges ( from Contractor's bid)**

[illegible]

The Customer will not pay for:

1. Any items which it regards as part of the Contractor's overheads (for example; word-processing, secretarial time, cost of faxes and telephone charges);
2. Any expenses not authorised in advance by the Customer's representative
3. Travelling time unless the Customer's project director has authorised in advance the payment of travelling time. Requests for authorisation by the project director are to be submitted via the project manager.

## Key Tasks for Contractor

- Liaising with Ofwat and current hosting providers to establish assets required for websites. The Ofwat site is currently hosted by Forepoint Ltd and Open Water by Undivided Marketing.



- Set up and configuration of web and database servers, and firewall
- Duplication of websites from current hosting environments
- Configuration and testing of CMS to ensure all functionality is working correctly
- Launch redirection of DNS settings to new environment
- Ongoing support and maintenance

## **Invoicing and Payment**

Payment will be due upon Acceptance by the Customer of the Deliverables specified below:

Key deliverables	Timescale
Migration of two websites completed	Open Water site by 31 December 2017; Ofwat site by 17 January 2018
Hosting, Support , Maintenance	Payment in 3 month cycles up front, starting when the migration of sites is completed (please provide details of payment for each website)

All invoices shall contain the following information:

- the Order number
- a summary of the Services; and
- the line value; total value excluding Value Added Tax (VAT), the VAT percentage and total value including VAT.

The Customer shall pay the Contractor within thirty (30) calendar days of receipt of a valid invoice, submitted in accordance with the payment profile set out above and the provisions of this Contract.

Invoices must not contain the Contractor's terms and conditions, nor can reference be made to the Contractor's terms and conditions. Invoices with the Contractor's terms and conditions printed on them or referred to therein will not be accepted by the Customer.

## Contractor's Key Personnel

## Variation to Contract

Variations shall only be effective if agreed in writing by both parties

## Formation of Contract

BY SIGNING AND RETURNING THIS ORDER FORM THE CONTRACTOR AGREES to enter into a legally binding contract with the Customer to provide to the Customer the Services specified and referred to in this Order Form. The Parties hereby acknowledge and agree that they have read the Order Form and Conditions of Contract for Professional Service including Consultancy and by signing below agree to be bound by this Contract.

For and on behalf of the Contractor:

Name	
Position	
Signature	
Date	30/11/2017

For and on behalf of the Customer:

Name	LAURA MASTERS
Position	SENIOR ASSOCIATE DIGITAL COMMUNICATIONS
Signature	
Date	1/12/17

## Appendix A - Travel Rates

Receipts must be submitted with all claims and must be in accordance with these rates

### Accommodation:

Paid on actual expenditure within the following prescribed ceilings:

London	£165
Elsewhere	£115
Private residence	£25

These rates cover a 24 hour period for accommodation only, inclusive of VAT, receipts must be submitted.

### Mileage Rates:

25p per mile

A mileage log must be submitted (to/from, mileage/date, to see/purpose)

### Rail Travel

The actual cost of public transport (normally rail) may be reimbursed. Economy Class (second class) rail tickets should be purchased.



## **Appendix B - Terms & Conditions**

### **1. Application of these terms and conditions**

- 1.1 These terms and conditions apply to the Order placed by Ofwat with any individual, firm or company ('the Supplier'), unless explicitly stated otherwise in the Order. The Order, signed by the Supplier and Ofwat, together with these terms and conditions [and any applicable warranty provided by the Supplier] forms the contract between Ofwat and the Supplier ("the Contract").
- 1.2 No terms or conditions in or attached to any catalogue, invoice or other sales literature or document or tender or dispatch/delivery advice note of the Supplier which are inconsistent with these terms and conditions or which purport to add to or vary them in any way shall have any effect unless expressly accepted by Ofwat in writing.

### **2. Price**

- 2.1 The price to be paid for the services as set out in the Order is a fixed price unless specifically indicated otherwise within the Order, and is exclusive of VAT but inclusive of all other charges and costs. No variation of such price shall be effective unless agreed in writing between the Supplier and Ofwat.

### **3. Invoices, payment and set off**

- 3.1 Ofwat shall make payment within 30 days of receipt of a valid and undisputed invoice from the Supplier, which (if the Supplier determines that VAT is payable) must comply with the requirements of H.M. Revenue and Customs for VAT purposes.
- 3.2 All invoices shall include, but shall not be limited to, Ofwat's Order number (prefix SER) and any number generated by Ofwat's iPOS system.
- 3.3 Ofwat may set off against any sums due to the Supplier, whether under this Order or otherwise, any lawful set off or counterclaim to which Ofwat may at any time be entitled.

