

CONTRACT FOR SUPPLIER SERVICES

Section 1 - FORM OF CONTRACT

**CONTRACT FOR:** Propcom+ (not an acronym) – Supporting economic development in conflict and climate affected regions in Nigeria

**CONTRACT REFERENCE:** ecm\_5025

**THIS CONTRACT is made**

**BETWEEN:** The Secretary of State for Foreign, Commonwealth and Development Affairs at the Foreign Commonwealth and Development Office, ("**FCDO**");

**AND:** **Palladium International Limited ("Supplier")**, whose registered office is situated at 2nd Floor, Turnberry House, 100 Bunhill Row, London, EC1Y8ND, United Kingdom.

(and FCDO and the Supplier together shall be the "**Parties**").

**WHEREAS:**

- A.** FCDO requires the Supplier to provide the Services to FCDO Nigeria (the "Recipient"); and
- B.** the Supplier has agreed to provide the Services on the terms and conditions set out in this Contract.

**IT IS HEREBY AGREED** as follows:

**1. Documents**

This Contract shall be comprised of the following documents:

Section 1	Form of Contract
Section 2	Standard Terms and Conditions
Section 3	Terms of Reference
Section 4	Special Conditions
Section 5	Schedule of Prices

**2. Contract Signature**

If the original Form of Contract is not returned to the FCDO Contract Officer (as identified in Section 4) duly completed (including the applicable Purchase Order Number at the top of Section 1) and signed and dated on behalf of the Supplier within **15 working days** of the date of signature on behalf of FCDO, FCDO will be entitled, at its sole discretion, to declare this Contract void.

**No payment will be made to the Supplier under this Contract until a copy of the Form of Contract, signed on behalf of the Supplier, is returned to the FCDO Contract Officer.**

**3. Commencement Date and End Date of Initial Period**

The Services shall commence on 1<sup>st</sup> May 2023 and the end date of the Initial Period shall be September 2020



Foreign, Commonwealth  
& Development Office



30<sup>th</sup> April 2030.

**4. Financial Limit**

Payments under this Contract shall not, in any circumstances, exceed £55,062,460 exclusive of any UK VAT but inclusive of local government tax, if applicable. The Financial Limit is inclusive of the Grant Financing element of £7,300,000.

**5. Programme Name**

The Programme Name to which this Contract relates is Propcom+ (not an acronym) – Supporting economic development in conflict and climate affected regions in Nigeria.

**6. Time of the Essence**

Time shall be of the essence as regards the performance by the Supplier of its obligations under this Contract.

Signed by an authorised signatory  
for and on behalf of  
The Secretary of State for Foreign,  
Commonwealth and Development Affairs

Name:  
  
Position:  
  
Signature:  
  
Date:

Signed by an authorised signatory  
for and on behalf of the Supplier

Name:  
  
Position:  
  
Signature:  
  
Date:

Foreign, Commonwealth and Development Office (FCDO)

Standard Terms and Conditions – Service Contracts

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Preliminaries

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Contract, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) or the meaning set out in the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in Schedule 1 (Definitions) or the relevant Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 The interpretation and construction of the Contract shall be subject to the following provisions:
  - 1.3.1 clause headings shall not affect the interpretation or construction of the Contract;
  - 1.3.2 a reference to Law includes a reference to that Law as amended, consolidated or re-enacted from time to time;
  - 1.3.3 references to a **“person”** includes a natural person and a corporate or unincorporated body;
  - 1.3.4 words in the singular shall include the plural and vice versa;
  - 1.3.5 references to **“representations”** shall be construed as references to present facts, to **“warranties”** as references to present and future facts and to **“undertakings”** as references to obligations under this Contract;
  - 1.3.6 words **"including", "other", "in particular", "for example"** and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words **"without limitation"**;
  - 1.3.7 a reference to one gender shall include a reference to the other genders; and
  - 1.3.8 where the context allows, references to Clauses are to clauses in this Contract and references to Sections are the sections of this Contract.
- 1.4 Except as expressly provided elsewhere in this Contract, and subject to Clause 1.5, in the event of and only to the extent of any conflict between each Section of this Contract, the conflict shall be resolved in accordance with the following order of precedence:
  - 1.4.1 Section 1 (Form of Contract);
  - 1.4.2 Section 4 (Special Conditions);
  - 1.4.3 Section 3 (Terms of Reference);
  - 1.4.4 Section 2 (Standard Terms and Conditions (except Schedule 4 (Tender)));
  - 1.4.5 Section 5 (Schedule of Prices); and
  - 1.4.6 Schedule 4 (Tender).
- 1.5 Where Schedule 4 (Tender) contain provisions which are more favourable to FCDO in relation to (the rest of) this Contract, such provisions of the Tender shall prevail. FCDO shall in its absolute and sole discretion determine whether any provision in the Tender is more favourable in this context.
- 1.6 In entering into this Contract FCDO is acting as part of the Crown.

2. REPRESENTATIONS AND WARRANTIES

- 2.1 The Supplier represents and warrants that:
  - 2.1.1 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;
  - 2.1.2 it has full capacity and authority to enter into and to perform this Contract;
  - 2.1.3 this Contract is executed by its duly authorised representative;

- 2.1.4 it has all necessary consents and regulatory approvals, including in the country of performance, to enter into this Contract;
- 2.1.5 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Contract;
- 2.1.6 its execution, delivery and performance of its obligations under this Contract will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;
- 2.1.7 its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);
- 2.1.8 all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including without limitation its response to the standard selection questionnaire and invitation to tender (if applicable), its Tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Contract or to the extent that the Supplier has otherwise disclosed to FCDO in writing prior to the date of this Contract;
- 2.1.9 it has notified FCDO in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;
- 2.1.10 it has all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-Contractor) to FCDO which are necessary for the performance of the Supplier's obligations under this Contract and/or the receipt of the Services by FCDO;
- 2.1.11 the Charges set out in Section 5 (Schedule of Prices) is/will be a true and accurate reflection of the costs and the Projected Profit Margin and the Supplier does not have any other internal financial model in relation to the Services inconsistent with the Charges;
- 2.1.12 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Contract;
- 2.1.13 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue
- 2.2 The representations and warranties set out in Clause 2.1 shall be deemed to be repeated by the Supplier on the Commencement Date (if later than the date of signature of this Contract) by reference to the facts then existing.
- 2.3 The representations and warranties set out in this Clause 2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Contract.
- 2.4 If at any time the Supplier becomes aware that a representation or warranty given by it under Clause 2.1 has been breached, is untrue or is misleading, it shall immediately notify FCDO of the relevant occurrence in sufficient detail to enable FCDO to make an accurate assessment of the situation.
- 2.5 the Supplier System and assets used in the performance of the Services will be:
  - 2.5.1 free of all encumbrances, any exceptions must be agreed in writing with FCDO; and
  - 2.5.2 Euro Compliant.
- 2.6 The Supplier shall at all times comply with Law in carrying out its obligations under this Contract.
- 2.7 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination which FCDO may have in respect of breach of that provision by the Supplier.
- 2.8 Except as expressly stated in this Contract, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

**3. FINANCIAL LIMIT**

- 3.1 The components which comprise the Financial Limit are set out in Section 5 (Schedule of Prices). No expenditure may be incurred in excess of the Financial Limit and no virements between components shown in the Section 5 (Schedule of Prices) are permitted without the prior written authority of the FCDO Contract Officer.

**Term of Contract**

**4. CONTRACT TERM**

- 4.1 The duration of this Contract shall be the Term.
- 4.2 Where FCDO has specified an Extension Period in the Section 4 (Special Conditions), FCDO may extend this Contract for the Extension Period by providing written notice to the Supplier before the end of the Initial Period. The minimum period for the written notice shall be as specified in Section 4 (Special Conditions).

**Provision of Services**

**5. OBLIGATIONS OF THE SUPPLIER**

- 5.1 The Supplier shall perform all its obligations under this Contract with all necessary skill, diligence, efficiency and economy to satisfy generally accepted professional standards expected from experts and in accordance with FCDO’s Supply Partner Code of Conduct (Appendix B).
- 5.2 If the Supplier is a joint venture or an unincorporated consortium then each of the joint venture or consortium partners shall bear joint and several liability where liability may arise.
- 5.3 In performing its obligations under this Contract, neither the Supplier, nor any of its Affiliates, shall embarrass FCDO or otherwise bring FCDO into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in FCDO, regardless of whether or not such act or omission is related to the Supplier’s obligations under this Contract.
- 5.4 The Supplier shall gather, collate, and provide such information and cooperation as FCDO may reasonably request for the purposes of ascertaining the Supplier's compliance with its obligations under this Contract.
- 5.5 The Supplier shall ensure that the Services:
- 5.5.1 comply in all respects with the description of Services in Section 3 (Terms of Reference) or elsewhere in this Contract; and
  - 5.5.2 are supplied in accordance with the provisions of this Contract and the Tender.
- 5.6 The Supplier shall perform its obligations under this Contract in accordance with:
- 5.6.1 all applicable Law;
  - 5.6.2 Good Industry Practice;
  - 5.6.3 any policies provided by FCDO; and
  - 5.6.4 the Supplier’s own established procedures and practices to the extent they do not conflict with the requirements of Clauses 5.6.1 to 5.6.3.
- 5.7 An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that its Supplier Personnel also do, or refrain from doing, such act or thing.

**Supplier Personnel and Supply Chain Matters**

**6. SUPPLIER PERSONNEL**



- 6.1 The Supplier shall not remove or replace any Key Personnel (including when carrying out its obligations under Clause 16 (Exit Management) unless:
- 6.1.1 requested to do so by FCDO;
  - 6.1.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
  - 6.1.3 the person’s employment or contractual arrangement with the Supplier or a Sub-Contractor is terminated by the employer for material breach of contract; or
  - 6.1.4 the Supplier obtains Approval (such Approval not to be unreasonably withheld or delayed).
- 6.2 The Supplier shall:
- 6.2.1 provide a list of the names of all Supplier Personnel requiring admission to FCDO Sites, specifying the capacity in which they require admission and giving such other particulars as FCDO may reasonably require;
  - 6.2.2 ensure that all Supplier Personnel:
    - (a) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
    - (b) are vetted in accordance with Good Industry Practice and in compliance with the Staff Vetting Procedure;  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/301861/Security\\_Policy\\_for\\_Contractors\\_Consultants\\_Suppliers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/301861/Security_Policy_for_Contractors_Consultants_Suppliers.pdf)
    - (c) shall be subject to pre-employment checks that include, as a minimum, employment history for the last three years, identity checks, unspent criminal convictions and right to work (including nationality and immigration status);
    - (d) obey all lawful instructions and reasonable directions of FCDO (including, if so required by FCDO, the ICT Policy) and provide the Services to the reasonable satisfaction of FCDO; and
    - (e) comply with:
      - (i) all reasonable requirements of FCDO concerning conduct at FCDO Sites, including any security requirements; and
      - (ii) any FCDO policies, provided to the Supplier or Supplier Personnel from time to time
  - 6.2.3 subject to Schedule 2 (Staff Transfer), retain overall control of the Supplier Personnel at all times so that the Supplier Personnel shall not be deemed to be employees, agents or Contractors of FCDO;
  - 6.2.4 be liable at all times for all acts or omissions of Supplier Personnel, so that any act or omission of a member of any Supplier Personnel which results in a Default under this Contract shall be a Default by the Supplier;
  - 6.2.5 use all reasonable endeavours to minimise the number of changes in Supplier Personnel;
  - 6.2.6 subject to Clause 6.1, replace (temporarily or permanently, as appropriate) any Supplier Personnel as soon as practicable if any Supplier Personnel have been removed or are unavailable for any reason whatsoever;
  - 6.2.7 bear the programme familiarisation and other costs associated with any replacement of any Supplier Personnel; and
  - 6.2.8 procure that the Supplier Personnel shall vacate FCDO Sites immediately upon the Expiry Date.
- 6.3 If FCDO reasonably believes that any of the Supplier Personnel are unsuitable to undertake work in respect of this Contract, it may:
- 6.3.1 refuse admission to the relevant person(s) to FCDO Sites and/or
  - 6.3.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s).
  - 6.3.3 require the Supplier to replace the relevant person(s) without direct or indirect charge to FCDO and the Supplier shall fully indemnify and hold FCDO harmless against any claims of any kind that may arise with regard to the replacement of such Supplier Personnel.

**7. SUB-CONTRACTORS AND EXCLUSIVITY**

- 7.1 FCDO has consented to the appointment of the Sub-Contractors set out in Section 4 (Special Conditions).
- 7.2 The Supplier shall exercise due skill and care in the selection of any Sub-Contractors to ensure that the Supplier is able to:
- 7.2.1 manage any Sub-Contracts in accordance with Good Industry Practice;
  - 7.2.2 comply with its obligations under this Contract in the provision of the Services; and
  - 7.2.3 assign, novate or otherwise transfer to FCDO or any Replacement Supplier any of its rights and/or obligations under each Sub-Contract that relates exclusively to this Contract.
- 7.3 Prior to sub-contacting any of its obligations under this Contract, the Supplier shall both act in accordance with Clause 8 below and notify FCDO and provide FCDO with:
- 7.3.1 the proposed Sub-Contractor’s name, registered office and company registration number;
  - 7.3.2 the scope of any Services to be provided by the proposed Sub-Contractor; and
  - 7.3.3 where the proposed Sub-Contractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of FCDO that the proposed Sub-Contract has been agreed on "arm’s-length" terms.
- 7.4 If requested by FCDO within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to Clause 7.3, the Supplier shall also provide:
- 7.4.1 a copy of the proposed Sub-Contract; and
  - 7.4.2 any further information reasonably requested by FCDO.
- 7.5 FCDO may, within ten (10) Working Days of receipt of the Supplier’s notice issued pursuant to Clause 7.3 (or, if later, receipt of any further information requested pursuant to Clause 7.4), object to the appointment of the relevant Sub-Contractor if they consider that:
- 7.5.1 the appointment of a proposed Sub-Contractor may prejudice the provision of the Services or may be contrary to the interests of FCDO under this Contract;
  - 7.5.2 the proposed Sub-Contractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 7.5.3 the proposed Sub-Contractor employs unfit persons,
- in which case, the Supplier shall not proceed with the proposed appointment.
- 7.6 If FCDO has not notified the Supplier that it objects to the proposed Sub-Contractor’s appointment by the later of ten (10) Working Days of receipt of:
- 7.6.1 the Supplier’s notice issued pursuant to Clause 7.3; or
  - 7.6.2 any further information requested by FCDO pursuant to Clause 7.4,
- the Supplier may proceed with the proposed appointment.
- 7.7 The Supplier shall ensure that all Sub-Contracts contain provisions:
- 7.7.1 requiring the Sub-Contractor to comply with the FCDO’s Supply Partner Code of Conduct (Appendix B) at all times;
  - 7.7.2 requiring the Supplier to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice;

- 7.7.3 requiring that any invoices submitted by a Sub-Contractor shall be considered and verified by the Supplier in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
  - 7.7.4 conferring a right to FCDO to publish the Supplier’s compliance with its obligation to pay undisputed invoices to the Sub-Contractor within the specified payment period;
  - 7.7.5 giving the Supplier a right to terminate the Sub-Contract if the Sub-Contractor fails to comply in the performance of the Sub-Contract with legal obligations in the fields of environmental, social or labour law; and
  - 7.7.6 requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards suitable provisions to impose, as between the parties to that Sub-Contract, requirements to the same effect as those required by this Clause 7.7.
- 7.8 The Supplier shall:
- 7.8.1 pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days from the receipt of a valid invoice;
  - 7.8.2 include within the Performance Monitoring Reports required under Clause 13.3 a summary of its compliance with this Clause 7.8.1, such data to be certified each quarter by a director of the Supplier as being accurate and not misleading;
  - 7.8.3 not include in any Sub-Contract any provision the effect of which would be to limit or restrict the ability of the Sub-Contractor to contract directly with FCDO, a Replacement Supplier, or with any other organisation and Sub-Contractors shall be free to assert their rights independently regarding contractual exclusivity.
  - 7.8.4 where Sub-Contracting has been Approved by FCDO, promptly provide FCDO with written confirmation from each Sub-Contractor identified within Section 4 of the Contract that they accept provisions set out at Clauses 50.1 to 50.7, which shall be included in all Supplier Sub-Contracts.

**8. VISIBILITY OF SUBCONTRACT OPPORTUNITIES**

- 8.1 The Supplier shall:
- 8.1.1 subject to Clause 8.3, advertise on Contracts Finder all subcontract opportunities arising from or in connection with the provision of the Goods and/or Services and/or Works above a minimum threshold of £25,000 that arise during the Term;
  - 8.1.2 within 90 days of awarding a Sub-Contract to a Sub-Contractor, update the notice on Contracts Finder with details of the successful Sub-Contractor;
  - 8.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Term;
  - 8.1.4 provide reports on the information at clause 8.1.3 to FCDO in the format and frequency as reasonably specified by FCDO; and
  - 8.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 8.2 Each advert referred to at Cause 8.1 above shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 8.3 The obligation at Clause 8.1 shall only apply in respect of Sub-Contract opportunities arising after the Commencement Date.
- 8.4 Notwithstanding Clause 8.1, FCDO may by giving its Approval, agree that a Sub-Contract opportunity is not required to be advertised on Contracts Finder.

**9. STAFF TRANSFER**

- 9.1 The Parties agree that:
- 9.1.1 where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Schedule 2 (Staff Transfer) shall apply as follows:
    - (a) where the Relevant Transfer involves the transfer of Transferring FCDO Employees, Part A of Schedule 2 (Staff Transfer) shall apply;

- (b) where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Schedule 2 (Staff Transfer) shall apply;
  - (c) where the Relevant Transfer involves the transfer of Transferring FCDO Employees and Transferring Former Supplier Employees, Parts A and B of Schedule 2 (Staff Transfer) shall apply; and
  - (d) Part C of Schedule 2 (Staff Transfer) shall not apply.
- 9.1.2 where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Schedule 2 (Staff Transfer) shall apply and Parts A and B of Schedule 2 (Staff Transfer) shall not apply; and
- 9.1.3 Part D of Schedule 2 (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services;
- 9.2 The Supplier shall both during and after the Term indemnify FCDO against all Employee Liabilities that may arise as a result of any claims brought against FCDO by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel.
- 10. DUTY OF CARE**
- 10.1 The Supplier owes a duty of care to the Supplier Personnel and is responsible for the health, safety, security of life and property and general wellbeing of such persons and their property and this includes where the Supplier Personnel carry out the Services.
- 10.2 The Supplier warrants that it has and will throughout the duration of the Contract:
  - 10.2.1 carry out the appropriate risk assessment with regard to its delivery of the Services;
  - 10.2.2 provide the Supplier Personnel with adequate information, instruction, training and supervision;
  - 10.2.3 have appropriate emergency procedures in place to enable their provision of the Services so as to prevent damage to the Supplier Personnel's health, safety, security of life and property and general wellbeing.
- 10.3 The provision of information of any kind whatsoever by FCDO to the Supplier shall not in any respect relieve the Supplier from responsibility for its obligations under this Clause 10. The positive evaluation of the Supplier's proposal for the provision of the Services and the award of this Contract is not an endorsement by FCDO of any arrangements which the Supplier has made for the health, safety, security of life and property and wellbeing of the Supplier Personnel in relation to the provision of the Services.
- 10.4 The Supplier acknowledges that the FCDO accepts no responsibility for the health, safety, security of life and property and general wellbeing of the Supplier Personnel with regard to the Supplier Personnel carrying out the Services under this Contract.
- 10.5 The Supplier will ensure that such insurance arrangements as are made to cover the Supplier Personnel, or any person employed or otherwise engaged by the Supplier, and pursuant to the Suppliers duty of care as referred to in this Clause 10, are reasonable and prudent in all circumstances, including in respect of death, injury or disablement, and emergency medical expenses.
- 10.6 The costs of any insurance specifically taken out by the Supplier to support the performance of this Contract in relation to the Supplier's duty of care may be included as part of the management costs of the project, and must be separately identified in all financial reporting relating to the project.
- 10.7 Where FCDO is providing any specific security arrangements for the Supplier or Supplier Personnel in relation to the Contract, these will be as detailed in the Section 3 (Terms of Reference).
- 10.8 The Supplier shall provide training on a continuing basis for all Supplier Personnel, in compliance with the Security Policy and the security plan.

**11. PROCUREMENT OF EQUIPMENT**

- 11.1 The Supplier shall ensure that procurement of goods and equipment shall:
  - 11.1.1 be undertaken in accordance with best practice principles of openness fairness and transparency;
  - 11.1.2 achieve "Value for Money" defined as the optimum combination of whole-life cost and quality to meet requirements in a fully transparent manner and the procurement may be subject to audit by FCDO;
  - 11.1.3 be carried out using strict due diligence processes that ensure the protection of FCDO's interests and reputation, with particular emphasis on anti-terrorism, anti-corruption and fraud throughout the delivery chain; and

11.1.4 be on the basis that the ownership of Equipment shall vest in FCDO, and shall be so marked.

**12. USE OF AND RESPONSIBILITY FOR EQUIPMENT**

- 12.1 Equipment may only be used in providing the Services and shall be safely kept and maintained. Personal use of Equipment by the Supplier is not permitted without Approval.
- 12.2 The Supplier shall keep an up to date inventory of the Equipment, its condition and location, and make such inventory available to FCDO immediately on request.
- 12.3 Subject to Clause 12.4 the Supplier shall be responsible for all loss or damage to Equipment other than that caused by fair wear and tear. The Supplier shall notify FCDO immediately the Supplier becomes aware of any loss of or damage to Equipment
- 12.4 Except as required by law or circumstance, the Supplier shall not insure Equipment. FCDO shall bear the risk in respect of loss or damage provided such loss or damage was not due to the Supplier's negligence and provided the Supplier obtains and pays to FCDO such proper compensation as may be due from any third party in respect of such loss or damage to the Equipment.
- 12.5 The Supplier shall obtain FCDO's instructions on the disposal of Equipment and comply with such instructions.

**Contract Governance**

**13. MONITORING OF CONTRACT PERFORMANCE**

- 13.1 Unless Section 4 (Special Conditions) specifies that obligations relating to the monitoring of Contract performance shall be those set out in Section 3 (Terms of Reference), the remaining provisions of this Clause 13 shall apply.
  - 13.2 Within twenty (20) Working Days of the Commencement Date the Supplier shall provide FCDO with details of how the process in respect of the monitoring and reporting of the performance of the Supplier's obligations under this Contract will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
  - 13.3 The Supplier shall provide FCDO with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to Clause 13.2 above which shall contain, as a minimum, the following information:
    - 13.3.1 details of compliance with its obligations under Clause 7.8.2
    - 13.3.2 details of compliance with any additional obligations set out in Section 3 (Terms of Reference);
    - 13.3.3 details of compliance with its obligations under Annex 1b of Section 2 (Contractual Annual Compliance Declaration); and
    - 13.3.4 such other details as FCDO may reasonably require from time to time.
  - 13.4 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a monthly basis (unless otherwise agreed). The Performance Review Meetings will be the forum for the review by the Supplier and FCDO of the Performance Monitoring Reports. The Performance Review Meetings shall (unless otherwise agreed):
    - 13.4.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier;
    - 13.4.2 take place at such location and time (within normal business hours) as FCDO shall reasonably require unless otherwise agreed in advance;
    - 13.4.3 be attended by the Supplier's Contract Officer and the FCDO's Project Officer; and
    - 13.4.4 be fully minuted by the Supplier. The prepared minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the FCDO Project Officer and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Contract Officer and the FCDO's Project Officer at each meeting.
  - 13.5 In order to assess the level of performance of the Supplier, FCDO may undertake satisfaction surveys in respect of the Supplier's provision of the Services and FCDO shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Services which the responses to the satisfaction surveys reasonably suggest are not in accordance with this Contract.
- 14. PROGRESS & FINANCIAL REPORTS**
- 14.1 Where progress and financial reports are to be submitted under the Contract, the Supplier shall render those reports at such time and in such form as may be specified by FCDO or where not specified by FCDO, as otherwise agreed between the Parties.

**15. OPEN BOOK ACCOUNTING AND AUDIT**

- 15.1 The Supplier shall keep and maintain for seven (7) years after the expiry of the Term (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Contract including the Services provided under it, any Sub-Contracts and the amounts paid by FCDO.
- 15.2 If so stated in Section 3 (Terms of Reference), FCDO shall be entitled to apply the principles of open book contract management set out in Procurement Policy Note 05/16 (<https://www.gov.uk/government/publications/procurement-policy-note-0516-open-book-contact-management>), or any other replacement guidance or policy issued from time to time to this Contract. FCDO shall apply the appropriate tier level which, in FCDO's reasonable opinion, is commensurate with the delivery model of the Services and the Supplier shall comply with the principles etc. (as more particular described in the OBMC guidance).
- 15.3 The Supplier shall:
- 15.3.1 keep the records and accounts referred to in Clause 15.1 in accordance with Good Industry Practice and Law; and
- 15.3.2 afford FCDO and/or its Auditors access to the records and accounts referred to in Clause 15.1 at the Supplier's premises and/or provide records and accounts (including copies of the Supplier's published accounts) or copies of the same, as may be required by any of the Auditors from time to time during the Term and the period specified in Clause 15.1, in order that the Auditor(s) may carry out an inspection to assess compliance by the Supplier and/or its Sub-Contractors of any of the Supplier's obligations under this Contract including in order to:
- (a) verify the accuracy of the Charges and any other amounts payable by FCDO under this Contract (and proposed or actual variations to them in accordance with this Contract);
  - (b) verify the costs of the Supplier (including the costs of all Sub-Contractors and any third party suppliers) in connection with the provision of the Services;
  - (c) verify the Open Book Data;
  - (d) verify the Supplier's and each Sub-Contractor's compliance with the applicable Law;
  - (e) identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances FCDO shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
  - (f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Sub-Contractors or their ability to perform the Services;
  - (g) obtain such information as is necessary to fulfil FCDO's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
  - (h) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
  - (i) carry out FCDO's internal and statutory audits and to prepare, examine and/or certify FCDO's annual and interim reports and accounts;
  - (j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which FCDO has used its resources;
  - (k) review any records relating to the Supplier's performance of the provision of the Services and to verify that these reflect the Supplier's own internal reports and records;
  - (l) verify the accuracy and completeness of any information delivered or required by this Contract;
  - (m) review the Supplier's quality management systems (including any quality manuals and procedures);
  - (n) review the Supplier's compliance with any standards referred to in this Contract or applicable to the provision of the Services;

- (o) inspect any of FCDO’s assets, including FCDO’s IPRs, equipment and facilities, for the purposes of ensuring that any of FCDO’s assets are secure and that any register of assets is up to date; and/or
  - (p) review the integrity, confidentiality and security of FCDO Data.
- 15.4 FCDO shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor(s) is outside of the control of FCDO.
- 15.5 Subject to the Supplier’s rights in respect of Confidential Information, the Supplier shall on demand provide the Auditor(s) with all reasonable co-operation and assistance in:
  - 15.5.1 all reasonable information requested by FCDO within the scope of the audit;
  - 15.5.2 reasonable access to sites controlled by the Supplier and to any Supplier Equipment used in the provision of the Services; and
  - 15.5.3 access to the Supplier Personnel.
- 15.6 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 15, unless the audit reveals a Default by the Supplier in which case the Supplier shall reimburse FCDO for the FCDO’s reasonable costs incurred in relation to the audit.

**16. EXIT MANAGEMENT**

- 16.1 On reasonable notice at any point during the Term, the Supplier shall provide to FCDO and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by FCDO of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
  - 16.1.1 details of the Service(s);
  - 16.1.2 a copy of the Register, updated by the Supplier up to the date of delivery of such Registers;
  - 16.1.3 an inventory of FCDO Data in the Supplier's possession or control;
  - 16.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
  - 16.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Services;
  - 16.1.6 all information relating to Transferring Supplier Employees or those who may be Transferring Supplier Employees required to be provided by the Supplier under this Contract such information to include the Staffing Information as defined in Schedule 2 (Staff Transfer); and
  - 16.1.7 such other material and information as FCDO shall reasonably require,(together, the “**Exit Information**”).
- 16.2 The Supplier acknowledges that FCDO may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom FCDO is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that FCDO may not disclose any Supplier’s Confidential Information which is information relating to the Supplier’s or its Sub-Contractors’ prices or costs).
- 16.3 if the Exit Information materially changes from the Exit Information previously provided and it could reasonably adversely affect:
  - 16.3.1 the provision of the Services; and/or
  - 16.3.2 the delivery of the exit services/exit plan; and/or
  - 16.3.3 any re-tender exercise by FCDO,then the Supplier shall notify FCDO within a reasonable period of time and consult and shall consult with FCDO regarding such proposed material changes and provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from FCDO.
- 16.4 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Supplier shall be such as would be reasonably necessary to enable a third party to:

- 16.4.1 prepare an informed offer for those Services; and
- 16.4.2 not be disadvantaged in any subsequent procurement process compared to the Supplier (if the Supplier is invited to participate).
- 16.5 The Supplier shall, within three (3) months after the Commencement Date, deliver to FCDO an Exit Plan which:
  - 16.5.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the Services from the Supplier to FCDO and/or its Replacement Supplier on the expiry or termination of this Contract;
  - 16.5.2 complies with the requirements set out in Clause 16.7 below;
  - 16.5.3 is otherwise reasonably satisfactory to FCDO.
- 16.6 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 16.7 Unless otherwise specified by FCDO, the Exit Plan shall set out, as a minimum:
  - 16.7.1 how the Exit Information is obtained;
  - 16.7.2 the management structure to be employed during both transfer and cessation of the Services;
  - 16.7.3 the management structure to be employed whilst carrying out the activities to be performed by the Supplier as identified in the Exit Plan;
  - 16.7.4 a detailed description of both the transfer and cessation processes, including a timetable;
  - 16.7.5 how the Services will transfer to the Replacement Supplier and/or FCDO, including details of the processes, documentation, data transfer, systems migration, security and the segregation of FCDO's technology components from any technology components operated by the Supplier or its Sub-Contractors (where applicable);
  - 16.7.6 details of contracts (if any) which will be available for transfer to FCDO and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer (and the Supplier agrees that all assets and contracts used by the Supplier in connection with the provision of the Services will be available for such transfer);
  - 16.7.7 proposals for the training of key personnel of the Replacement Supplier in connection with the continuation of the provision of the Services following the Expiry Date charged at rates agreed between the Parties at that time;
  - 16.7.8 proposals for providing FCDO or a Replacement Supplier copies of all documentation:
    - (a) used in the provision of the Services and necessarily required for the continued use of the Replacement Services, in which the Intellectual Property Rights are owned by the Supplier; and
    - (b) relating to the use and operation of the Services;
  - 16.7.9 proposals for the assignment or novation of the provision of all services, leases, maintenance agreements and support agreements utilised by the Supplier in connection with the performance of the supply of the Services;
  - 16.7.10 proposals for the identification and return of all Equipment in the possession of and/or control of the Supplier or any third party (including any Sub-Contractor);
  - 16.7.11 proposals for the disposal of any redundant Services and materials;
  - 16.7.12 procedures to:
    - (a) deal with requests made by FCDO and/or a Replacement Supplier for Staffing Information pursuant to Schedule 2 (Staff Transfer);
    - (b) determine which Supplier Personnel are or are likely to become Transferring Supplier Employees; and
    - (c) identify or develop any measures for the purpose of the Employment Regulations envisaged in respect of Transferring Supplier Employees;



- 16.7.13 how each of the issues set out in this Clause 16 will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or FCDO with the aim of ensuring that there is no disruption to or degradation of the Services;
- 16.7.14 proposals for the supply of any other information or assistance reasonably required by FCDO or a Replacement Supplier in order to effect an orderly handover of the provision of the Services.

