



**National Highways Limited**

## **NEC4 Supply Short Contract**

**(June 2017 with amendments January 2019 and October 2020)**

### **SCOPE**

in relation to *goods* for

### **Nursery Supplies Contract**



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02	Reference Documents
03	Insurance
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07	Form of Novation ( <i>Purchaser</i> to new <i>Purchaser</i> )
08	Form of Novation ( <i>Supplier</i> to new <i>Supplier</i> )
09	Parent Company Guarantee

S 100 Description of the goods	
S 101 Identified and Defined Terms	
S 101.1	In this Scope terms identified in the Contract Data are in italics and defined terms have capital initials. Other terms used with capital letters are defined in the conditions of contract or have meaning given to them in <b>Annex 01</b> .
S 102 Reference Documents	
S 102.1	References to documents within this Scope can be found in <b>Annex 02</b> .
S 103 The Purchaser's requirement - Background	
S 103.1	The <i>Purchaser's</i> objective is for the <i>Supplier</i> to contract grow and deliver a range of tree species to meet the <i>Purchaser's</i> planting needs over the next five years.
S 104 Purchaser's Objectives	
S 104.1	The purpose of this section is to communicate the <i>Purchaser's</i> vision, values, outcomes and the key objectives of this contract, outlining the <i>Purchaser's</i> expectations regarding how the <i>Supplier</i> supports the delivery of these.
About us	
S 104.2	The <i>Purchaser</i> is a road operator responsible for managing the busiest strategic road network in Europe, carrying one-third of all road traffic and two thirds of freight traffic in England.
S 104.3	The <i>Purchaser's</i> strategic road network is a key enabler of economic growth and prosperity and is essential to the quality of life of the United Kingdom.
S 104.4	The <i>Purchaser's</i> role is to deliver a better service for road users and to support a growing economy. It must operate, manage and improve the strategic road network in the public interest, maintain the strategic road network on a day-to-day basis and provide effective stewardship of the strategic road network's long-term operation and integrity.
The <i>Purchaser's</i> vision	
S 104.5	The <i>Purchaser's</i> vision, as set out in the <i>Purchaser's</i> 'Strategic Business Plan' (see link in <b>Annex 02</b> ) is to revolutionise our roads and create a modern strategic road network across England over the next 25 years. We will play our part in supporting economic growth and shaping a modern Britain to make a real difference to people's lives and businesses' prospects.
The <i>Purchaser's</i> imperatives	
S 104.6	The <i>Purchaser's</i> vision comprises of three imperatives which are

	<ul style="list-style-type: none"><li>• <b>safety</b> – the safety of our employees, our service partners and our road users</li><li>• <b>customer service</b> – the customer service and experience that road users have, and</li><li>• <b>delivery</b> – the delivery of the governments’ road building and maintenance programme which includes spending over £4 billion a year delivering our strategic road network to our road users, stakeholders and customers.</li></ul>
S 104.7	The <i>Purchaser’s</i> imperatives set out what we do, and the <i>Supplier</i> aligns with these imperatives and supports the <i>Purchaser</i> in achieving the <i>Purchaser’s</i> outcomes.
The <i>Purchaser’s</i> values and expectations	
S 104.8	<p>The <i>Purchaser’s</i> values are</p> <ul style="list-style-type: none"><li>• <b>“safety”</b> – we care about our customers, delivery partners and workforce and strive to see that no one is harmed when using or working on our strategic road network,</li><li>• <b>“integrity”</b> – we are custodians of the network, acting with integrity and pride in the long-term national interest,</li><li>• <b>“ownership”</b> – we have a clear vision for the future of the strategic road network and find new ways to deliver by embracing difference and innovation, while challenging conventions,</li><li>• <b>“teamwork”</b> – we have an open and honest dialogue with each other, as well as our customers, stakeholders and delivery partners and</li><li>• <b>“passion”</b> – building on our professionalism and expertise, we are always striving to improve, delivering a strategic road network that meets the needs of our customers.</li></ul>
S 104.9	The <i>Purchaser’s</i> values describe how it delivers its vision and imperatives, how to treat each other, and expect to be treated, how it wants to be seen as an organisation and how it does business.
S 104.10	The <i>Supplier</i> has values that support those of the <i>Purchaser</i> and that engender constructive and desired behaviours that enable a collaborative approach to achieving the <i>Purchaser’s</i> outcomes.
The <i>Purchaser’s</i> outcomes	
S 104.11	The <i>Purchaser’s</i> ‘Delivery Plan’ (see link in <b>Annex 02</b> ) sets out the <i>Purchaser’s</i> main activities to improve the capacity and performance of the network and how the <i>Purchaser</i> performs said activities.
S 104.12	This contract plays a role in assisting and enabling the <i>Purchaser</i> to achieve its outcomes of:

	<ul style="list-style-type: none"><li>• supporting economic growth</li><li>• a safe and serviceable strategic road network</li><li>• a freer flowing network</li><li>• an improved environment</li><li>• a more accessible and integrated strategic road network.</li></ul>
S 104.13	<p>This will be achieved through</p> <ul style="list-style-type: none"><li>• planning for the future,</li><li>• growing capability,</li><li>• building relationships,</li><li>• efficient and effective delivery and</li><li>• improving customer interface.</li></ul>
<b>S 105 Description of the <i>goods</i></b>	
S 105.1	<p>The <i>Purchaser's</i> objective is for the <i>Supplier</i> to contract grow trees and deliver the range of tree species to meet the <i>Purchaser's</i> additional planting needs, over and above the <i>Purchaser's</i> existing requirements. The <i>goods</i> enable the <i>Purchaser</i> to meet its strategic objective of planting at least 3 million trees by 2030.</p> <p>The <i>Purchaser</i> provides native British seeds to the <i>Supplier</i> by Batch Order. Figure 1, below, sets out the indicative species and total seed quantities for the contract duration with an annual seed order placed for each growing season with the seed supplier. The Batch Order issued to the <i>Supplier</i> sets out the quantity of seeds to be provided by the <i>Purchaser</i> and indicative Delivery Date for the trees once they meet the requirements. The seed quantity provided in each Batch Order allows for a germination failure rate and the <i>Purchaser</i> takes delivery of the resulting healthy, disease and pest free trees which are grown to meet the requirements set out in the Scope. The seeds are to be contract grown according to the specifications set out in S 201.</p> <p>The <i>Supplier</i> delivers the trees which meet the requirements from each Batch Order. The <i>Purchaser</i> notifies the <i>Supplier</i> of the delivery location(s) and any other delivery requirements not less than three months prior to Delivery Date.</p> <p>Quantities and delivery times may fluctuate to meet the <i>Purchaser's</i> planting requirements. The <i>Purchaser</i> reserves the right to order additional quantities of the tree species in Figure 1 below, or alternative species, to be provided from the <i>Supplier's</i> own stock. Any additional seed requirements are certified as British Provenance and the plants are British grown unless otherwise instructed by the <i>Purchaser</i>. Any additional requirements are issued by Batch Order.</p>



Figure 1

<b>Species</b>	<b>Indicative Quantity of Seed Order over the contract term</b>
Acer campestre (Field maple)	500,000
Acer platanoides (Norway maple)	100,000
Acer pseudoplatanus (Sycamore)	50,000
Alnus glutinosa (Alder)	100,000
Betula pendula (Silver birch)	400,000
Betula pubescens (Downy birch)	250,000
Carpinus betulus (Hornbeam)	450,000
Castanea sativa (Sweet chestnut)	150,000
Corylus avellane (Hazel)	400,000
Crataegus monogyna (Hawthorn)	400,000
Crataegus laevigata (Midland hawthorn)	175,000
Fagus sylvatica (Beech)	270,000
Frangula alnus (Alder Buckthorn)	270,000
Euonymus europaeus (Spindle tree)	120,000
Ilex aquifolium (Holly)	270,000
Ligustrum vulgare (Privet)	180,000
Malus sylvestris (Common or crab apple)	270,000
Pinus sylvestris (Scots pine)	180,000
Populus tremula (Aspen)	90,000
Populus nigra subsp. betulifolia (Native black poplar)	90,000

	Prunus avium (Wild cherry)	270,000
	Prunus spinosa (Blackthorn)	70,000
	Quercus petraea (Sessile oak)	150,000
	Quercus robur (Oak)	450,000
	Salix alba (White willow)	70,000
	Sambucus nigra (Common Elder)	70,000
	Sorbus aucuparia (Rowan)	150,000
	Taxus baccata (Yew)	200,000
	Tilia cordata (Small leaved lime)	150,000
	Viburnum lantana (Wayfaring tree)	150,000
	<b>Indicative total Tree seeds over the contract duration</b>	<b>6,445,000</b>
S 105.2	The <i>Supplier</i> complies with the <i>Purchaser’s</i> Health and Safety Requirements outlined in Section <b>S 321</b> .	
S 105.3	The <i>Purchaser</i> reserves the right to inspect the Health and Safety policy and documentation at any time. The <i>Supplier</i> co-operates within reason.	
S 105.4	The <i>Supplier</i> permits inspection of the <i>goods</i> by the <i>Purchaser</i> <ul style="list-style-type: none"><li>• quarterly, as a minimum, at critical stages of the growing cycle date</li><li>• if required, additional inspections may be requested by the <i>Purchaser</i></li><li>• the timing for the first quarterly inspection will be agreed with the <i>Supplier</i> within 6 weeks of the Contract date</li><li>• two weeks’ notice will be given for any inspection.</li></ul>	
<b>S 200 Specifications</b>		
<b>S 201 Specifications</b>		
S 201.1	Provide the Goods to grow, supply and deliver to site(s) the required plant species from seeds to be provided by the <i>Purchaser</i> in accordance with the “National Plant Specification” requirements (see link in <b>Annex 02</b> ).	

The *Supplier* is to clearly identify and retain a dedicated suitable space to grow the *Purchaser's* required plant species as per the seeds provided, which should be marked as *goods* grown for the *Purchaser*.

The *Supplier* clearly identifies the *Purchaser's* required plant species being grown, grouping and labelling each species by botanical name and quantities separately.

The plant species are to be grown in accordance with the latest nursery industry best practice, in sustainable non-peat growing media and under phytosanitary and biosecurity procedures to limit the spread of undesirable pests and diseases.

The plant species must be healthy, disease and pest free, and as set out in Figure 2 below, be

- bare-root, single stem whips - no less than 450mm and no more than 900mm in height
- container grown, leader with laterals in no less than 2 litre pots - 450mm to 900mm height or
- root balled – no greater than 1200mm height (typically evergreen)

at the time of delivery unless otherwise agreed by the *Purchaser*.