### **4. Provision of Services**

- 4.1 All services ordered by Ofwat shall be delivered or performed at the cost of the Supplier.
- 4.2 Failure to perform the services on the date(s) specified in the Order shall entitle Ofwat to cancel the Contract without notice, and time is of the essence for the purposes of this Contract.
- 4.3 All services shall be delivered to the place and address specified in the Order, unless specified otherwise in the Contract.
- 4.4 Risk and title in the goods and/or services shall only pass to Ofwat on acceptance of the services when delivered to the place and address in the Order, unless agreed otherwise by the parties.



4.5 If, at any time within 3 months from the date of delivery, the services fail to comply with the Contract, Ofwat may reject the whole or any part of the services.

## **5. Quality and performance**

5.1 The services supplied or performed under the Contract shall:

- a) conform to the quantity, type, sort, quality and description set out in the Contract; and
- b) be fit for the purpose made known to the Supplier expressly or by implication; and
- c) comply with any current legislation and appropriate prevailing standards.

5.2 The Supplier shall perform any services with all reasonable care, skill and diligence in accordance with good practice in the Supplier's industry, profession or trade, and use staff who are suitably skilled, experienced and qualified to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract.

5.3 If the services do not so comply, Ofwat is entitled at its option to reject the services, and require the Supplier to re-perform the services or accept the whole or part of the goods and/or services supplied by the Supplier but without prejudice to any rights of Ofwat to claim compensation or damages for loss or damage suffered as a result of such failure to comply.

## **6. Term and termination**

6.1 The Contract shall take effect on the date specified in the Order and shall expire on the expiry date specified in the Order, unless otherwise extended or terminated in accordance with the Contract.

6.2 Without prejudice to any other right or remedy it might have, Ofwat may terminate the Contract by written notice to the Supplier with immediate effect if the Supplier:

- a) is in breach of any obligation under the Contract which is not capable of remedy, or repeatedly breaches any of the terms and conditions of the Contract; or
- b) is in breach of any obligation which is capable of remedy, and that breach is not remedied within 14 working days of the Supplier receiving notice specifying the breach and requiring it to be remedied; or
- c) becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier, or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous in consequence of debt in any jurisdiction.

6.3 Upon termination of the Contract for any reason, the Supplier will immediately return and deliver to Ofwat all Ofwat materials and data provided by Ofwat to the Supplier for the purposes of the Contract, and any and all materials and data of any type created by the Supplier for the purposes of the Contract, whether or not then complete. All intellectual property rights in such materials shall automatically pass to Ofwat.



- 6.4 Ofwat may cancel any Purchase Order or part thereof by giving notice to the Supplier at any time prior to delivery. In the event that Ofwat exercises the rights of cancellation on accordance with this clause 7.4, its sole liability to the Supplier shall be to pay for the cost to the Supplier of the work reasonably carried out by the Supplier or at the date of cancellation any liability reasonably incurred by the Supplier to a third party in relation to the manufacture and supply of the Goods.

## **7. Intellectual Property**

- 7.1 The Supplier grants Ofwat a royalty-free, irrevocable non-exclusive licence (with right to sub-licence) to use all intellectual property rights in services supplied, to the extent that it is necessary to receive the benefits of the services under the Contract.
- 7.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Contract or arising as a result of the provision of the goods and/or services shall vest in Ofwat, unless stated otherwise in the Order.
- 7.3 The Supplier shall indemnify and keep indemnified Ofwat in full against all direct costs, expenses, damages and losses including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by Ofwat as a result of or in connection with any claim made against Ofwat 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 goods and/or services.

Except as expressly provided in this clause 7, the Supplier will have no other rights whatsoever in respect of any intellectual property rights belonging to Ofwat.

## **8. Confidentiality**

- 8.1 The Supplier shall treat all information disclosed to it by Ofwat and all information created as a result of the Contract as confidential, and safeguard it accordingly, and shall not disclose nor permit the disclosure of any such information without the prior written consent of Ofwat, nor use it other than in connection with performing the Contract.