PAYMENT AND TAXATION

17. Charges

- 17.1 In consideration of the Supplier carrying out its obligations under this Contract, including the provision of the Services, FCDO shall pay the undisputed Charges in accordance with the pricing and payment profile set out in Section 5 (Schedule of Prices) and the invoicing procedure set out in Clause 22.
- 17.2 If FCDO fails to pay any undisputed Charges properly invoiced under this Contract, the Supplier shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

18. VAT

- 18.1 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by FCDO following delivery of a Valid Invoice.
- 18.2 The Supplier shall indemnify FCDO on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on FCDO at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under this Contract. Any amounts due shall be paid in cleared funds by the Supplier to FCDO not less than five (5) Working Days before the date upon which the tax or other liability is payable by FCDO.

19. RETENTION AND SET OFF

- 19.1 FCDO may retain or set off any amount owed to it by the Supplier against any amount due to the Supplier under this Contract or under any other agreement between the Supplier and FCDO.
- 19.2 If FCDO wishes to exercise its right pursuant to Clause 19.1 it shall give at least 21 days’ notice of its intention to do so, setting out the reasons for retaining or setting off the relevant Charges.
- 19.3 The Supplier shall make any payments due to FCDO without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has obtained a sealed court order requiring an amount equal to such deduction to be paid by FCDO to the Supplier

20. SUPPLIER PROFIT

- 20.1 On completion of each Contract Year (or on a six-monthly basis if requested by FCDO giving reasonable written notice), and for any Variation, the Supplier is required to send a written report (the “**Actual Profit Margin Report**”) in an overall format determined by FCDO but to include an updated cost pro-forma template, setting out the Actual Profit Margin including any change to the Projected Profit Margin.
- 20.2 Where the Actual Profit Margin Report identifies that the Supplier has exceeded the Projected Profit Margin over the period set out in the Actual Profit Margin Report (“the **Exceeded Amount**”), the Parties shall agree within a reasonable period of time following receipt by FCDO of the Actual Profit Margin Report how the Exceeded Amount should be apportioned. Where the Parties are unable to agree FCDO shall be entitled to require the Supplier to do any of the following:
  - 20.2.1 pay FCDO an amount equal to the difference between the Projected Profit Margin and the Exceeded Amounted; or
  - 20.2.2 redirect an amount equal to the difference between the Projected Profit Margin and the Exceeded Amounted back in to the programme being delivered as part of the Services; or
  - 20.2.3 adjust the Charges.

21. SATISFACTORY PERFORMANCE

- 21.1 Payments made pursuant to Clause 17.1 are subject to the satisfactory performance by the Supplier of its obligations under the Contract as determined by the FCDO Project Officer in addition to verification by the FCDO Project Officer that all prior payments made to the Supplier under this Contract were properly due.
- 21.2 If for any reason the Services are not provided in accordance with this Contract, or FCDO is dissatisfied with the performance of this Contract, FCDO, without prejudice to any other rights or remedies howsoever arising, shall be entitled to withhold payment of the applicable Charges for the Services that were not so provided until such time as the applicable Services are provided in accordance with this Contract.
- 21.3 Should FCDO determine after paying for a particular part of the Services that this has not been provided in accordance with this Contract, FCDO may recover, or withhold from further payments, an amount not exceeding the applicable Charges paid for that part of the Service until the unsatisfactory part of the Services is remedied to FCDO's satisfaction.

**22. PAYMENTS & INVOICING INSTRUCTIONS**

- 22.1 Subject to FCDO being satisfied that the Supplier is or has been carrying out their duties, obligations and responsibilities under this Contract, the applicable Charges shall be paid within 30 days of receipt of an undisputed Valid Invoice and payment shall be made in sterling in the UK or any other currency in any other country as determined from FCDO from time to time.
  - 22.2 Expenses (if any) arising in foreign currency shall be reimbursed at the exchange rate stated in OANDA ([www.oanda.com](http://www.oanda.com)) on the Friday immediately preceding the date on which the purchase was made or services acquired by the Supplier or, if this took place on a Friday, at the rate so stated on that day.
  - 22.3 Unless otherwise expressly provided in Section 4 (Special Conditions) or Section 5 (Schedule of Prices), invoices should be submitted electronically monthly in arrears to the Accounts Payable Section, FCDO Financial Management Group [e-invoicing@FCDO.gov.uk](mailto:e-invoicing@FCDO.gov.uk), and in accordance with this Clause 22.
  - 22.4 FCDO shall unless otherwise expressly provided in Section 4 (Special Conditions) make payments due by direct credit through the UK Bank Clearing Systems (BACS). For an invoice to be valid, it must contain:
    - 22.4.1 details of the bank account to which payments are to be made (i.e. name and address of bank, sort code, account name and number).
    - 22.4.2 the date of the invoice;
    - 22.4.3 a unique invoice number;
    - 22.4.4 the period(s) to which the relevant charge(s) relate;
    - 22.4.5 the correct reference for this Agreement and the purchase order to which it relates;
    - 22.4.6 a contact name and telephone number of a responsible person in the supplier's finance department;
    - 22.4.7 a detailed breakdown of the Services and the appropriate Charges and supported by any other documentation required by FCDO to substantiate the invoice.
  - 22.5 All Valid Invoices should correspond with the budget lines identified in Section 5 (Schedule of Prices) of this Contract.
  - 22.6 FCDO may request proof of purchase in respect of any item and shall be entitled to refuse to meet a claim if this cannot be provided.
  - 22.7 Where an invoice is not a Valid Invoice it may be rejected by FCDO and in any event shall be liable to query and delay in payment. FCDO reserves the right to not pay any amount due in respect of any invoice received by FCDO more than 90 days after the day of the Supplier becoming entitled to invoice for the payment to which it relates.
- 23. UNITED KINGDOM INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS**
- 23.1 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Contract, the Supplier shall:
    - 23.1.1 at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration;

- 23.1.2 indemnify FCDO against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Supplier Personnel.

**24. TAX COMPLIANCE**

- 24.1 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
  - 24.1.1 notify FCDO in writing of such fact within 5 Working Days of its occurrence;
  - 24.1.2 promptly provide to FCDO:
    - (a) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
    - (b) such other information in relation to the Occasion of Tax Non-Compliance as FCDO may reasonably require.

**Intellectual Property, Security and Information**

**25. INTELLECTUAL PROPERTY RIGHTS**

- 25.1 Save as expressly granted elsewhere under this Contract:
  - 25.1.1 FCDO shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Supplier or its licensors, namely:
    - (a) the Supplier Background IPR; and
    - (b) the Third Party IPR.
  - 25.1.2 the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of FCDO or its licensors, including the:
    - (a) FCDO Background IPR;
    - (b) FCDO Data;
    - (c) Project Specific IPRs; and
    - (d) Programme Name and any rights and interests in it at all times.
- 25.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 25.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).
- 25.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
- 25.4 Any Project Specific IPRs created under this Contract shall be owned by FCDO. FCDO grants the Supplier a licence to use any FCDO Background IPR and Project Specific IPRs for the purpose of fulfilling its obligations under this Contract during its Term.
- 25.5 Subject to Clause 25.7, to the extent that it is necessary to enable FCDO to obtain the full benefits of ownership of the Project Specific IPRs, the Supplier hereby grants to FCDO and shall procure that any relevant third party licensor shall grant to FCDO a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit any Supplier Background IPRs or Third Party IPRs that are embedded in or which are an integral part of the Project Specific IPR Items.
- 25.6 The Supplier shall promptly notify FCDO if it is reasonably believes that it will be unable to grant or procure the grant of the licences set out in Clause 25.5 above and the Supplier shall provide full details of the adverse effect this may have on FCDO's use of the Project Specific IPRs.
- 25.7 Where the Supplier is unable to comply with Clause 25.5, the Supplier shall refrain from embedding or integrating any Supplier Background IPRs and/or Third Party IPRs with the Project Specific IPRs in such a way that could affect FCDO obtaining full benefit of the ownership of those Project Specific IPRs, except where FCDO has provided express written Approval to do so.

25.8 The Supplier shall, during and after the Term, on written demand, indemnify FCDO against all Losses incurred by, awarded against, or agreed to be paid by FCDO (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.

25.9 If an IPR Claim is made or anticipated, the Supplier must at its own expense and FCDO’s sole option, either:

25.9.1 procure for FCDO the rights in Clause 25.5 without infringing the IPR of any third party; or

25.9.2 replace or modify the relevant item with non-infringing substitutes with no detriment to functionality of performance of the Services.

**26. SECURITY REQUIREMENTS**

26.1 The Supplier shall comply, and shall procure that the Supplier Personnel comply, with the Security Policy and any security plan requested by FCDO, and the Supplier shall ensure that the security plan produced by the Supplier fully complies with the Security Policy.

26.2 The Supplier shall ensure that it keeps up to date with the latest version of the Security Policy.

26.3 If the Supplier believes that a change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a variation in accordance with Clause 38. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in discussion with the FCDO Contract Officer.

26.4 Until and/or unless a change to the Charges is agreed by FCDO pursuant to Clause 26.3 the Supplier shall continue to perform the Services in accordance with its obligations and for the Charges applicable prior to any change request.

**27. MALICIOUS SOFTWARE**

27.1 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.

27.2 Notwithstanding Clause 27.1 if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of FCDO Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

27.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 27.2 shall be borne by the Parties as follows:

27.3.1 by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software or the FCDO Data (whilst the FCDO Data was under the control of the Supplier); and

27.3.2 by FCDO if the Malicious Software originates from the FCDO Software or the FCDO Data (whilst FCDO Data was under the control of FCDO).

**28. TRANSPARENCY**

28.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of Clause 30 (Freedom of Information), the content of this Contract is not confidential information. FCDO shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

28.2 Notwithstanding any other term of this Contract, the Supplier hereby gives their consent for FCDO to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.

28.3 FCDO may consult with the supplier to inform its decision regarding any exemptions with regard to FOIA but FCDO shall have the final decision in its absolute discretion.

28.4 The Supplier shall assist and cooperate with FCDO to enable FCDO to publish this Contract.

28.5 The Supplier acknowledges that FCDO endorses/supports the requirements of the IATI standard and shall assist and cooperate with FCDO, to enable the Supplier to understand the different elements of IATI implementation and to comply with the different data, policy and technical considerations that need to be taken into account.

28.6 The Supplier shall:

- 28.6.1 publish information data to the IATI standard, that relates to a specific activity in a single, common, electronic format for the transparent, accurate, timely and comprehensive publishing of data, on all activities in the delivery chain, in the delivery of development cooperation and humanitarian aid; and
- 28.6.2 provide all necessary assistance as reasonably requested by FCDO to enable FCDO to respond to the IATI requirements.
- 28.7 The Supplier shall maintain an up-to-date and accurate record of named downstream delivery partners in receipt of FCDO funds and/or FCDO funded inventory or assets. This record should demonstrate how funds flow from initial source to end beneficiaries. This record should be made available to FCDO upon written request and within the time set out in the request. This record should be updated by the Supplier;
  - 28.7.1 as required in the terms of reference;
  - 28.7.2 annually;
  - 28.7.3 when there are material changes in the delivery chain; and
  - 28.7.4 as part of the project completion process.

**29. CONFIDENTIALITY**

- 29.1 Except to the extent set out in this Clause 29 or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:
  - 29.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly;
  - 29.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 29.2 Clause 29.1 shall not apply to the extent that:
  - 29.2.1 such disclosure is a requirement of Law applicable to the Party making the disclosure, including any requirements for disclosure under the FOIA, the Environmental Information Regulations and associated codes of practice pursuant to Clause 30 (Freedom of Information);
  - 29.2.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - 29.2.3 such information was obtained from a third party without obligation of confidentiality;
  - 29.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
  - 29.2.5 it is independently developed without access to the other Party's Confidential Information.
- 29.3 The Supplier may only disclose FCDO's Confidential Information to the Supplier Personnel who are directly involved in the provision of the Services and who need to know the information and shall ensure that such Supplier Personnel are aware of and shall comply with these obligations as to confidentiality.
- 29.4 The Supplier shall not, and shall procure that the Supplier Personnel do not, use any of FCDO's Confidential Information received otherwise than for the purposes of this Contract.
- 29.5 At the written request of FCDO, the Supplier shall procure that those members of the Supplier Personnel referred to in Clause 29.3, respectively sign a confidentiality undertaking prior to commencing any work in accordance with this Contract.
- 29.6 Nothing in this Contract shall prevent FCDO from disclosing the Supplier's Confidential Information:
  - 29.6.1 on a confidential basis to any Central Government Body for any proper purpose of FCDO or of the relevant Central Government Body;
  - 29.6.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
  - 29.6.3 to the extent that FCDO (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

- 29.6.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 29.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
- 29.6.5 on a confidential basis for the purpose of the exercise of its rights under this Contract, including the Audit Rights, its step-in rights pursuant to Clause 15 (Open Book Accounting and Audit), its rights to appoint an advisor pursuant to Clause 47 (Dispute Resolution) and any rights set out in Clause 16 (Exit Management);
- 29.6.6 on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract; or
- 29.6.7 for the purpose of the examination and certification of FCDO's accounts,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on FCDO under this Clause 29.

- 29.7 Nothing in this Clause 29 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

**30. FREEDOM OF INFORMATION**

- 30.1 The Supplier acknowledges that FCDO is subject to the requirements of the FOIA, the Environmental Information Regulations and associated codes of practice and shall assist and cooperate with FCDO to enable FCDO to comply with its Information disclosure obligations.
- 30.2 The Supplier shall and shall ensure that its Sub-Contractors shall:
  - 30.2.1 transfer to FCDO all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
  - 30.2.2 provide FCDO with a copy of all Information in its possession, or power in the form that FCDO requires within five (5) Working Days (or such other period as FCDO may specify) of FCDO's request; and
  - 30.2.3 provide all necessary assistance as reasonably requested by FCDO to enable FCDO to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 30.3 FCDO shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA, the Environmental Information Regulations and associated codes of practice.
- 30.4 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by FCDO.
- 30.5 The Supplier acknowledges that FCDO may, acting in accordance with any code of practice issued pursuant to Section 45 of FOIA ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:
  - 30.5.1 in certain circumstances without consulting the Supplier;
  - 30.5.2 following consultation with the Supplier and having taken their views into account;
  - 30.5.3 provided always that where Clause 30.5.1 applies FCDO shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 30.6 The Supplier shall ensure that all Information is retained for disclosure in accordance with Clauses 30.7 and 30.8 and shall permit FCDO to inspect such records as requested by FCDO from time to time.
- 30.7 The Supplier shall, during this Contract and for a period of at least seven years following the expiry or termination of this Contract, retain and maintain all Information:
  - 30.7.1 in accordance with Good Industry Practice and Law;

- 30.7.2 in chronological order;
- 30.7.3 in a form that is capable of audit;
- 30.7.4 at its own expense.

30.8 Wherever practical, original Information shall be retained and maintained in hard copy form.

**31. OFFICIAL SECRETS ACT**

31.1 The Supplier shall, and shall ensure that the Supplier Personnel shall, comply with any relevant obligations arising under the Official Secrets Acts 1911 to 1989.

**32. FCDO DATA**

- 32.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to FCDO Data.
- 32.2 The Supplier shall not store, copy, disclose, or use FCDO Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by FCDO.
- 32.3 To the extent that FCDO Data is held and/or processed by the Supplier, the Supplier shall supply that FCDO Data to FCDO as requested by FCDO in the format(s) specified by FCDO.
- 32.4 Upon receipt or creation by the Supplier of any FCDO Data and during any collection, processing, storage and transmission by the Supplier of any FCDO Data, the Supplier shall take responsibility for preserving the integrity of FCDO Data and preventing the corruption or loss of FCDO Data.
- 32.5 The Supplier shall perform secure back-ups of all FCDO Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Security Policy. The Supplier shall ensure that such back-ups are available to FCDO at all times upon request, with delivery times as specified by FCDO.
- 32.6 The Supplier shall ensure that the system on which the Supplier holds any FCDO Data, including back-up data, is a secure system that complies with the Security Policy.
- 32.7 If FCDO Data is corrupted, lost or sufficiently degraded as a result of the Supplier’s Default so as to be unusable, FCDO may:
  - 32.7.1 require the Supplier (at the Supplier’s expense) to restore or procure the restoration of FCDO Data to the extent and in accordance with the Business Continuity and Disaster Recovery Provisions specified in the Security Policy and the Supplier shall do so as soon as practicable but not later than three days following a written request from FCDO; and/or
  - 32.7.2 itself restore or procure the restoration of FCDO Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in the Business Continuity and Disaster Recovery provisions specified in the Security Policy.
- 32.8 If at any time the Supplier suspects or has reason to believe that FCDO Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify FCDO immediately and inform FCDO of the remedial action the Supplier proposes to take.
- 32.9 The Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme.

**33. PROTECTION OF PERSONAL DATA**

- 33.1 The Parties acknowledge that the factual activity carried out by each of them in relation to their obligations under this Contract will determine the status of each Party under the Data Protection Legislation. A Party may act as “Joint Controller” or a “Controller” or a “Processor” of certain Personal Data under this Contract. The Parties shall detail the envisaged status in Appendix A of the Terms of Reference (at Section 3 of the Contract) and update it where appropriate.
- 33.2 **Where a Party is Processing on behalf of the other Party who is the Controller**
  - 33.2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, FCDO is the Controller and the Supplier is the Processor unless otherwise specified in Appendix A of the Terms of Reference (at Section 3 of the contract). The only processing that the Processor is authorised to do is listed in Appendix A of the Terms of Reference by the Controller and may not be determined by the Processor.
  - 33.2.2 The Processor shall notify the Controller immediately if it considers that any of Controller's instructions infringe the Data Protection Legislation.

- 33.2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the services.
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 33.2.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with the Appendix A referred to in Clause 33.2.1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
    - a. nature of the data to be protected;
    - b. harm that might result from a Data Loss Event;
    - c. state of technological development; and
    - d. cost of implementing any measures;
  - (c) ensure that:
    - I. the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Appendix A referred to in Clause 33.2.1);
    - II. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - a. are aware of and comply with the Processor's duties under this clause;
      - b. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
      - c. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
      - d. have undergone adequate training in the use, care, protection and handling of Personal Data; and
  - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
    - a. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
    - b. the Data Subject has enforceable rights and effective legal remedies;
    - c. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
    - d. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;



- (e) At the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

- 33.2.5 Subject to clause 33.2.6, the Processor shall notify the Controller without due delay and in any event within 48 hours if it:
- a. receives a Data Subject Access Request (or purported Data Subject Access Request);
  - b. receives a request to rectify, block or erase any Personal Data;
  - c. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - d. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
  - e. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - f. becomes aware of a Data Loss Event.
- 33.2.6 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 33.2.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- a. the Controller with full details and copies of the complaint, communication or request;
  - b. such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - c. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - d. assistance as requested by the Controller following any Data Loss Event;
  - e. assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 33.2.7 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- a. the Controller determines that the processing is not occasional;
  - b. the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  - c. the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 33.2.8 Where the Supplier is the Processor it shall allow for audits of its Data Processing activity by the FCDO or its FCDO's designated auditor.
- 33.2.9 Each party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 33.2.10 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
- a. notify the Controller in writing of the intended Sub-processor and processing;
  - b. obtain the written consent of the Controller;
  - c. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 33.2 such that they apply to the Sub-processor; and

- d. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

33.2.11 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.

33.2.12 The Controller may, at any time on not less than 30 Working Days’ notice, revise this clause by replacing it with any applicable Controller to Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

33.2.13 The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. FCDO may on not less than 30 Working Days’ notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner’s Office.

33.3 **Where the Parties both Control Personal Data Independently**

33.3.1 With respect to Personal Data which a Party acts as Controller but which is not under the Joint Control (because the Parties determine the means and purposes of processing Personal Data independently of each other) each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller and with this Clause 33.3.

33.3.2 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its processing of Personal Data as independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 33(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

33.3.3 Each Party shall promptly (and without undue delay) notify the other Party if in relation to any Personal Data processed by it as independent Controller in the performance of its obligations or the exercise of its rights under this Contract if:

- (a) it receives a complaint, notice or communication which relates to either Party's actual or alleged non-compliance with the Data Protection Legislation; or
- (b) it becomes aware of a Personal Data Breach;

and shall provide the other Party with such assistance and cooperation as is reasonably requested by the other Party in order to address and resolve the complaint, notice, communication or Personal Data Breach.

33.3.4 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (**the “Claim Losses”**): the Party responsible for the relevant breach shall be responsible for the Claim Losses.

33.3.5 The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be appropriate for them to retain such Personal Data under applicable Data Protection Law Legislation and their privacy policy (save to the extent and for the limited period) that such information needs to be retained by the a Party for statutory compliance the purposes of complying with Law or as otherwise required by this Contract), and taking all further actions as may be necessary or desirable to ensure its compliance with Data Protection Law Legislation and its privacy policy

33.4 **Where the Parties are both Controllers of Personal Data Jointly**

33.4.1 Where the Parties jointly determine the purposes of means of processing Personal Data in accordance with GDPR Article 26, the Parties shall identify the applicable Personal Data under Joint Control in Appendix A and the Parties shall enter into a Joint Controller Agreement based on the terms outlined in Appendix B in replacement of Clause 33.2-33.3 which shall not apply for any such the Personal Data under Joint Control.

34. **PUBLICITY AND BRANDING**

34.1 The Supplier shall not:

- 34.1.1 make any press announcements or publicise this Contract or its contents in any way; or

- 34.1.2 use FCDO’s name or brand (including the ‘UK aid logo’) in any promotion, marketing, communications or announcement of orders;  
without the prior written consent of the FCDO.
- 34.2 Where and to the extent that FCDO has provided consent pursuant to Clause 34.1, then the Supplier:
  - 34.2.1 shall collaborate with FCDO and proactively look for ways to build support for development and raise awareness of FCDO’s funding.
  - 34.2.2 shall explicitly acknowledge FCDO’s funding, in written and verbal communications about activities related to the funding, to the public or third parties, including in announcements, and through use, where appropriate, of FCDO’s “UK aid – from the British people” logo (‘UK aid logo’) in accordance with FCDO standards for use of the UK aid logo, unless otherwise agreed in advance by FCDO and in all cases subject to security and safety considerations of the Supplier.
  - 34.2.3 shall provide a visibility statement of how and when they or Sub-Contractors will acknowledge funding from FCDO and where they will use the UK aid logo. The Supplier shall include reference to this in its progress reports and annual reviews.
  - 34.2.4 may use the UK aid logo in conjunction with other donor logos, and where the number of donors to a programme or project is such as to make co-branding impractical, acknowledgement of funding from FCDO shall be equal to that of other co-donors making contributions of equivalent amounts to the programme or project.

Liabilities

35. LIMIT OF LIABILITY

- 35.1 Neither Party limits its liability for:
  - 35.1.1 death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
  - 35.1.2 fraud or fraudulent misrepresentation by it or its employees;
  - 35.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - 35.1.4 any liability to the extent it cannot be limited or excluded by Law.
- 35.2 Subject to Clause 35.1, the Supplier’s total aggregate liability in respect of all Losses (whether in tort, contract or otherwise) incurred by FCDO under or in connection with the Contract as a result of Defaults by the Supplier shall not exceed the Financial Limit unless a different amount has been stated in Section 4 (Special Conditions) in which case that amount shall apply.
- 35.3 Subject to Clause 35.1, FCDO’s total aggregate liability in respect of all Losses (whether in tort, contract or otherwise) shall not exceed one hundred thousand pounds (£100,000).
- 35.4 Subject to Clause 35.1 neither Party be liable to the other for any:
  - 35.4.1 loss of profits, turnover, savings business opportunities, revenue or damage to goodwill (in each case whether direct or indirect); and/or
  - 35.4.2 indirect, special or consequential loss or damage of any nature and howsoever caused, even if the losses were reasonably foreseeable or the Party has been advised of the possibility of such losses occurring.
- 35.5 Subject to Clause 35.2, and notwithstanding Clause 35.4, the Supplier acknowledges that FCDO may, amongst other things, recover from the Supplier the following losses incurred by FCDO to the extent that they arise as a result of a Default by the Supplier:
  - 35.5.1 any additional operational and/or administrative costs and expenses incurred by FCDO, including costs relating to time spent by or on behalf of FCDO in dealing with the consequences of the Default;
  - 35.5.2 any wasted expenditure or charges;
  - 35.5.3 the additional cost of procuring Replacement Services for the remainder of the Term, which shall include any incremental costs associated with such Replacement Services above those which would have been payable under this Contract;
  - 35.5.4 any compensation or interest paid to a third party by FCDO; and

35.5.5 any fine, penalty or costs incurred by FCDO pursuant to Law.

**36. INDEMNITY**

- 36.1 Subject to Clauses 35.1 to 35.5 (inclusive), the Supplier shall indemnify FCDO in respect of any Losses howsoever arising out of or in consequence of negligent acts or omissions by the Supplier or the Supplier Personnel or any claims made against FCDO by third parties in respect thereof and in relation to this Contract.
- 36.2 The Supplier shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of FCDO or FCDO’s employees, or by breach by FCDO of its obligations under the Contract.

**37. INSURANCE**

- 37.1 The Supplier shall effect and maintain insurances in relation to the performance of its obligations under this Contract in accordance with Schedule 3 (Insurance Requirements).
- 37.2 The Supplier shall ensure that its Sub-Contractors shall effect and maintain insurances (where appropriate) in relation to the performance of their obligations under any Sub-Contracts appropriate to Services being provided.
- 37.3 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities arising under this Contract.

**Control of Contract**

**38. VARIATIONS**

- 38.1 Either Party may request a variation to this Contract provided that such variation does not amount to a material change of this Contract within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a **“Variation”**.
- 38.2 A Party may request a Variation at any time by sending the request in writing to the relevant Contract Officer. The request shall contain sufficient information setting out:
- 38.2.1 the extent of the proposed Variation and any additional cost that may be incurred; and
- 38.2.2 a formal, technical and commercial justification.
- 38.3 In the event that the Parties are unable to agree a change to the Contract that may be included in a request of a Variation or response to as a consequence thereof FCDO may:
- 38.3.1 agree to continue to perform its obligations under this Contract without the Variation; or
- 38.3.2 terminate this Contract with immediate effect, except where the Supplier has already fulfilled part or all of the provision of the Services in accordance with this Contract or where the Supplier can show evidence of substantial work being carried out to provide the Services under this Contract, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure.
- 38.4 If the Parties agree the Variation, the Variation shall be effected upon both Parties signing the Contract Amendment Letter (Appendix A) and the Supplier shall implement such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in this Contract. FCDO shall not be liable for any costs for any additional activity or otherwise undertaken by the Supplier where the Parties have not agreed in writing in an executed Contract Amendment Letter in accordance with this Clause 38 for such costs to be incurred or for the additional activity to be undertaken. The Supplier shall promptly return on request by FCDO, any monies which FCDO may have paid the Supplier in respect of activities or payments which have not been authorised by FCDO in accordance with this Clause 38.

**39. ASSIGNMENT AND NOVATION**

- 39.1 The Supplier shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Contract without Approval.
- 39.2 Subject to Clause 39.1, the Supplier may assign to a third party (“the Assignee”) the right to receive payment of the Charges or any part thereof due to the Supplier under this Contract (including any interest to which FCDO is liable under the Late Payments of Commercial Debts (Interest) Act 1998). Any assignment under this Clause 39.2 shall be subject to:
- 39.2.1 deduction of any sums in respect of which FCDO exercises its right of recovery under Clause 19 (Retention and Set Off);

39.2.2 all related rights of FCDO under the Contract in relation to the recovery of sums due but unpaid; and

39.2.3 FCDO receiving notification under both Clauses 39.3 and 39.4.

39.3 In the event that the Supplier assigns the right to receive the Charges under Clause 39.2, the Supplier shall notify FCDO in writing of the assignment and the date upon which the assignment becomes effective.