Figure 2

Species	Description
Acer campestre (Field maple)	1+1
Acer platanoides (Norway maple)	1+1
Acer pseudoplatanus (Sycamore)	1+1
Alnus glutinosa (Alder)	1+1
Betula pendula (Silver birch)	1+1
Betula pubescens (Downy birch)	1+1
Carpinus betulus (Hornbeam)	1+1
Castanea sativa (Sweet chestnut)	1+1
Corylus avellane (Hazel)	1+1
Crataegus monogyna (Hawthorn)	1+1
Crataegus laevigata (Midland hawthorn)	1+1
Fagus sylvatica (Beech)	1+1
Frangula alnus (Alder Buckthorn)	1+1

Euonymus europaeus (Spindle tree)	1+1
Ilex aquifolium (Holly)	2 litre container, leader with laterals or root balled
Ligustrum vulgare (Privet)	1+1
Malus sylvestris (Common or crab apple)	1+1
Pinus sylvestris (Scots pine)	2 litre container, leader with laterals or root balled
Populus tremula (Aspen)	1+1
Populus nigra subsp. betulifolia (Native black poplar)	1+1
Prunus avium (Wild cherry)	1+1
Prunus spinosa (Blackthorn)	1+1
Quercus petraea (Sessile oak)	1+1
Quercus robur (Oak)	1+1
Salix alba (White willow)	1+1
Sambucus nigra (Common Elder)	1+1
Sorbus aucuparia (Rowan)	1+1
Taxus baccata (Yew)	2 litre container, leader with laterals or root balled
Tilia cordata (Small leaved lime)	1+1
Viburnum lantana (Wayfaring tree)	1+1

The *Supplier* provides a monthly report, to include

- photographs of each plant species including labelling status, size, condition and progress of each species grown (spreadsheet format)
- any proof of purchase copies relevant to that period (as required)
- any permits and certificates required relevant to that period, covering sourcing, growing and transporting of goods
- any supply issues and proposed substitutions, including digital copies of correspondence between the *Supplier* and subcontractor confirming non-availability of specified goods
- any *Supplier* or subcontractor (at any stage of remoteness) nursery incidents (e.g. incidents of disease or pests), and

	<ul style="list-style-type: none"><li>any key risks to Providing the Goods with suggested mitigation or actions taken, unless otherwise instructed by the <i>Purchaser</i>.</li></ul> <p>Any plant species grown larger than the specified height which the <i>Purchaser</i> accepts for delivery will not be a compensation event.</p> <p>The <i>goods</i> are to include the bundling of bare-root plants into bundles of no more than 10 of the same species plants per bundle with no more than 10 bundles to a bag, identified with labels of the relevant species, prior to delivery to site.</p> <p>Cold storage facilities to be made available for the storage of plants. Plants lifted, bundled and ready for delivery to be placed into cold storage prior to delivery where delivery is more than 24hrs after lifting or where instructed by the <i>Purchaser</i> when delivery to the specified site is delayed by the <i>Purchaser</i>.</p>
<b>S 300 Constraints on how the Supplier Provides the Goods</b>	
<b>S 301 General constraints</b>	
S 301.1	<p>The <i>Supplier</i> Provides the Goods in such manner as to minimise the risk of damage or disturbance to or destruction of third-party property.</p> <p>Reasonable access to the <i>Purchaser's</i> dedicated space provided for the growing of plants for the purpose of inspection of the plants in accordance with the Scope.</p> <p>Deliveries to be made to site in accordance with the requirements set out in the Scope and any subsequent instructions from the <i>Purchaser</i>.</p>
S 301.2	<p>The <i>Supplier</i> organises the bundling and tagging of trees into batches and arranges delivery to optimise the minimum number of deliveries.</p> <p>Any information relevant to the delivery requirements and site is to be provided to the <i>Supplier</i> not less than three (3) months prior to the <i>delivery date</i>.</p>
S 301.3	<p>The <i>Purchaser's</i> working hours for delivery are between 7.00 and 19.00 unless otherwise instructed by the <i>Purchaser</i> in the delivery details. Deliveries outside of these times will only be by prior agreement with the <i>Purchaser</i>.</p>
S 301.4	<p>Delivery distances in kilometres are measured using the shortest driven distance provided by Google Maps between the supply and delivery postcodes, or where there are multiple deliveries, the shortest driven distance provided by Google Maps between each intermediate and subsequent postcode.</p>

**S 302 Confidentiality**

S 302.1	<p>The <i>Supplier</i> keeps (and ensures that anyone employed by it or acting on its behalf keeps) confidential and does not disclose to any person</p> <ul style="list-style-type: none"><li>• the terms of the contract</li><li>• any confidential or proprietary information (including Personal Data) provided to or acquired by the <i>Supplier</i> in the course of Providing the Goods,</li></ul> <p>except that the <i>Supplier</i> may disclose information</p> <ul style="list-style-type: none"><li>• to its legal or other professional advisers,</li><li>• to its employees and subcontractors (at any stage of remoteness from the <i>Purchaser</i>) as needed to enable the <i>Supplier</i> to Provide the Goods,</li><li>• where required to do so by law or by any professional or regulatory obligation or by order of any court or government agency, provided that prior to disclosure the <i>Supplier</i> consults the <i>Purchaser</i> and takes full account of the <i>Purchaser's</i> views about whether (and if so to what extent) the information should be disclosed,<ul style="list-style-type: none"><li>○ which it receives from a third party who lawfully acquired it and who is under no obligation restricting its disclosure,</li><li>○ which is in the public domain at the time of disclosure other than due to the fault of the <i>Supplier</i> or</li><li>○ with the consent of the <i>Purchaser</i>.</li></ul></li></ul>
S 302.2	<p>The <i>Supplier</i> does not (and ensures that anyone employed by it or acting on its behalf does not) use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Goods.</p>

**S 303 Insurances**

S 303.1	<p>The <i>Supplier</i> is required to have in place required insurances described in the Insurance Table in the Contract Data and as shown in <b>Annex 03</b>.</p>
S 303.2	<p>The <i>Supplier</i> discharges all its obligations under the Insurance Act 2015 when placing, renewing or maintaining any insurances required by the contract.</p>

**S 304 Not Used****S 305 Business Continuity**

S 305.1	<p>The <i>Supplier</i> prepares a business continuity plan that complies with ISO22301:2019 and submits the draft plan to the <i>Purchaser</i> no later than four weeks after the <i>starting date</i> for acceptance. A reason for not accepting the business continuity plan is that it does not align with ISO22301:2019. The <i>Supplier</i> amends the plan to address the <i>Purchaser's</i> comments and resubmits for acceptance within one week.</p>
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S 305.2	The <i>Supplier</i> undertakes an annual test event to test the business continuity plan. The <i>Supplier</i> agrees with the <i>Purchaser</i> the test scenario prior to the test. Following the test, the <i>Supplier</i> prepares a feedback report with any proposed amendments to the business continuity plan and submits the report to the <i>Purchaser</i> within two weeks of the test for acceptance. A reason for not accepting the proposed amendments is that the <i>Purchaser</i> considers that the proposed amendments do not resolve the issues raised in the accepted feedback report.
S 305.3	The <i>Supplier</i> implements any proposed amendments in the accepted feedback report as instructed by the <i>Purchaser</i> .
S 305.4	Where requested, the <i>Supplier</i> completes the <i>Purchaser's</i> annual business continuity self-assessment assurance document in the form provided by the <i>Purchaser</i> . The <i>Supplier</i> provides supporting evidence to the <i>Purchaser</i> to demonstrate that the business continuity processes and procedures based on the self-assessment are in place. The <i>Purchaser</i> may undertake an audit of compliance with these requirements.
<b>S 306 Contract Management</b>	
<b>S 306.1 Management Procedures</b>	
S 306.1.2	The <i>Supplier</i> includes a section on customer service in its monthly report to the <i>Purchaser</i> .
<b>S 306.2 Format of records</b>	
S 306.2.1	<p>The <i>Supplier</i> ensures that records are created and maintained in a format acceptable to the <i>Purchaser</i> such as</p> <ul style="list-style-type: none"><li>• scanned electronic image (Acrobat .pdf),</li><li>• editable electronic document (Microsoft Word),</li><li>• editable electronic spreadsheet (Microsoft Excel),</li><li>• editable vectorised drawing format (.dwg AutoCAD format or equivalent),</li><li>• graphic electronic image in compressed (.jpg) format or</li><li>• other formats compatible with the <i>Purchaser's</i> "Information Systems" set out in section S 407, reference documents or guidance manuals as agreed with the <i>Purchaser</i>.</li></ul>
S 306.2.2	The <i>Supplier</i> undertakes translation of existing records into an accepted format when instructed by the <i>Purchaser</i> .
S 306.2.3	The <i>Supplier</i> may from time to time agree with the <i>Purchaser</i> , alternative acceptable formats in which the <i>Supplier</i> maintains records, taking into account any advances and other developments in information systems. The

	<i>Supplier</i> implements any changes as agreed with the <i>Purchaser</i> .
<b>S 306.3 Records and audit access</b>	
S 306.3.1	The <i>Supplier</i> keeps documents and information obtained or prepared by the <i>Supplier</i> or any subcontractor in connection with the contract for a period of 6 years after the <i>defects date</i> .
S 306.3.2	The <i>Supplier</i> permits the <i>Purchaser</i> and the Comptroller and Auditor General to examine documents held or controlled by the <i>Supplier</i> or any subcontractor (at any stage of remoteness from the <i>Supplier</i> ).
S 306.3.3	The <i>Supplier</i> provides such oral or written explanations as the <i>Purchaser</i> , or the Controller and Auditor General considers necessary.
S 306.3.4	This section does not constitute a requirement or agreement for the purposes of section 6(3)(d) of the “National Audit Act 1983” for the examination, certification or inspection of the accounts of the <i>Supplier</i> .
<b>S 306.4 Training</b>	
S 306.4.1	The <i>Purchaser</i> provides relevant training for all relevant systems listed in the “Information Systems” Scope section S 407
S 306.4.2	<p>The <i>Supplier</i> proposes a list of appropriate staff to be trained for each requirement for acceptance by the <i>Purchaser</i>. The <i>Supplier</i> liaises with the <i>Purchaser</i> to programme the training to optimise efficiencies.</p> <p>A reason for not accepting the commissioning report is that it</p> <ul style="list-style-type: none"> <li>• does not comply with the Scope,</li> <li>• does not enable the <i>Supplier</i> to Provide the Goods,</li> <li>• does not enable the <i>Supplier</i> to comply with its contract with the <i>Purchaser</i> or</li> <li>• does not comply with best industry practice.</li> </ul> <p>The <i>Supplier</i> amends the list of personnel to be trained in response to any comments from the <i>Purchaser</i> and resubmits it for acceptance by the <i>Purchaser</i>. The <i>Supplier</i> complies with the list of personnel to be trained once it has been accepted.</p>
<b>S 307 Not Used</b>	
<b>S 308 Not Used</b>	
<b>S 309 Not Used</b>	
<b>S 310 Coordination</b>	
S 310.1	The <i>Supplier</i> programmes the delivery in a manner that minimises the impact