## **9. Liability**

- 9.1 Neither party shall exclude liability for death, personal injury or fraud.
- 9.2 The aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Contract, the supply or failure to supply the goods and/or services, tort (including negligence), breach of statutory duty or otherwise shall not exceed a sum equal to 150% of the price paid or payable to the Supplier.
- 9.3 Except in the case of claims arising under clauses 7.3 and 20.1 in no event shall the Supplier be liable to Ofwat for any loss of profits, loss of business; loss of revenue, loss of or damage to goodwill, loss of savings and/or any indirect, special or consequential loss or damages.

## **10. Protection and security of data**

- 10.1 The Supplier shall, and shall procure that its staff and subcontractors shall comply with any requirements under the Data Protection Act 1998 and any other data protection in place from time to time.



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10.2 When handling Ofwat data, the Supplier shall ensure the security of the data is maintained in accordance with any and all security requirements of Ofwat as specified in the Order.

### **11. Freedom of Information**

11.1 The Supplier acknowledges that Ofwat is subject to the Freedom of Information Act and the Environmental Information Regulations 2004 ('the Information Laws') and where applicable, the Supplier shall provide all necessary assistance to enable Ofwat to comply with its obligations under the Information Laws.

11.2 The Supplier acknowledges that Ofwat may be required under the Information Laws to disclose Information concerning the Supplier or the Contract (including commercially sensitive information) without consulting or obtaining consent from the Supplier

### **12. Publicity**

12.1 The Supplier shall not, without the prior written permission of Ofwat, advertise or disclose to any third party that it is providing the goods and/or services to Ofwat.

### **13. Dispute resolution**

13.1 The parties shall attempt in good faith to negotiate a settlement to any dispute arising out of or in connection with the Contract. In the event a settlement cannot be reached within 28 working days of the dispute arising the parties may exercise any remedy they have under applicable law.

### **14. Force majeure**

14.1 Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance under the Contract which result from circumstances beyond the reasonable control of the party affected. Each party shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 28 working days, either party may terminate the Contract by written notice to the other party.

### **15. Subcontracting and assignment**

15.1 The Supplier shall not without the prior written consent of Ofwat assign, transfer subcontract or novate in whole or in part the benefit or the burden of the Contract or any part of the Contract.

### **16. Relationship between the parties**

16.1 This Contract does not create a partnership between Ofwat and the Supplier (together "the parties" and each one "a party") or make one of the parties the agent of the other for any purpose.

### **17. Waiver**

17.1 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Contract shall either be or be deemed to be a waiver or in any way prejudice any right or that party under this Contract.

### **18. Entire agreement**

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- 18.1 These terms and conditions and the Order shall comprise the entire terms and conditions of the Contract in relation to the subject of the Order, and the Supplier's terms and conditions shall be expressly excluded.

### **19. Amendment**

- 19.1 This Contract may not be varied except by an agreement in writing signed by the duly authorised representatives of the parties.

### **20. Observance of statutory requirements**

- 20.1 The Supplier shall comply with the all statutes, orders, regulations or bye laws applicable to the performance of this Contract, including health and safety, and shall indemnify Ofwat against any losses, claims or liabilities, expenses, proceedings or otherwise as a result of the Supplier's non-compliance with the same.

### **21. Notices**

- 21.1 Any notice by either party to the other under the Contract shall be in writing, and may be served by personal delivery or first class recorded post at the address shown in the Order. All notices shall be deemed duly given on the day of delivery.

### **22. Law and jurisdiction**

- 22.1 This Contract shall be subject to and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts to which they submit.

### **23. Severance**

- 23.1 If the whole or a part of any provision of the Contract is held to be illegal, invalid, or unenforceable, the parties intend that the legality, validity and enforceability of the remainder of the Contract shall not be affected.

### **24. Third party rights**

- 24.1 No other party other than the parties to the Contract shall have any right to enforce any of its terms.

### **25. Rules and regulations**

- 25.1 The supplier shall perform its obligations under the Contract in accordance with all applicable Rules and Regulations from time to time in force.
- 25.2 For the purposes of this clause Rules and Regulations mean Acts of Parliament (including but not limited to the Bribery Act 2010 and any legislation or common law concerning fraud and fraudulent acts) or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable right within the meaning of Section 2 of the European Communities Act 1972, in each case in the United Kingdom including any re-enactment, amendment, consolidation or replacement of legislation and, for avoidance of doubt, including but not limited to Local Authority or other public body



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bye-laws, British or European standards, best practice and guidance from industry specialist bodies.