39.4 The Supplier shall notify FCDO of the assignee’s contact information and bank account details to which FCDO shall make payment.

**Default and Termination**

**40. FCDO REMEDIES FOR DEFAULT**

**40.1 Remedies**

40.1.1 Without prejudice to any other right or remedy of FCDO howsoever arising if the Supplier commits any Default of this Contract, then FCDO may (whether or not any part of the Services have been provided) do any of the following:

- (a) at FCDO's option, give the Supplier the opportunity (at the Supplier's expense) to remedy the Default together with any damage resulting from such Default (where such Default is capable of remedy) or to supply Replacement Services and carry out any other necessary work to ensure that the terms of this Contract are fulfilled, in accordance with the FCDO 's instructions;
- (b) carry out, at the Supplier's expense, any work necessary to make the provision of the Services comply with this Contract;
- (c) if the Default is a material Default that is capable of remedy (and for these purposes a material Default may be a single material Default or a number of Defaults or repeated Defaults - whether of the same or different obligations and regardless of whether such Defaults are remedied - which taken together constitute a material Default):
  - (i) instruct the Supplier to comply with the Rectification Plan Process;
  - (ii) suspend this Contract (whereupon the relevant provisions of Clause 45 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) the Services;
  - (iii) without terminating or suspending the whole of this Contract, terminate or suspend this Contract in respect of part of the provision of the Services only (whereupon the relevant provisions of Clause 45 (Partial Termination, Suspension and Partial Suspension) shall apply) and step-in to itself supply or procure a third party to supply (in whole or in part) such part of the Services.

40.1.2 Where FCDO exercises any of its step-in rights under Clauses 40.1.1 (c) (ii) or 40.1.1 (c) (iii), FCDO shall have the right to charge the Supplier for and the Supplier shall on demand pay any costs reasonably incurred by FCDO (including any reasonable administration costs) in respect of the supply of any part of the Services by FCDO or a third party and provided that FCDO uses its reasonable endeavours to mitigate any additional expenditure in obtaining Replacement Services.

**40.2 Rectification Plan Process**

40.2.1 Where FCDO has instructed the Supplier to comply with the Rectification Plan Process pursuant to 40.1.1 (c) (i):

- (a) the Supplier shall submit a draft Rectification Plan to FCDO for it to review as soon as possible and in any event within 10 (ten) Working Days (or such other period as may be agreed between the Parties) from the date of FCDO’s instructions. The Supplier shall submit a draft Rectification Plan even if the Supplier disputes that it is responsible for the Default giving rise to the FCDO’s request for a draft Rectification Plan.
- (b) the draft Rectification Plan shall set out:
  - (i) full details of the Default that has occurred, including a root cause analysis;
  - (ii) the actual or anticipated effect of the Default; and
  - (iii) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable).

- 40.2.2 The Supplier shall promptly provide to the FCDO any further documentation that the FCDO requires to assess the Supplier's root cause analysis. If the Parties do not agree on the root cause set out in the draft Rectification Plan, either Party may refer the matter to be determined by an expert in accordance with Dispute Resolution Procedure.
- 40.2.3 FCDO may reject the draft Rectification Plan by notice to the Supplier if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
- (a) is insufficiently detailed to be capable of proper evaluation;
  - (b) will take too long to complete;
  - (c) will not prevent reoccurrence of the Default; and/or
  - (d) will rectify the Default but in a manner which is unacceptable to FCDO.
- 40.2.4 FCDO shall notify the Supplier whether it consents to the draft Rectification Plan as soon as reasonably practicable. If FCDO rejects the draft Rectification Plan, FCDO shall give reasons for its decision and the Supplier shall take the reasons into account in the preparation of a revised Rectification Plan. The Supplier shall submit the revised draft of the Rectification Plan to FCDO for review within five (5) Working Days (or such other period as agreed between the Parties) of the FCDO's notice rejecting the first draft.
- 40.2.5 If FCDO consents to the Rectification Plan, the Supplier shall immediately start work on the actions set out in the Rectification Plan.

**41. FINANCIAL DISTRESS**

- 41.1 The Supplier acknowledges and agrees that the financial stability and solvency of the Supplier and its key Sub-Contractors is critical to the successful delivery of the Services and that any deterioration or potential deterioration of their financial position may have an adverse effect on the performance of the Contract. The Supplier shall monitor its own financial standing and that of its key Sub-Contractors on a regular basis throughout the term using a Financial Monitoring Plan and shall report on this to FCDO.
- 41.2 The Financial Monitoring Plan shall be designed by the Supplier to ensure that FCDO has an early and clear warning indicator of any financial distress of the Supplier and key Sub-Contractors which may affect the Services; such design to be proportionate for the circumstances; taking into account the nature of the Services and the identity of the suppliers.
- 41.3 Except where FCDO has agreed otherwise, the Supplier shall within four (4) weeks of the Commencement Date, prepare and submit via the Project Officer for Approval by FCDO, a Financial Monitoring Plan which shall set out the Supplier's proposals for the monitoring and reporting of its financial stability, and the financial stability of its key Sub-Contractors to FCDO on a regular basis throughout the Term.
- 41.4 The Financial Monitoring Plan may include (but shall not be limited to):
- 41.4.1 A summary of the Supplier's and key Sub-Contractors' financial positions at the date of submission of the Financial Distress Plan and on a regular basis thereafter to FCDO (including credit ratings, financial ratios, details of current liabilities, value of marketable securities, cash in hand and bank, account receivables etc.);
  - 41.4.2 An objective means of measuring the Supplier and key Sub-Contractor's financial standing on a regular basis throughout the Term against historical financial standing to show trend (including use of credit ratings, financial ratios and/or other financial indicators);
  - 41.4.3 The Supplier's proposals for reporting financial standing to FCDO (including the template reporting forms which the Supplier intends to use);
  - 41.4.4 The frequency of monitoring and reporting activity;
  - 41.4.5 Provision of reporting lines for the supply chain to notify FCDO of incidents of non-payment of valid and undisputed invoices;
  - 41.4.6 Any other provisions which in the reasonable opinion of the Supplier may be required by FCDO to assess current financial standing of the Supplier and key Sub-Contractors and which enable quick and easy assessment of any movement in financial standing.

- 41.5 The Supplier shall make any reasonable amendments to the Financial Monitoring Plan as may be requested by FCDO and shall resubmit it for Approval. If Approved by FCDO, the Supplier shall promptly implement the Financial Monitoring Plan throughout the Term.
- 41.6 In addition to its obligations under the Financial Monitoring Plan, the Supplier shall promptly notify FCDO in writing if any of the following “Financial Distress Events” occurs in respect of the Supplier or a key Sub-Contractor:
- 41.6.1 there is a material deterioration of its financial standing;
  - 41.6.2 the appointment of an administrator or receiver;
  - 41.6.3 late filing of statutory accounts with Companies House;
  - 41.6.4 it issues a profits warning or other similar public announcement about a deterioration in its finances or prospects;
  - 41.6.5 it is being publicly investigated for improper financial accounting and reporting, fraud or any other financial impropriety;
  - 41.6.6 it commits a material breach of covenant to its lenders;
  - 41.6.7 a key Sub-Contractor not being paid any sums properly due under a specified invoice that is not subject to a genuine dispute;
  - 41.6.8 it is subject to any claims, litigation, investigations, actions or decisions in respect of financial indebtedness.
- 41.7 In the event of a Financial Distress Event occurring, then the Supplier shall and shall procure that any affected key Sub-Contractor shall, as soon as reasonably practicable review the effect of the Financial Distress Event on the continued performance of the Services under this Contract and provide a report to FCDO. Where FCDO reasonably believes that the Financial Distress Event is likely to adversely impact on the performance of the Services, the Supplier shall submit to FCDO for Approval a Financial Distress Service Continuity Plan as soon as is reasonably practicable and shall provide any further financial information as FCDO may reasonably require to assess financial standing and risks.
- 41.8 If FCDO acting reasonably considers that the Financial Distress Service Continuity Plan is insufficient to remedy the effects of the Financial Distress Event on the Service, then it may require the Supplier (and/or key Sub-Contractor) to redraft and resubmit an improved and updated plan or may require the issue to be escalated via the Dispute Resolution Procedure.
- 41.9 If FCDO Approves the Financial Distress Service Continuity Plan, then the Supplier shall execute and continue to review the plan (with submissions to FCDO for Approval where it is updated).
- 41.10 Where the Parties agree that the Financial Distress Event no longer adversely affects the delivery of the Services, the Supplier shall be relieved of its obligations in respect of the current Financial Distress Service Continuity Plan.
- 41.11 FCDO shall be entitled to terminate this Contract for material Default if:
- 41.11.1 The Supplier fails to notify FCDO of a Financial Distress Event in accordance with Clause 41.6;
  - 41.11.2 FCDO and the Supplier fail to agree a Financial Distress Service Continuity Plan or any updates to a plan within a reasonable timescale (taking into account the effects of the Financial Distress Event on the Services);
  - 41.11.3 The Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan or any updates to the plan.
- 42. FORCE MAJEURE**
- 42.1 Subject to the remainder of this Clause 42, a Party may claim relief under this Clause 42 from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under this Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 42.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 42.3 If the Supplier is the Affected Party, it shall not be entitled to claim relief under this Clause 42 to the extent that consequences of the relevant Force Majeure Event:

- 42.3.1 are capable of being mitigated by any of the provision of any Services but the Supplier has failed to do so; and/or
- 42.3.2 should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Contract.
- 42.4 Subject to FCDO's right to terminate set out in Clause 42.5, the Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 42.5 Where FCDO receives a Force Majeure Notice, from the date of receipt of the Force Majeure Notice, FCDO may, at its sole discretion, either suspend this Contract for a period of up to six (6) months ("the Suspension Period") or terminate this Contract forthwith.
- 42.6 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.
- 42.7 Relief from liability for the Affected Party under this Clause 42 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under Clause 42.6.
- 42.8 If by the end of the Suspension Period the Parties have not agreed a further period of suspension or re-instatement of the Contract, this Contract shall terminate automatically.

**43. TERMINATION WITHOUT DEFAULT OF THE SUPPLIER**

- 43.1 FCDO may, at its sole discretion, terminate this Contract, at any time by issuing a Termination Notice to the Supplier giving at least thirty (30) Working Days written notice (unless stated differently in Section 4 (Special Conditions)).

**44. TERMINATION WITH DEFAULT OF THE SUPPLIER**

- 44.1 FCDO may terminate this Contract for material Default by issuing a Termination Notice to the Supplier where:
  - 44.1.1 any representation or warranty given by the Supplier pursuant to Clause 2 (Representations and Warranties) is materially untrue or misleading, and the Supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of FCDO are acceptable;
  - 44.1.2 FCDO expressly reserves the right to terminate this Contract for material Default;
  - 44.1.3 the Supplier commits any material Default of the Contract, which is not, in the reasonable opinion of FCDO, capable of remedy; and/or
  - 44.1.4 the Supplier commits a Default, including a material Default, which in the opinion of FCDO is remediable but has not remedied such Default to the satisfaction of FCDO in accordance with the Rectification Plan Process.
- 44.2 For the purpose of Clause 44.1, a material Default may be a single material Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied) which taken together constitute a material Default.
- 44.3 FCDO may, without prejudice to its other rights, including but not limited to the right to claim for Losses incurred, issue a Termination Notice where:
  - 44.3.1 the Supplier or any Supplier Personnel, either directly or through their servants or agents or Sub-Contractors breaches any of their obligations under this Contract; or
  - 44.3.2 the Supplier, Supplier Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf has committed an offence under the Bribery Act 2010 or the Terrorism Act 2000 in breach of Clauses 48 or 49 of this Contract; or
  - 44.3.3 FCDO has the right to terminate under Clause 38.3.2; or
  - 44.3.4 the Supplier is an individual or a partnership and at any time:
    - (a) becomes bankrupt; or



- (b) is the subject of a receiving order or administration order; or
- (c) makes any composition or arrangement with or for the benefit of the Supplier's creditors; or
- (d) makes any conveyance or assignment for the benefit of the Supplier's creditors; or
- (e) the warranty given by the supplier pursuant to Clause 24 (Tax Compliance) is materially untrue; or
- (f) the Supplier commits a material breach of its obligation to notify FCDO of any Occasion of Tax Non-Compliance as required by Clause 24 (Tax Compliance); or
- (g) the Supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of FCDO, are acceptable; or

44.3.5 the Supplier is a company and:

- (a) an order is made or a resolution is passed for the winding up of the Supplier; or
- (b) a receiver or administrator is appointed in respect of the whole or any part of the undertaking of the Supplier; or

44.3.6 the Supplier is a partnership or a company and there is a Change of Control.

44.3.7 there is an occurrence of any of the statutory provisos contained in Regulation 73(1)(a)-(c) of the Regulations.

44.4 Where this Contract is terminated in accordance with this Clause 44, the Supplier shall without prejudice to FCDO's other remedies, take any steps necessary to terminate the provision of the Services in a timely and orderly manner and in compliance with Clause 16 (Exit Management) but shall not be entitled to any further payment in relation to this Contract.

**45. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION**

45.1 Where FCDO has the right to terminate this Contract, FCDO shall be entitled to terminate or suspend all or part of this Contract provided always that, if FCDO elects to terminate or suspend this Contract in part, the parts of this Contract not terminated or suspended can, in FCDO's reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Contract.

45.2 Any suspension of this Contract under Clause 45.1 shall be for such period as FCDO may specify and without prejudice to any right of termination which has already accrued, or subsequently accrues, to FCDO.

45.3 The Parties shall seek to agree the effect of any Variation necessitated by a partial termination, suspension or partial suspension in accordance with the procedure set out in Clause 38 (Variation), including the effect that the partial termination, suspension or partial suspension may have on the provision of any other Services and the Charges, provided that the Supplier shall not be entitled to:

- 45.3.1 an increase in the Charges in respect of the provision of the Services that have not been terminated if the partial termination arises due to the exercise of any of FCDO's termination rights under Clause 44 (Termination With Default of the Supplier) except Clause 43 (Termination Without Default of the Supplier); and
- 45.3.2 reject the Variation.

**46. CONSEQUENCES OF EXPIRY OR TERMINATION**

- 46.1 Where this Contract has been terminated pursuant to Clause 43 (Termination Without Default of the Supplier), the Supplier shall:
- 46.1.1 take such steps as are necessary to terminate the provision of the Services or any part of the Services (including suspending or terminating any Sub-Contracts) in a cost-effective, timely and orderly manner;
  - 46.1.2 act in accordance with Clause 16 (Exit Management); and
  - 46.1.3 provide to FCDO, not more than 60 days after FCDO notifies the Supplier of the termination of this Contract an account in writing with detailed supporting evidence, stating:
    - (a) any costs, if any, due before the date of termination, which cannot be avoided by the Supplier using reasonable endeavours; and

- (b) costs to be expended after the date of termination which the Supplier necessarily incurred in the proper performance of this Contract and which the Supplier cannot reasonably avoid or recover using reasonable endeavours;

and, subject to Approval, FCDO shall pay such amount stated pursuant to Clause 46.1.3 to the Supplier within 30 days of receipt from the Supplier of a Valid Invoice in respect of the amount due.

- 46.2 Where this Contract is terminated under Clause 44 (Termination with Default of the Supplier) and FCDO makes other arrangements for the provision of Services FCDO may recover from the Supplier pursuant to Clause 19 (Retention and Set Off) or otherwise, the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by FCDO throughout the remainder of the Term provided that FCDO shall take all reasonable steps to mitigate such additional expenditure.
- 46.3 Where this Contract is terminated for any reason, save as expressly provided in this Contract:
  - 46.3.1 termination or expiry of this Contract shall be without prejudice to any rights, remedies or obligations accrued under this Contract prior to termination or expiration and nothing in this Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and
  - 46.3.2 termination of this Contract shall not affect the continuing rights, remedies or obligations of FCDO or the Supplier under Clauses 15, 16, 17, 18, 19, 21, 22, 25, 28, 29, 30, 31, 32, 33, 35, 36, 46, 47, 52 and 57, and the provisions of Schedule 2 (Staff Transfer) of this Section 2 and any relevant clauses listed under Section 4 (Special Conditions), and, without limitation to the foregoing, any other provision of this Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the Expiry Date.

MISCELLANEOUS AND GOVERNING LAW

47. DISPUTE RESOLUTION PROCEDURE

- 47.1 The Parties will attempt in good faith to negotiate a settlement to any Dispute between them arising out of or in connection with this Contract. If the matter is not resolved by negotiation within 45 days of when either Party first made contact in respect of the same, the Parties will refer the Dispute to mediation in accordance with CEDR (Centre for Effective Dispute Resolution in London, UK) procedures. If the parties fail to agree terms of settlement within 90 days of the initiation of the procedure the Dispute may be referred to an arbitrator as agreed between the parties or failing such agreement as may be nominated by the President of the Law Society of England and Wales upon application of any Party. The initiation of the procedure is defined as the written request to CEDR by any Party for mediation provided that such request is copied to the other Party.
- 47.2 The decision of the arbitrator shall be final and binding on both Parties.
- 47.3 The seat and place of arbitration shall be London.

48. PREVENTION OF FRAUD AND BRIBERY

- 48.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, any person acting on their behalf, have at any time prior to the Commencement Date:
  - 48.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
  - 48.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 48.2 The Supplier, Supplier Personnel, or any person acting on their behalf shall not during the Term:
  - 48.2.1 commit a Prohibited Act; and/or
  - 48.2.2 do or suffer anything to be done which would cause FCDO or any of FCDO’s employees, consultants, suppliers, Sub-Contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 48.3 The Supplier shall during the Term:
  - 48.3.1 establish, maintain and enforce, and require that its Supplier Personnel establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

- 48.3.2 keep appropriate records of its compliance with its obligations under Clause 48.3.1 and make such records available to FCDO on request.
- 48.4 The Supplier shall immediately notify FCDO in writing if it becomes aware of any breach of Clause 48.1 and/or Clause 48.2, or has reason to believe that it has or any Supplier Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf have:
- 48.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- 48.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- 48.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.
- 48.5 The Supplier warrants and represents to FCDO that to the best of its knowledge, that neither the Supplier, Supplier Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf:
- 48.5.1 has given, offered or agreed to give or accepted, any gift or consideration of any kind as an inducement or reward for doing or for bearing to do or for having done or forborne to do any act in relation to the obtaining or execution of any contract or for showing or forbearing to show favour or disfavour to any person or entity in relation to any contract; or
- 48.5.2 has entered into any contract in connection with which commission has been paid or agreed to be paid by or to the Supplier or Supplier Personnel or on their behalf or to their knowledge unless, before such contract was made, particulars of any such commission and of the terms of any agreement for the payment of such commission were disclosed in writing to FCDO, whose written consent was subsequently given to such payment.
- 48.6 Neither the Supplier or the Supplier Personnel or any person acting on their behalf shall accept for their own benefit or pass on for the benefit of partner government, recipient or end user, any trade commission, discount, voucher scheme, re-sale or similar payment or benefit in connection with this Contract.
- 48.7 Where the Supplier or Supplier Personnel, or any person acting on their behalf, does any of the acts mentioned in Clause 48.5 or commits any offence under the Bribery Act 2010, with or without the knowledge of the Supplier, in relation to this Contract or any other contract with the Crown, FCDO shall be entitled:
- 48.7.1 to terminate the Contract with immediate effect by written notice to the Supplier and recover from the Supplier the amount of any Losses resulting from the termination;
- 48.7.2 to recover from the Supplier the amount or value of any such gift, consideration or commission;
- 48.7.3 to recover from the Supplier any other Losses sustained as a result of any breach of this Clause 48, whether or not the Contract is terminated.
- 48.8 FCDO, the Supplier and the Supplier Personnel shall immediately and without undue delay inform each other of any event that interferes or threatens to materially interfere with the successful delivery of the Services, whether financed in full or in part by FCDO, including credible suspicion of/or actual fraud, bribery, corruption or any other financial irregularity or impropriety.
- FCDO has an expert fraud investigation unit, that should be contacted in the first instance at [reportingconcerns@fcdo.gov.uk](mailto:reportingconcerns@fcdo.gov.uk) or +44 (0)1355 843747. All suspicions will be treated with the utmost confidentiality.

**49. ANTI-TERRORISM REGULATIONS**

- 49.1 In accordance to the Terrorism Act 2000 and all subsequent regulations pursuant to this Act, the Supplier will assure itself to the best of its knowledge that UK funding, including financial assets or economic resources is not made available, either directly or indirectly to, or for the benefit of persons, groups or entities listed in accordance with European Council Regulation EC/2580/2001 (as amended) and/or the Terrorism (United Nations Measures) Orders 2009 of the United Kingdom, or contravene the provisions of those and any subsequent applicable terrorism legislation.
- 49.2 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf, have at any time prior to the Commencement Date and/or during the term of this Contract appeared on the Home Office Proscribed Terrorist Organisations List.
- 49.3 The Supplier shall immediately notify FCDO in writing if it becomes aware of any breach of Clause 49.1 and/or Clause 49.2, or has reason to believe that it has or any Supplier Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf have:
- 49.3.1 been subject to an investigation or prosecution which relates to an alleged infringement of Clause 49.1 and/or Clause 49.2;

- 49.3.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts.
- 49.4 Where the Supplier or any of his employees, servants, agents or Sub-Contractors, or any person acting on their behalf, breaches any of the acts mentioned in Clause 49.1 and/or Clause 49.2 commits any offence under the Terrorism Act 2000, with or without the knowledge of the Supplier, in relation to this Contract or any other contract with the Crown, FCDO shall be entitled:
- 49.4.1 to terminate the Contract with immediate effect by written notice to the Supplier and recover from the Supplier the amount of any loss resulting from the termination;
- 49.4.2 to recover from the Supplier any other loss sustained as a result of any breach of this Clause 49, whether or not the Contract has been terminated.

**50. SAFEGUARDING**

50.1 For the purposes of this Clause 50, **“Reasonable Measures”** shall mean:

all reasonable endeavours expected to be taken by a professional and prudent supplier in the Supplier’s industry to eliminate or minimise risk of actual, attempted or threatened exploitation, abuse and harassment (including Sexual Abuse, Sexual Exploitation and Sexual Harassment) and whether or not such conduct would amount to a criminal offence in the United Kingdom or an offence under the laws of the territory in which it takes place (together **“Serious Misconduct”**) as is reasonable and proportionate under the circumstances. Such endeavours may include (but shall not be limited to):

- (a) clear and detailed policies and guidance for Supplier Personnel, Supplier Providers and where appropriate, beneficiaries;
- (b) developing, implementing and maintaining a safeguarding plan throughout the term (including monitoring);
- (c) provision of regular training to Supplier Personnel, Supplier Providers and where appropriate, beneficiaries
- (d) clear reporting lines and whistleblowing policies in place for Supplier Personnel, Supplier Providers and beneficiaries,
- (e) maintaining detailed records of any allegations of Serious Misconduct and regular reporting to FCDO and the Appropriate Authorities (where relevant) of any such incidents;
- (f) any other Good Industry Practice measures (including any innovative solutions),

- 50.2 The Supplier shall take all Reasonable Measures to prevent Serious Misconduct by the Supplier Personnel or any other persons engaged and controlled by it to perform any activities under this Agreement (**“Supplier Providers”**) and shall have in place at all times robust procedures which enable the reporting by Supplier Personnel, Supplier Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the Supplier or Supplier Personnel to investigate such reports.
- 50.3 The Supplier shall take all Reasonable Measures to ensure that the Supplier Personnel and Supplier Providers do not engage in sexual activity with any person under the age of 18, regardless of the local age of majority or age of consent or any mistaken belief held by the Supplier Personnel or Supplier Provider as to the age of the person. Furthermore, the Supplier shall ensure that the Supplier Personnel and Supplier Providers do not engage in ‘transactional sex’ which shall include but not be limited to the exchange of money, employment, goods, or services for sex and such reference to sex shall include sexual favours or any form of humiliating, degrading or exploitative behavior on the part of the Supplier Personnel and the Supplier Providers. For the avoidance of doubt, such ‘transactional sex’ shall be deemed to be Serious Misconduct in accordance with Clause 50.1.
- 50.4 The Supplier shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the Supplier Personnel and Supplier Providers to the FCDO Investigations Department at [reportingconcerns@fcdo.gov.uk](mailto:reportingconcerns@fcdo.gov.uk) or +44 (0)1355 843747, and where necessary, the Appropriate Authorities.
- 50.5 The Supplier shall fully investigate and document all cases or potential cases of Serious Misconduct and shall take appropriate corrective action to reduce the risk and/or eliminate Serious Misconduct being committed by the Supplier Personnel and Supplier Providers (which may include disciplinary action, termination of contracts etc.), such investigations and actions to be reported to FCDO as soon as is reasonably practicable
- 50.6 The Supplier shall not engage as Supplier Personnel or Supplier Provider for the purposes of the Services any person whose previous record or conduct known to the Supplier (or reasonably ought to be known by a diligent supplier which undertakes the appropriate checks) indicates that they are unsuitable to perform the Services and/or where they represent an increased and unacceptable risk of committing Serious Misconduct.
- 50.7 The Supplier shall comply with all applicable laws, legislation, codes of practice and government guidance in the UK and additionally, in the territories where the Services are being performed, relevant to safeguarding and protection of children and vulnerable adults, which the Supplier acknowledges may include vetting of the Supplier Personnel by the UK Disclosure and Barring Service in respect

of any regulated activity performed by the Supplier Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where FCDO reasonably believes that there is an increased risk to safeguarding in the performance of the Services, the Supplier shall comply with any reasonable request by FCDO for additional vetting to be undertaken.

50.8 Failure by the Supplier to:

- 50.8.1 put in place preventative measures to eliminate and/or reduce the risk of Serious Misconduct; or
- 50.8.2 fully investigate allegations of Serious Misconduct; or
- 50.8.3 report any complaints to FCDO and where appropriate, the relevant authorities (including law enforcement)

shall be a material Default of this Contract and shall entitle FCDO to terminate this Contract with immediate effect.

51. **DISCRIMINATION**

- 51.1 The Supplier shall not unlawfully discriminate either directly or indirectly against protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of all relevant legislation including the Equality Act 2010, the International Development (Gender Equality) Act 2014 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof. The Supplier shall ensure that in its delivery of the Services, it has due regard for the advancement of equal opportunity and promotes good relations between people who share a protected characteristic and those who do not, as required by the equality legislation.
- 51.2 The Supplier shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission. The Supplier shall take all reasonable steps to secure the observance of these provisions and codes of conduct by all suppliers, employees or agents of the Supplier and all suppliers and Sub-Contractors employed in the execution of this Contract.
- 51.3 The Supplier will comply with any request by FCDO to assist FCDO in meeting its obligations under the Equality Act 2010 and to allow FCDO to assess the Supplier's compliance with its obligations under the Equality Act 2010.
- 51.4 Where any investigation is concluded or proceedings are brought under the Equality Act 2010 which arise directly or indirectly out of any act or omission of the Supplier, its agents or Sub-Contractors, or Supplier Personnel, and where there is a finding against the Supplier in such investigation or proceedings, the Supplier will indemnify FCDO with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment FCDO may have been ordered or required to pay to a third party.

52. **LAW AND JURISDICTION**

- 52.1 This Contract shall be governed by and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

53. **ENVIRONMENTAL REQUIREMENTS**

- 53.1 The Supplier shall provide the Services and any goods & equipment required under the Contract in accordance with applicable national and international laws, including those of the country or countries in which the Services or goods & equipment are to be provided, and FCDO's environmental operations policy, which is to conserve energy, water and other resources, reduce waste, phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- 53.2 The Supplier shall work with FCDO and the populations that are potentially affected by its operations under the Contract regarding any environmental issues that could affect the sustainable development provisions of the International Development Act (2002), comply with special conditions as stipulated in the Terms of Reference and carry out any reasonable additional request to ensure the protection of the environment, society and the economy throughout the contract period.
- 53.3 The Supplier shall ensure it has the requisite expertise and controls to identify and mitigate all factors that may affect compliance with the conditions outlined in Clauses 53.1 and 53.2 as a result of its own operations or those of Sub-Contractors working on its behalf.
- 53.4 The Supplier shall promptly notify FCDO of any changes in potential material adverse effects from its operations under the Contract and of the occurrence of any incident or accident related to the Project that has or is likely to have a significant adverse effect on the environment.