	on the <i>Purchaser</i> .
S 310.2	The <i>Supplier</i> does not enter into commitments when dealing with third parties that might impose any obligations on the <i>Purchaser</i> except with the consent of the <i>Purchaser</i> .
<b>S 311 Not Used</b>	
<b>S 312 Not Used</b>	
<b>S 313 Conflict of interest</b>	
S 313.1	The <i>Supplier</i> does not take an action which would cause a conflict of interest to arise in connection to the contract. The <i>Supplier</i> immediately notifies the <i>Purchaser</i> if there is any uncertainty about whether a conflict of interest may exist or arise.
S 313.2	The <i>Supplier</i> notifies its employees and subcontractors at any stage of remoteness from the <i>Purchaser</i> ) and procures any subcontractors (at any stage of remoteness from the <i>Purchaser</i> ), who are Providing the Goods that they do not take any action which would cause an actual or potential conflict of interest to arise in connection with Providing the Goods.
S 313.3	The <i>Supplier</i> ensures that any employee and procures any subcontractor (at any stage of remoteness from the <i>Purchaser</i> ) ensures any of its employees, who are Providing the Goods, completes a declaration of interests form set out in <b>Appendix K</b> .
S 313.4	The <i>Supplier</i> procures any subcontractor (at any stage of remoteness from the <i>Purchaser</i> ) immediately notifies the <i>Supplier</i> and the <i>Purchaser</i> if there is any uncertainty about whether a conflict of interest may exist or arise.
S 313.5	<p>If the <i>Supplier</i> or subcontractor (at any stage of remoteness from the <i>Purchaser</i>) notifies the <i>Purchaser</i>, of any actual or potential conflict of interest, the <i>Purchaser</i> may</p> <ul style="list-style-type: none"><li>• require the <i>Supplier</i> to stop Providing the Goods until any conflict of interest is resolved</li><li>• require the <i>Supplier</i> to submit to the <i>Purchaser</i> for acceptance a proposal to remedy the actual or potential conflict of interest.</li></ul>
S 313.6	A reason for not accepting the proposal is that it does not resolve the conflict of interest. The <i>Supplier</i> amends the proposal in response to any comments and resubmits it for acceptance by the <i>Purchaser</i> . The <i>Supplier</i> complies with the proposal once it has been accepted.

### S 314 Purchaser's Fair Payment Charter, Counter Fraud, Bribery and Corruption Policies

S 314.1	<p>The <i>Supplier</i> complies (and ensures that any person employed by it or acting on its behalf complies) with the <i>Purchaser's</i></p> <ul style="list-style-type: none"> <li>• "Fair Payment Charter" and</li> <li>• "Supplier Counter Fraud, Bribery and Corruption Code of Conduct"</li> </ul> <p>(as set out in Appendix L) throughout the supply period and for a period not less than 6 years after the <i>defects date</i>.</p>
S 314.2	<p>A failure to comply with this section is treated as a substantial failure by the <i>Supplier</i> to comply with the contract.</p>

### S 315 Parent Company Guarantee

S 315.1	<p>If the <i>Supplier</i> is required to provide a Parent Company Guarantee, it is provided in the form set out in <b>Annex 9</b>. If the entity that is to provide the Parent Company Guarantee is a non-UK registered company required by this contract, the <i>Supplier</i> provides a legal opinion in support of a Parent Company Guarantee.</p>
S 315.2	<p>Any legal opinion provided by the <i>Supplier</i> in support of a Parent Company Guarantee from</p> <ul style="list-style-type: none"> <li>• a Parent Company Guarantee from</li> <li>• an Alternative Guarantee from</li> <li>• a form of alternative guarantee from</li> <li>• an alternative form of bond or security agreed by the <i>Purchaser</i> from or</li> <li>• a novation to a proposed new supplier which is</li> </ul> <p>a non-English or Welsh registered company includes (among others) the following matters</p> <ul style="list-style-type: none"> <li>• the requirements of clause Z11,</li> <li>• confirmation that <ul style="list-style-type: none"> <li>○ the Controller is a corporation duly incorporated in the relevant jurisdiction, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated,</li> <li>○ the Controller has full power to execute, deliver, enter into and perform its obligations under the Parent Company Guarantee,</li> <li>○ all necessary corporate, shareholder and other action required to authorise the execution and delivery by the Controller of the Parent Company Guarantee and the</li> </ul> </li> </ul>

	<p>performance by it of its obligations under it have been duly taken,</p> <ul style="list-style-type: none"><li>○ execution by the proposed signatories in accordance with the method of execution proposed will constitute valid execution by the Controller,</li><li>○ the execution and delivery by the Controller of the Parent Company Guarantee and the performance of its obligations under it will not conflict with or violate<ul style="list-style-type: none"><li>▪ the constitutional documents of the Controller,</li><li>▪ any provision of the laws of the jurisdiction in which it is incorporated,</li><li>▪ any order of any judicial or other authority in the jurisdiction in which it is incorporated or</li><li>▪ any mortgage, contract or other undertaking which is binding on the bidder or its assets,</li></ul></li><li>○ (assuming that it is binding under English law) the Parent Company Guarantee constitutes legal, valid and binding obligations of the Controller enforceable in accordance with its terms,</li><li>○ a judgment obtained in the courts of England and Wales in respect of the Agreement would be enforced by the courts in the jurisdiction in which the Controller is incorporated without re- examination of the merits of the case and</li><li>○ the choice of English law as the governing law of the Parent Company Guarantee would be upheld as a valid choice of law by the courts in the jurisdiction in which the Controller is incorporated,</li></ul> <ul style="list-style-type: none"><li>• notification of any other formalities to be complied with under local law which may be necessary to enforce the Parent Company Guarantee in the Controller's place of incorporation, including (for example) notarisation, legalisation or registration of the Parent Company Guarantee,</li><li>• notification of whether withholding is required to be made by the Controller in relation to any monies payable to the <i>Purchaser</i> under the Parent Company Guarantee,</li><li>• confirmation of whether the <i>Purchaser</i> will be deemed to be resident or domiciled in the foreign jurisdiction by reason of its entry into the Parent Company Guarantee</li><li>• confirmation that the Controller and its assets are not entitled to immunity from suit, pre-judgment attachment or restraint or enforcement of a judgment on grounds of sovereignty or otherwise in the courts of England and jurisdiction of the Controller in respect of</li></ul>
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	<p>proceedings against it in relation to the Parent Company Guarantee and</p> <ul style="list-style-type: none"> <li>the legal opinion can be provided and disclosed to the following Authority parties (on a non-reliance basis) <ul style="list-style-type: none"> <li>the Department for Transport,</li> <li>the Cabinet Office,</li> <li>the HM Treasury,</li> <li>the <i>Purchaser's</i> professional advisers, auditors and insurers and</li> <li>any person required pursuant to any applicable law, their offices and directors as applicable.</li> </ul> </li> </ul>
S 315.3	<p>Where a legal opinion is being given for an alternative guarantor, bank or other surety provider the requirements are to be read as</p> <ul style="list-style-type: none"> <li>references to the word to "Controller" are substituted with "alternative guarantor", "bank" or "surety provider" as applicable</li> </ul>
S 315.4	<p>Where a legal opinion is being given for an Alternative Guarantee or Form of Performance Security (or an alternative form of bond or security agreed by the <i>Purchaser</i>) the requirements are to be read as</p> <ul style="list-style-type: none"> <li>references to the words " the Parent Company Guarantee " are substituted with "Alternative Guarantee" or "form of bond or security agreed by the <i>Purchaser</i>)" as applicable.</li> </ul>
S 315.5	<p>Where a legal opinion is being given in relation to a novation of the contract the requirements are to be read as</p> <ul style="list-style-type: none"> <li>references to the word to "Controller" are substituted with "proposed New Supplier" (all as defined in the contract (including the novation deed)) as applicable and</li> <li>all references to "Parent Company Guarantee" are substituted with "the contract" as applicable.</li> </ul>
S 315.6	<p>Where a legal opinion is being given in relation to the <i>Supplier</i> or Consortium Member the requirements are to be read as</p> <ul style="list-style-type: none"> <li>references to the word to "Controller" are substituted with <i>Supplier</i> or Consortium Member as applicable and</li> <li>all references to "a Parent Company Guarantee" is substituted with "the contract" as applicable.</li> </ul>
<b>S 316 Quality Management</b>	
S 316.1	The <i>Supplier</i> complies with and operates management systems as follows

	<ul style="list-style-type: none"><li>• a quality management system complying with ISO 9001- “Quality Management”, ISO 9004- “Quality Management”,</li><li>• a Quality Plan that follows the guidelines contained in ISO 10005- “Guidelines for Quality Plans”,</li><li>• a formal health and safety management system accepted by the <i>Purchaser</i>,</li><li>• an environmental management system complying with ISO 14001- “Environmental Management Systems”,</li></ul> <p>(See links to all above standards in <b>Annex 02</b>)</p>
S 316.2	Where a management system is certifiable against the standards above, the <i>Supplier</i> obtains certification from a relevant UKAS accredited body within 52 weeks of the Contract Date and submits to the <i>Purchaser</i> a copy of each certificate and audit report within one week after it is obtained. The <i>Supplier</i> maintains this certification for the full duration of the contract.
<b>S 317 Quality Plan</b>	
S 317.1	The Quality Plan incorporates the Quality Submission and is sufficiently detailed to demonstrate how the <i>Supplier</i> achieves the <i>Purchaser’s</i> objectives for the contract.
S 317.2	The <i>Supplier</i> keeps a controlled copy of the Quality Plan available for inspection at all times by the <i>Purchaser</i> and its representatives.
S 317.3	The <i>Supplier’s</i> Quality Plans are compliant with ISO10005 – “Guidelines for Quality Plans”.
<b>S 318 Not Used</b>	
<b>S 319 Not Used</b>	
<b>S 320 Performance Measurement</b>	
S 320.1	The <i>Supplier</i> uses the current version of the ‘Collaborative Performance Framework’ (CPF) (see document in Technical Envelope in Bravo) and follows the processes in relation to the use of performance scores to drive improved performance.
S 320.2	The <i>Supplier</i> uses the metrics of health and safety management; effectiveness of engagement with customers and stakeholders; and quality management service levels and key deliverables, recording performance against each of the relevant indicators in the CPF and assists the <i>Purchaser</i> in the development of the CPF by proposing and developing ways in which improvements can be made
S 320.3	The <i>Supplier</i> submits a return against each CPF indicator via the <i>Purchaser’s</i> performance management system.