- 53.5 Nothing in Clauses 53.1 to 53.3 shall relieve the obligations of the Supplier to comply with its statutory duties and Good Industry Practice.
- 54. CONFLICT OF INTEREST**
- 54.1 Neither the Supplier nor any of the Supplier Personnel shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to this Contract.
- 54.2 The Supplier and the Supplier Personnel shall notify FCDO immediately of any actual or potential conflict together with recommendations as to how the conflict can be avoided.
- 54.3 The Supplier shall establish and maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between Services undertaken for FCDO and that undertaken for other clients. The Supplier shall avoid knowingly committing any acts which are likely to result in any allegation of impropriety against FCDO, including conflicts of interest which are likely to prejudice their independence and objectivity in performing the Contract, howsoever arising.
- 54.4 The Supplier shall notify FCDO immediately of any circumstances of which it becomes aware which give rise or potentially give rise to a conflict with the Services and shall advise FCDO of how they intend to avoid such a conflict arising or remedy such situation. The Supplier shall, subject to any obligations of confidentiality it may have to third parties, provide all information and assistance reasonably necessary (at the Supplier's cost) that FCDO may request of the Supplier in order to avoid or resolve a conflict of interest and shall ensure that at all times they work together with FCDO with the aim of avoiding a conflict or remedy a conflict.
- 54.5 Pursuant to Clause 54.4, FCDO shall have the right to require that the Supplier puts in place Ethical Walls and will ensure and satisfy FCDO that all information relating to the Contract and to the Services (including all working papers, draft reports in both tangible and intangible form) are not shared or made available to person(s) other than Supplier Personnel and that such matters are not discussed by any person(s) other than Supplier Personnel.
- 54.6 In the event of a failure to maintain the Ethical Walls as described above arising during the course of this Contract, FCDO reserves the right to immediately terminate the Contract on giving written notice to the Supplier.
- 55. WAIVER**
- 55.1 A waiver of any of the terms and/or conditions of this Contract shall be valid only where it is agreed expressly in writing and signed by the parties. No failure or delay by a Party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 56. ENTIRE AGREEMENT**
- 56.1 The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this Clause 56.1 shall not exclude liability in respect of any fraudulent misrepresentation.
- 56.2 The Supplier is not the agent of FCDO and has no authority to represent and shall not purport to represent or enter into any commitments on behalf of FCDO in any respect.
- 56.3 Nothing in this Contract is intended to make nor shall it make FCDO the employer of the Supplier or any of the Supplier Personnel.
- 56.4 All communications by the Supplier relating to the Contract must be addressed to the FCDO Contract Officer whose name and address is given in Section 4 (Special Conditions).
- 57. THIRD PARTY RIGHTS**
- 57.1 The provisions of paragraphs 2.1 and 2.6 of Part A, paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B, paragraphs 2.1 and 2.3 of Part C and paragraphs 1.4, 2.3 and 2.8 of Part D of Schedule 2 (Staff Transfer) (together the **"Third Party Provisions"**) confer benefits on persons named in such provisions other than the Parties (each such person a **"Third Party Beneficiary"**) and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 (**"CRTPA"**).
- 57.2 Subject to Clause 57.1, a person who is not a Party to this Contract has no right under the CRTPA to enforce any term of this Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 57.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of FCDO, which may, if given, be given on and subject to such terms as FCDO may determine.

57.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 57.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

**58. NOTICES**

58.1 Except as otherwise expressly provided within this Contract, any notices sent under this Contract must be in writing. For the purpose of Clause 58, an e-mail is accepted as being "in writing".

58.2 Subject to Clause 58.3, the following table sets out the method by which notices may be served under this Contract and the respective deemed time and proof of service:

Manner of delivery	Deemed time of delivery	Proof of Service
Email (Subject to Clauses 58.3 and 58.4)	9.00am on the first Working Day after sending	Dispatched as a pdf attachment to an e-mail to the correct e-mail address without any error message
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day	Properly addressed and delivered as evidenced by signature of a delivery receipt
Royal Mail Signed For™ 1 <sup>st</sup> Class or other prepaid, next Working Day service providing proof of delivery	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm)	Properly addressed prepaid and delivered as evidenced by signature of a delivery receipt

58.3 The following notices may only be served as an attachment to an email if the original notice is then sent to the recipient by personal delivery or Royal Mail Signed For™ 1st Class or other prepaid in the manner set out in the table in Clause 58.2:

58.3.1 any Termination Notice (Clause 43 (Termination Without Default of the Supplier) and Clause 44 (Termination With Default of the Supplier)); and

58.3.2 any notice in respect of:

- (a) partial termination, suspension or partial suspension (Clause 45 (Partial Termination, Suspension and Partial Suspension)),
- (b) waiver (Clause 55 (Waiver)); or
- (c) Default.

58.4 Failure to send any original notice by personal delivery or recorded delivery in accordance with Clause 58.3 shall invalidate the service of the related e-mail transmission. The deemed time of delivery of such notice shall be the deemed time of delivery of the original notice sent by personal delivery or Royal Mail Signed For™ 1st Class delivery (as set out in the table in Clause 58.2) or, if earlier, the time of response or acknowledgement by the other Party to the email attaching the notice.

58.5 Clause 58 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

58.6 For the purposes of Clause 58, the address and email address of each Party shall be as specified in Section 4 (Special Conditions).

SCHEDULE 1: DEFINITIONS

Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below:

**“Actual Profit Margin”** means the actual profit achieved during the relevant period set out in Clause 20.1;

**“Affected Party”** the Party seeking to claim relief in respect of a Force Majeure Event;

**“Affiliate”** in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;

**“Approval”** means the prior written consent of FCDO and **“Approve”** and **“Approved”** shall be construed accordingly;

**“Auditor”** means:

- (a) FCDO’s internal and external auditors;
- (b) FCDO’s statutory or regulatory auditors;
- (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
- (d) HM Treasury or the Cabinet Office;
- (e) any party formally appointed by FCDO to carry out audit or similar review functions; and
- (f) successors or assigns of any of the above.

**“Appropriate Authorities”** means any and/or all of (as may be relevant under the circumstances) the UK government bodies and/or government bodies/agencies in the territory where Serious Misconduct may have or is suspected of having taken place, which have responsibility for safeguarding, recording, investigating, enforcing and/or determining allegations of Serious Misconduct and which may include (but shall not be limited to), the FCDO, the National Crime Agency, UK Police force, local territory police forces, and social services.

**“Central Government Body”** a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

- (a) Government Department;
- (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
- (c) Non-Ministerial Department; or
- (d) Executive Agency;

**“Change of Control”** means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;

**“Charges”** means the charges raised under or in connection with this Contract from time to time, which shall be calculated in a manner that is consistent with Schedule 5 (Schedule of Prices) and the eligible cost guidance.

**“Commencement Date”** means the date identified in Section 1 Form of Contract.

**“Commercially Sensitive Information”** the information listed in Section 4 (Special Conditions) comprising the information of a commercially sensitive nature relating to the Supplier, its intellectual property rights or its business of which the Supplier has indicated to FCDO that, if disclosed by FCDO, would cause the Supplier significant commercial disadvantage of material financial loss.

**“Confidential Information”** means all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including all intellectual property rights, together with all information derived from any of the above, and any other information clearly being designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably be considered to be confidential.

**“Contract”** means this agreement between FCDO and the Supplier consisting of this Section 2 (Standard Terms and Generals) and any attached Schedules and Appendices

**“Contract Amendment Letter”** means the form set out in Appendix A.

**“Contract Officer”** means the person named in Section 4 who is responsible for all contractual aspects of the Contract.

**“Contracts Finder”** means the Government’s publishing portal for public sector procurement opportunities.

**“Control”** means control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and **“Controlled”** shall be construed accordingly;

**“Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer”** take the meaning given in the GDPR.



**“Data Protection Legislation”** (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.

**“Data Protection Impact Assessment”**: an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data.

**“Data Loss Event”**: any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

**“Data Subject Access Request”**: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**“DPA 2018”** means the Data Protection Act 2018

**“Default”** means any breach of the obligations of the Supplier (including but not limited to including abandonment of this Contract in breach of its terms) or any other default (including material Default), act, omission, negligence or statement of the Supplier, of the Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to FCDO;

**“Delivery Chain”** means all of the Supplier’s Sub-Contractors, Supplier Providers and partners involved in delivering a specific good, service or change for the purposes of the Services provided under this Agreement, down to the end beneficiary;

**“FCDO Background IPR”** means:

- a) IPRs owned by FCDO before the Commencement Date, including IPRs contained in any of FCDO's know-how, documentation, software, processes and procedures;
- b) IPRs created by FCDO independently of this Contract; and/or
- c) Crown Copyright which is not available to the Supplier otherwise than under this Contract;

**“FCDO Data”** means (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Supplier by or on behalf of FCDO; or (ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; or (b) any Personal Data for which FCDO is the Data Controller.

**“FCDO System”** FCDO's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by FCDO or the Supplier in connection with this Contract which is owned by FCDO or licensed to it by a third party and which interfaces with the Supplier System or which is necessary for FCDO to receive the Services;

**“Dispute”** any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Variation Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;

**“Dispute Resolution Procedure”** means the dispute resolution procedure set out in Clause 47;

**“DOTAS”** means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

**“Employee Liabilities”** means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- b) unfair, wrongful or constructive dismissal compensation;
- c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d) compensation for less favourable treatment of part-time workers or fixed term employees;
- e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by FCDO or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Sub-Contractor if such payment should have been made prior to the Service Transfer Date;
- f) claims whether in tort, contract or statute or otherwise;
- g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

**“Employment Regulations”** means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;

**“Employment Business”** means an employment agency is an organization which matches employers to employees. In all developed countries there is a publicly funded employment agency and multiple private businesses which also act as employment agencies.

**“Environmental Information Regulations”** means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations;

**“Ethical Walls”** means a process for avoiding conflicts of interest by limiting disclosure of information to certain individuals within an organisation, thereby building a metaphorical wall between the holders of information and colleagues who represent interests or hold opinions which conflict.

**“Euro Compliant”** means that:

- (i) the introduction of the euro within any part(s) of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect FCDO’s business;
- (ii) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and
- (iii) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data):
  - (a) be able to perform all such functions in any number of currencies and/or in euros;
  - (b) during any transition phase applicable to the relevant part(s) of the UK, be able to deal with multiple currencies and, in relation to the euro and the national currency of the relevant part(s) of the UK, dual denominations;
  - (c) recognise accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;
  - (d) incorporate protocols for dealing with rounding and currency conversion;
  - (e) recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any output data in the national currency of the relevant part(s) of the UK and/or the euro; and
  - (f) permit the input of data in euro and display an outcome in euro where such data, supporting FCDO’s normal business practices, operates in euro and/or the national currency of the relevant part(s) of the UK.

**“Equipment”** means any equipment, computer hardware or software, materials, goods and vehicles and associated services necessarily required for the implementation of the Services, which the Supplier cannot reasonably be expected to provide, which are financed or provided by FCDO for use by the Supplier.

**“Exit Management”** services, activities, processes and procedures to ensure a smooth and orderly transition of all or part of the Services from the Supplier to FCDO and/or a Replacement Supplier.

**“Exit Plan”** the plan produced and updated by the Supplier during the Term in accordance with Terms of Reference and Clause 16;

**“Expiry Date”** means:

- (a) the end date of the Initial Period or, if exercised, the end date of any Extension Period; or
- (b) if this Contract is terminated before the date specified in (a) above, the earlier date of termination of this Contract;

**“Extension Period”** means such period or periods up to a maximum of the number of years in total as may be specified by FCDO, pursuant to Clause 4.2 and in Section 4 (Special Conditions);

**“Financial Limit”** means the amount specified in Section 1 (Form of Contract) and is the maximum amount of Charges paid by FCDO and which FCDO has agreed are duly payable under this Contract for the receipt of the Services.

**“FOIA”** means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation.

**“Force Majeure Event”** any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, government or regulatory bodies, fire, flood, storm

or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel, servants, agents or Sub-Contractors, or any person acting on their behalf or any other failure in the Supplier's or a Sub-Contractor's supply chain;

**"Force Majeure Notice"** a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;

**"Former Supplier"** means a supplier supplying services to FCDO before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Sub-Contractor of such supplier (or any Sub-Contractor of any such Sub-Contractor);

**"GDPR"** the General Data Protection Regulation (*Regulation (EU) 2016/679*).

**"General Anti-Abuse Rule"** means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.

**"Good Industry Practice"** at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of services similar to the Services to a customer like FCDO, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws;

**"Halifax Abuse Principle"** means the principle explained in the CJEU Case C-255/02 Halifax and others.

**"HM Government Cyber Essentials Scheme"** means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>

**"IATI"** means the International Aid Transparency Initiative standard and is a technical publishing framework allowing data to be compared. It is designed to report forward-looking aggregate budget information for the reported organisations, and planned future budgets to recipient institutions or countries.

**"ICT Environment"** means the FCDO System and the Supplier System;

**"Information"** has the meaning given under Section 84 of the Freedom of Information Act 2000; including all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);

**"Initial Period"** means the initial term of this Contract from the Commencement Date to the end date of the initial term stated in Section 4 (Special Conditions);

**"Intellectual Property Rights" or "IPRs"** means

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semiconductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;
- (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and

all other rights having equivalent or similar effect in any country or jurisdiction;

**"IPR Claim"** means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Services or as otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to FCDO (including any claims arising from the publication of the Project Specific IPRs as open source) in the fulfilment of its obligations under this Contract

**"Joint Control"** means Personal Data which under the Control of Joint Controllers in accordance with GDPR Article 26;

**"Joint Controllers"** means where two or more Controllers jointly determine the purposes and means of processing;

**"Key Personnel"** means the individuals (if any) identified as such in Section 4 (Special Conditions);

**"Key Performance Indicators" or "KPIs"** means a set of quantifiable measures that FCDO and Supplier will use to measure the performance of the Services provided by the Supplier under the Contract (as defined in Section 3 Terms of Reference).

**"Law"** means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

**"LED"** means Law Enforcement Directive (*Directive (EU) 2016/680*)

**“Licensed Software”** all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to FCDO for the purposes of or pursuant to this Contract, including any Supplier Software, Third Party Software and/or any Specially Written Software;

**“Losses”** means all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and **“Loss”** shall be interpreted accordingly;

**“Malicious Software”** any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;

**“Milestone”** an event or task described in the Implementation Plan which, if applicable, shall be completed by the relevant Milestone Date;

**“Milestone Payment”** a payment identified in Section 5 to be made following the issue of a Milestone Achievement Certificate;

**“Occasion of Tax Non-Compliance”** means:

- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
  - i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
  - ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud evasion.

**“Open Book Data”** means complete and accurate financial and non-financial information which is sufficient to enable FCDO to verify the Charges already paid or payable and Charges forecast to be paid during the Term, including details and all assumptions relating to costs.

**“Overhead”** means those amounts which are intended to recover a proportion of the Supplier’s or the Sub-Contractor’s (as the context requires) indirect corporate costs;

**“Parties”** and **“Party”** have the meanings respectively given in Section 1 of this Contract;

**“Performance Indicators”** means the Key Performance Indicators and the subsidiary Performance Indicators;

**“Personal Data”** means personal data (as defined in the Data Protection Act 1998) which is Processed by the Supplier or any Sub-Contractor on behalf of FCDO or a Central Government Body pursuant to or in connection with this Contract;

**“Process”** has the meaning given to it under the Data Protection Legislation but, for the purposes of this Contract, it shall include both manual and automatic processing and **“Processing”** and **“Processed”** shall be interpreted accordingly;

**“Processor Personnel”** means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.

**“Programme Name”** means the name given to the programme to which this Contract relates as identified in Section 1 (Form of Contract);

**“Prohibited Act”** has the meaning;

- (a) to directly or indirectly offer, promise or give any person working for or engaged by FCDO a financial or other advantage to:
  - (i) induce that person to perform improperly a relevant function or activity; or
  - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;
- (c) an offence:
  - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);

- (ii) under legislation or common law concerning fraudulent acts; or
- (iii) defrauding, attempting to defraud or conspiring to defraud FCDO; or
- (d) any activity, practice or conduct which would constitute one of the offences listed under
- (e) above if such activity, practice or conduct had been carried out in the UK;

**“Project”** means a set of co-ordinated activities, with definite starting and finishing points, undertaken by an individual or team to meet specific objectives within defined time, cost and performance parameters

**“Project Officer”** means the person named in Section 4 who is responsible for issuing instructions and dealing with all correspondence in connection with the technical aspects of the Contract;

**“Project Specific IPRs”** means:

- a) Intellectual Property Rights in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including (but not limited to) database schema; and/or
- b) IPR in or arising as a result of the performance of the Supplier’s obligations under this Contract and all updates and amendments to the same,

but shall not include the Supplier Background IPR;

**“Projected Profit Margin”** means the profit the Supplier expects to achieve over the Term as set out in Schedule 5 (Schedule of Costs);

**“Protective Measures”**: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

**“Register”** means a register which sets out full details of:

- (a) any assets used by the Supplier in connection with the provision of the Services, including details of:
  - (i) make, model and asset number;
  - (ii) ownership and status as whether the assets are used exclusively for the provision of the Services;
  - (iii) condition and physical location; and
  - (iv) use (including technical specifications); and
- (b) Sub-Contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services;

**“Regulations”** means the Public Contracts Regulations 2015 as amended or replaced from time to time;

**“Regulatory Bodies”** means those government departments, regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of FCDO and “Regulatory Body” shall be construed accordingly;

**“Relevant Requirements”** all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;

**“Relevant Tax Authority”** means HM Revenue & Customs, or, if applicable, a Tax Authority in the jurisdiction in which the Supplier is established.

**“Relevant Transfer”** means a transfer of employment to which the Employment Regulations applies;

**“Relevant Transfer Date”** means, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;

**“Replacement Services”** any services which are the same as or substantially similar to any of the Services and which FCDO receives in substitution for any of the Services following the expiry or termination or partial termination of this Contract, whether those services are provided by FCDO internally and/or by any third party;

**“Replacement Sub-Contractor”** means a Sub-Contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Sub-Contractor of any such Sub-Contractor);

**“Replacement Supplier”** any third party service provider of Replacement Services appointed by FCDO from time to time;

**“Request for Information”** a request for information or an apparent request under the FOIA, the Environmental Information Regulations and associated codes of practice;

**“Security Policy”** means HMG’s security policy, as updated periodically by the Cabinet Office, which can be accessed at <https://www.gov.uk/government/collections/government-security> , or as notified to the Supplier from time to time;

**“Service Transfer”** means any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;

**“Service Transfer Date”** means the date of a Service Transfer;

**“Services”** means the services set out in the Terms of Reference (Section 3).

**“Sexual Abuse”** means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions, and all sexual activity with someone under the age of 18, regardless of local age of majority or consent under the laws of the territory in which it takes place and regardless of any mistaken belief (by the relevant individual) as to the age of a child;

**“Sexual Exploitation”** means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes. Includes profiting monetarily, socially, or politically from sexual exploitation of another;

**“Sexual Harassment”** means unwelcome sexual advances (also but not exclusively without touching). It includes requests for sexual favours, or other verbal or physical behaviour of a sexual nature, which may create a hostile or offensive environment.

**“Sites”** any premises (including FCDO premises, the Supplier’s premises or third party premises):

- (a) from, to or at which:
  - (i) the Services are (or are to be) provided; or
  - (ii) the Supplier manages, organises or otherwise directs the provision or the use of the Services; or
- (b) where:
  - (i) any part of the Supplier System is situated;
  - (ii) any physical interface with FCDO System takes place;

**“Software”** Specially Written Software, Supplier Software and Third Party Software;

**“Specially Written Software”** means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Sub-Contractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications, configuration, customisation, or enhancements to Supplier Software or Third Party Software created specifically for the purposes of this Contract;

**“Staffing Information”** means in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as FCDO may reasonably request (subject to all applicable provisions of the DPA), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement, gender and place of work;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and

(j) any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations;

**“Staff Vetting Procedure”** means HMG’s procedures and departmental policies for the vetting of Personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures, including, but not limited to, the provisions of the Official Secrets Act 1911 to 1989.

**“Sub-Contract”** means any contract or agreement (or proposed contract or agreement) to which a third party:

- a) provides the Services (or any part of them);
- b) provides facilities or goods and services necessary for the provision of the Services (or any part of them); and/or
- c) is responsible for the management, direction or control of the provision of the Services (or any part of them);

**“Sub-Contractor”** means any person other than the Supplier, who is a party to a Sub-Contract and the servants and agents of that person;

**“Sub-processor”**: any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement.

**“Successor Body”** means a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds FCDO;

**“Supplier”** means the person(s), partnership(s) or company (ies) with whom this Contract is placed and as identified in Section 1 (Form of Contract);

**“Supplier Background IPRs”** means;

- (a) Intellectual Property Rights owned by the Supplier before the Effective Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or
- (b) Intellectual Property Rights created by the Supplier independently of this Agreement, which in each case is or will be used before or during the Term for designing, testing implementing or providing the Services but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;

**“Supplier Personnel”** means any person (including Key Personnel) instructed pursuant to this Contract to undertake any of the Supplier's obligations under this Contract, including the Supplier's employees, agents and Sub-Contractors.

**“Supplier Provider”** means persons engaged and/or controlled by or on behalf of the Supplier pursuant to any activities undertaken by the Supplier under this Agreement.

**“Supplier Software”** means any software which is proprietary to the Supplier (or an Affiliate of the Supplier which is or will be used by the Supplier or any Sub-Contractor for the purposes of providing the Services or is embedded in and in respect of such other software as required to be licensed in order for FCDO to receive the benefit of and/or make use of the Services;

**“Supplier System”** the information and communications technology system used by the Supplier in implementing and performing the Services including the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding FCDO System);

**“Tender”** means the tender submitted by the Supplier to FCDO a copy of which is annexed or referred to in Schedule 4 (Tender);

**“Term”** means the term of this Contract from the Commencement Date until the Expiry Date;

**“Termination Notice”** means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;

**“Third Party IPRs”** means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software;

**“Third Party Software”** means any software which is proprietary to any third party (other than an Affiliate of the Supplier) or any open source which is or will be used by the Supplier for the purposes of providing the Services)

**“Transferring FCDO Employees”** those employees of FCDO to whom the Employment Regulations will apply on the Relevant Transfer Date;

**“Transferring Former Supplier Employees”** in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date;

**“Transferring Supplier Employees”** means those employees of the Supplier and/or the Supplier’s Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date;

- “Valid Invoice” means an invoice issued by the Supplier to FCDO and containing the information set out in Clause 22.4;
- "Variation" means a properly executed variation to the Contract in compliance with Clause 38;
- “Variation Procedure” means the procedure set out in Clause 38;
- “VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
- “Working Day” means any day other than a Saturday, Sunday or public holiday in England and Wales.



SCHEDULE 2: STAFF TRANSFER

1. DEFINITIONS

In this Schedule 2, the following definitions shall apply:

<b>“Admission Agreement”</b>	An admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into by the Supplier where it agrees to participate in the Schemes in respect of the Services;
<b>“Eligible Employee”</b>	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Agreement;
<b>“Fair Deal Employees”</b>	those Transferring FCDO Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal (and, in the event that Part B of this Schedule 2 applies, any Transferring Former Supplier Employees who originally transferred pursuant to a Relevant Transfer under the Employment Regulations (or the predecessor legislation to the Employment Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal);
<b>“Former Supplier”</b>	a supplier supplying services to FCDO before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Sub-Contractor of such supplier (or any Sub-Contractor of any such Sub-Contractor);
<b>“New Fair Deal”</b>	the revised Fair Deal position set out in the HM Treasury guidance: <i>“Fair Deal for staff pensions: staff transfer from central government”</i> issued in October 2013 including any amendments to that document immediately prior to the Relevant Transfer Date;
<b>“Notified Sub-Contractor”</b>	a Sub-Contractor identified in the Annex to this Schedule 2 to whom Transferring FCDO Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
<b>“Replacement Sub-Contractor”</b>	a Sub-Contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Sub-Contractor of any such Sub-Contractor);
<b>“Relevant Transfer”</b>	a transfer of employment to which the Employment Regulations applies;
<b>“Relevant Transfer Date”</b>	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
<b>“Schemes”</b>	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 2 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme; and the Designated Stakeholder Pension Scheme and “alpha” introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014;
<b>“Service Transfer”</b>	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-Contractor;
<b>“Service Transfer Date”</b>	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;

<b>“Supplier's Final Supplier Personnel List”</b>	a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date;
<b>“Supplier's Provisional Supplier Personnel List”</b>	a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
<b>“Transferring FCDO Employees”</b>	those employees of FCDO to whom the Employment Regulations will apply on the Relevant Transfer Date;
<b>“Transferring Former Supplier Employees”</b>	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and
<b>“Transferring Supplier Employees”</b>	those employees of the Supplier and/or the Supplier’s Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. INTERPRETATION

Where a provision in this Schedule 2 imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to FCDO, Former Supplier, Replacement Supplier or Replacement Sub-Contractor, as the case may be.

PART A

TRANSFERRING FCDO EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

- 1.1 FCDO and the Supplier agree that:
- 1.1.1 the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring FCDO Employees; and
  - 1.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between FCDO and the Transferring FCDO Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Notified Sub-Contractor and each such Transferring FCDO Employee.
- 1.2 FCDO shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring FCDO Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) FCDO; and (ii) the Supplier and/or any Notified Sub-Contractor (as appropriate).

2. FCDO INDEMNITIES

- 2.1 Subject to Paragraph 2.2, FCDO shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities arising from or as a result of:
- 2.1.1 any act or omission by FCDO in respect of any Transferring FCDO Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring FCDO Employee occurring before the Relevant Transfer Date;
  - 2.1.2 the breach or non-observance by FCDO before the Relevant Transfer Date of:
    - (a) any collective agreement applicable to the Transferring FCDO Employees; and/or
    - (b) any custom or practice in respect of any Transferring FCDO Employees which FCDO is contractually bound to honour;
  - 2.1.3 any claim by any trade union or other body or person representing the Transferring FCDO Employees arising from or connected with any failure by FCDO to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
  - 2.1.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring FCDO Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring FCDO Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from FCDO to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
  - 2.1.5 a failure of FCDO to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring FCDO Employees arising before the Relevant Transfer Date;

- 2.1.6 any claim made by or in respect of any person employed or formerly employed by FCDO other than a Transferring FCDO Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.7 any claim made by or in respect of a Transferring FCDO Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring FCDO Employee relating to any act or omission of FCDO in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor (whether or not a Notified Sub-Contractor) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
  - 2.2.1 arising out of the resignation of any Transferring FCDO Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
  - 2.2.2 arising from the failure by the Supplier or any Sub-Contractor to comply with its obligations under the Employment Regulations.
- 2.3 If any person who is not identified by FCDO as a Transferring FCDO Employee claims, or it is determined in relation to any person who is not identified by FCDO as a Transferring FCDO Employee, that his/her contract of employment has been transferred from FCDO to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 2.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to FCDO; and
  - 2.3.2 FCDO may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of receipt of the notification by the Supplier and/or any Notified Sub-Contractor, or take such other reasonable steps as FCDO considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by FCDO, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
  - 2.5.1 no such offer of employment has been made;
  - 2.5.2 such offer has been made but not accepted; or
  - 2.5.3 the situation has not otherwise been resolved,the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law, FCDO shall indemnify the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or procures that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
  - 2.7.1 shall not apply to:
    - (a) any claim for:
      - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,  
  
in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
  - (b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
- 2.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to FCDO within 6 months of the Commencement Date.
- 2.8 If any such person as is referred to in Paragraph 2.3 is neither re-employed by FCDO nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 2.5 such person shall be treated as having transferred to the Supplier and/or any Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under applicable Law.

**3. SUPPLIER INDEMNITIES AND OBLIGATIONS**

- 3.1 Subject to Paragraph 3.2 the Supplier shall indemnify FCDO against any Employee Liabilities arising from or as a result of:
- 3.1.1 any act or omission by the Supplier or any Sub-Contractor in respect of any Transferring FCDO Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring FCDO Employee whether occurring before, on or after the Relevant Transfer Date;
  - 3.1.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
    - (a) any collective agreement applicable to the Transferring FCDO Employees; and/or
    - (b) any custom or practice in respect of any Transferring FCDO Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
  - 3.1.3 any claim by any trade union or other body or person representing any Transferring FCDO Employees arising from or connected with any failure by the Supplier or any Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
  - 3.1.4 any proposal by the Supplier or a Sub-Contractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring FCDO Employees to their material detriment on or after their transfer to the Supplier or the relevant Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring FCDO Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
  - 3.1.5 any statement communicated to or action undertaken by the Supplier or any Sub-Contractor to, or in respect of, any Transferring FCDO Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with FCDO in writing;
  - 3.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring FCDO Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring FCDO Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from FCDO to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
  - 3.1.7 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring FCDO Employees in respect of the period from (and including) the Relevant Transfer Date;

- 3.1.8 any claim made by or in respect of a Transferring FCDO Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring FCDO Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from FCDO's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
- 3.1.9 a failure by the Supplier or any Sub-Contractor to comply with its obligations under Paragraph 2.8 above.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of FCDO whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from FCDO's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring FCDO Employees, from (and including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between FCDO and the Supplier.

**4. INFORMATION**

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to FCDO in writing such information as is necessary to enable FCDO to carry out its duties under regulation 13 of the Employment Regulations. FCDO shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

**5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE**

- 5.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.
- 5.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by FCDO relating to pensions in respect of any Transferring FCDO Employee as set down in:
  - 5.2.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
  - 5.2.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
  - 5.2.3 HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
  - 5.2.4 the New Fair Deal.
- 5.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

**6. PENSIONS**

The Supplier shall, and/or shall procure that each of its Sub-Contractors shall, comply with the pensions provisions in the following Annex.

**ANNEX TO PART A: PENSIONS**

**1. PARTICIPATION**

- 1.1 The Supplier undertakes to enter into the Admission Agreement.
- 1.2 The Supplier and FCDO:
  - 1.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
  - 1.2.2 agree that the arrangements under paragraph 1.1 of this Annex include the body responsible for the Schemes notifying FCDO if the Supplier breaches any obligations it has under the Admission Agreement;
  - 1.2.3 agree, notwithstanding Paragraph 1.2.2 of this Annex, the Supplier shall notify FCDO in the event that it breaches any obligations it has under the Admission Agreement and when it intends to remedy such breaches; and
  - 1.2.4 agree that FCDO may terminate this Contract in the event that the Supplier breaches the Admission Agreement:
    - (a) and that breach is not capable of being remedied; or
    - (b) where such breach is capable of being remedied, the Supplier fails to remedy such breach within a reasonable time and in any event within 28 days of a notice from FCDO giving particulars of the breach and requiring the Supplier to remedy it.
- 1.3 The Supplier shall bear its own costs and all costs that FCDO reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes including without limitation current civil service pensions administrator on-boarding costs.

**2. FUTURE SERVICE BENEFITS**

- 2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to FCDO, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by FCDO in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.
- 2.3 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

**3. FUNDING**

- 3.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2 The Supplier shall indemnify and keep indemnified FCDO on demand against any claim by, payment to, or loss incurred by, the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

**4. PROVISION OF INFORMATION**

The Supplier and FCDO respectively undertake to each other:

- 4.1 to provide all information which the other Party may reasonably request concerning matters referred to in this Annex and set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 4.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

**5. INDEMNITY**

The Supplier undertakes to FCDO to indemnify and keep indemnified FCDO on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

**6. EMPLOYER OBLIGATION**

The Supplier shall comply with the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

**7. SUBSEQUENT TRANSFERS**

The Supplier shall:

- 7.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the Service Transfer Date;
- 7.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or FCDO may reasonably require to enable the Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal; and
- 7.3 for the applicable period either:
  - 7.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Agreement or any part of the Services; or
  - 7.3.2 after the date which is two (2) years prior to the date of expiry of this Contract,  
ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or FCDO, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of FCDO (such approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

**8. BULK TRANSFER**

- 8.1 Where the Supplier has set up a broadly comparable pension scheme in accordance with the provisions of paragraph 2.2 above of this Annex, the Supplier agrees to:
  - 8.1.1 fully fund any such broadly comparable pension scheme in accordance with the funding requirements set by that broadly comparable pension scheme's actuary or by the Government Actuary's Department;
  - 8.1.2 instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Supplier and/or FCDO may reasonably require, to enable the Replacement Supplier to participate in the Schemes in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;
  - 8.1.3 allow, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such broadly comparable pension scheme into the Schemes on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal, for the avoidance of doubt should the amount offered by the broadly comparable pension scheme be less than the amount required by the Schemes to fund day for day service ("the Shortfall"), the Supplier agrees to pay the Shortfall to the Schemes; and
  - 8.1.4 indemnify FCDO on demand for any failure to pay the Shortfall as required under Paragraph 8.1.3 above.



PART B

TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

9. RELEVANT TRANSFERS

- 9.1 FCDO and the Supplier agree that:
- 9.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
  - 9.1.2 as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or Notified Sub-Contractor and each such Transferring Former Supplier Employee.
- 9.2 Subject to Paragraph 6, FCDO shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and FCDO shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

10. FORMER SUPPLIER INDEMNITIES

- 10.1 Subject to Paragraphs 2.2 and 6, FCDO shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-Contractor against any Employee Liabilities arising from or as a result of:
- 10.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
  - 10.1.2 the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:
    - (a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or
    - (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
  - 10.1.3 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
  - 10.1.4 a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
  - 10.1.5 any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Sub-Contractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

- 10.1.6 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.
- 10.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
  - 10.2.1 arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
  - 10.2.2 arising from the failure by the Supplier and/or any Sub-Contractor to comply with its obligations under the Employment Regulations.
- 10.3 If any person who is not identified by FCDO as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by FCDO as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 10.3.1 the Supplier shall, or shall procure that the Notified Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to FCDO and, where required by FCDO, to the Former Supplier; and
  - 10.3.2 the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier and/or the Notified Sub-Contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 10.4 If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or FCDO, the Supplier shall, or shall procure that the Notified Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 10.5 If by the end of the 15 Working Day period specified in Paragraph 2.3.2:
  - 10.5.1 no such offer of employment has been made;
  - 10.5.2 such offer has been made but not accepted; or
  - 10.5.3 the situation has not otherwise been resolved,

the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 10.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, FCDO shall procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 10.7 The indemnity in Paragraph 2.6:
  - 10.7.1 shall not apply to:
    - (a) any claim for:
      - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
      - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

- in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
  - (b) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-Contractor neglected to follow a fair dismissal procedure; and
- 10.7.2 shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Supplier and/or any Notified Sub-Contractor (as appropriate) to FCDO and, if applicable, the Former Supplier, within 6 months of the Commencement Date.
- 10.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-Contractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier or Notified Sub-Contractor and the Supplier shall, or shall procure that the Notified Sub-Contractor shall, comply with such obligations as may be imposed upon it under the Law.

**11. SUPPLIER INDEMNITIES AND OBLIGATIONS**

- 11.1 Subject to Paragraph 3.2, the Supplier shall indemnify FCDO and/or the Former Supplier against any Employee Liabilities arising from or as a result of:
- 11.1.1 any act or omission by the Supplier or any Sub-Contractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;
  - 11.1.2 the breach or non-observance by the Supplier or any Sub-Contractor on or after the Relevant Transfer Date of:
    - (a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or
    - (b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
  - 11.1.3 any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
  - 11.1.4 any proposal by the Supplier or a Sub-Contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
  - 11.1.5 any statement communicated to or action undertaken by the Supplier or a Sub-Contractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with FCDO and/or the Former Supplier in writing;
  - 11.1.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Sub-Contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
  - 11.1.7 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;

- 11.1.8 any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
- 11.1.9 a failure by the Supplier or any Sub-Contractor to comply with its obligations under Paragraph 2.8 above.
- 11.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 11.3 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Supplier and the Former Supplier.

**12. INFORMATION**

The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to FCDO and/or at FCDO's direction, the Former Supplier, in writing such information as is necessary to enable FCDO and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. Subject to Paragraph 6, FCDO shall procure that the Former Supplier shall promptly provide to the Supplier and each Notified Sub-Contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

**13. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE**

- 13.1 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by FCDO relating to pensions in respect of any Transferring Former Supplier Employee as set down in:
  - 13.1.1 the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
  - 13.1.2 HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
  - 13.1.3 HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
  - 13.1.4 the New Fair Deal.
- 13.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Variation Procedure.

**14. PROCUREMENT OBLIGATIONS**

Notwithstanding any other provisions of this Part B, where in this Part B FCDO accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that FCDO's contract with the Former Supplier contains a contractual right in that regard which FCDO may enforce, or otherwise so that it requires only that FCDO must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

**15. PENSIONS**

The Supplier shall, and shall procure that each Sub-Contractor shall, comply with the pensions provisions in the following Annex.

**ANNEX TO PART B: PENSIONS**

**1. PARTICIPATION**

- 1.1 The Supplier undertakes to enter into the Admission Agreement.
- 1.2 The Supplier and FCDO:
  - 1.2.1 undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Supplier to participate in the Schemes in respect of the Fair Deal Employees;
  - 1.2.2 agree that the arrangements under paragraph 1.1 of this Annex include the body responsible for the Schemes notifying FCDO if the Supplier breaches any obligations it has under the Admission Agreement;
  - 1.2.3 agree, notwithstanding Paragraph 1.2.2 of this Annex, the Supplier shall notify FCDO in the event that it breaches any obligations it has under the Admission Agreement and when it intends to remedy such breaches; and
  - 1.2.4 agree that FCDO may terminate this Contract for material default in the event that the Supplier breaches the Admission Agreement:
    - (a) and that breach is not capable of being remedied; or
    - (b) where such breach is capable of being remedied, the Supplier fails to remedy such breach within a reasonable time and in any event within 28 days of a notice from FCDO giving particulars of the breach and requiring the Supplier to remedy it.
- 1.3 The Supplier shall bear its own costs and all costs that FCDO reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Supplier participating in the Schemes including without limitation current civil service pensions administrator on-boarding costs.

**2. FUTURE SERVICE BENEFITS**

- 2.1 If the Supplier is rejoining the Schemes for the first time, the Supplier shall procure that the Fair Deal Employees shall be either admitted to or offered continued membership of the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date and shall continue to accrue or accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 If staff have already been readmitted to the Schemes, the Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.3 The Supplier undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to FCDO, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by FCDO in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.
- 2.4 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

**3. FUNDING**

- 3.1 The Supplier undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2 The Supplier shall indemnify and keep indemnified FCDO on demand against any claim by, payment to, or loss incurred by the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Supplier to or in respect of the Schemes.

**4. PROVISION OF INFORMATION**

The Supplier and FCDO respectively undertake to each other:

- 4.1 to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- 4.2 not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

**5. INDEMNITY**

The Supplier undertakes to FCDO to indemnify and keep indemnified FCDO on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

**6. EMPLOYER OBLIGATION**

The Supplier shall comply with the requirements of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

**7. SUBSEQUENT TRANSFERS**

The Supplier shall:

- 7.1 not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the Service Transfer Date;
- 7.2 provide all such co-operation and assistance as the Schemes and the Replacement Supplier and/or FCDO may reasonably require to enable the Replacement Supplier to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under the New Fair Deal; and
- 7.3 for the applicable period either
  - 7.3.1 after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Agreement or any part of the Services; or
  - 7.3.2 after the date which is two (2) years prior to the date of expiry of this Contract,  
ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Supplier or FCDO, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of FCDO (such approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

**8. BULK TRANSFER**

- 8.1 Where the Supplier has set up a broadly comparable pension scheme in accordance with the provisions of paragraph 2.2 above of this Annex, the Supplier agrees to:
  - 8.1.1 fully fund any such broadly comparable pension scheme in accordance with the funding requirements set by that broadly comparable pension scheme's actuary or by the Government Actuary's Department;
  - 8.1.2 instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Supplier and/or FCDO may reasonably require, to enable the Replacement Supplier to participate in the Schemes in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;
  - 8.1.3 allow, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such broadly comparable pension scheme into the Schemes on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal, for the avoidance of doubt should the amount offered by the broadly comparable pension scheme be less than the amount required by the Schemes to fund day for day service ("the Shortfall"), the Supplier agrees to pay the Shortfall to the Schemes; and
  - 8.1.4 indemnify FCDO on demand for any failure to pay the Shortfall as required under Paragraph 8.1.3 above.

PART C

NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1. PROCEDURE IN THE EVENT OF TRANSFER

- 1.1 FCDO and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of FCDO and/or any Former Supplier.
- 1.2 If any employee of FCDO and/or a Former Supplier claims, or it is determined in relation to any employee of FCDO and/or a Former Supplier, that his/her contract of employment has been transferred from FCDO and/or the Former Supplier to the Supplier and/or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
  - 1.2.1 the Supplier shall, and shall procure that the relevant Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to FCDO and, where required by FCDO, give notice to the Former Supplier; and
  - 1.2.2 FCDO and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier or the Sub-Contractor (as appropriate) or take such other reasonable steps as FCDO or Former Supplier (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3 If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by FCDO and/or the Former Supplier), the Supplier shall, or shall procure that the Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the fifteen (15) Working Day period specified in Paragraph 1.2.2:
  - 1.4.1 no such offer of employment has been made;
  - 1.4.2 such offer has been made but not accepted; or
  - 1.4.3 the situation has not otherwise been resolved,the Supplier and/or the Sub-Contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2. INDEMNITIES

- 2.1 Subject to the Supplier and/or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, FCDO shall:
  - 2.1.1 indemnify the Supplier and/or the relevant Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any employees of FCDO referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities; and
  - 2.1.2 subject to paragraph 3, procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-Contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.2 If any such person as is described in Paragraph 1.2 is neither re-employed by FCDO and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Sub-Contractor within the fifteen (15) Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Sub-Contractor (as appropriate) and the Supplier shall, or shall procure that the Sub-Contractor shall, comply with such obligations as may be imposed upon it under Law.
- 2.3 Where any person remains employed by the Supplier and/or any Sub-Contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-Contractor and the Supplier shall indemnify FCDO and any Former Supplier, and shall procure that the Sub-Contractor shall indemnify FCDO and any Former Supplier, against

any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-Contractor.

2.4 The indemnities in Paragraph 2.1:

2.4.1 shall not apply to:

- (a) any claim for:
  - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
  - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-Contractor neglected to follow a fair dismissal procedure; and

2.4.2 shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Supplier and/or any Sub-Contractor to FCDO and, if applicable, Former Supplier within 6 months of the Commencement Date.

**3. PROCUREMENT OBLIGATIONS**

Where in this Part C FCDO accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that FCDO's contract with the Former Supplier contains a contractual right in that regard which FCDO may enforce, or otherwise so that it requires only that FCDO must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.



**PART D**  
**EMPLOYMENT EXIT PROVISIONS**

**1. PRE-SERVICE TRANSFER OBLIGATIONS**

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from FCDO of a Service Transfer or intended Service Transfer;
  - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of this Contract;
  - 1.1.3 the date which is twelve (12) months before the end of the Term; and
  - 1.1.4 receipt of a written request of FCDO at any time (provided that FCDO shall only be entitled to make one such request in any six (6) month period),
- it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by FCDO.
- 1.2 At least thirty (30) Working Days prior to the Service Transfer Date, the Supplier shall provide to FCDO or at the direction of FCDO to any Replacement Supplier and/or any Replacement Sub-Contractor:
- 1.2.1 the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
  - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).
- 1.3 FCDO shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-Contractor.
- 1.4 The Supplier warrants, for the benefit of FCDO, any Replacement Supplier, and any Replacement Sub-Contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1, the Supplier agrees, that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of FCDO (not to be unreasonably withheld or delayed):
- 1.5.1 replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
  - 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);
  - 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
  - 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
  - 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
  - 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, FCDO or, at the direction of FCDO, any Replacement Supplier and any Replacement Sub-Contractor of any notice to terminate employment given by the Supplier or

relevant Sub-Contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to FCDO any information FCDO may reasonably require relating to the manner in which Services are organised, which shall include:
  - 1.6.1 the numbers of employees engaged in providing the Services;
  - 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
  - 1.6.3 the extent to which each employee qualifies for membership of any of the Schemes or any broadly comparable scheme set up pursuant to the provisions of paragraph 2.2 of the Annex (Pensions) to Part A of this Schedule 2 or paragraph 2.3 of the Annex (Pensions) to Part B of this Schedule 2 (as appropriate); and
  - 1.6.4 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to FCDO, any Replacement Supplier and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to FCDO or, at the direction of FCDO, to any Replacement Supplier and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
  - 1.7.1 the most recent month's copy pay slip data;
  - 1.7.2 details of cumulative pay for tax and pension purposes;
  - 1.7.3 details of cumulative tax paid;
  - 1.7.4 tax code;
  - 1.7.5 details of any voluntary deductions from pay; and
  - 1.7.6 bank/building society account details for payroll purposes.

**2. EMPLOYMENT REGULATIONS EXIT PROVISIONS**

- 2.1 FCDO and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-Contractor. Such change in the identity of the Supplier of such Services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. FCDO and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Supplier Employee.
- 2.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but not including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-Contractor.
- 2.3 Subject to Paragraph 2.4, where a Relevant Transfer occurs the Supplier shall indemnify FCDO and/or the Replacement Supplier and/or any Replacement Sub-Contractor against any Employee Liabilities arising from or as a result of:

- 2.3.1 any act or omission of the Supplier or any Sub-Contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;
- 2.3.2 the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:
  - (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
  - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
  - (b) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to FCDO and/or Replacement Supplier and/or any Replacement Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- 2.3.5 a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged FCDO and/or the Replacement Supplier and/or any Replacement Sub-Contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by FCDO and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
  - 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-Contractor to occur in the period on or after the Service Transfer Date; or
  - 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-Contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not identified in the Supplier's Final Supplier Personnel List claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel List that his/her contract of employment has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier and/or Replacement Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
  - 2.5.1 FCDO shall procure that the Replacement Supplier shall, or any Replacement Sub-Contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
  - 2.5.2 the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-

Contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-Contractor, FCDO shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7 If after the fifteen (15) Working Day period specified in Paragraph 2.5.2 has elapsed:
  - 2.7.1 no such offer of employment has been made;
  - 2.7.2 such offer has been made but not accepted; or
  - 2.7.3 the situation has not otherwise been resolved

the Replacement Supplier and/or Replacement Sub-Contractor, as appropriate may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
- 2.8 Subject to the Replacement Supplier and/or Replacement Sub-Contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9 The indemnity in Paragraph 2.8:
  - 2.9.1 shall not apply to:
    - (a) any claim for:
      - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
      - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-Contractor; or
    - (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure; and
  - 2.9.2 shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Supplier and/or Replacement Sub-Contractor to the Supplier within six (6) months of the Service Transfer Date.
- 2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-Contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.
- 2.11 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
  - 2.11.1 the Supplier and/or any Sub-Contractor; and
  - 2.11.2 the Replacement Supplier and/or the Replacement Sub-Contractor.

- 2.12 The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to FCDO and any Replacement Supplier and/or Replacement Sub-Contractor, in writing such information as is necessary to enable FCDO, the Replacement Supplier and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. FCDO shall procure that the Replacement Supplier and/or Replacement Sub-Contractor, shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.13 Subject to Paragraph 2.14, where a Relevant Transfer occurs FCDO shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-Contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:
- 2.13.1 any act or omission of the Replacement Supplier and/or Replacement Sub-Contractor in respect of any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
  - 2.13.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-Contractor on or after the Service Transfer Date of:
    - (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List; and/or
    - (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-Contractor is contractually bound to honour;
  - 2.13.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
  - 2.13.4 any proposal by the Replacement Supplier and/or Replacement Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-Contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier’s Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
  - 2.13.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-Contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
  - 2.13.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (a) in relation to any Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
    - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-Contractor, to the Replacement Supplier or Replacement Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
  - 2.13.7 a failure of the Replacement Supplier or Replacement Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier’s Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and
  - 2.13.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier’s Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any

such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.

- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

**ANNEX TO SCHEDULE 2: LIST OF NOTIFIED SUB-CONTRACTORS**

- THE POLICY PRACTICE (TPP)
- SOCIAL DEVELOPMENT DIRECT (SDD)

**SCHEDULE 3: INSURANCE REQUIREMENTS**

**1.OBLIGATION TO MAINTAIN INSURANCES**

- 1.1 Without prejudice to its obligations to FCDO under this Contract, including its indemnity obligations, the Supplier shall for the periods specified in this Schedule 2 take out and maintain, or procure the taking out and maintenance of the insurances as set out in Annex 1 (Required Insurances) and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Commencement Date.
- 1.2 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent Contractor in respect of risks insured in the international insurance market from time to time.
- 1.3 The Insurances shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international insurance market.
- 1.4 The Supplier shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which FCDO shall be indemnified in respect of claims made against FCDO in respect of death or bodily injury or third party property damage arising out of or in connection with the Services and for which the Supplier is legally liable.

**2.GENERAL OBLIGATIONS**

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
  - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent Contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
  - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

**3.FAILURE TO INSURE**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, FCDO may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and FCDO shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

**4.EVIDENCE OF POLICIES**

- 4.1 The Supplier shall upon the Commencement Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to FCDO, that the Insurances are in force and effect and meet in full the requirements of this Framework Schedule 2. Receipt of such evidence by FCDO shall not in itself constitute acceptance by FCDO or relieve the Supplier of any of its liabilities and obligations under this Agreement.

**5.AGGREGATE LIMIT OF INDEMNITY**

- 5.1 Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":
  - 5.1.1 if a claim or claims which do not relate to this Contract are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Supplier shall immediately submit to FCDO:
    - (a) details of the policy concerned; and



- (b) its proposed solution for maintaining the minimum limit of indemnity specified; and
- 5.1.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Contract are paid by insurers, the Supplier shall:
  - (a) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Contract; or
  - (b) if the Supplier is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to FCDO full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

**6.CANCELLATION**

- 6.1 The Supplier shall notify FCDO in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.

**7.INSURANCE CLAIMS**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Contract for which it may be entitled to claim under any of the Insurances. In the event that FCDO receives a claim relating to or arising out of the Services or this Contract, the Supplier shall co-operate with FCDO and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where FCDO is the claimant party, the Supplier shall give FCDO notice within twenty (20) Working Days after any insurance claim in excess of £10,000 relating to or arising out of the provision of the Services or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by FCDO) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from FCDO any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

**ANNEX 1: REQUIRED INSURANCES**

**PART A: THIRD PARTY PUBLIC & PRODUCTS LIABILITY INSURANCE**

**1.INSURED**

1.1 The Supplier

**2.INTEREST**

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

2.1.1 death or bodily injury to or sickness, illness or disease contracted by any person;

2.1.2 loss of or damage to property;

happening during the period of insurance (as specified in Paragraph 5 of this Annex 1 to this Schedule 2) and arising out of or in connection with the provision of the Services and in connection with this Contract.

**3.LIMIT OF INDEMNITY**

3.1 Not less than £10,000,000 in respect of any one occurrence, the number of occurrences being unlimited, but £10,000,000 for any one occurrence and in the aggregate per annum in respect of products and pollution liability.

**4.TERRITORIAL LIMITS**

4.1.1 UK, Nigeria and surrounding countries.

**5.PERIOD OF INSURANCE**

5.1 From the Commencement Date for the Term and renewable on an annual basis unless agreed otherwise by FCDO in writing.

**6.COVER FEATURES AND EXTENSIONS**

6.1 Indemnity to principals clause.

**7.PRINCIPAL EXCLUSIONS**

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured during the course of their employment.

7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.

7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.

7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.

7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.

7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

**8. MAXIMUM DEDUCTIBLE THRESHOLD**

8.1 Not to exceed £0 for each and every third party property damage claim (personal injury claims to be paid in full).

**PART B: PROFESSIONAL INDEMNITY INSURANCE**

**1.INSURED**

1.1 The Supplier

**2.INTEREST**

2.1 To indemnify the Insured for all sums which the Insured shall become legally liable to pay (including claimants’ costs and expenses) as a result of claims first made against the Insured during the Period of Insurance by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Services.

**3.LIMIT OF INDEMNITY**

3.1 Not less than £10,000,000 in respect of any one claim and in the aggregate per annum.

**4.TERRITORIAL LIMITS**

4.1 UK, Nigeria and surrounding countries.

**5.PERIOD OF INSURANCE**

5.1 From the date of this Contract and renewable on an annual basis unless agreed otherwise by FCDO in writing (a) throughout the Term or until earlier termination of this Contract and (b) for a period of 6 years thereafter.

**6.COVER FEATURES AND EXTENSIONS**

6.1 Retroactive cover to apply to any claims made policy wording in respect of this Contract or retroactive date to be no later than the Commencement Date.

**7.PRINCIPAL EXCLUSIONS**

7.1 War and related perils

7.2 Nuclear and radioactive risks

**8.MAXIMUM DEDUCTIBLE THRESHOLD**

8.1 Not to exceed £0 for each and every claim.

PART C: UNITED KINGDOM COMPULSORY INSURANCES

1.GENERAL

- 1.1 The Supplier shall meet its insurance obligations under applicable Law in full, including, UK employers' liability insurance and motor third party liability insurance.

**SCHEDULE 4: TENDER**

**1. GENERAL**

- 1.1 This Schedule 4 sets out a copy of the Supplier’s Tender, including:
  - 1.1.1 Part A - Executive Summary
  - 1.1.2 Part B – General and Technical Proposal
  - 1.1.3 Part C - Commercial Proposal and Proforma Cost Template (see Contract Section 5)
- 1.2 Subject to Clause 1.4, in addition to any other obligations on the Supplier under this Contract, the Supplier shall provide the Services in accordance with the Tender.

APPENDIX A. CONTRACT AMENDMENT LETTER

Foreign, Commonwealth and Development Office  
Abercrombie House  
Eaglesham Road  
EAST KILBRIDE  
Glasgow  
G75 8EA

Telephone: East Kilbride 01355 84 4000  
Directline: 01355 84 [

File Ref: [  
Date: [

Contract Amendment No: [

CONTRACT FOR: [

CONTRACT NUMBER: [

With reference to the Contract dated [ ], both Parties have in principle agreed to the following variation[s] to the Contract [:  
[

- 2. [These/This amendment[s] relate[s] to [
- 3. Please confirm in writing by signing and returning one copy of this letter, within 15 working days of the date of signature on behalf of FCDO that you accept the variation[s] set out herein.
- 4. The Contract, including any previous variations, shall remain effective and unaltered except as amended by this letter.
- 5. Words and expressions in this letter shall have the meanings given to them in the Contract.

Signed by an authorised signatory for and on behalf of the  
Secretary of State for Foreign,  
Commonwealth and Development Affairs

Name: [

Position:

Signature:

Date: [

Signed by an authorised signatory for and on behalf of the Supplier

Name: [

Signature:

Date:

APPENDIX B



**FCDO Supply Partner Code of Conduct**

**Principles**

The FCDO aims to create an inclusive culture of best practice with the delivery partners with whom it engages and which receive UK taxpayers’ funds. All Supply Partners should adhere to the overarching principles of the Supply Partner Code of Conduct (hereafter “the Code”).

**Overarching Principles for Supply Partners**

- ✓ **Act responsibly and with integrity**
- ✓ **Be transparent and accountable**
- ✓ **Seek to improve value for money**
- ✓ **Demonstrate commitment to poverty reduction and FCDO priorities<sup>1</sup>**
- ✓ **Demonstrate commitment to wider HMG priorities<sup>2</sup>**

**FCDO Supply Partner responsibilities**

Supply Partners and their subcontractors (delivery chain partners) should ensure they have read and understood the Code and their required compliance level and seek clarification from FCDO where necessary. In particular, it is important that the Supply Partners and their subcontractors (delivery chain partners) understand any risks and have systems in place to manage them. The 3 compliance levels are:

**Compliance Level 1** - Supply Partners with an individual contract value of £1m or above, or two or more contracts/grants with FCDO with a combined value of £5m or above;

**Compliance Level 2** - Supply Partners with an individual contract value below £1m, or two or more contracts /grants with FCDO with a value of less than £5m;

**Compliance Level 3** - Supply Partners with an individual Contract value, or component of a Contract/Grant, with a value below the EU contracting threshold. At this level Supply Partners are required to adhere to the overarching Code principles and recognise, mitigate and manage risks. These Supply Partners will not be monitored against the contractual KPIs.

**Scope**

This Code forms part of the FCDO’s standard contractual terms and conditions and full compliance and annual verification via a signed declaration, to be found at Annex 1b, is mandatory for contracted Supply Partners.



Adherence to the Code at the appropriate level is also a requirement for FCDO direct and delivery chain Supply Partners in receipt of funding. The FCDO will monitor Supply Partners in six priority areas as set out below using a set of Key Performance Indicators (KPIs) as referenced in Annex 1a and 1b.

1. Value for Money and Governance

Key Performance Indicators KPI 1 a - c

Value for Money and financial transparency is an essential requirement of all FCDO commissioned work. All Supply Partners must seek to maximise development results, whilst driving cost efficiency, throughout the life of commissioned programmes. This includes budgeting and pricing realistically and appropriately to reflect delivery requirements and levels of risk over the life of the programme. It also includes managing uncertainty and change to protect value in the often challenging environments that we work in.

Supply Partners must demonstrate that they are pursuing continuous improvement and applying stringent financial management and governance to reduce waste and improve efficiency in their internal operations and within the delivery chain. FCDO expects Supply Partners to demonstrate openness and honesty and to be realistic about capacity and capability at all times, accepting accountability and responsibility for performance along the full delivery chain, in both every-day and exceptional circumstances.

Specific requirements include:

- ✓ Provision of relevant VfM and governance policies and a description of how these are put into practice to meet FCDO requirements (e.g. Codes on fraud and corruption, due diligence);
- ✓ A transparent, open book approach, which enables scrutiny of value for money;
- ✓ Strict adherence to all UK and in-country government tax requirements;
- ✓ Processes for timely identification and resolution of issues and for sharing lessons learned which might be requested by FCDO at any time.

2. Ethical Behaviour

Key Performance Indicators KPI 2 a- f

FCDO Supply Partners and their delivery chain partners act on behalf of the UK government and interact globally with country governments, other aid donors and their delivery partners, many stakeholders including citizens and directly and indirectly with aid beneficiaries. These interactions must therefore meet the highest standards of ethical and professional behaviour in order to uphold the reputation of the UK government.

Arrangements and relationships entered into, whether with or on behalf of FCDO, must be free from bias, conflict of interest or the undue influence of others. Particular care must be taken by Supply Partner and delivery chain staff who:

- a) are directly involved in the management of a programme or procurement of services; or
- b) who engage with i) frontline FCDO staff ii) other deliverers of aid iii) beneficiaries (of aid)

Where those in a) and b) could be susceptible to undue negative or detrimental influence.

Supply Partners and their delivery chain partners must declare to FCDO where there may be instances or allegations of previous unethical behaviour by an existing or potential staff member or where there is a known or suspected conflict of interest. Where a potential or existing staff member has been employed by FCDO or the Crown in the

<sup>1</sup> <https://www.gov.uk/government/organisations/department-for-international-development/about#priorities>

<sup>2</sup> <https://www.gov.uk/government/organisations/hm-treasury/about#priorities>

preceding two years Supply Partners and their delivery chain partner must provide proof of compliance with the HMG approval requirements under the Business Appointment Rules.

Supply Partners and their delivery chain partners must have the following policies and procedures in place:

- ✓ Development and proof of application and embedding of a Staff Recruitment, Management and Retention policy (which must address circumstances where there may be potential or actual conflict of interest and embedding of a Whistleblowing Policy)
- ✓ Ongoing monitoring of potential or existing personal, business or professional conflict of interest and their mitigation and management
- ✓ Ethical training for every staff member and staff updates in ethical working practices suitable to the development sector (e.g. UN Global Compact principles) including awareness of modern day slavery and human rights abuses
- ✓ Procedures setting out how, staff involved in FCDO funded business, can immediately report all suspicions or allegations of aid diversion, fraud, money laundering or counter terrorism finance and any suspicions/allegations/concerns which relate to safeguarding to the FCDO Investigations Department at [reportingconcerns@fcdo.gov.uk](mailto:reportingconcerns@fcdo.gov.uk) or on +44(0)1355 843747.