	The first CPF covers months 1-3 from the <i>starting date</i> and are thereafter submitted quarterly.
<b>S 320.1 Performance review</b>	
S 320.1.1	The <i>Supplier</i> undertakes a performance review addressing all aspects of performance on a quarterly basis, or as instructed by the <i>Purchaser</i> , in accordance with the CPF.
S 320.1.2	The Performance Level is 6 and is measured in accordance with the CPF.
S 320.1.3	Where the <i>Supplier's</i> performance is below the Performance Level, this is treated as a substantial failure by the <i>Supplier</i> to comply with its obligations under the contract.
S 320.1.4	The <i>Purchaser</i> leads additional annual reviews to assess all aspects of <i>Supplier</i> performance and trends in performance indicators. The <i>Supplier</i> assists with any additional reviews as requested by the <i>Purchaser</i> .
<b>S 321 Health and Safety and Wellbeing</b>	
<b>S 321.1</b>	<b>General Requirements</b>
S 321.1.1	The <i>Supplier</i> complies with the <i>Purchaser's</i> health, safety and wellbeing requirements as detailed in this section and in <b>Annex 02</b> of the Scope.
S 321.1.2	The <i>Supplier</i> complies with and operates according to all relevant and prevailing health, safety and wellbeing legislation, considerations, guidance and industry best practice. The <i>Supplier</i> Provides the Goods in a way that aligns to the <i>Purchaser's</i> health, safety and wellbeing policies and initiatives.
<b>S 321.2</b>	<b>Management of Health and Safety</b>
S 321.2.1	<p>The <i>Supplier</i></p> <ul style="list-style-type: none"><li>operates a health and safety management system in line with the requirements set out in Scope section S 319 Quality Management,</li><li>documents the systems and fully and effectively implements the health and safety management system prior to the <i>starting date</i> and</li><li>provides evidence to the <i>Purchaser</i> to demonstrate that the health and safety management system is documented satisfactorily and is effectively implemented to meet the timescale stated above. The <i>Purchaser</i> may prevent the <i>Supplier</i> from starting any work until such evidence is provided.</li></ul>
S 321.2.2	The requirements for certification, in general, of the <i>Supplier's</i> management systems are set out in Scope section S 319 Quality Management.

	<p>The certification requirements for the <i>Supplier's</i> corporate health and safety system for the contract are</p> <p>Not applicable- certification is not a requirement of the contract but the <i>Supplier</i> complies with the standards set out in S 319.</p>
S 321.2.3	The <i>Supplier</i> operates and develops its health and safety management system to meet the <i>Purchaser's</i> requirements.
S 321.2.4	The <i>Supplier's</i> health and safety management system forms part of the <i>Supplier's</i> Quality Plan
<b>S 321.3</b>	<b><i>Suppliers' occupational health management system</i></b>
S 321.3.1	Not used
S 321.3.2	<p>If, in the opinion of the <i>Purchaser</i>, the <i>Supplier</i> is Providing the Goods in an unsatisfactory manner or commits a breach of</p> <ul style="list-style-type: none"> <li>any prevailing legislation or,</li> <li>the <i>Supplier's</i> health and safety management system or,</li> <li>a subcontractor's health and safety management system or,</li> <li>the <i>Purchaser's</i> health and safety management system,</li> </ul> <p>the <i>Purchaser</i> notifies the <i>Supplier</i> and raises the issue formally via the <i>Purchaser's</i> health and safety management system assurance process.</p>
S 321.3.3	The notification provided by the <i>Purchaser</i> to the <i>Supplier</i> sets out the breach or breaches identified with reasons and outlines the minimum steps required by the <i>Supplier</i> to rectify the breach, and a date for rectifying.
S 321.3.4	Where the <i>Supplier</i> has been given notification of a breach, the <i>Supplier</i> rectifies the breach or failure to Provide the Goods, in a satisfactory manner, by the date specified by the <i>Purchaser</i> . The <i>Supplier</i> corrects other breaches that are not notified by the <i>Purchaser</i> .
<b>S 321.4</b>	<b>Not used</b>
<b>S 321.5</b>	<b>Health, safety and wellbeing culture and communication</b>
S 321.5.1	<p>The <i>Supplier</i> ensures that it creates a culture and communications that align to the <i>Purchaser's</i> "Home Safe and Well" approach.</p> <p>The <i>Supplier</i></p> <ul style="list-style-type: none"> <li>provides relevant health and safety training, including induction, to relevant Staff and visitors to ensure compliance with prevailing health and safety legislation and approved codes of practice,</li> </ul>

	<ul style="list-style-type: none"> <li>establishes, operates and delivers health and safety employee consultation arrangements to its employees in accordance with applicable prevailing health and safety legislation,</li> <li>operates a behavioural safety programme, measured against the supply chain health, safety and wellbeing maturity matrix, and</li> <li>participates in <i>Purchaser</i> / supply chain events, programmes and initiatives as appropriate and if requested by the <i>Purchaser</i>.</li> </ul>
<b>S 321.6</b>	<b>Health and safety exchange of information</b>
S 321.6.1	The <i>Purchaser</i> provides relevant information requested by the <i>Supplier</i> , if information held by the <i>Purchaser</i> is necessary to enable the <i>Supplier</i> to Provide the Goods in a safe and legally compliant manner.
S 321.6.2	The <i>Supplier</i> provides information in the frequency and format specified in the contract, or if a different frequency and format is required, as specified by the <i>Purchaser</i> .
S 321.6.3	The <i>Supplier</i> immediately brings to the attention of the <i>Purchaser</i> any issue or potential issue that may have a detrimental impact on the health, safety and wellbeing of any stakeholders.
<b>S 321.7</b>	<b>Health and safety resources</b>
S 321.7.1	The <i>Supplier</i> retains sufficient competent health and safety resources as part of its management structure and ensures that its relevant resources meet the requirements in S 321.7.2 below.
S 321.7.2	<p>The minimum requirements for the <i>Supplier's</i> health and safety resources are that their leads for health, safety, and wellbeing</p> <ul style="list-style-type: none"> <li>have a demonstrable working knowledge of prevailing health and safety legislation, guidance and approved codes of practice relevant to the <i>goods</i>, and</li> <li>have the appropriate level of competence, training and demonstrable experience in the field for which they are Providing the Goods</li> </ul>
<b>S 321.8</b>	<b>Health &amp; safety competence of Supplier's employees</b>
S 321.8.1	The <i>Supplier</i> ensures that its employees are competent to Provide the Goods and upon request provides the <i>Purchaser</i> with information about the <i>Supplier's</i> arrangements for assuring employee competence and with employee training records.
S 321.8.2	Not Used.
S 321.8.3	For roles where no suitable recognised competence standards exist, the <i>Supplier</i> provides information against the criteria and method it has used to



	provide assurance of the competence of its employees for those roles.
<b>S 321.9</b>	<b>Not used</b>
<b>S 321.10</b>	<b>Not used</b>
<b>S 321.11</b>	<b>Not used</b>
<b>S 321.12</b>	<b>Health and Safety Management Audit</b>
	The <i>Supplier</i> allows the <i>Purchaser</i> unrestricted access during contracted hours, to the premises, equipment, materials, employees and records of the <i>Supplier</i> and any subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) (unless a statutory or contractual obligation prohibits the disclosure of any such records) to audit any, or all of the <i>Supplier's</i> health and safety management systems. The <i>Supplier</i> includes, in all subcontracts, the rights of access for the <i>Purchaser</i> .
	The <i>Supplier</i> implements all recommendations from these audits that are agreed with the <i>Purchaser</i> , within a timescale agreed with the <i>Purchaser</i> .
<b>S 321.13</b>	<b>Not Used</b>
<b>S 321.14</b>	<b>Not Used</b>
<b>S 321.15</b>	<b>Not Used</b>
<b>S 321.16</b>	<b>Not Used</b>
<b>S 321.17</b>	<b>Not Used</b>
<b>S 321.18</b>	<b>Not Used</b>
<b>S 321.19</b>	<b>Not Used</b>
<b>S 321.20</b>	<b>Not Used</b>
<b>S 321.21</b>	<b>Not Used</b>
<b>S 321.22</b>	<b>Not Used</b>
<b>S 321.23</b>	<b>Home Safe and Well Approach</b>
S 321.23.1	<p>The <i>Supplier</i> submits to the <i>Purchaser</i> for acceptance, a strategy of how it will operate around the <i>Purchaser's</i> "Home Safe and well" approach.</p> <p>The <i>Supplier</i> commits and contributes to the <i>Purchaser's</i> "Home Safe and Well" approach by defining its own commitment to getting everyone home safe and well and considers where a positive difference can be added.</p> <p>The <i>Supplier</i></p>

	<ul style="list-style-type: none"><li>• considers how its role in connecting the country can really make a difference and embed safety as the first imperative across all areas of responsibility,</li><li>• recognises the behaviours that enable the culture change required to achieve the <i>Purchaser's</i> vision and deliver the objectives of the organisation,</li><li>• engages and collaborates as appropriate with the wider business, supply chain and other stakeholders to promote health, safety and wellbeing, recognising behaviours that bring "Home Safe and Well" to life,</li><li>• is responsible and accountable for the health, safety and wellbeing of those employed by the <i>Supplier</i> and those the <i>Supplier</i> works with in Providing the Goods.</li></ul>
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**S 322 Intellectual Property Rights**

S 322.1	The <i>Purchaser</i> owns (or will own) all IPRs in material prepared in connection with the contract, except as stated otherwise in the Scope. To the extent that these IPRs do not automatically belong to the <i>Purchaser</i> , the <i>Supplier</i> enters into such documents and does such acts as the <i>Purchaser</i> requests to transfer the IPRs to the <i>Purchaser</i> and procures that its subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) do the same. The <i>Supplier</i> provides to the <i>Purchaser</i> , the documents which transfer these IPRs to the <i>Purchaser</i> .
S 322.2	<p>The <i>Supplier</i> obtains perpetual, royalty-free, non-exclusive, assignable and irrevocable licences (capable of being sub-licensed to a third party, who also has the right to grant further sub-licences) of other IPRs for the <i>Purchaser</i> as stated in the Scope. Any licence granted under this clause survives the termination or expiry of the contract and cannot be terminated by the <i>Supplier</i> or its assignees or any third party. The <i>Supplier</i> provides to the <i>Purchaser</i> the documents which license these IPRs to the <i>Purchaser</i>.</p> <p>The <i>Supplier's</i> or third-party licensor's exclusive remedies for any breach by the <i>Purchaser</i>, or any sub-licensee, of any licence granted under this clause, are damages and equitable relief.</p>
S 322.3	The <i>Supplier</i> ensures that any subcontract (at any stage of remoteness from the <i>Purchaser</i> ) contains a right for the <i>Purchaser</i> (enforceable in accordance with the Contracts (Rights of Third Parties) Act 1999) to enforce the obligations in this clause.

**S 323 Transfer of Rights****S 324 *Supplier's* rights over material prepared for the design of the goods**

S 324.1	The <i>Supplier</i> acquires no rights over material prepared for the design of the goods.
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**S 325 Other rights to be obtained by the *Supplier***

S 325.1	The <i>Supplier</i> grants to the <i>Purchaser</i> licences to use, modify and develop the <i>Supplier's</i> Supplier Background IPR for any purpose relating to Providing the Goods (or substantially equivalent services) its maintenance, operation, modification and for any purpose relating to the exercise of the <i>Purchaser's</i> business or function.
S 325.2	The <i>Supplier</i> procures a direct grant of a licence to the <i>Purchaser</i> to use, modify and develop any third party's Supplier Background IPR for any purpose relating to Providing the Goods, (or substantially equivalent services), its maintenance, operation, modification and for any purpose relating to the exercise of the <i>Purchaser's</i> business or function.
S 325.3	The <i>Purchaser</i> does not acquire any ownership right, title or interest in or to the Supplier Background IPR.
S 325.4	The <i>Supplier</i> does not acquire any ownership right, title or interest in, or to, the <i>Purchaser's</i> IPR.
S 325.5	The <i>Supplier</i> only uses material provided by the <i>Purchaser</i> to Provide the Goods

**S 326 Records and reporting for small, medium and micro enterprises**

S 326.1

For each small, medium and micro enterprises (SME) employed on the contract, as defined in the table below: -

Company category	Staff headcount	Turnover	or	Balance sheet total
Medium size	<250	< £50 m		< £43 m
Small	<50	< £10 m		< £ 10 m
Micro	<10	< £2 m		< £ 2m

the *Supplier* reports to the *Purchaser* each quarter from the *starting date* until the final *delivery date*

- the name of the SME,
- the class of SME (Small, Medium or Micro),
- the value of the contract undertaken by the SME,
- the monthly amounts paid to the SME in the quarter and
- the aggregated value paid to the SME since the *starting date*.

S 326.2

The *Supplier* acknowledges that the *Purchaser* may

	<ul style="list-style-type: none"> <li>publish the information supplied under this section, along with the <i>Supplier's</i> name and the name of the contract and</li> <li>pass the information supplied under this section S 340 to any Government Department who may then publish it along with the names of the SMEs, the <i>Supplier's</i> name or the contract.</li> </ul>
S 326.3	<p>The <i>Supplier</i> ensures that the <i>conditions of contract</i> for each subcontractor who is an SME include</p> <ul style="list-style-type: none"> <li>a term allowing the <i>Purchaser</i> to publish the information supplied under this section and</li> <li>obligations similar to those set out in this section.</li> </ul>
S 326.4	<p>The <i>Supplier</i> further ensures that the <i>conditions of contract</i> for each subcontractor include a requirement that the <i>conditions of contract</i> for any further sub-subcontractor engaged by the subcontractor who is an SME include obligations similar to those set out in this section.</p>
<b>S 327 Official Secrets Act</b>	
S 327.1	<p>The Official Secrets Act applies to the contract from the <i>starting date</i> until the <i>end date</i>.</p>
S 327.2	<p>The <i>Supplier</i> notifies its employees and subcontractor (at any stage of remoteness from the <i>Purchaser</i>) of its duties under the Official Secrets Act 1989 (see link in <b>Annex 02</b>.)</p>
S 327.3	<p>A failure to comply with this section is treated as a substantial failure by the <i>Supplier</i> to comply with the contract.</p>
<b>S 328 Disclosure Requests</b>	
S 328.1	<p>The <i>Supplier</i> acknowledges that the <i>Purchaser</i> may receive a Disclosure Request and the <i>Purchaser</i> may be obliged (subject to the application of any relevant exemption and where applicable the Public Interest Test to disclose information (including commercial sensitive information) pursuant to a Disclosure Request. Where practicable the <i>Purchaser</i>, consults with the <i>Supplier</i> before doing so in accordance with "Cabinet Office Freedom of Information Code of Practice July 2018" (see link in <b>Annex 02</b>). The <i>Supplier</i> responds to any consultation within any deadlines set by the <i>Purchaser</i> and to the satisfaction of the <i>Purchaser</i>. The <i>Supplier</i> acknowledges that it is for the <i>Purchaser</i> to determine whether such information will be disclosed.</p>
S 328.2	<p>When requested to do so by the <i>Purchaser</i>, the <i>Supplier</i> promptly provides information in its possession relating to the contract and assists and co-operates to enable the <i>Purchaser</i> to respond to a Disclosure Request within the time limit set out in the relevant legislation which are listed in Annex 02 Reference document (see links in <b>Annex 02</b>).</p>

S 328.3	The <i>Supplier</i> promptly passes any Disclosure Request it receives to the <i>Purchaser</i> . The <i>Supplier</i> does not respond directly to a Disclosure Request unless instructed by the <i>Purchaser</i> .
S 328.4	The <i>Supplier</i> acknowledges that the <i>Purchaser</i> is obliged to publish information relating to the contract in accordance with Procurement Policy Note 01/17 “Update to Transparency Principles” dated 6 February 2017 (see link in <b>Annex 02</b> ) except to the extent that any information in it is exempt from disclosure pursuant to the Freedom of Information Act 2000 (see link in <b>Annex 02</b> ). The <i>Purchaser</i> consults with the <i>Supplier</i> before deciding whether the information is exempt, but the <i>Supplier</i> acknowledges that the <i>Purchaser</i> has the final decision (see links in <b>Annex 02</b> ).
S 328.5	<p>In accordance with PPN 01/17 the <i>Supplier</i></p> <ul style="list-style-type: none"><li>• co-operates with and assists the <i>Purchaser</i> to enable the <i>Purchaser</i> to comply with its obligations to publish information or</li><li>• agrees with the <i>Purchaser</i> a schedule for the release to the public of information relating to the <i>Purchaser</i>,</li><li>• provides information to assist the <i>Purchaser</i> in responding to queries from the public as required by the <i>Purchaser</i> and</li><li>• supplies the <i>Purchaser</i> with financial data relating to the contract in the form and in the times specified.</li></ul>
S 328.6	The <i>Supplier</i> acknowledges that the <i>Purchaser</i> is obliged to publish the provisions of the contract in accordance with the Crown Commercial Service’s Guidance Note “Publication of Central Government Tenders and Contracts” dated November 2017 (see link in <b>Annex 02</b> ), except to the extent in it is exempt from disclosure pursuant to the Freedom of Information Act 2000. The <i>Purchaser</i> consults with the <i>Supplier</i> before deciding whether the information is exempt, but the <i>Supplier</i> acknowledges that the <i>Purchaser</i> has the final decision. The <i>Supplier</i> co-operates with and assists the <i>Purchaser</i> to publish the contract in accordance with the <i>Purchaser</i> ’s obligation (see links in <b>Annex 02</b> ).
<b>S 329 Not used</b>	
<b>S 330 Continual Improvement and Innovation</b>	
S 330.1	The <i>Supplier</i> operates processes for delivering Lean Continuous Improvement and Structured Innovation. A “Structured Innovation Guide” is provided for reference (see link in <b>Annex 02</b> ), although the <i>Purchaser</i> accepts that other methods may be adopted by the <i>Supplier</i> .

<b>S 331 Discrimination, Bullying and Harassment</b>	
S 331.1	The <i>Supplier</i> does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Discrimination Acts.
S 331.2	In Providing the Goods, the <i>Supplier</i> co-operates with and assists the <i>Purchaser</i> to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups.
S 331.3	<p>The <i>Supplier</i> ensures that it's employees, or subcontractor employees (at any stage or remoteness from the <i>Purchaser</i>) comply with the <i>Purchaser's</i> requirements.</p> <p>Where a <i>Supplier</i> is required to carry out any activity on the <i>Purchaser's</i> premises or alongside the <i>Purchaser's</i> employees on any other premises comply with</p> <p>the requirements of the Discrimination Acts and</p> <p>codes of practice relating to discrimination and equal opportunities (see links in <b>Annex 02</b>).</p>
S 331.4	<p>The <i>Supplier</i> notifies the <i>Purchaser</i> as soon as it becomes aware of any investigation or proceedings brought against the <i>Supplier</i> under the Discrimination Acts in connection with the contract and</p> <p>provides any information requested by the investigating body, court or tribunal in the timescale allotted,</p> <p>attends (and permits a representative from the <i>Purchaser</i> to attend) any associated meetings,</p> <p>promptly allows access to any relevant documents and information and</p> <p>co-operates fully and promptly with the investigatory body, court or tribunal.</p>
S 331.5	The <i>Supplier</i> complies with all applicable human rights and employment laws in the jurisdictions in which they work and have robust means of ensuring that the subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) also comply.
S 331.6	<p>The <i>Supplier</i> carries out an annual audit to monitor its compliance with the Modern Slavery Act 2015 (see link in Annex 02), which covers all its obligations under all its existing <i>Purchaser</i> contracts. The <i>Supplier</i> prepares and delivers to the <i>Purchaser</i> no later than 1<sup>st</sup> August each year an annual</p> <ul style="list-style-type: none"> <li>• slavery and human trafficking report,</li> <li>• transparency statement and</li> </ul>

	<ul style="list-style-type: none"> <li>a risk register with mitigating actions</li> </ul> <p>which complies with the Modern Slavery Act 2015 and sets out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.</p>
S 331.7	The <i>Supplier</i> notifies the <i>Purchaser</i> as soon as it becomes aware of any actual or suspected slavery or human trafficking in any of its supply chains or any part of its business.
S 331.8	The <i>Supplier</i> does not purchase any raw materials, resources or products that have been sourced from producers or manufacturers using forced labour and child labour in its operations or practice.
S 331.9	The <i>Supplier</i> ensures that any subcontractor (at any stage of remoteness from the <i>Purchaser</i> ) contains provisions to the same effect as this section S 331. The <i>Supplier</i> implements due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the contract.
S 331.10	The <i>Supplier</i> ensures that its Staff and subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) have not been convicted of slavery or human trafficking offences anywhere in the world.
S 331.11	The <i>Supplier</i> reports the discovery or suspicion of any slavery or trafficking by it or its subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) to the <i>Purchaser</i> and the Modern Slavery Helpline (see details in <b>Annex 02</b> ).
S 331.12	The <i>Supplier</i> complies (and ensures that any subcontractor complies) with the <i>Purchaser's</i> "Respect at Work" policy (see link in <b>Annex 02</b> ) relating to bullying and harassment. If the <i>Purchaser</i> considers that the presence or conduct of any Staff or subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) at any location relevant to Providing the Goods is undesirable or in breach of the <i>Purchaser's</i> policies, the <i>Purchaser</i> instructs the <i>Supplier</i> to implement corrective action.
S 331.13	The <i>Supplier</i> ensures that any subcontract (at any stage of remoteness from the <i>Purchaser</i> ) relevant to Providing the Goods, contains provisions to the same effect as this section. The <i>Supplier</i> may propose to the <i>Purchaser</i> for acceptance, that a specific subcontract (at any stage of remoteness from the <i>Purchaser</i> ) relevant to the performance of the <i>service</i> , does not comply with the requirements of this section S 331. The <i>Supplier</i> provides a detailed reason for not including some or all of the requirements of this section S 331 in the specific contract. The <i>Supplier</i> provides further detail when requested by the <i>Purchaser</i> to assist their consideration. If accepted by the <i>Purchaser</i> , the <i>Supplier</i> is relieved from including some or all of the requirements of this section S 331 in the specific contract.
S 331.12	A failure to comply with this section is treated as a substantial failure by the <i>Supplier</i> to comply with the contract.