**3. Transparency and Delivery Chain Management**  
Key Performance Indicators KPI 3 a – f

The FCDO requires full delivery chain transparency from all Supply Partners. All direct Supply Partners and their delivery chain partners must adhere to wider HMG policy initiatives including the support and capacity building of micro, small and medium sized enterprises (MSMEs), prompt payment, adherence to human rights and modern slavery policies and support for economic growth in developing countries.

The FCDO recognises the critical value that downstream delivery partners contribute. Direct Supply Partners must engage their delivery chain partners in a manner that is consistent with FCDO’s treatment of its direct Supply Partners. This includes, but is not limited to: appropriate pricing of services; fiduciary and financial risk management processes; applying transparent and responsive measures where delivery chain partners underperform against the KPI areas; taking a zero tolerance approach to tax evasion, corruption, bribery and fraud in subsequent service delivery or in partnership agreements. Direct Supply Partners must cascade the principles of the Code throughout their delivery chain to ensure FCDO ethical behaviour standards are embedded and maintained.

**Specific requirements for direct Supply Partners include:**

- ✓ Provide assurance to the FCDO that the policies and practices of their delivery chain Supply Partners and affiliates comply with the Code;
- ✓ Maintaining and sharing with FCDO up-to-date and accurate records of all downstream partners in receipt of FCDO funds and/or FCDO funded inventory or assets. This should map how funds flow from them to end beneficiaries and identify risks and potential risks along the delivery chain;
- ✓ Ensuring delivery chain partner employees are expressly notified of the FCDO ‘reporting concerns’ mailbox<sup>3</sup> found on FCDO’s external website and of the circumstances in which this should be used;
- ✓ Publication of FCDO funding data in accordance with the International Aid Transparency Initiative (IATI)<sup>4</sup>
- ✓ Supply Partners shall adhere to HMG prompt payment policy and not use restrictive exclusivity agreements with sub-partners.

<sup>3</sup> <https://www.gov.uk/government/organisations/department-for-international-development/about#reporting-fraud>

<sup>4</sup> <http://www.aidtransparency.net/>

**4. Environmental issues**  
Key Performance Indicators KPI 4 a – b

FCDO Supply Partners must be committed to high environmental standards, recognising that FCDO activities may change the way people use and rely on the environment, or may affect or be affected by environmental conditions. Supply Partners must demonstrate they have taken sufficient steps to protect the local environment and community they work in, and to identify environmental risks that are imminent, significant or could cause harm or reputational damage to the FCDO.

**Commitment to environmental sustainability may be demonstrated by:**

- ✓ Formal environmental safeguard policies in place;
- ✓ Publication of environmental performance reports on a regular basis
- ✓ Membership or signature of relevant environmental Codes, both directly and within the delivery chain such as conventions, standards or certification bodies (e.g. the Extractive Industries Transparency Initiative<sup>5</sup>).

**5. Terrorism and Security**  
Key Performance Indicators KPI 5 a – d

FCDO Supply Partners must implement due diligence processes to provide assurance that UK Government funding is not used in any way that contravenes the provisions of the Terrorism Act 2000, and any subsequent regulations pursuant to this Act.

FCDO Supply Partners must maintain high levels of data security in accordance with the Data Protection Act 1998 and any subsequent regulations pursuant to this Act, or new Act and with the General Data Protection Regulation (Directive 95/46/EC).

**Specific requirements:**

- ✓ Development and proof of application and embedding of a comprehensive Terrorism and Security Policy
- ✓ Development and proof of application and embedding of personal data processing processes within a Data Protection Policy
- ✓ FCDO Supply Partners must safeguard the integrity and security of their IT and mobile communications systems in line with the HMG Cyber Essentials Scheme<sup>6</sup>. Award of the Cyber Essentials or Cyber Essential Plus badges would provide organisational evidence of meeting the UK Government-endorsed standard;
- ✓ All FCDO Supply Partners who manage aid programmes with a digital element must adhere to the global Principles for Digital Development<sup>7</sup>, which sets out best practice in technology-enabled programmes
- ✓ Ensure that FCDO funding is not linked to terrorist offences, terrorist activities or financing.

**6. Safeguarding, Social Responsibility and Human Rights**  
Key Performance Indicators: KPI 6 a – d

Safeguarding, social responsibility and respect for human rights are central to FCDO’s expectations of its Supply Partners. Supply Partners must ensure that robust procedures are adopted and maintained to eliminate the risk of poor human rights practices within complex delivery chain environments funded by FCDO. These practices include sexual exploitation, abuse and harassment; all forms of child abuse and inequality or discrimination on the basis of

<sup>5</sup> <https://eiti.org/>  
<sup>6</sup> <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>  
<sup>7</sup> <http://digitalprinciples.org/>

race, gender, age, religion, sexuality, culture or disability. Supply Partners must place an emphasis on the control of these and further unethical and illegal employment practices, such as modern day slavery, forced and child labour and other forms of exploitative and unethical treatment of workers and aid recipients. FCDO will expect a particular emphasis on the management of these issues in high risk fragile and conflict affected states (FCAS), with a focus on ensuring remedy and redress if things go wrong.

**Specific requirements:**

- ✓ Development and proof of application and embedding of a Safeguarding Policy;
- ✓ Delivery of Social Responsibility, Human Rights and Safeguarding training throughout the delivery chain;
- ✓ Compliance level 1 Supply Partners must be fully signed up to the UN Global Compact<sup>8</sup>;
- ✓ Practices in line with the International Labour Organisation (ILO) 138<sup>9</sup> and the Ethical Trading Initiative (ETI) Base Code<sup>10</sup> are to be encouraged throughout the delivery chain;
- ✓ Policies to embed good practice in line with the UN Global Compact Guiding Principles 1 & 2 on business and human rights throughout the delivery chain are required, as detailed in Annex 2;
- ✓ Compliance level 1 Supply Partners to submit a Statement of Compliance outlining how the organisation's business activities help to develop local markets and institutions and further how they contribute to social and environmental sustainability, whilst complying with international principles on Safeguarding and Human Rights labour and ethical employment, social inclusion and environmental protection;
- ✓ Overarching consideration given to building local capacity and promoting the involvement of people whose lives are affected by business decisions.

<sup>8</sup> <https://www.unglobalcompact.org/what-is-gc/mission/principles>

<sup>9</sup> [http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C138](http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138)

<sup>10</sup> <http://www.ethicaltrade.org/eti-base-code>

**Compliance KPIs and contractual checking mechanisms - FCDO Contracts**

Maintaining standards of assurance and driving sustainable improvements, in connection with the Code’s principles through Supply Partner relationships is a key focus for the FCDO.

Supply Partner and delivery chain compliance checking processes will take place in accordance with the agreed compliance levels and the specific contractual clauses down the delivery chain, the FCDO shall undertake compliance checks.

Where appropriate, a plan setting out the Code of Conduct delivery methodology for the Supply Partner arrangements during the contract term may be jointly developed with the FCDO during Contract mobilisation.

Contract Checks and Compliance KPIs		KPI target	Specific Contractual link	Checking mechanism
i.	Declaration of acceptance of the FCDO Supply Partner Code of Conduct	Annual declaration submitted by contracted Supply Partner on behalf of delivery chain	Contract Terms and Conditions Clause 5.1 and Clause 7.7	Declaration of acceptance at the applicable level of compliance with each of the 6 sections received
	Declaration of sign up to the UN Global Compact	Annual declaration submitted by the direct Supply Partner	Standard Selection Questionnaire (SSQ)	Declaration of applicable sign up / application received
1.	<b><u>VfM and Governance standards</u></b>			
a)	Economic and governance policies in practice	Annual updated documentation provided (copy of Policies with detailed annual financial breakdown relating to contract)	Terms and Conditions Clauses 13, 14 & 15	Annual contract review/programme management  Audit checks Compliance checks
b)	VfM being maximised over the life of a contract  1. By confirmation of annual profit level fluctuations since tender submittal  2. by timely identification and resolution of issues  3. ensuring lessons learned are shared	Updated documentation submitted once annually	Contract T&Cs Clauses 15 & 20  Terms of Reference  Terms of Reference	Compliance checks  Annual contract review/programme management Compliance checks  Annual contract review/programme management Compliance checks

c)	<p><u>Tax Declaration (HMRC format)</u></p> <ul style="list-style-type: none"><li>• Tax the organisation paid on profits made in the last 3 years, and in which countries</li><li>• Compliance with relevant country level tax regulations fully understood and met</li></ul>	Annually updated documentation submitted by contracted supplier and on behalf of delivery chain partners	Terms and Conditions Clauses 15, 23 & 24  Terms of reference	Annual return  Compliance checks
2.	<p><u>Ethical Behaviour</u></p>			
a)	Recruitment policy (which must address circumstances where there may be potential or actual conflict of interest)	Updated policy documentation submitted once annually by contracted supplier and on behalf of delivery chain partners	Terms and Conditions Clauses 6, 51 & 54	Annual return Compliance checks
b)	Ongoing conflict of interest, mitigation and management	As 2a. above	Terms and conditions Clause 54	Annual return Compliance checks
c)	Refresher ethical training and staff updates (including disclosure restrictions on FCDO confidential information)	Copy of training logs provided Delivery in accordance with training programme in place	Terms and conditions Clause 6, 29, 51 & 54	Annual return Compliance checks
d)	A workforce whistleblowing policy	Continuous workforce awareness maintained Policy in place	Terms and Conditions Clause 48	Annual return Compliance checks
e)	<ol style="list-style-type: none"><li>1. Procedures setting out how, staff involved in FCDO funded business, can immediately report all suspicions or allegations of aid diversion, fraud, money laundering or counter terrorism finance or any suspicions/allegations/concerns which relate to safeguarding to the Investigations Department at <a href="mailto:reportingconcerns@fcdo.gov.uk">reportingconcerns@fcdo.gov.uk</a> or on +44(0)1355 843747</li><li>2. Employees working on FCDO Contracts fully aware of the FCDO external website reporting concerns mailbox</li></ol>	<p>Continuous awareness maintained</p> <p>Procedure in place</p> <p>Continuous awareness maintained</p>	<p>Terms and Conditions Clauses 6, 48 &amp; 54</p> <p>Terms and Conditions Clause 48</p>	<p>Annual return Compliance checks</p> <p>Annual return Compliance checks</p>
f)	<p>Declarations of direct or subcontractor staff members proposed to work on FCDO funded business if employed by FCDO or the Crown in the preceding two years</p> <p>Supply Partners and their subcontractors must provide proof of compliance with the HMG approval requirements under the</p>	Details submitted as applicable	<p>Terms and Conditions Clause 48</p> <p>HMG <a href="#">business appointment rules</a></p>	<p>Annual return Compliance checks</p> <p>Contract management</p>

	<a href="#">business appointment rules</a>			
3.	<b><u>Transparency and Delivery Chain Management</u></b>	Updated documentation submitted once annually	Contract Terms and Conditions Clause 28	Tender evaluation  Periodic spot checks Compliance checks
a)	IATI compliance for Supply Partner and their delivery chain Supply Partners			
b)				
c)	Up to date and accurate records of all delivery chain Supply Partners	Updated documentation submitted in accordance with Clause 26.7	Contract Terms & conditions Clause 9 & 28 Tender submittal – delivery chain	Annual return Compliance checks Contract management
d)	Policies and practices for the management of delivery chain partners and affiliates aligned to the FCDO Supply Partner Code of Conduct	Updated documentation submitted annually	Contract Terms & conditions Clause 7	Contract management processes Periodic spot checks Compliance checks
e)	Tax evasion, bribery, corruption and fraud -statements of assurance provided	Updated documentation submitted once annually	Contract Terms and Conditions 23 & 24	Periodic and annual return spot checks Compliance checks
f)	All delivery chain partner employees working on FCDO Contracts fully aware of the FCDO reporting concerns mailbox	Updated documentation submitted once annually	Contract Terms & Conditions Clause 48	Periodic and annual return spot checks
	HMG prompt payment policy adhered to by all delivery chain partners	Updated documentation submitted once annually	Contract Terms & conditions 7	HMG spot checks Compliance checks Annual return
4.	<b><u>Environmental Issues</u></b>			
a)	1.Steps in place to identify environmental risks (e.g. by maintaining a risk register) Ensuring legislative requirements are being met  2. Formal context specific environmental safeguarding policies in place to ensure legislative requirements are being met	Updated documentation submitted once annually	Contract Terms & Conditions Clause 53 and ToRs	Contract management  Periodic and annual return spot checks Compliance checks
b)	Published annual environmental performance reports <b><u>Net zero by 2050 tracking</u></b>	Updated documentation submitted once annually	Contracts ToRs	Periodic and annual return spot checks
5.	<b><u>Terrorism and Security</u></b>			
a)	Up to date status declaration regarding the reporting of terrorist offences or offences linked to terrorist activities or financing	Updated documentation submitted if and when changes	Standard Selection Questionnaire (SSQ)	Annual return Spot checks Compliance checks Annual contract review

b)    c)    d)		identified since tender submittal		
	Certification at or above the level set out in the tender submittal	Updated documentation submitted if changes identified since tender submittal	Standard Selection Questionnaire (SSQ)	Annual return Compliance checks
	Data managed in accordance with the FCDO Security Policy and systems in accordance with the HMG Cyber Essentials Scheme	Updated documentation submitted if changes identified since tender submittal	Contract T&Cs Clause 32 & 33	Compliance checks
	Best practice global Principles for Digital Development in place	Updated documentation submitted if changes identified since tender submittal	Terms of reference (TORs)	Annual contract review Compliance checks
6.	<b><u>Safeguarding, Social Responsibility and Human Rights</u></b>			
a)	Provision of a current internal document demonstrating good practice and assuring compliance with key legislation on international principles on labour and ethical employment	Confirmation of UN Global Compact Membership	Standard Selection Questionnaire	Tender evaluation  Annual return Compliance checks
b)	Agreed level of measures in place and cascaded to assure the prevention of actual, attempted or threatened sexual exploitation or abuse or other forms of inequality or discrimination by employees or any other persons engaged and controlled by the Supply Partner to perform any activities relating to FCDO funded work. Robust procedures for the reporting of suspected misconduct, illegal acts or failures to investigate in place	Updated documentation submitted once annually	Contract T&Cs Clause 50	Tender evaluation, Compliance checks
c)	Recognition of the ILO standards  Membership of Ethical Trading Initiative (ETI)	Membership number		Compliance checks
d)	1.Principles cascaded to employees and delivery chain partners via an internal policy or written outline of good practice service delivery approaches to Human Rights and Safeguarding reflecting UN Global Compact Principles 1 & 2	Updated documentation submitted annually  Updated documentation submitted if and	Contract T&Cs Clause 50	Annual return  Compliance checks  Annual checks



	<p>2. Number and details of any organisational safeguarding allegations reported</p> <p>3. Level of commitment in relation to the Contract evident in delivery practices in line with the workplace and community guidance provided in the FCDO Supply Partner Code of Conduct Annex 2</p>	<p>when changes identified since tender submittal</p> <p>Updated documentation submitted annually</p>		<p>Compliance checks</p> <p>Tender evaluation</p> <p>Compliance checks</p>
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**Contractual Annual Compliance Declaration**

Prior to Contract Award and thereafter on an annual basis at the end of each financial year, the Supply Partner is required to submit a Compliance Declaration in connection with the management of any FCDO Contract in place and on behalf of their delivery chain partners. Supply Partners should be aware that spot check compliance monitoring will take place to verify responses.

**Supply Partner Compliance Declaration**

**Key:**

**Contractual Requirement:**

**X denotes full compliance 1 required**  
**O denotes reduced compliance level 2, unless otherwise stipulated in contractual Terms of Reference**

- Compliance Level 1**  
Supply Partners with an individual contract value of £1m or above, or two or more contracts funded by FCDO with a combined value of £5m or above.
- Compliance Level 2**  
Supply Partners with an individual contract value below £1m, or two or more contracts funded by FCDO with a value of less than £5m.

**Compliance Level 3**  
Supply Partners with an individual contract value or component of a contract funded by FCDO with a value below the EU Threshold. At this level Supply Partners are required to adhere to the overarching Code principles and recognise, mitigate and manage risks but will not be monitored against the contractual KPIs.

KPI Compliance Area		Supply Partner Compliance Level		Commentary	CEO Signatory	Signature & date of signing
		1	2			
1.	<b><u>VfM and Governance standards</u></b>					
a)	Evidence of how economic and governance policies work in practice	X	O			
b)	VfM maximisation over contract life					
	1. Annual confirmation of % profit on contract	X	X			
	2. timely identification and resolution of issues	X	X			
	3. ensuring lessons learned are shared	X	O			
c)	<b><u>Tax Declaration (HMRC format)</u></b>					
	Comply with all tax requirements	X	X			
2.	<b><u>Ethical Behaviour</u></b>					
a)	Adherence to agreed conflict of interest management procedures	X	X			
b)	Evidence of workforce ethical training updates taking place	X	X			

c)	Confirmation of direct and delivery chain partner compliance with the HMG approval requirements under the Business Appointment Rules.	X	X			
d)	Confirmation and full evidence of awareness of an up to date workforce whistleblowing policy	X	X			
e)	Procedures in place and full evidence of awareness of how, staff involved in FCDO funded business, can immediately report all suspicions or allegations of aid diversion, fraud, money laundering or counter terrorism finance or any suspicions/allegations/concerns which relate to safeguarding to the Investigations Department (CFWU) at <a href="mailto:reportingconcerns@fcdo.gov.uk">reportingconcerns@fcdo.gov.uk</a> or on +44(0)1355 843747	X	X			
f)	HMG Business appointment rules followed - Conflict of Interest(COI) declarations made for direct or delivery chain staff members proposed to work on FCDO funded business if employed by FCDO or the Crown in the preceding two years.	X	X			
3.	<b><u>Transparency and Delivery Chain Management</u></b>					
a)	Supply Partner and delivery chain partners IATI compliant	X	O			
b)	Provision of up to date and accurate records of all delivery chain Supply Partners provided within the required frequencies, including annual contractual spend on SME's, women owned businesses and modern apprenticeships in place	X	O			
c)	Verification that policies and practices for the management of delivery chain Supply Partners are aligned to the FCDO Supply Partner Code of Conduct i.e. by demonstrating delivery chain governance arrangements in place	X	O			
d)	Assurance there has been no change to previous statements provided in relation to tax evasion, bribery, corruption and fraud	X	X			
e)	Confirmation that all delivery chain Supply Partners' employees working on FCDO Contracts are fully aware of the FCDO external website reportingconcerns mailbox	X	X			
f)	Confirmation of adherence to HMG prompt payment policy with all their delivery chain Supply Partners	X	O			
4.	<b><u>Environmental Issues</u></b>					

a)	Environmental risks identified (e.g. by maintaining a risk register) with formal context specific environmental safeguarding policies in place	X	O			
b)	Annual published environmental performance reports Net zero by 2050 tracking in place	X	O			
5.	<b><u>Terrorism and Security</u></b>					
a)	Up to date status declaration regarding the reporting of terrorist offences or offences linked to terrorist activities or financing	X	X			
b)	No engaged employees or delivery chain partner personnel appears on the Home Office Prescribed Terrorist Organisations List	X	X			
c)	Data is managed in accordance with the FCDO security policy and systems are in accordance with the HMG cyber essentials scheme	X	X			
d)	Adherence to the best practice global principles for digital development	X	O			
6.	<b><u>Safeguarding, Social Responsibility and Human Rights</u></b>					
a)	Provision of a document demonstrating current organisational good practice and assuring compliance with key legislation on international principles on labour and ethical employment (to include Modern Day Slavery Act 2015 compliance detail)	X	O			
b)	Organisational procedures in place directly, and within the delivery chain:  1.To prevent actual, attempted or threatened sexual exploitation and abuse or other forms of inequality or discrimination by employees or any other persons engaged and controlled by the Supply Partner to perform any activities relating to FCDO funded work 2.For reporting suspected misconduct, illegal acts or failures to investigate actual attempted or threatened sexual exploitation or abuse	X  X	X  X			
c)	Current membership of UN Global Compact Current membership of ETI	X O	O O			
d)	1.Evidence of cascade to employees of an internal policy or written outline of good practice service delivery approaches to Human Rights and Safeguarding reflecting UN Global Compact Principles 1&2 demonstrating	X	O			

	an appropriate level of commitment in relation to the Contract	X	X			
	2.Numbers and details of organisational safeguarding allegations reported					
	3. Examples of delivery practice that demonstrate commitments in line with workplace and community in line with UN Global Compact Principles 1 & 2 (Annex 2)	X	O			

**UN Global Compact – Human Rights**

**Principle 1:** businesses should support and respect the protection of internationally proclaimed Human Rights

**Principle 2:** businesses should ensure they are not complicit in Human Rights abuse

Organisations should do this by giving attention to vulnerable groups including women, children, people with disabilities, indigenous groups, migrant workers and older people.

Organisations should comply with all laws, honouring international standards and giving particular consideration to high risk areas with weak governance.

Examples of how suppliers and partners should do this are set out below:

<p><b>In the workplace</b></p> <ul style="list-style-type: none"><li>• by providing safe and healthy working conditions</li><li>• by guaranteeing freedom of association</li><li>• by ensuring non-discrimination in personnel practices</li><li>• by ensuring that they do not use directly or indirectly forced labour or child labour</li><li>• by providing access to basic health, education and housing for the workers and their families, if these are not provided elsewhere</li><li>• by having an affirmative action programme to hire victims of domestic violence</li><li>• by making reasonable accommodations for all employees' religious observance and practices</li></ul>
<p><b>In the community</b></p> <ul style="list-style-type: none"><li>• by preventing the forcible displacement of individuals, groups or communities</li><li>• by working to protect the economic livelihood of local communities</li><li>• by contributing to the public debate. Companies interact with all levels of government in the countries where they operate. They therefore have the right and responsibility to express their views on matters that affect their operations, employees, customers and the communities of which they are a part</li><li>• through differential pricing or small product packages create new markets that also enable the poor to gain access to goods and services that they otherwise could not afford</li><li>• by fostering opportunities for girls to be educated to empower them and also helps a company to have a broader and more skilled pool of workers in the future, and</li><li>• perhaps most importantly, a successful business which provides decent work, produces quality goods or services that improve lives, especially for the poor or other vulnerable groups, is an important contribution to sustainable development, including human rights</li><li>• If companies use security services to protect their operations, they must ensure that existing international guidelines and standards for the use of force are respected</li></ul>

## Terms of Reference

# Propcom+ (not an acronym) – Supporting economic development in conflict and climate affected regions in Nigeria

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**Propcom+ - Supporting economic development in conflict and climate affected regions in Nigeria**  
**Terms of Reference**

## **1. Summary**

- 1.1 The UK Foreign, Commonwealth and Development Office (FCDO) is procuring a service provider (“Supplier”) to design, manage and deliver a new flagship climate and rural growth programme in Nigeria: **Propcom+** (not an acronym) – supporting economic development in conflict and climate affected regions in Nigeria.
- 1.2 Propcom+ aims to support **the transformation of Nigeria’s rural economy** through an integrated approach that addresses challenges in environmental, social, and economic dimensions of Nigeria’s food and land-use system. It will do this by addressing the key barriers to sustainable agricultural development to increase productivity, enhance resilience to climate change, pursue lower emissions, improve access to nutritious diets, as well as helping tackle some of Nigeria’s underlying drivers of conflict. Propcom+’s budget is **100% UK International Climate Finance (ICF)**.
- 1.3 This tender is for a Supplier or consortium to act as the lead technical assistance provider and fund manager. Technical assistance and finance will be delivered through the programme to agribusinesses to support investments which have a beneficial impact by boosting incomes and raising productivity, managing risk, enhancing resilience, reducing, or minimising greenhouse gas emissions, and improving access to nutritious diets.
- 1.4 The Supplier contract will be for up to **seven years from the Commencement Date**, subject to break clauses and extension options as set out below. The total budget available for the initial term, for the services to be provided under this contract, will be up to **£58.40 million** (inclusive of all applicable taxes and grant financing at £7.3 million).
- i. A further £30 million of funds may be, at the discretion of FCDO, allocated across the programme to high performing activities - based on recommendations from an independent mid-term evaluation at the end of Year 3 of the contract.
  - ii. An additional £25 million scale-up option will also be available – subject to a Business Case Addendum and review by Year 7 of the contract – should it prove to have a strong impact and the potential to yield better results.
  - iii. Up to 3-year time extension based on recommendations from a review by Year 7 of the contract, subject to a maximum contract length of 10 years.
- 1.5 Conversely, FCDO reserves the right to scale down or discontinue the programme at any point in line with the Terms and Conditions.
- 1.6 Supplier(s) should not develop their bids in such a way as to reach the budget ceiling but should instead construct their bid to successfully deliver the outcomes and deliverables of the Terms of Reference, meet the requirements as set out in the evaluation criteria and in the pursuit of Value for Money.

## **2. Context and Rationale**

- 2.1. The context in which Propcom+ will operate is detailed in the Propcom+ Business Case and accompanying annexes (**Annexes 1 and 2**). Potential Suppliers are required to review the Business Case in detail. Suppliers’ bids must adhere to the scope and objectives detailed in the Business Case. Propcom+ will operate in a highly conflict-prone, climate vulnerable and

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political context and the Supplier must consider these risks in Propcom+'s design and implementation.

2.2.Propcom+ seeks to address three inter-related problems:

2.2.1. **Problem A: Nigeria has a large agriculture-based economy, despite oil and gas's importance, with more than two-thirds of the population dependent on the agriculture sector for employment.** Weak agricultural productivity is undermining efforts to tackle food insufficiency, food insecurity and malnutrition, rising poverty, high population growth, and high youth unemployment. Significant gender gaps exist in rural markets, with very low women's workforce participation, low tertiary education enrolment, weak supportive entrepreneurial conditions, less knowledge assets, and financial access. Barriers arising from social norms, customary laws and markets define gender roles and limit women's control, access, and use of resources.

2.2.2. **Problem B: Nigeria is extremely vulnerable to climate change and land degradation.** Climate risks are increasing, diminishing productive capacity, and contributing to worsening food insecurity. Farmers are on the front line and highly dependent on seasonal rainfall making them increasingly vulnerable to the changing and unpredictable climate. Rural women are particularly vulnerable to climate change risks due to climate-sensitive livelihoods, having fewer endowments to absorb shocks, and limited access to and control of resources (inputs, land, finance, etc.). Environmental degradation arising from growing pressure on, and competition for, natural resources is one of the underlying drivers of fragility in Nigeria. At the same time, agriculture, forestry, and land-use change are leading drivers of greenhouse gas emissions due to unsustainable practices.

2.2.3. **Problem C: Continued internal conflicts undermine development and security.** Key underlying and long-term drivers of instability are growing unemployment, food insecurity, failures of governance and declining trust in government, increasing demand and competition for natural resources (land, water, forests), degradation of pastureland and stock routes, as well as shifts in internal and regional migration patterns.

2.3. **Nigeria's agricultural sector continues to engage a disproportionate share of the economy**, consisting of 22.1 per cent of the country's GDP, 75 per cent of non-oil exports and employing over two thirds of the population.<sup>1</sup> At the state level, agriculture's importance is significant, particularly in the north – for example accounting for 54 per cent of Adamawa's GDP and 40 per cent of Kaduna's. More than 80 per cent of the population in the north is engaged in primary production agriculture. As a result, a significant share of the population is either trapped in poverty and climate-sensitive subsistence agriculture and/or are vulnerable to moving in and out of poverty. Nigeria is one of the countries with the largest burden of chronic malnutrition, with rates of undernutrition remaining significantly high with almost 44 per cent of children under five stunted and extremely widespread micronutrient deficiencies.

2.4. **Nigeria is one of the most climate vulnerable countries in the world**, particularly in the North. Physical climate vulnerability is compounded by low levels of resilience, driven primarily by high poverty and climate-sensitive livelihoods. Land degradation poses a significant risk to the sustainability of key ecosystems on which the livelihoods of the poor depend. Depleted water sources, reduced biodiversity and degraded soils and ecosystems

<sup>1</sup> The Agriculture Promotion Policy 2016–2020, Federal Ministry of Agriculture and Rural Development, World Bank (2020) *Nigeria in Times of COVID-19: Laying Foundations for a Strong Recovery (English)*. Nigeria Economic Update Washington, D.C.: World Bank Group.

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significantly reduce land productivity and resilience. A quarter of Nigeria's GDP is exposed to flooding risks.

- 2.5. **Climate change, demographic pressures and rapid urban growth increase the risk of further conflict and instability in Nigeria.** In the future, resource access-related conflicts are likely to further increase as the impacts of climate change and drastic population growth increase. Improving agricultural production and related economies, as well as land use, management, and climate change adaptation and mitigation measures, would help to tackle some of the key underlying and long-term drivers of this instability – thus stymying further escalation.
- 2.6. To boost incomes and lift more Nigerians from poverty, the poorest Nigerians (male and female) must become more productive (**Problem A**), either in the informal agricultural and trading sectors or ideally by moving into a growing formal sector. A shift towards climate resilient, nutrition sensitive, low carbon and sustainable land use and food systems (**Problem B**) – involving all actors from farmers to traders, processors, packaging, marketing, and retail – could unlock enormous opportunities for inclusive economic growth as well as reducing the impacts of climate change, lowering emissions, contributing to stability (**Problem C**), and supporting healthy diets for Nigeria's growing population.