S 332 Energy Efficiency Directive	
S 332.1	<p>The <i>Supplier</i> supports the achievement of the</p> <ul style="list-style-type: none"> <li>• <i>Purchaser's</i> carbon management ambition in its “sustainable development strategy” carbon management ambition,</li> <li>• carbon management and energy efficiency requirements stated in GG 103 “Introduction and general requirements for sustainable development and design” and</li> <li>• <i>Purchaser's</i> compliance with the Procurement Policy Note 7/14 entitled “Implementing Article 6 of the Energy Efficiency Directive” (“PPN 7/14”) and any related supplementary Procurement Policy Notes</li> </ul> <p>when Providing the Goods (See links in <b>Annex 02</b>).</p>
S 332.2	<p>In complying with the requirements of Procurement Policy Note 7/14, the <i>Supplier</i></p> <ul style="list-style-type: none"> <li>• ensures that any new products for use partly or wholly in Providing the Goods, purchased by either the <i>Supplier</i> or a subcontractor (at any stage of remoteness to the <i>Purchaser</i>) complies with the standard for products in the directive “2012/27/EU” (see link at <b>Annex 02</b>) and</li> <li>• provides evidence to the <i>Purchaser</i> to demonstrate how any new products for use partly or wholly in Providing the Goods, purchased by either the <i>Purchaser</i> or a subcontractor (at any stage of remoteness to the <i>Purchaser</i>) complies with the requirements of PPN 7/14.</li> </ul>
Air Quality Strategy	
S 332.3	<p>The <i>Purchaser's</i> “air quality strategy” sets out how it ensures that all activity on the strategic road network is delivered in a way that not only minimises harm, but ultimately improves the environment including air quality. In Providing the Goods, the <i>Supplier</i> supports the <i>Purchaser's</i> delivery plan (see links in <b>Annex 02</b>) aim to improve air quality in the United Kingdom and to deliver nitrogen dioxide compliance at the roadside.</p>
S 332.4	<p>The <i>Supplier</i></p> <ul style="list-style-type: none"> <li>• ensures that any new vehicles purchased for use partly or wholly in Providing the Goods comply with the minimum mandatory standards in Government Buying Standards Transport 2017 (see link at <b>Annex 02</b>) and</li> <li>• when requested by the <i>Purchaser</i>, works in collaboration with the <i>Purchaser</i> to prepare reports to identify how the best practice standards detailed in the Government Buying Standards Transport 2017 can be achieved. Report findings help inform setting standards for future highways contracts and any subsequent action by the <i>Supplier</i> helps reduce emissions of harmful pollutants when Providing the Goods.</li> </ul>



<b>S 333 Environmental and sustainability requirements</b>	
S 333.1	In Providing the Goods the <i>Supplier</i> supports the improvement of environmental and sustainable outcomes to protect, manage and enhance the quality of the surrounding environment, with a focus on people and the built, natural and historic environment.
S 333.2	The <i>Supplier</i> complies with environmental legislation the <i>Purchaser's</i> Licence the <i>Purchaser's</i> environmental strategy, and the <i>Purchaser's</i> "sustainable development strategy" when Providing the Goods (see links at <b>Annex 02</b> ).
S 333.3	Not Used.
S 333.4	In Providing the Goods, the <i>Supplier</i> considers the importance and value of biodiversity and mitigates the impact on wildlife and looks for opportunities in Providing the Goods to provide biodiversity enhancements.
S 333.5	Not Used.
S.333.6	The <i>Supplier</i> ensures that the <i>Purchaser's</i> responsibilities and opportunities within the "Government Buying Standards" are delivered when Providing the Goods (see link at <b>Annex 02</b> ).
S.333.7	The <i>Supplier</i> demonstrates efficiency in resource use and maximisation of re-use and recycling of materials to support the circular economy ambition stated in the <i>Purchaser's</i> "sustainable development strategy" (see link in <b>Annex 02</b> ) and ensures that any subcontractors (at any stage of remoteness to the <i>Purchaser</i> ) demonstrate efficiency to the same effect.
<b>S 334 People Strategy</b>	
<b>S 334.1</b>	<b>Equality, Diversity and Inclusion</b>
S 334.1.1	<p>The <i>Supplier</i> assists the <i>Purchaser</i> in achieving its equality, diversity and inclusion (EDI) ambition to build an inclusive culture. An inclusive culture encourages, supports and celebrates diverse voices to improve the experience of the <i>Purchaser's</i> employees, its supply chain (at any stage of remoteness from the <i>Purchaser</i>) and its customers. The <i>Purchaser's</i> intention is to embed principles of equality, diversity and inclusion into all areas of its business, driving real change in how it works with its customers and communities, its supply chain (at any stage of remoteness from the <i>Purchaser</i>) and its employees.</p> <p>The <i>Purchaser</i> believes that to achieve its vision of being the world's leading road operator it needs to deliver an inclusive, accessible road network and services that meet the needs of the diverse customers and communities it serves.</p>

	<p>This requires the <i>Purchaser</i> to work collaboratively with its diverse supply chain (at any stage of remoteness from the <i>Purchaser</i>) so that its working practices are inclusive, and the strategic road network is accessible and integrated for both its users and communities living alongside the network.</p> <p>The <i>Purchaser</i> therefore requires the <i>Supplier</i> to demonstrate how it develops an iterative approach in supporting the <i>Purchaser</i> and in meeting its equality, diversity and inclusion ambitions in Providing the Goods.</p> <p>The <i>Purchaser</i> also believes that to achieve outstanding performance it needs to attract, recruit, develop and retain talented people from all groups within the active labour force and then work to ensure an inclusive environment in which all can thrive.</p> <p>The <i>Purchaser</i> expects its supply chain (at any stage of remoteness from the <i>Purchaser</i>) to share and promote the same values in terms of equality, diversity and inclusion as well as actively support its wider vision.</p>
<b>S 334.2</b>	<b>Inclusion Action Plan</b>
S 334.2.1	Not used
S 334.2.2	<p>The IAP names an individual from the <i>Supplier</i> to act as the EDI lead to</p> <ul style="list-style-type: none"> <li>• be responsible for ensuring the implementation and ongoing development of the IAP,</li> <li>• ensure quarterly reports and information are provided as required,</li> <li>• facilitate continuous improvement reviews and</li> <li>• act as a single point of contact on all matters concerning EDI.</li> </ul>
S 334.2.3	<p>The <i>Supplier</i> prepares an IAP in accordance with the template provided in <b>Annex 05</b> The <i>Supplier</i> submits it to the <i>Purchaser</i> for acceptance within 12 weeks of the <i>starting date</i>, to demonstrate how it develops an iterative approach to supporting the <i>Purchaser</i> in meeting its EDI objectives throughout the supply period.</p>
S 334.2.4	<p>All relevant information for the submission is to be included. The total IAP does not exceed 20 pages except for any appendices. Any appendices only include relevant policies, as any other information will not be considered.</p> <p>The IAP includes</p> <ul style="list-style-type: none"> <li>• current EDI position/ baseline - what does the <i>Supplier's</i> baseline data say about where it is (this provides some guidance as to the additional actions to be taken or actions to be dis/continued),</li> <li>• action/ task – what the <i>Supplier</i> does to meet the requirements,</li> <li>• when does this happen – when does the <i>Supplier</i> take the action specified above,</li> <li>• responsible officer – who within the <i>Supplier's</i> organisation is responsible for this action,</li> </ul>

	<ul style="list-style-type: none"> <li>• resource - the <i>Supplier</i> considers the resources needed to act over and above the responsible officer and</li> <li>• measure of success (outcome/ key performance indicators (KPIs)) – what does success look like? How does the <i>Supplier</i> know it has made a tangible difference? What difference has this activity made?</li> </ul>
S 334.2.5	<p>A reason for the <i>Purchaser</i> not accepting the IAP is that</p> <ul style="list-style-type: none"> <li>• it does not demonstrate how the requirements are passed down to any subcontractor (at any stage of remoteness from the <i>Purchaser</i>),</li> <li>• it has not used data or intelligence to identify priorities or actions for the plan,</li> <li>• it does not demonstrate how the <i>Supplier</i> <ul style="list-style-type: none"> <li>◦ ensures the working culture, practice and environment is inclusive,</li> <li>◦ considers and understands the diverse needs of customers and neighbouring communities,</li> <li>◦ holds itself and any subcontractor (at any stage of remoteness from the <i>Purchaser</i>) to account in delivering the plan,</li> <li>◦ monitors and evidence year on year improvements or</li> <li>◦ it does not meet the aims of the equality duties contained within the Discrimination Acts and set out in section S xxx Discrimination of the Scope.</li> </ul> </li> </ul>
S 334.2.6	<p>Every six months, the <i>Supplier</i> prepares a progress report against the IAP. The <i>Supplier</i> provides a copy to the <i>Purchaser</i> within 14 days of the end of each six-monthly period. The <i>Purchaser's</i> or [EDI] team reviews and scores the IAP in line with the Collaborative Performance Framework (CPF) non road metrics.</p>
<b>S 335 Offshoring of data</b>	
S 335.1	<p>In this section Risk Assessment is a full risk assessment and security review carried out by the <i>Supplier</i> and submitted to the <i>Purchaser</i> in accordance with the HMG Security Policy Framework (SPF) (see <b>Annex 02</b>) and the “National Highways Information Security Policy” (see <b>Annex 02</b>).</p>
S 335.2	<p>The <i>Supplier</i> does not engage in any Offshoring activity inclusive but not limited to storing data, providing services or solutions that is classified in the OFFICIAL tier or higher in accordance with the “HMG Government Security Classifications” (see <b>Annex 02</b>).</p> <p>The <i>Supplier</i> does not</p> <ul style="list-style-type: none"> <li>• keep any data offshore</li> <li>• allow in any way for data to be accessed from an offshore location</li> </ul>