### 3. Recipient

- 3.1. The recipients of Propcom+'s activities, from a market development perspective, are the private sector companies with whom the programme will directly partner or who will otherwise benefit from published market analyses and policy reform. Smallholder farmers and small-scale entrepreneurs will be the ultimate beneficiaries of better agricultural supply chains and greater demand for their produce. The programme will support relevant parts of State and Federal Government, the private sector, farmer groups, financial institutions, and not-for profit organisations or partnerships thereof, delivering the expected outcomes at a systemic level.

### 4. Objective

- 4.1. The intended **impact** is to support inclusive and resilient growth by promoting a transformation of Nigeria's rural economy. All Supplier activities must contribute to achieving this impact statement. The Supplier will develop and monitor indicators to measure progress towards the impact statement, which will include:
- Rural Poverty rates (disaggregated for North and Northeast).
  - Volume of CO<sub>2</sub>e emissions from avoided agriculture, deforestation and degradation and re-forestation.
- 4.2. The **outcome** will be to promote a sustainable agri-food system that increases productivity, enhances resilience, and pursues lower emissions, contributing to improved food security, stability, and healthy diets. All Supplier activities must contribute to achieving this outcome statement. The Supplier will develop and monitor indicators to measure progress towards the outcome statement, which will include but not to be limited to:
- Number of smallholder farmers and small-scale entrepreneurs reporting improved income (direct and indirect).

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- Average Net Attributable Income Change (NAIC) per beneficiary per year.
- Number of people with increased resilience to climate change.
- Private Finance Mobilised / stimulated (£).
- Improved enabling environment for sustainable food and land-use.

4.3. Propcom+ will adopt a “3Ps” approach of interlinked **outputs**:

- **P1: Scaling-up** a focused basket of **Proven** climate-smart interventions around agricultural and primary processing / storage practices and models to get these adopted by millions of poor and vulnerable smallholder farmers and small-scale entrepreneurs.
- **P2: Building markets** by developing and **Piloting** new business models that improve productivity, enhance resilience to climate change, reduce emissions, and improve nutrition outcomes.
- **P3: Enabling Policies** that support a strengthened enabling environment for sustainable food and land-use system.

4.4. Details of all components can be found in Section 6 below and in the Business Case (**Annex 1**).

4.5. The wider Propcom+ programme also includes a **Strategic Response Fund (SRF)** that will be delivered through an alternative delivery route. The SRF is a separate pot of funding to this Terms of Reference, managed by FCDO Nigeria, to support projects that are consistent with programme objectives ahead of the Supplier's contract. Details of SRF funding can be found in **Annex 3**. The Supplier is expected to review these activities during the Inception Phase and continue to monitor and assess whether to take these forward and continue funding, with FCDO approval. Suppliers are required in their bids to include appropriate management, oversight, and financial mechanisms for the SRF.

4.6. All work currently implemented by, or to be delivered, under the two-year SRF will not be considered as part of any bid. However, potential Supplier's may wish to explore work that goes beyond the scope and life of the SRF as part of their bid.

4.7. Propcom+'s Theory of Change (ToC) is shown below. The Supplier will be required to provide an updated version of this ToC, detailing any assumptions, to align with its strategic approach, which will be assessed as part of its bid (see Section 6).

4.8. The final results indicators and targets will be agreed with FCDO by the end of the Inception Phase. Indicative results for the Propcom+ contract will be:

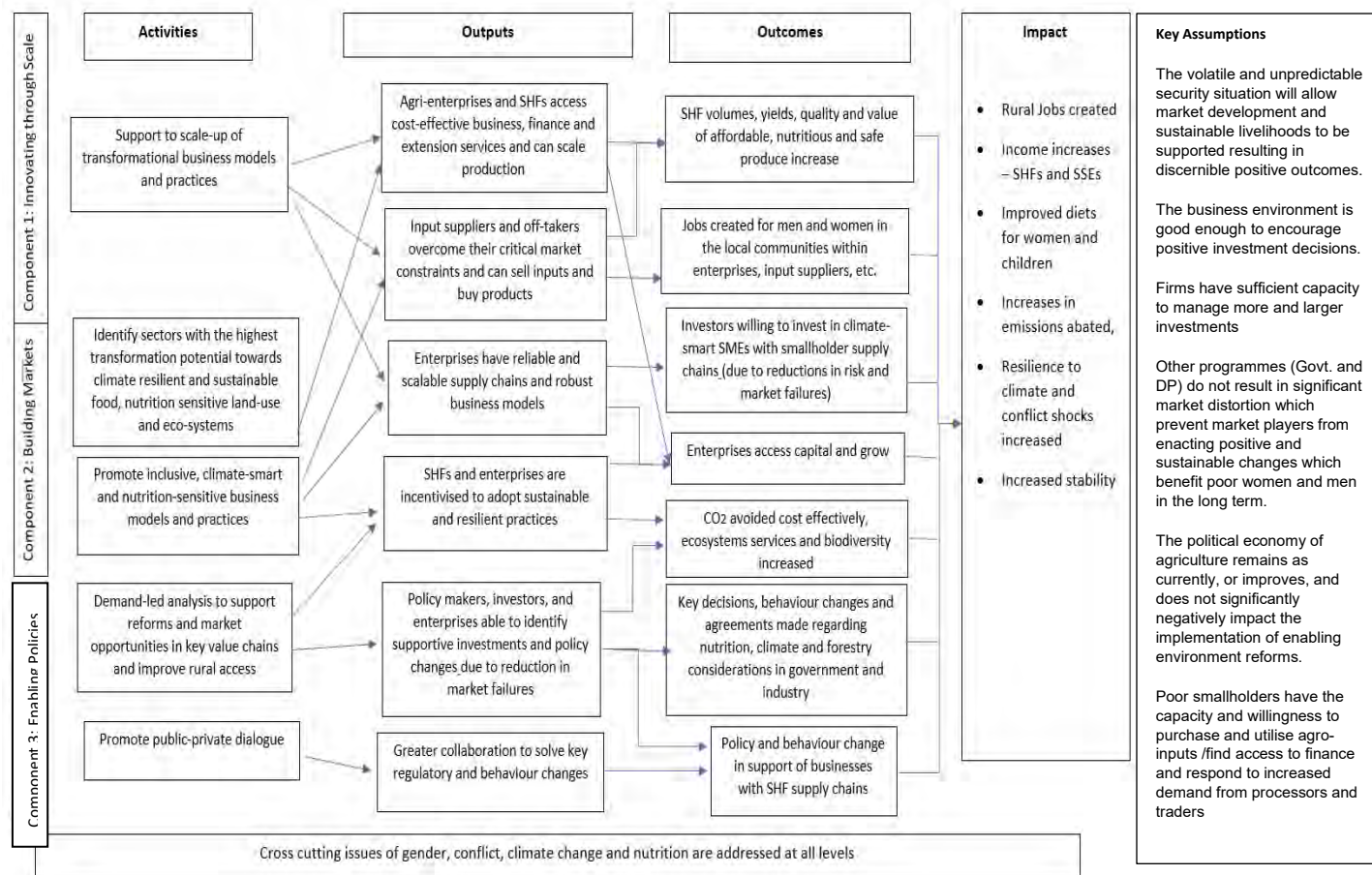
<b>Indicator</b>	<b>By 2025/26 or Year 3 of contract</b>	<b>By 2029/30 or Year 7 of contract</b>
Number of people supported with improved income	540,000	2,315,000
Average Net Attributable Income Change (NAIC) per year	£132	£132
Number of people supported with improved resilience ( <b>ICF KPI 4</b> )	540,000	2,315,000
Number of people supported to adapt to the effects of climate change ( <b>ICF KPI 1</b> )	590,000	2,500,000
Private finance Mobilised – climate ( <b>ICF KPI 12</b> ) and non-climate	£29,052,000	£125,680,000

4.9. 50% of the benefits of the project should accrue to women. All relevant impact, outcome and output indicators should be disaggregated to measure achievement for men and women,

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youth, disability, and geographically where possible. Opportunities to support young entrepreneurs, smallholder farmers, and persons with disability (PwD) will be integrated into programme design and the monitoring framework.

4.10. These targets represent a conservative minimum level. Bidders are invited to commit to the level of results that they feel can be achieved within the budget available.

**Propcom+ Theory of Change****5. Scope of Work**

5.1. The scope of Propcom+ is detailed in the Business Case (see **Annex 1**). This section elaborates on the key issues that should be reflected in the Suppliers' bids.

5.2. The Supplier will provide day-to-day management of the programme, including intervention design, development and implementation through the programme budget, financial and fiduciary management, managing downstream partners and their related due diligence, risk management, internal Monitoring, Evaluation, Research and Learning (MERL), and logistical and administrative duties.

5.3. The **84-month assignment** will be divided into three phases:

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- A **9-month Inception Phase** – which will be used to confirm programme design, to undertake a series of analytical studies and to launch pilot initiatives, including a review point in Month 9 – followed by
- A **72-month Implementation Phase**, including two review points: (i) at the end of Year 3 of the contract on the allocation of the £30 million Performance Fund based on recommendations from the independent mid-term evaluation, and (ii) by Year 7 of the contract on an additional £25 million scale-up option and/or up to a 3-year time extension.
- A **3-month Closure and Learning Phase** – following delivery of programme results by December 2029 – to responsibly close-down and exit the programme.

5.4. See Section 8 for further discussion on the three phases.

## 6. Approach and Methodology

### Overview

6.1. The Supplier is required to submit a draft seven-year strategy as part of its bid which will be revisited and finalised during Propcom+'s Inception Phase (see Section 8 for more details on the Inception Phase). The Supplier should provide a revised Theory of Change, including assumptions, that reflects its strategy. The draft strategy should be dynamic rather than static, detailing how Propcom+'s approach will evolve during implementation and include an exit strategy. This should include details of annual milestones, expected shifts in approaches and resource allocation, and key decision points. The draft strategy should also:

- Include a detailed strategic approach for each workstream (see Sections 6.3 and 6.17 to 6.39).
- Fully integrate the principles of market systems development (see Section 6.5).
- Fully integrate climate change (see Section 6.6 and 6.7)
- Include details on Propcom+'s approach to different geographies and sectors (see Section 6.8)
- Fully integrate political economy and conflict analysis, and a conflict sensitivity plan (see Sections 6.9, 6.10 and 6.11)
- Fully integrate gender equality and inclusion (see Sections 6.12 and 6.13)
- Fully integrate nutrition-sensitivity (see Section 6.14)
- Include details on how Propcom+ will maximise synergies with other UK and development partner programmes (see Section 6.15).
- Include details on Propcom+'s approach to flexible and adaptive programming (see Section 6.16).

### Key Requirements

6.2. The Supplier will be the lead implementing partner responsible for the delivery of Propcom+ and will be required to develop and implement a strategy covering all three workstreams and the Monitoring, Evaluation, Research and Learning (MERL) Unit (see Section 9).



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6.3. Propcom+'s outputs will be delivered through Technical Assistance (TA) expertise and grants to third parties. Propcom+'s funds will be used to provide:

6.3.1. **Technical Assistance** (TA) to overcome constraints, improve performance, and generate innovation. The stakeholders that will receive TA support will include private sector entities involved in climate-smart investment identification, design (e.g. of upstream or downstream distribution business models), assessing and testing feasibility of climate-smart business models, and in brokering partnerships in climate-smart agriculture. TA will be delivered both in-house by contracted Propcom+ programme staff and experts, and by third-party providers to carry out training, mentoring, establishment of linkages and facilitation<sup>2</sup>, advocacy and lobbying, and business advisory services such as advice on technical aspects of agriculture or forestry but also advising businesses on improving their business management capacity and systems.

6.3.2. The TA will be complemented by the provision of **Grant finance** to private sector entities to help establish, incubate and/or de-risk new or under-developed business models, introduce innovative frontier climate-smart technologies, and/or ensure provision of support services to catalyse the expansion and scale up of their operations. 12.5 per cent of the total contract, or approximately £7.3 million, is allocated to grants.

6.3.3. All grant financing will adhere to FCDO's policy on subsidy to the private sector on leverage, avoiding market distortion, partner commitment and other principals designed to ensure that subsidy is minimised (see **Annex 5**). The Supplier must also adhere to the Government Functional Standard for Grants - [Government Functional Standard GovS 015: Grants - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/government-functional-standard-for-grants).

6.4. Suppliers should factor into their bids that **the annual budget available will be lower in Years 1 to 3** (23/24 – 25/26) of the contract and include an approach for an uplift in spend from the end of Year 3 (25/26). The Table below provides an indicative budget breakdown by contract year. Bids should include an approach if they are required to scale down activities and/or scale-up activities, for example from the availability of a second tranche from the 'Performance Fund' following recommendations from the independent mid-term evaluation. Alongside these specific contract points, Suppliers should include how their strategies could scale up and down on at least three months' notice. See also Section 10 for further detail.

	Y1	Y2	Y3	Y4-7	
Year	23/24	24/25	25/26	26/27 – 29/30	Total
Estimated Budget	£3-4m	£4-5m	£8-9m	£40-£43m	£58.4m
w/ Performance Fund	-	-	-	£30m	£88.4m

6.5. The Supplier is required to employ a **market systems approach** to achieve the outcomes and impacts, and not direct delivery. The Supplier's activities must therefore contribute to permanently changing systems. The Scaling-up (P1) and Building Markets (P2) workstreams should mobilise the capabilities and resources of the private sector to achieve impact at scale. The Enabling Policies (P3) workstream should tackle enabling environment bottlenecks, that will unlock productivity growth, enhanced resilience of systems, and promote low carbon growth. The Supplier's strategy must adhere to FCDO's Policy on Subsidy to the Private Sector (see **Annex 5**), the key principles of which are summarised as follows:

<sup>2</sup> Creating and facilitating linkages between the private sector and the rural poor (i.e. Business to Client) as well as between private sector entities (Business to Business).

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- **Systemic impact.** Interventions should be designed to support the development of an entire market. They should not undermine market competitiveness by only benefitting individual firms.
- **Additionality.** Interventions should ensure that the development outcomes would not have been achieved without subsidy or would have been delayed for a sufficiently long period of time.
- **Sustainable development.** Interventions should only use subsidy where long-term commercial sustainability is expected. Subsidies should be time-bound and ongoing subsidy should be avoided.
- **Minimise market distortions.** Interventions should use the minimum subsidy necessary and be targeted as close to the market failure as possible.
- **Incentive alignment.** Interventions should seek to ensure that the commercial partner is committed to the developmental outcomes of an intervention, not just the commercial ones.
- **Development rationale.** Interventions should have a clear development and economic rationale (i.e. overcoming a market failure or decreasing inequality).

6.6. Propcom+'s budget is **100% UK International Climate Finance (ICF)**. Programme intervention areas will be primarily delivered through Climate Smart Agriculture (CSA), an integrated approach to managing landscapes that addresses the interlinked challenges of food security and accelerating climate change. Suppliers should set out in their bids how they will systematically consider the synergies and trade-offs that exists between the three CSA pillars: productivity, adaptation, and mitigation. CSA interventions will only be considered if they enhance productivity (i.e. food security) as well as at least one of the other objectives of CSA (adaptation and/or mitigation). Priority will be given to adaptation and resilience outcomes.

6.7. The programme will also support **catalysing investment into sustainable agriculture and forest management, creating jobs and livelihoods, while protecting forests and nature**. Suppliers should set out how they will support developing new business models, which provide jobs and livelihoods that are linked to forest protection, sustainable forest management, and restoration. In addition, bids should outline support for policy reforms for improved forest and land governance frameworks that strengthen the enabling environment for sustainable agricultural commodities and scaling-up measures to tackle deforestation associated with these industries. Propcom+ activities must contribute to one or more ICF KPIs. KPIs relevant to Propcom+ are listed in Section 9.12.<sup>3</sup>

6.8. Propcom+ will adopt a two-tier approach to **regional and state level implementation**. Tier 1 states are currently from the North-West and North-East and considered priority states delivering climate smart agriculture to help the poor and climate vulnerable. Tier 2 States are currently from Southern Nigeria (North Central, South-South and South-West) and will have a more focused set of priorities on deforestation-free commodities. The composition and structure of the two-tier approach may be subject to change during the lifetime of the programme subject to affordability, programme and FCDO priorities, results, value for money, and so on. Suppliers should focus their bids to Nigeria's geopolitical zones, with priority given to Tier 1 States and include a differentiated approach for the Lake Chad Basin. During the Inception Phase, the Supplier will work with FCDO to scope, develop and narrow the

<sup>3</sup> ICF KPI methodologies can be found here - <https://www.gov.uk/government/publications/uk-climate-finance-results>



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geographical footprint of the programme based on rigorous technical analysis, FCDO Nigeria geographic approach, and the level of state government, civil society, community, and private sector buy-in to Propcom+ objectives. Propcom+ should focus on long-term fundamentals, while adapting to short-term opportunities and challenges.

- 6.9. The Supplier will embed **political economy** considerations, thinking and working politically, to form a crucial part of diagnostics, intervention selection, and portfolio management (such as when to stop activities). Support and engagement should be tailored to addressing binding constraints and implementing reform through building in strong political analysis, insight and understanding, and having a detailed appreciation of, and response to, the local context. The Supplier will also need to ensure flexibility and adaptability in programme design and delivery, notably with respect to the selection of stakeholders and intervention partners.
- 6.10. The Supplier will have **conflict-sensitivity** as one of its core principles given the intersection between natural resource competition and conflict, as well as the escalating levels of conflict and insecurity across the country. This will include not only assessing and mitigating the risks of exacerbating tensions and drivers of conflict, but also taking opportunities to promote peace and tackle underlying drivers of conflict in areas of intervention. The Supplier will integrate iterative conflict and political analysis to shape the design and implementation of interventions, as well as enable careful risk analysis. Indicators will be embedded in the logical framework to monitor the impact of the programme on conflict dynamics. Other mechanisms such as strong communication processes and beneficiary feedback systems will be adopted to ensure risks and opportunities are identified and acted upon. In doing so, Propcom+ will both increase its chances of supporting sustainable solutions and help address how insecurity is driving Nigeria's productivity and resilience challenges.
- 6.11. The Supplier is required to ensure that this high-quality **political economy and conflict analysis** is integrated into its strategy. Potential Suppliers must demonstrate how political economy and conflict analysis will be mainstreamed throughout Propcom+'s activities. The Supplier is required to implement a "top-down/bottom-up" approach to political economy and conflict analysis: top-down meaning high-level analysis that informs Propcom+'s overarching strategy and bottom-up meaning micro-level analysis that informs smarter day-to-day tactical decisions. The Supplier must ensure that all Propcom+'s activities "do no harm", for example by exacerbating conflict dynamics or working with recipients that pose significant reputational risk.
- 6.12. The Supplier will need to demonstrate a strong and clear approach to embedding **gender and social inclusion (GESI)** throughout all aspects of programme delivery. This will include systematically integrating GESI into political economy, conflict, and other foundational analysis, throughout MERL systems (as discussed in 4.9 above), and as part of management and decision-making processes over how to use programme resources. Analysis should be localised where relevant and identify those groups more excluded from existing political, social, and economic benefits. The Supplier will need to work to ensure interventions are as inclusive as possible and contribute to reducing exclusion and inequalities. The Supplier will comply fully with the International Development (Gender Equality) Act and a capacity to ensure the programme meets its ambition of being a Gender Equality Marker (GEM) 2 programme.
- 6.13. The Supplier should look to integrate **inclusive market systems development** to take a more deliberate strategy to bring women up to a level where they can compete equitably. It should seek to facilitate change indirectly by engaging change agents at the macro-market systems level, but also simultaneously involving direct facilitation interventions that enable the

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most marginalised to benefit. Propcom+ will pioneer effective climate smart investment strategies to improve women's resilience whilst empowering them, both economically and socially, to improve the wider resilience of their households and communities.

- 6.14. The Supplier is required to identify and seek to mitigate potential negative effects of the programme's interventions on **nutrition** (e.g. through investments in value chains that drive increasing consumption of unhealthy foods, working conditions that negatively affect women's and their children's nutrition) as well as maximise opportunities for positive outcomes. To this effect, the Supplier should consider, analyse, and pursue investment opportunities in value chains and market systems for nutritious foods (such as fruits, vegetables, animal source foods, nuts and legumes and processed nutritious foods) with a view to making them more available, affordable, and accessible to the local population, particularly for lower income households including women and young children. Propcom+ should also address the interlinkages between climate and nutrition, identify the potential risks and explore opportunities to enhance positive outcomes for both climate and nutrition.
- 6.15. Collaborating and coordinating with others through **strategic partnerships** to leverage strengths of others is a core priority of Propcom+. The Supplier will need to coordinate with a range of other public and private sector institutions in Nigeria and leverage investment to achieve results at scale. The specific objectives of these institutions may not exclusively be to promote sustainable inclusive and resilient growth. In addition, the Supplier's approach should maximise Propcom+'s relevance to the UK and Nigeria by reflecting this in its strategy. The Supplier is not expected to set up or administer an investment vehicle in delivery of this contract.
- 6.16. The Supplier is required to develop a strategy that is **adaptable** and manages **flexibility** with governance mechanisms that support robust decision making in agile programme delivery. The Supplier will be required to build in testing, deliberate learning, and experimentation on how best to achieve the desired outputs and outcomes. The Strategy should have the built-in flexibility to make changes to programme activities to respond to opportunities, challenges, risks, changes in context and lessons learnt. This should be based on evidence and learning, and responsiveness to evolving priorities or needs, including feedback from beneficiaries and stakeholders, to guide investment decisions. This approach should also have embedded 'stop go' procedures and approach for portfolio management and when to cut losses and not proceed with an intervention that is deemed to fail. The Supplier will have the flexibility to add or remove sectors and geographies in consultation with FCDO. The Supplier will have flexibility at the output level, not the outcome or impact level. Importantly, while Propcom+ is a flexible programme, the Supplier must still develop and maintain a workplan to implement its strategy; flexibility allows for this plan to change but a plan must still exist (see Section 8).

## **P1 – Scaling Up Proven Climate-smart interventions**

- 6.17. Suppliers in their bids should set out their strategy for using technical assistance and grant financing to third parties to facilitate the **scale-up of rural development interventions** that address the three problems set out in the Business Case and Sections 2.2-2.6.
- 6.18. The Supplier must take a market systems approach, rather than directly supporting individual firms or institutions in isolation. Propcom+ will integrate CSA, conflict-sensitivity, political economy, GESI, and nutrition sensitivity into this market systems approach both at a smallholder farmer level and across the value chain / wider market system. The approach should be tailored to the specific needs of rural markets in Nigeria, ensuring that the distinct

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needs, priorities, and realities of different groups, for example women and/or geography, are recognised and addressed in the design and application of inclusive CSA interventions.

6.19. The Supplier is required to develop a methodology and pipeline of proven and adoptable climate-smart agricultural and primary processing / storage practices, technologies, and models to get these adopted by millions of poor and vulnerable smallholder farmers and small-scale entrepreneurs. The opening portfolio will consist of:

- Delivering Livestock and poultry vaccines and treatment.
- Delivery of Biofortified and fortified crops to scale adoption.
- Delivery of improved climate-smart crop varieties (distribution, production, extension).
- Scaling ICT-based tools for extension.

6.20. The Supplier will scale up these interventions to reach large numbers of people in a way that modernises Nigeria's rural economy, and consequently, increases climate, environment, and nutrition benefits. During the Inception Phase, the Supplier will refine the opening portfolio and further develop new interventions, markets and instruments as set out in Section 8.

6.21. Supplier bids should also consider and set out their approach and a framework for managing and utilising **interactions between the 3P's and across interventions** to create synergies and feedback loops. Bids should also include a framework for **collaborating and coordinating with others through strategic partnerships**, leveraging strengths of other UK initiatives, Development Partners, and Federal and State Government.

6.22. Further details on P1 can be found in **Annex 1**.

## **P2 – Building Markets to Pilot climate-smart interventions**

6.23. Suppliers in their bids should set out their strategy for using technical assistance and grant financing to third parties to **developing and piloting new climate smart business models** that improve productivity, enhance resilience to climate change, reduce emissions, and improve nutrition outcomes.

6.24. As with P1, the Supplier must take a **market systems approach**, rather than directly supporting individual firms or institutions in isolation. This focuses on addressing the underlying systemic constraints within selected rural markets in a sustainable and catalytic way.

6.25. Supplier bids should set out their approach to providing support as a 'market facilitator', working with key players in the market system to catalyse the adoption and delivery of a range of innovative business models, services and offers to smallholder farmers and small-scale entrepreneurs. Propcom+ seeks to do this in a commercially viable and climate-smart way, with mutual compatible incentives between farmers, entrepreneurs, and service providers.

6.26. P2 will also use grants and technical assistance to support the introduction, testing, update, and to scale business and market system innovations. Unlike P1, greater emphasis in P2 of the grants will be on establishing, incubating and/or de-risking new or under-developed business models, introducing innovative frontier climate-smart technologies and the provision of support to catalyse the expansion of their operations.

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6.27. The opening portfolio for P2 may include:

- Aggregation and market access models.
- Livestock and poultry development.
- Targeted input subsidies for improving productivity.
- Smallholder irrigation schemes (including switching from diesel to solar pumps).
- Strengthening land governance.

6.28. Suppliers are required to set out the mechanisms for the continued use of updated value chain and market intelligence to identify and inform opportunities, testing programme and intervention Theory of Change, and risk management to guide investment decisions. This approach should also have embedded 'stop go' procedures and approach for portfolio management and when to cut losses and not proceed with an intervention that is deemed to fail.

6.29. Supplier bids should also consider and set out their approach and a framework for managing and utilising **interactions between the 3P's and across interventions** to create synergies and feedback loops. Bids should also include a framework for **collaborating and coordinating with others through strategic partnerships**, leveraging strengths of other UK initiatives, Development Partners, and Federal and State Government.

6.30. Further details on P2 can be found in **Annex 1**.

### **P3 – Enabling Policies for Sustainable Food and Land-use**

6.31. Suppliers in their bids should set out their strategy to support a **strengthened enabling environment** for a sustainable food and land-use system that deliver better outcomes for people's livelihoods, food security and nutrition, climate, and economic growth. Suppliers should identify priorities for achievable reform of federal and state government policy and interventions that currently deter investment in rural markets.

6.32. Propcom+ will deliver policy advice to support an improved enabling environment for sustainable food and land-use system in Nigeria. Supplier's bids should consider the adoption of a **Problem Driven Iterative Adaptation (PDIA)** approach to achieve this. PDIA starts from an initial problem analysis to break down the issue into its root causes, identify entry points, identify possible solution pathways, act, reflect upon what was learnt, adapt, and then act again. Rapid cycles of review and learning are essential, building in tight feedback loops to build localised solutions that fit the context, including a consideration of applied political economy challenges to change and avoid replicating 'best practices' from other contexts.

6.33. Supplier's bids should embed political economy considerations, **Thinking and Working Politically**, to form a crucial part of diagnostics, intervention selection, and when to stop activities. Support and engagement should be tailored to addressing binding constraints and implementing reform as set out in the Business Case.

6.34. The Supplier is required to develop and implement a strategy that ensures that Propcom+'s resources are focused on achieving tangible results. The Supplier must ensure that resources are not wasted on outputs (e.g. workshops, 'roundtables', visits) that do not have a very strong

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link to Propcom+'s outcomes. P3 must not provide core funding to any organisation or support activities that do not directly contribute to Propcom+'s specific sustainable food and land use reform objectives.

6.35. Supplier's strategy for P3 should also recognise the importance of existing institutional frameworks within industry to drive change, where business-to-business and micro-group levels operate and govern market relationships and transaction. These rules may provide opportunities as adaptable and scalable solutions to policy and regulatory failures.

6.36. The opening portfolio under P3 will include support to:

- Animal Vaccine distribution and delivery
- Enhance market demand and sustainable supply chains linked to zero de-forestation commitments, for example in oil palm and/or cocoa.

6.37. During the programme Inception Phase, the Supplier will further refine their strategy in these areas, as well as develop a wider portfolio of interventions, priorities and instruments using the in-depth analysis and diagnostics.

6.38. Supplier bids should also consider and set out their approach and a framework for managing and utilising **interactions between the 3P's and across interventions** to create synergies and feedback loops. Bids should also include a framework for **collaborating and coordinating with others through strategic partnerships**, leveraging strengths of other UK initiatives, Development Partners, and Federal and State Government.

6.39. Further details on P3 can be found in **Annex 1**.

## **7. Team structure and human resources**

### **Key Requirements**

7.1. **Core team:** The core team will be responsible for the day-to-day leadership, strategy setting and management of Propcom+. The skills and experience provided by the core team will be required throughout Propcom+'s implementation, regardless of the current portfolio of activities. The core team consists of at least four roles, including the Political Director, Strategy Director, Senior Programme Manager, and MERL Director. Flexibility is allowed on additional core team personnel, the organogram and job titles. Suppliers in their bids are required to provide named individuals and CV's for the core team in their bids. Suppliers in their bids can consider the home base of these roles and whether any of these roles should be part-time for Years 1-3. These roles are expected to be full time after Year 4. Bidders should note that their score for Technical Criterion 3 will be affected by the quantity (i.e. number of days allocated per year) as well as the quality of resource allocated to achieving Propcom+'s requirements.