	<ul style="list-style-type: none"><li>• host the <i>Purchaser's</i> project systems, services or information outside the UK</li><li>• allow staff based outside the UK to have access to the <i>Purchaser's</i> systems, services or information</li><li>• develop system applications outside the UK, or</li><li>• send diagnostic data to an organisation outside the UK as a result of break / fix activity</li></ul> <p>until the <i>Purchaser</i> has confirmed to the <i>Supplier</i> that</p> <ul style="list-style-type: none"><li>• the <i>Purchaser</i> has gained approval for such action in accordance with the "National Highways Information Security Policy" (see <b>Annex 02</b>) or</li><li>• such approval is not required.</li></ul>
S 335.3	<p>The <i>Supplier</i> ensures that no offshore premises are used in Providing the Goods until</p> <ul style="list-style-type: none"><li>• such premises have passed a Risk Assessment or</li><li>• the <i>Purchaser</i> confirms to the <i>Supplier</i> that no Risk Assessment is required.</li></ul>
S 335.4	<p>The <i>Supplier</i> complies with a request from the <i>Purchaser</i> to provide any information required to allow the <i>Purchaser</i> to</p> <ul style="list-style-type: none"><li>• gain approval for storing data or allowing access to data from an offshore location in accordance with S 335.2 or</li><li>• conduct a Risk Assessment for any premises in accordance with S 335.3.</li></ul>
S 335.5	<p>The <i>Supplier</i> ensures that any subcontract (at any stage of remoteness from the <i>Purchaser</i>) contains provisions to the same effect as this clause.</p>
S 335.6	<p>A failure to comply with this section is treated as a substantial failure by the <i>Supplier</i> to comply with the contract.</p>
<b>S 336 Data Protection</b>	
S 336.1	<p>For the purposes of the contract and the Data Protection Legislation</p> <ul style="list-style-type: none"><li>• for the purposes of this section S 336 only, the <i>Purchaser</i> is the Data Controller unless otherwise specified in schedule A (in <b>Annex 06</b>),</li><li>• the <i>Supplier</i> is the Processor [unless otherwise specified in schedule A and</li><li>• this section [and schedule A (data protection) (<b>Annex 06</b>) constitutes a data processing agreement where required by the Data Protection Legislation.</li></ul>

S 336.2	The Supplier processes the Data in accordance with the Data Protection Legislation and only to the extent necessary for the purpose of supplying the Goods.
S 336.3	The Supplier does not knowingly do anything or permit anything to be done which might lead to a breach of the Data Protection Legislation by either Party.
S 336.4	The <i>Supplier</i> obtains and maintains, until the end of the supply period all registrations and notifications that it is obliged to obtain and maintain pursuant to the Data Protection Legislation (see link in <b>Annex 02</b> ) in respect of Providing the Goods.
S 336.5	<p>The <i>Supplier</i> only processes Data to the extent that it relates to</p> <ul style="list-style-type: none"><li>• the types of Data,</li><li>• the categories of Data Subject and</li><li>• the nature and purpose</li></ul> <p>as set out in schedule A (data protection, in <b>Annex 06</b>) and only for the duration specified in schedule A (data protection).</p>
S 336.6	Without prejudice to paragraph S 336.2 the <i>Supplier</i> processes the Data only in accordance with the instructions of the <i>Purchaser</i> unless the Supplier is required to process Data for other reasons under the laws of the United Kingdom or European Union (or a member state of the EEA) to which the <i>Supplier</i> is subject. If the <i>Supplier</i> is required to process the Data for these other reasons, it informs the <i>Purchaser</i> before carrying out the processing, unless prohibited by relevant law.
S 336.7	The <i>Supplier</i> immediately informs the <i>Purchaser</i> if it believes that an instruction infringes the Data Protection Legislation or any other applicable law.
S 336.8	<p>The <i>Supplier</i></p> <ul style="list-style-type: none"><li>• implements and maintains Protective Measures which take into account the nature, scope, context and purpose of processing the Data and</li><li>• implements adequate security programmes and procedures to ensure that unauthorised persons do not have access to the Data or to any equipment used to process the Data.</li></ul> <p>The <i>Supplier</i> ensures that its processing is in accordance with the Data Protection Legislation and protects the rights of Data Subjects.</p>
S 336.9	The <i>Supplier</i> submits details of its Protective Measures to the Purchaser for acceptance. A reason for not accepting them is that they are not appropriate to protect against a Security Incident. Acceptance (or a failure to reject) by

	the Purchaser does not amount to acceptance by the Purchaser of the adequacy of the Protective Measures.
S 336.10	The <i>Supplier</i> ensures that all persons authorised to process Data are bound by obligations equivalent to those set out in the Scope ("Confidentiality") and this annex and are aware of the Supplier's obligations under the contract and the Data Protection Legislation.
S 336.11	The <i>Supplier</i> ensures that access to the Data is limited to those persons who need access in order for the <i>Supplier</i> to Provide the Goods and (in each case) to such parts of the Data as are strictly necessary for the performance of that person's duties.
S 336.12	Not Used
S 336.13	On request, the <i>Supplier</i> , takes all necessary actions and provides the <i>Purchaser</i> with all reasonable assistance necessary for the <i>Purchaser</i> to comply with a Data Subject Access Request.
S 336.14	<p>The <i>Supplier</i> immediately notifies the <i>Purchaser</i> if it receives</p> <ul style="list-style-type: none"><li>• a Data Subject Access Request (or purported Data Subject Access Request),</li><li>• a complaint or request relating to the <i>Purchaser's</i> obligations under the Data Protection Legislation or</li><li>• a request from any Supervisory Authority for assistance or information, unless provided by relevant law.</li></ul>
S 336.15	<p>The <i>Supplier</i> assists and co-operates with the <i>Purchaser</i> in relation to any complaint or Data Subject Request received pursuant to paragraph S 336.14, including</p> <ul style="list-style-type: none"><li>• providing full details of the complaint or Data Subject Access Request,</li><li>• complying with the Data Subject Request within the time limits set out in the Data Protection Legislation and in accordance with the instructions of the <i>Purchaser</i> and</li><li>• promptly providing the <i>Purchaser</i> with any Personal Data and any other information requested to enable the <i>Purchaser</i> to respond within the time limits to the Data Subject Request.</li></ul>
S 336.16	<p>The <i>Supplier</i> does not process the Data outside the EEA (other than in the United Kingdom) without the agreement of the <i>Purchaser</i>. Where the <i>Purchaser</i> agrees, the <i>Supplier</i></p> <ul style="list-style-type: none"><li>• provides evidence (acceptable to the <i>Purchaser</i>) of appropriate safeguards as required by the Data Protection Legislation and</li><li>• complies with the instructions of the <i>Purchaser</i>.</li></ul>

S 336.17	The <i>Supplier</i> complies with the requirements of the <i>Purchaser</i> and the <i>Purchaser</i> in relation to the storage, dispatch and disposal of Data in any form or medium. Any requirement for the <i>Supplier</i> to destroy or delete copies of the Data is subject to any law of the European Union, the United Kingdom or a member state of the EEA to which the <i>Supplier</i> is subject that requires Data to be retained.
S 336.18	<p>The <i>Supplier</i> notifies the <i>Purchaser</i> as soon as it becomes aware of a Security Incident or any other breach of this section. The notification includes, as far as possible</p> <ul style="list-style-type: none"><li>• a description of the nature of the Security Incident, including the categories and approximate number of Data Subjects concerned,</li><li>• the likely consequences of the breach and</li><li>• the Protective Measures taken, or to be taken, to address the breach, including measures taken to mitigate any possible adverse effects.</li></ul>
S 336.19	In the event of a Security Incident, the <i>Supplier</i> provides the <i>Purchaser</i> with full co-operation and assistance in dealing with the Security Incident, in particular, notifying individuals affected by the Security Incident or a Supervisory Authority as required by the Data Protection Legislation and in accordance with the instructions of the <i>Purchaser</i> .
S 336.20	On request the <i>Supplier</i> provides to the <i>Purchaser</i> all necessary information to demonstrate the <i>Supplier's</i> compliance with this section.
S 336.21	On request the <i>Supplier</i> provides to the <i>Purchaser</i> all necessary information to demonstrate the <i>Supplier's</i> compliance with this section.
S 336.22	<p>The <i>Supplier</i> promptly provides all assistance and information requested by any Supervisory Authority or required by the <i>Purchaser</i> in order for the <i>Purchaser</i> to ensure compliance with its obligations under the Data Protection Legislation, including in relation to</p> <ul style="list-style-type: none"><li>• security of processing,</li><li>• preparation of any necessary Data Protection Impact Assessments and</li><li>• undertaking any necessary data protection consultations of Supervisory Authorities.</li></ul>
S 336.23	<p>The <i>Supplier</i> maintains electronic records of all processing activities carried out on behalf of the <i>Purchaser</i>, including</p> <ul style="list-style-type: none"><li>• the information described in paragraph S 336.5,</li><li>• The different types of processing of Data being carried out (if applicable),</li></ul>

	<ul style="list-style-type: none"><li>• any transfers of Data outside the EEA or the United Kingdom, identifying the relevant country or international organisations and any documentation required to demonstrate suitable safeguards and</li><li>• a description of the technical and organisation security measures referred to in paragraph S 336.9.</li></ul> <p>The <i>Supplier</i> makes these records available to the <i>Purchaser</i> promptly on request.</p>
S 336.24	<p>Before allowing any Sub-Processor to process any Personal Data related to the contract, the <i>Supplier</i></p> <ul style="list-style-type: none"><li>• notifies the <i>Purchaser</i> in writing of the intended Sub-Processor and processing,</li><li>• obtains the agreement of the <i>Purchaser</i>,</li><li>• enters into a written agreement with the Sub-Processor which gives effect to the terms set out in the contract such that they apply to the Sub-Processor and</li><li>• provides the <i>Purchaser</i> with such information regarding the Sub-Processor as the <i>Purchaser</i> may reasonably require.</li></ul>
S 336.25	<p>The <i>Purchaser</i> may, at any time revise this section S 336 and Annex 08 by replacing it with any applicable controller to processor standard provisions or similar terms forming part of an applicable certification scheme.</p>
S 336.26	<p>The Parties agree to take account of any guidance issued by the “Information Commissioner’s Office”.</p>
S 336.27	<p>Each Party designates its own Data Protection Officer if required by the Data Protection Legislation.</p>
S 336.28	<p>Not used</p>
S 336.29	<p>A failure to comply with this section S 336 is treated as a substantial failure by the <i>Supplier</i> to comply with the contract.</p>
<b>S 337 Information Systems &amp; Security</b>	
S 337.1	<p>This section sets out the requirements in respect of Information Systems, including systems that</p> <ul style="list-style-type: none"><li>• are developed, procured, provided and made available to the <i>Purchaser</i> by the <i>Supplier</i> for the purposes of performing the information requirements under the contract,</li><li>• are developed, procured and provided by the <i>Supplier</i> relating to its own corporate business and operations of performing the information requirements under the contract,</li></ul>



	<ul style="list-style-type: none"><li>• are provided or made available by the <i>Purchaser</i> for use by the <i>Supplier</i> for the purposes of performing the information requirements under the contract, and</li><li>• are likely to be provided or made available by the <i>Purchaser</i> for use by the <i>Supplier</i> for the purposes of performing the information requirements under the contract.</li></ul>
S 337.2	<p>To the extent that the <i>Supplier</i> is required to create or maintain any information under the contract in electronic format, the <i>Supplier</i> ensures that, at all times</p> <ul style="list-style-type: none"><li>• such a format is agreed with the <i>Purchaser</i>,</li><li>• such information is maintained to allow fast and efficient electronic transfer of information to the <i>Purchaser</i> or Others<ul style="list-style-type: none"><li>○ without additional costs to the <i>Purchaser</i> or Others</li><li>○ the need for complex, expensive procedures or processes, and</li><li>○ in any event in such format as complies with the <i>Purchaser's</i> requirements for such transfer,</li></ul></li><li>• such information is backed up and copies are held in offsite storage in accordance with procedures agreed with the <i>Purchaser</i> and</li><li>• it implements and complies with (and ensures that its sub-Suppliers implement and comply with) all procedures for information back-up and off-site storage referred to in this paragraph.</li></ul>
S 337.3	<p>The <i>Supplier</i> maintains all its Information Systems so as to enable its segregation from any other computer or electronic storage devices, systems, materials or information of the <i>Supplier</i> and transfer to the <i>Purchaser</i> or an Incoming <i>Supplier</i>, efficiently and without additional expense or delay immediately on termination or expiry of the contract.</p>
S 337.4	<p>The <i>Supplier</i> complies with the information management system (IMS) a platform outlining additional information for the processes of data and information requirements, which is available at <a href="https://nationalhighways.co.uk/our-work/digital-data-and-technology/information-management-system/">https://nationalhighways.co.uk/our-work/digital-data-and-technology/information-management-system/</a></p>
<b>S 337.5</b>	<b>Supplier Information Systems</b>
S 337.5.1	<p>At the <i>starting date</i>, the <i>Supplier</i></p> <ul style="list-style-type: none"><li>• has in place and provides or makes available to the <i>Purchaser</i>, appropriate Information Systems (and relevant hardware required to use such Information Systems) of the type set out in section S 337.12 and S 337.13, to comply with the <i>Purchaser</i> information requirements and the contract management information requirements,</li></ul>

	<ul style="list-style-type: none"> <li>has in place Information Systems (electronic or otherwise) of the type set out in the non-exhaustive list in Table 1 (S 337.13), to comply with the <i>Supplier</i> information requirements concerning its own corporate business and operations and</li> <li>has proof of compliance with the His Majesty's Government (HMG) Security Policy Framework (SPF) (see link in <b>Annex 2</b>) in respect of those Information Systems.</li> </ul>
<b>S 337.6</b>	<b>Purchaser's Information Systems &amp; Training</b>
S 337.6.1	Unless otherwise agreed with the <i>Purchaser</i> , the <i>Supplier</i> uses and interfaces with the <i>Purchaser's</i> current systems (Table 2, in S 337.14 below).
S 337.6.2	The <i>Purchaser</i> provides relevant training for all relevant systems provided by the <i>Purchaser</i> that are listed in this section (Information Systems and Security).
S 337.6.3	The <i>Supplier</i> proposes a list of appropriate Staff to be trained for each requirement for acceptance by the <i>Purchaser</i> . The <i>Supplier</i> liaises with the <i>Purchaser</i> to programme the training to optimise efficiencies.
<b>S 337.7</b>	<b>Not used</b>
<b>S 337.8</b>	<b>Access Requirements to Information Systems provided by the <i>Supplier</i></b>
S 337.8.1	Any access required by the <i>Purchaser</i> to systems provided by the <i>Supplier</i> is made available via the Gateway or by other remote access methods agreed by the <i>Purchaser</i> .
<b>S 337.9</b>	<b>Supplier Security and User Access</b>
S 337.9.1	The <i>Supplier</i> ensures that all persons who use Purchaser Information Systems for or on behalf of the <i>Supplier</i> comply with the Purchaser's security requirements.
S 337.9.2	The <i>Supplier</i> is responsible for determining any formal application and security clearance requirements to enable the <i>Purchaser</i> to access any Information Systems provided by the <i>Supplier</i> . The <i>Supplier</i> informs the <i>Purchaser</i> of those requirements, including timescales, no later than four weeks after the <i>starting date</i> .
S 337.9.3	The <i>Supplier</i> immediately notifies the <i>Purchaser's</i> IT Security Team and the help desk when staff with access to the Purchaser's IT network, are no longer Providing the Goods.
S 337.9.4	The <i>Purchaser</i> suspends any accounts if they are not used for a continuous period of six months or for staff who are no longer Providing the Goods.

S 337.9.5	The <i>Purchaser</i> deletes any accounts if they are not used for a continuous period of thirteen months or for staff who are no longer Providing the Goods.
S 337.9.6	<p>The <i>Purchaser</i> immediately suspends any accounts supplied to persons who use Purchaser Information Systems for or on behalf of the <i>Supplier</i> if they are</p> <ul style="list-style-type: none"><li>• used by anyone other than the person for whom they were created (the “authorised user”)</li><li>• they are used from a device which is not issued by the <i>Supplier</i></li><li>• they are used from a physical location not agreed by the <i>Purchaser</i>.</li></ul> <p>The <i>Supplier</i> provides for acceptance by the <i>Purchaser</i></p> <ul style="list-style-type: none"><li>• a formal explanation for the account’s misuse</li><li>• proposed actions to ensure that such issues do not re-occur</li></ul> <p>Accounts suspended are not to be re-opened until the <i>Purchaser</i> has accepted the explanation and proposed actions.</p> <p>In all these cases the <i>Purchaser</i> is not liable for any financial penalty or other expense incurred as a result of the <i>Supplier</i> failing to meet its commitments.</p>
<b>S 337.10</b>	<b>Software and Licences</b>
S 337.10.1	The <i>Supplier</i> grants, or procures the grant of, licences required to allow the <i>Purchaser</i> to use the Information Systems developed, procured or otherwise provided by the <i>Supplier</i> to the <i>Purchaser</i> .
S 337.10.2	The <i>Supplier</i> has in place or procures its own licences required to use common software applications that it may require to be able to interface with, or to access Purchaser Information Systems.
S 337.10.3	The <i>Supplier</i> applies to the <i>Purchaser</i> for licences to allow the <i>Supplier</i> to use certain Information Systems provided or made available by the <i>Purchaser</i> .
<b>S 337.11</b>	<b>Not Used</b>
<b>S 337.12</b>	<b>Systems provided by the <i>Supplier</i> to meet <i>Purchaser</i> and Contract Management Information Requirements</b>
S 337.12.1	<p><u>Electronic Document and Records Management</u></p> <p>The <i>Supplier</i> develops proposals, for acceptance by the <i>Purchaser</i>, for developing an Information System that electronically manages both the electronic and physical records (including documents, records and e-mails) which are created and maintained on behalf of the <i>Purchaser</i>. Documents and records are defined in the <i>Purchaser</i>’s record policy, a copy of which can be obtained from the <i>Purchaser</i>.</p>
S 337.12.2	A reason for not accepting the proposal includes:

	<ul style="list-style-type: none"> <li>not enabling the effective management and where applicable the disposal of records,</li> <li>preventing the <i>Purchaser</i> to comply with its records management policy and other obligations inclusive of the Public Records Act 1985 (and amendments),</li> <li>prevention of efficient transfer of records to the <i>Purchaser</i>.</li> </ul>				
S 337.12.3	Once accepted, the Supplier implements and operates an Information system for the management of electronic and physical records.				
<b>S 337.13</b>	<b>Information Systems provided by the <i>Supplier</i></b>				
	<p><b>Table 1: Information Systems as provided by the <i>Supplier</i> to fulfil the requirements of the <i>Contractor's</i> own business and effective delivery of the contract</b></p> <table> <tr> <th>System</th><th>Comment</th></tr> <tr> <td>IT and Information Security Systems</td><td>The <i>Supplier</i> implements IT and Information Security systems to protect the confidentiality, integrity, and availability of this information it handles, and have those systems independently audited. The <i>Supplier</i> aligns these systems to meet the <i>Purchaser's</i> requirement for the services provided.</td></tr> </table>	System	Comment	IT and Information Security Systems	The <i>Supplier</i> implements IT and Information Security systems to protect the confidentiality, integrity, and availability of this information it handles, and have those systems independently audited. The <i>Supplier</i> aligns these systems to meet the <i>Purchaser's</i> requirement for the services provided.
System	Comment				
IT and Information Security Systems	The <i>Supplier</i> implements IT and Information Security systems to protect the confidentiality, integrity, and availability of this information it handles, and have those systems independently audited. The <i>Supplier</i> aligns these systems to meet the <i>Purchaser's</i> requirement for the services provided.				
<b>S 337.14</b>	<b>Current Systems provided by the <i>Purchaser</i> to meet the contract management information requirements</b>				

Table 2 Current Systems	
Current Information System	Description
National Highways Supply Chain Portal	An internet collaboration site for the <i>Purchaser</i> and its partners

S342 Restrictions or requirements for subcontracting	
S342.1	Except where a competitively awarded pre-existing contract for such works, supplies or services exists, or where the subcontractor was named and agreed in writing as part of the tendering process leading to the award of the main contract, the <i>Supplier</i> obtains a minimum of three (3) competitive written quotations for the appointment of any

	subcontractor or supplier for supplies with a subcontract value in excess of £10,000.
S 342.2	The <i>Supplier</i> includes a provision in all subcontracts stating that retention is not deducted from any amount due to the Subcontractor and procures that its subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) do the same.
S 342.3	Not Used.
S 342.4	Not Used.
S 342.5	The <i>Supplier</i> ensures that all subcontracts with subcontractors (at any stage of remoteness from the <i>Purchaser</i> ) (that are not competitively awarded pre-existing agreements) have terms and conditions that align with the contract.
S 342.6	Not Used.
S 342.7	Not Used.
S 342.8	The <i>Supplier</i> ensures that any subsubcontract of a subcontractor (at any stage of remoteness from the <i>Purchaser</i> ) is capable of being novated to a replacement supplier.
S 342.9	The <i>Supplier</i> may propose to the <i>Purchaser</i> that a subcontract of a subcontractor (at any stage of remoteness from the <i>Purchaser</i> ) is not capable of being novated to a replacement supplier. The <i>Supplier</i> does not award such a subcontract that is not capable of being novated to a replacement supplier unless the <i>Client</i> has accepted the <i>Supplier's</i> proposal. A reason for not accepting the <i>Supplier's</i> proposal is that it is practicable for the subcontract to be novated to a replacement supplier.
S 342.10	When requested by the <i>Purchaser</i> the <i>Supplier</i> executes or procures the relevant subcontractors (at any stage of remoteness from the <i>Client</i> ) an agreement in the form the <i>Client</i> may reasonably require, to novate the benefit and burden of a subcontract to a replacement supplier.

## S 400 Requirements for the programme

### S 401 Programme

S 401.1	A programme of work is required to include start of seed growing, planting out of plants, lifting of plants, ready for delivery, delivery times. This programme should be in place within four weeks of award.
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## S 600 Supply requirements

### S 601 Supply requirements

S 601.1	The <i>Purchaser</i> notifies the <i>Supplier</i> in the second growing season of each Batch Order at least three (3) months in advance of the Delivery Date of the date, place, and time of delivery. Delivery can be to different locations within England.
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