7.2. **Long-term expert pool:** The long-term expert pool includes personnel with skills that Propcom+ will likely require for 5+ days/month on average for the duration of Propcom+'s implementation. Potential Suppliers are required to provide named individuals and CVs for all personnel in the long-term expert pool. Suppliers will be assessed on the breadth and quality of expertise provided in the long-term expert pool. All named personnel offered in the bid are expected to be available to work on the programme and any replacements must have an equal

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or better CV at the same or lower daily rate. Failure to meet this requirement will be a material breach of the contract. The required expertise in the long-term expert pool should include:

- **Sectoral:** climate-smart agriculture, agribusiness, rural livelihoods, sustainable land-use, forestry, climate resilience, supply and value chain development, low carbon development, market systems and development, Information and Communication Technologies (ICT).
- **Firm level:** business plan development, business management, business modelling / scale up, marketing, SME Development, accounting, innovation, investment.
- **Enabling Environment:** Business Environment, state and federal policy reform, facilitating successful reform (through to practical implementation), sustainable deforestation-free commodities, fund management, finance, environmental protection.
- **Strategy Development:** economics, market analysis, political economy analysis, gender and social inclusion, conflict-sensitivity, nutrition-sensitivity, flexible and adaptive programming.
- **Operations:** Risk Management, Security, Fiduciary Risk Management, financial, Monitoring and evaluation, knowledge management, value for money, safeguarding, communications.

7.3. **Short term expert pool:** The short-term expert pool includes personnel with specific skills that Propcom+ may draw on if required. Potential Suppliers are not required to provide named individuals for the short-term expert pool in their bid (but they will be expected to when submitting proposals for work). Instead, potential Suppliers are required to demonstrate the breadth and quality of their consultant network and their approach for rapidly recruiting high-quality, niche expertise.

7.4. The Supplier must provide and implement a strategy for building a team with a deep understanding of Nigeria, including deep cultural, political, and linguistic knowledge. The Supplier must also demonstrate that all staff have internationally competitive competencies regarding strategic thinking, analysis, seeing the bigger picture and communication skills. Potential Suppliers' bids must detail how these characteristics will be maximised without compromise. Approaches may include recruiting from diaspora networks; pairing of complementary skillsets; prioritising competencies (e.g. quick learning, adaptability, proactiveness, critical thinking, motivation) over experience.

7.5. Propcom+ will have two complementary in-country leadership roles:

7.5.1. **Political Director** who will have a more externally facing role and may alternatively be called a 'Country Representative' or similar. The Political Director would represent Propcom+ in Nigeria and be highly effective at engaging with government officials and business leaders. They will have a deep understanding of Nigeria's political economy and be effective at ensuring Propcom+'s strategy and interventions are politically smart.

7.5.2. **Strategic Director** would be a more internally facing and would be responsible for providing overarching strategic leadership for Propcom+, ensuring that all workstreams and activities are contributing to a coherent, focused, and effective strategy.

7.6. The Supplier is responsible for determining the optimal management arrangement between the Programme Director, Political Director and Strategy Director based on the respective

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skillsets of the personnel employed in these positions. The Supplier is also responsible for determining if a specific, in-country “Team Leader” is required and assigning the role as appropriate.

- 7.7. The Supplier is required to design and implement robust performance management processes. The Supplier should ensure that an individual's day rate reflects the value they are contributing to Propcom+. If it is judged that an individual staff's day rate does not represent good value for money, the Supplier should be proactive in resolving this mismatch. The Supplier is expected to be particularly rigorous at ensuring that short-term consultant outputs represent good value for money. FCDO reserves the right to require changes to personnel in exceptional circumstances, following discussions with the Supplier.
- 7.8. It is expected that Propcom+ will have roles based in Nigeria and internationally. The Programme Director, Senior Programme Manager, Finance Manager, and MERL lead are not expected to necessarily be based in Nigeria unless it is their home location. The Political Director and Strategy Director are expected to be based in Nigeria. The Supplier is expected to determine staff locations based on cost optimisation, including being based in Abuja, Southern Nigeria or in an implementation State, while ensuring the effective functioning of the team. The Supplier should carefully note that Propcom+ requires exceptionally capable programme management and financial management staff.

**Specific Role Requirements**

- 7.9. **Programme Director:** This role is not expected to be based in Nigeria unless it is their home location. The Programme Director will be the most senior person responsible for the delivery of the Supplier contract. It is expected that the Programme Director will lead high-level discussions between FCDO and the Supplier relating to the Supplier contract and other commercially sensitive issues. It is expected that the Programme Director will have high level strategic and managerial oversight of Propcom+, ensuring that the correct people, resources, and processes are in place to ensure efficient and effective delivery. It is expected that the Programme Director will maintain an appropriate amount of distance from the day-to-day activities of Propcom+ to ensure impartiality in managerial discussions with FCDO. The post-holder should demonstrate strong leadership and project management skills applied to relevant economic and market development programmes.
- 7.10. **Political Director:** The Political Director may alternatively be called the Country Representative or similar. The Political Director is expected to be an externally facing role and lead the representation of Propcom+ in Nigeria to senior government officials and business leaders. It is expected that the Political Director will be the primary contact point for conversations with FCDO Advisers on Propcom+'s policy reform, influencing and lobbying. The post-holder should demonstrate relevant expertise in leading large and complex market development programmes; influencing and communicating with senior political and business leaders; successfully implementing politically contentious reforms resulting in tangible changes on the ground – not just on paper; strong leadership and teambuilding skills across cultures.
- 7.11. **Strategy Director:** The Strategy Director may alternatively be called the Portfolio Director or similar. The Strategy Director is a more internally facing role and would be responsible for providing overarching strategic leadership for Propcom+, ensuring that all workstreams and activities are contributing to a coherent, focused, and effective strategy. It is expected that the Strategy Director would be FCDO's primary contact point for all strategy and workstream



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discussions. The postholder should demonstrate relevant expertise in developing and communicating a clear strategic vision and overseeing its effective implementation; developing and managing a complex portfolio of diverse and interlinked climate smart market development interventions; applying the principles of market systems development in a robust and evidence-based way resulting in large scale systemic change; strong teambuilding skills across cultures.

**7.12. Senior Programme Manager:** The Senior Programme Manager may alternatively be called the Operations Director or similar. This role is not necessarily expected to be based in Nigeria unless it is their home location, or if the Supplier determines that this is optimal for the delivery of Propcom+. This role will lead on all programme management and delivery issues, as defined in Section 8. The Senior Programme Manager will be FCDO's primary contact point for all issues relating to programme management, financial management, risk management, asset management, delivery chain mapping, routine contract management, financial and progress reporting, governance, and compliance. Efficient and effective programme management is the foundation upon which Propcom+'s success depends. The Supplier is expected to recruit – and maintain – an exceptional candidate in this role. The post-holder should demonstrate relevant expertise in: programme management of large and complex programmes; delivering at pace; quickly and effectively responding to client queries; maintaining a broad yet working level knowledge of all aspects of a programme; developing a deep understanding of FCDO requirements; proactively foreseeing FCDO questions and providing key information to enable decisions; concise and clear written and oral communication; accurate and timely financial reporting and forecasting; effective management of a diverse programme management team.

**7.13. MERL Director.** This role is not necessarily expected to be based in Nigeria unless it is their home location, or if the Supplier determines that this is optimal for the delivery of Propcom+. This role will lead on all monitoring, evaluation, research and learning responsibilities. The MERL Director will be FCDO's primary contact for all issues related to results, value for money, knowledge management and communications. The Supplier is expected to recruit – and maintain – a strong candidate in this role. The post-holder should demonstrate relevant expertise in implementing monitoring and results framework of large and complex programmes; delivering at pace; seeing the big picture; maintaining a broad yet working level knowledge of all aspects of a programme; developing a deep understanding of FCDO requirements; providing key information to enable decisions; clear written and oral communications; accurate and timely forecasting and reporting of results; effective management of a diverse programme management team.

## Consortium Management

**7.14.** While not a requirement, it is possible that Propcom+ will be implemented by a Primary Supplier ("Lead organisation") that manages a consortium of specialist sub-contracted suppliers ("Subcontractors") or consortium members.

**7.15.** The Lead organisation is referred to interchangeably as the "Supplier" in this Terms of Reference. The Supplier will be responsible for ensuring the effective management and implementation of Propcom+, delegating responsibilities to subcontractors/consortium members as necessary to achieve the programme's objectives. The Lead organisation will be solely accountable to FCDO for the delivery of the Terms of Reference. The Lead organisation



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will be solely responsible for fulfilling the programme management and delivery requirements as detailed in Section 8.

7.16. Propcom+ is a flexible programme that will adapt its intervention portfolio during implementation. To enable this flexibility while providing a level of certainty to subcontractors, the Lead organisation may consider different sub classifications, for example:

7.16.1. **“Key Subcontractors”** Subcontractors that provide the cross-cutting skills required throughout the duration of Propcom+.

7.16.2. **“Associate Subcontractors”** Subcontractors that are on call to provide specialist, intervention specific input as required by the programme.

7.17. This categorisation is non-prescriptive, and the Lead organisation may undertake some or all the above-mentioned functions itself. The Lead organisation will have the flexibility to add other subcontractors during the life of the programme subject to meeting the standard terms and conditions and with approval from the FCDO Propcom+ SRO in advance of appointment. When adding subcontractors an assessment will be undertaken including but not limited to the mandatory and discretionary exclusions from the Selection Questionnaire (SQ) and FCDO reserves the right to not allow their addition but will not do so vexatiously.

7.18. If Propcom+ is implemented by a Lead organisation managing a consortium of subcontractors, it is essential that all suppliers work together in an inclusive, transparent, and coordinated manner. The Lead organisation and all subcontractors are required to work as one team and not in silos. The Lead organisation will be responsible for developing and maintaining a cohesive team spirit, based on transparency, equal partnership, and a shared vision and objectives. These requirements also apply to the Lead organisation and subcontractor's working relationship with partners funded under the Strategic Response Fund, where if appropriate, the Supplier continues to fund activities.

## **8. Programme Management and Delivery**

### **Mobilisation and Inception Phase**

8.1. Propcom+ will have a **nine-month Inception Phase**.

8.2. The Supplier is required to establish at least one office in Nigeria in Abuja. The Supplier may also hire desk space in other strategic locations across Nigeria, such as Kano, Lagos or in the Northeast, however the Supplier is expected to maximise value for money.

8.3. By the contract start date, the Supplier is required to have:

- Established an office in Abuja, Nigeria.
- Mobilised its core team at their intended location(s).
- Finalised contractual arrangements with Subcontractors.
- Mobilised team to deliver Inception Phase deliverables so that it can immediately start receiving terms of references.

8.4. During the Inception Phase, the Supplier must complete the following deliverables:

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- Finalise the programme strategy as detailed in Section 6.
- Fully design and mobilise the portfolio for P1, P2 and P3 as detailed in Section 6.17 to 6.39.
- Finalise Inception Phase report that brings together the analysis and identifies interventions areas and partners as detailed in Section 8.5.
- Finalise the Annual Workplan as detailed in Section 8.47.
- Achieve the first milestones in the opening portfolio (see Section 6).
- Finalise and document all required governance, stakeholder advisory, and financial management policies.
- Fully mobilise Propcom+'s Monitoring, Evaluation, Research and Learning (MERL) Unit, and detailed MERL plan, logical framework, value for money framework and updated Theory of Change.

8.5. The following table presents a summary of the deliverables described above for the Inception Phase.

<b>Deliverable (Inception Phase)</b>	<b>Due By (end of)</b>
Terms of Reference for Analytical Studies completed	Month 3
Governance, stakeholder advisory arrangements and financial management policies finalised	Month 3
<b>Quarterly Report</b>	<b>Month 3</b>
Market diagnostics, value chain and sector analysis	Month 6
Climate and vulnerability analysis	Month 6
Gender and inclusion analysis and strategy	Month 6
Conflict Sensitivity Analysis	Month 6
Political Economy & Security Analysis	Month 6
Environmental Impact Assessment	Month 6
<b>Quarterly Report</b>	<b>Month 6</b>
Initial portfolio of interventions operational and meeting targets	Month 9
Programme Strategy and Annual Workplan submitted	Month 9
MERL strategy finalised and system mobilised	Month 9
<b>Final Inception Report</b>	<b>Month 9</b>

8.6. At the end of the Inception Phase there will be a review and break point. Progress to the Implementation Phase will be subject to the satisfactory performance of the Supplier, delivery of Inception outputs and the continuing needs of the programme. The draft inception report will be reviewed, and feedback provided within 2 weeks of receipt. A final inception report will be due within two weeks of receiving feedback from FCDO.

8.7. FCDO will conduct an Inception review at the end of the Inception Phase, which will include looking at progress against the draft logical framework, assessment of strategy, agreement on implementation work plans and a discussion on future work plan priorities. Progress to the Implementation Phase will be subject to FCDO's approval of the Inception Phase activities and report. If FCDO deems that sufficient progress has not been made, or that the Supplier's

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performance at Inception Phase has not been satisfactory, FCDO may exercise its rights to terminate the contract in line with the Terms and Conditions.

**Implementation Phase**

8.8. The Supplier will deliver the programme against workplans agreed and approved at the end of the Inception Phase, and annually thereafter, in the technical areas of the programme. Implementation Phase deliverables will include but not be limited to:

8.8.1. **Within 12 months:** Portfolio of interventions established, to provide them with the technical support to make those investments attractive and feasible. They will be operating with plausible theories of change that would lead to the achievement of at least 25% of the outcome and impacts targets for the overall programme, with a pipeline of additional interventions expanded to include plans that would credibly lead to achievement of at least a further 35% with milestones linked to the logical framework.

8.8.2. **Within 36 months:** Portfolio of interventions established and operating with plausible theories of change that suggest the achievement of 100% of outcome and impact targets by the end of the programme.

8.8.3. On-going market systems analysis to identify business partners who may benefit from technical assistance to encourage them to invest in pro-poor markets. Activities to encourage the replication and uptake of successful business models across a wide range of businesses, consumers, and geographies. If business partners require particularly specialist expertise to address a very specific need, it may be the case that technical assistance will need to be sourced via either their own or wider international networks.

8.8.4. An **Exit Plan** will be provided to the Authority 3 months after the commencement date and refreshed at the request of the Authority before being finalised and agreed 12 months prior to closing. The Exit Plan will cover exit, continuity, and handover strategies for each intervention, including for multiple linked interventions that will require consolidation or coordinated exit. The exit plan and implementation will be reviewed monthly with FCDO's Programme Team during the last 12 months.

8.9. The option of additional funding for high-performing activities shall be based on recommendations from the independent mid-term evaluation at the end of 36 months.

**Closure and Learning**

8.10. The Supplier should aim for delivery of full and final results by the end of December 2029. Following this, a 3-month responsible close down/exit will be required although Suppliers should be prepared to retain flexibility for scale up and expansion after this point if required. This will be reviewed between FCDO and the Supplier during the programme cycle to allow for timely planning and implementation of close-down or extension. A formal, high-quality final report will be required, documenting overall programme results, breakdown of costs and delivery, and lessons learned. A detailed assets register will also be required to be submitted for asset disposal discussions. The report will need to be provided prior to Programme

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Completion Review (PCR) commencement. Cooperation with the PCR team will be fundamental.

- 8.11. FCDO expects bidders to work with any future FCDO supplier(s) in relation to the Propcom+ programmes and/or with national and local governments to ensure smooth handover of and sustainability of activities into the future.

### Governance and Portfolio Management

- 8.12. Strategic direction for the programme will be set and managed by a **Steering Committee** (SC), which will meet twice a year (or ad hoc) as required, help shape strategic priorities and facilitate coordination with other programmes and initiatives. The SC will be chaired by FCDO Nigeria's Sustainable Economic Transformation (SET) Portfolio Programme Senior Responsible Owner (P-PRO), or the SRO if the P-PRO is unavailable. The Supplier will act as secretariat, with clear Terms of Reference and membership to be finalised during the Inception Phase.
- 8.13. Two **technical advisory committees** will meet quarterly to ensure that management information and lesson learning from the Supplier are considered. The technical advisory committees will be chaired by the programme SRO, or PRO if the SRO is unavailable, along with representatives from the Supplier who will act as Secretariat. The committee will ensure that the annual work plan is on track and adapt as opportunities and challenges arise. Options and governance arrangements for the constitution of the technical advisory committees will be finalised during the Inception Phase.
- 8.14. The Supplier is required to develop and implement a portfolio of interventions across Propcom+'s workstreams. The Supplier is required to diversify risks by strategically combining interventions. The Supplier should consider the risk and return of individual interventions and consider how they contribute to the overall risk/return characteristics of the portfolio.
- 8.15. The Supplier is required to ensure that interventions are designed based on the latest available evidence and defend the intervention portfolio against external scrutiny, including from the independent evaluation (see Section 9.14).
- 8.16. The Supplier is required to detail how continual learning will underpin the flexible and adaptive management of the programme. This will include details of how the Supplier will enable information feedback loops between its work with the private sector and enabling environment reform.
- 8.17. The Supplier will maintain a conflict of interest register for all staff employed on the programme and ensure comprehensive systems are in place to avoid conflicts of interest between staff and organisations supported by Propcom+.
- 8.18. The Supplier is required to develop and implement a strong governance structure designed to enable Propcom+ to have the flexibility required to adapt its activities as it learns what works and new opportunities arise, while effectively managing risk and ensuring Value for Money.
- 8.19. The Supplier is required to develop and maintain a beneficiary due diligence database on an ongoing basis. Due diligence should include an assessment of links to Politically Exposed People or illicit financing. More comprehensive due diligence will be required for beneficiaries that receive more intensive support from Propcom+.

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## Compliance Requirements

8.20. The Supplier should ensure systems that respond to the key compliance requirements set out below. These may evolve over time as new requirements come on board.

8.20.1. **Asset Management.** The Supplier is required to develop and maintain an asset management plan (including disposal) and asset register. These must be developed and agreed with FCDO during the Inception Phase. The standard asset register template can be found in **Annex 9**.

8.20.2. **Audit.** The Supplier will be expected to submit annual audited financial statements of programme expenditure in relation to milestone payments and expenses in comparison to budgets and programme activities. However, FCDO will commission the third annual audit as part of the mid-term evaluation and an end of programme audit.

8.20.3. **Communications.** The Supplier will be required to work in partnership with the FCDO Programme Team and Communications Team, to develop and agree a communications plan on a quarterly basis. All public communications that will acknowledge FCDO funding must receive FCDO consent before they can be published and follow the UK Aid branding guidelines.

8.20.4. **Delivery Chain Mapping** is a process that identifies and captures, usually in visual form, the name of all partners involved in delivery of a specific good, service or charge, ideally down to the end beneficiary. Addressing this is the actions /activities required to manage regular and exceptional risk throughout the network to reduce exposure and vulnerability. The Supplier will be responsible for developing and maintaining a delivery chain that maps the flow of FCDO funds or support to downstream recipients. If a consortium is contracted to implement Propcom+, the Lead organisation will be the 'Tier 1 Partner' and the Subcontractors will be 'Tier 2 Partners'. All recipients that receive direct support from Propcom+ must be included in the delivery chain map. A risk-based approach will be developed by the Supplier and agreed with FCDO to determine which Tier 2 Partners should provide further details about their suppliers (Tier 3 Partners). Further details and a suggested format can be found in **Annex 4**.

8.20.5. **Digital.** The UK government defines "digital" spend as "any external-facing service provided through the internet to citizens. FCDO is required to report all digital spend and show that it meets with the 'Digital Service Standard'". Plans to spend programme funds on any form of digital service must be approved by FCDO. The approval process will apply to any spend on web-based or mobile information services, websites, knowledge or open data portals, transactional services such as cash transfers, web applications and mobile phone apps. Further guidance can be found in **Annex 12**.

8.20.6. **Enhanced Due Diligence.** The Supplier will be responsible for undertaking enhanced due diligence of all downstream suppliers. This will include verification of the strength of their internal financial and fiduciary risk mitigation systems and procedures, track record of operational effectiveness, safeguarding measures, ownership structures, links to Politically Exposed People, links to terrorist or criminal organisations or illicit financing. Further details of FCDO's Due Diligence requirements can be found in **Annex 13**.

8.20.7. **Environmental Protection.** The Supplier will be responsible for undertaking an Environmental Impact Assessment (EIA) during the Inception Phase, and ensuring there

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is an action plan to avoid, minimise and mitigate environmental risks throughout implementation. Consideration will need to be given on the location of critical habitats, and whether the programme may want to avoid areas with the largest and most critical areas for biodiversity or those protected by domestic legislation. The Supplier will also be responsible for project-level appraisal procedures to be built in which apply best possible safeguards, during intervention design and development and monitored during programme implementation. The Supplier is responsible for ensuring there is a biodiversity management plan for any engagement with large plantations or commercial farms receiving funding from Propcom+. See also **Annex 1**.

- 8.20.8. **Fraud.** The Supplier (including any Subcontractors) is required to set out their fraud and safeguarding mitigation strategies including internal risk management and reporting systems. FCDO takes a zero-tolerance approach to fraud. The Supplier and subcontractors are required to immediately report all suspicions of fraud to FCDO without delay. The requirement will also be written into partnership agreements with Tier 2 Partners. Reporting should be at the point of suspicion of fraud, not the conclusion of the fraud case. All suppliers, staff and downstream recipients should be made aware of FCDO's counter fraud and whistleblowing hotline, details of which can be found here:

<https://www.gov.uk/government/organisations/foreign-commonwealthdevelopment-office/about/complaints-procedure>.

- 8.20.9. The Supplier should also set up a local whistleblowing mechanism and ensure this is widely communicated.
- 8.20.10. **Personnel Use.** The Supplier is required to ensure that assets and services paid for by Propcom+ are not used for staff's personal use. This includes, but is not limited to, mobile phone credit, internet, vehicles, and IT equipment.
- 8.20.11. **Programme Closure:** The Supplier is required to plan for a three-month closure period at the end of the contract. No new implementation activities will take place in the closure period. The Supplier will undertake the necessary steps to responsibly exit the programme, including handing over existing interventions to local partners, disposal of assets, finalising financial accounts and drawing down to essential staff. If FCDO has contracted a successor programme to Propcom+, the Supplier (primary and subcontractors) will cooperate fully with the new programme to handover the relationships, knowledge and workstreams developed by Propcom+.
- 8.20.12. **Risk Management.** The Supplier will also be required to develop a risk management strategy during the Inception Phase which should include a robust approach to appraising and managing risks. The Supplier is required to develop and maintain a risk register aligned with FCDO's risk register, building on the Business Case risk matrix in Business Case. The Supplier is required to update the risk register on a quarterly basis in consultation with FCDO and flag any realised risks throughout the course of the programme implementation. The risk register should cover the following categories: strategy and context, policy and programme delivery, public service delivery and operations, people, safeguarding, financial & fiduciary, and reputational.
- 8.20.13. **Transparency.** FCDO has transformed its approach to transparency, reshaping our own working practices and pressuring others across the world to do the same. FCDO requires the supplier(s) receiving and managing funds, to release open data on how this



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money is spent, in a common, standard, re-usable format and to require this level of information from immediate subcontractors, sub-agencies and partners.

8.20.14. It is a contractual requirement for all supplier(s) to comply with this, and to ensure they have the appropriate tools to enable routine financial reporting, publishing of accurate data and providing evidence of this to FCDO. Further information is available from: <http://www.aidtransparency.net/>

8.20.15. **UK Aid Branding.** Supplier(s) that receive funding from FCDO must follow UK Aid Branding Guidelines and use the UK aid logo on their development and humanitarian programmes to be transparent and acknowledge that they are funded by UK taxpayers. The UK Aid Branding approach should be agreed with FCDO during the Inception Phase and should adhere to the UK Aid Branding Guidelines (see **Annex 7**). However, the perception of donor involvement among stakeholders could undermine Propcom+'s objectives. Therefore, as per the guidance, exceptions may be required to ensure local ownership and buy-in.

8.20.16. Subject to prior FCDO agreement, supplier(s) should actively promote the work and results of the programme throughout the programme lifecycle and are required to inform FCDO of any important milestones, events, planned media activity or queries from the media. Supplier(s) should also provide FCDO with first-hand human-interest stories that show how UK aid funding for the programme is making people's lives better. This can take the form of positive stories of people receiving or delivering our aid through the programme, any interesting innovations, research or statistics and results from the programme. Full guidance on branding can be found in **Annex 7**.

## Do No Harm

8.21. FCDO requires assurances regarding protection from violence, exploitation, and abuse through involvement, directly or indirectly, with FCDO suppliers and programmes. This includes sexual exploitation and abuse but should also be understood as all forms of physical or emotional violence or abuse and financial exploitation.

8.22. The programme is targeting a highly sensitive area of work. The Supplier must demonstrate a sound understanding of the ethics in working in this area and applying these principles throughout the lifetime of the programme to avoid doing harm to beneficiaries. The design of interventions including research and programme evaluations should recognise and mitigate the risk of negative consequence for women, children, and other vulnerable groups. They should also consider how to mitigate against supporting poor business practices within the targeted agribusinesses that puts either their own employees or others at risk. The Supplier should carefully consider and avoid harm on nutrition, for example by considering the nutrition impact of working conditions for women and avoiding investments in unhealthy foods.

8.23. The Supplier will be required to include a statement that they have duty of care to informants, other programme stakeholders and their own staff, and that they will comply with the ethics principles in all programme activities. Their adherence to this duty of care, including reporting and addressing incidences, should be included in both regular and annual reporting to FCDO.

8.24. A commitment to the ethical design and delivery of interventions including the duty of care to beneficiaries, other programme stakeholders and their own staff must be demonstrated.

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- 8.25. During the Inception Phase, the Supplier will be required to undertake an Environmental Impact Assessment (EIA) to ensure there is an action plan to avoid, minimise and mitigate environmental risks. The EIA should also consider the location of critical habitats and whether the programme may want to avoid areas of Nigeria with the largest and most critical areas for biodiversity or those protected by domestic legislation (see [IBAT](#) for example).
- 8.26. Project-level appraisal procedures will be built in which apply best possible safeguards, during intervention design and development and monitored during programme implementation. Proportionate EIA's will also be included in due diligence procedures with downstream markets and suppliers and include implementation of safeguards.

**Financial Management**

- 8.27. FCDO will award a hybrid contract, with payment made on a combination of inputs and payment by results (as detailed in Sections 10.10 to 10.36). The Supplier will be responsible for the effective oversight, management and governance of programme funds, procurement, and spending and ensure compliance with FCDO policies and international best practices in prudent financial management regulations.
- 8.28. The Supplier will be responsible for aggregating expenditure and forecasts from all downstream suppliers and providing transparent, disaggregated invoices accompanied by a clear and concise narrative to FCDO. The narrative should proactively highlight issues to FCDO to maximise the efficiency of the invoice sign-off process. Invoices will be submitted monthly in arrears within no more than two weeks of the month end. The Supplier should manage downstream suppliers to ensure that this deadline is met.
- 8.29. The Supplier will provide monthly and yearly expenditure forecasts based on resource accounting standards. Forecasting accuracy is a primary metric used by FCDO to assess a programme's performance. The Supplier will be expected to forecast one month ahead, the calendar year and financial year with an accuracy of +/- 5% in Q1-2, and +/-3% in Q3-4.<sup>4</sup> The Supplier will notify FCDO immediately if expenditure is expected to exceed this range.
- 8.30. Annual forecasts must be prepared to reflect FCDO financial reporting expectations such as Overseas Development Assistant (ODA) targets and other formats as they arise.
- 8.31. **Note:** FCDO programmes are not automatically tax exempt and therefore Suppliers may be liable to pay tax in respective countries of operation. Full tax compliance of individuals is expected. Purchased equipment/assets should however be exempt for tax and customs on import. Tax liabilities should therefore be taken into consideration in commercial proposals.

**Value for Money**

- 8.32. The Supplier must allow for development of a Value for Money (VfM) framework in its bid and for its use throughout the contract.
- 8.33. **Propcom+ will employ a VfM framework nested within the wider delivery framework** to inform VfM judgements, decision making and improve programme performance. The VfM framework will be developed during the Inception Phase and used throughout the programme life. The VfM framework will ensure that the VfM proposition in the Business Case can be traced through to programme completion, with decisions to change the original proposition recorded.

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<sup>4</sup> Q1 = April– June; Q2 = July – September; Q3 = October – December; Q4 = January – March.



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- 8.34. The VfM framework will include indicators covering economy, efficiency, effectiveness, equity, and cost effectiveness, as defined in FCDO's Approach to Value for Money (see **Annex 6**). The VfM framework should be co-created alongside the logical framework. This will help ensure they are complementary, do not overlap and together provide a strong basis for managing performance.
- 8.35. VfM indicators will be a combination of quantitative metrics and qualitative indicators. Milestones and targets will be set for a small number of selected indicators and reported on in Annual Reviews. Indicators with milestones and targets should be developed and monitored with comparable treatment to indicators in a logical framework e.g. they should be Specific, Measurable, Achievable, Relevant and Time-Bound (SMART), have protocols for monitoring them, etc. As with logical framework indicators, VfM milestones and even indicators may change during the programme life; when this happens changes will be documented as part of the Annual Review or similar process.
- 8.36. The Supplier will report on VfM, including progress on selected indicators, in the Quarterly and Annual Reports (see Section 8.47). The VfM framework should also ensure that FCDO Annual Review reporting is supported by a clear system for reporting on VfM in aggregate as part of the Annual Review process. The methodology for the VfM framework should be included in the technical proposal and therefore must not include any commercial or budget information.
- 8.37. The VfM framework should include indicators that the Supplier will monitor throughout the programme. These indicators will be revised if necessary during the Inception Phase and on an annual basis. A small number of core VfM indicators were included with indicative targets in the Business Case:
- Benefit-Cost-Ratio of Propcom+'s interventions of at least **2**.
  - Cost per beneficiary with improved income of **£23-25**.
  - Net Attributable Income Change (NAIC) per beneficiary per year of **£132**.
  - Cost per tonne of CO<sub>2</sub>e avoided of **£20**.
- 8.38. The Business Case also included a fuller table of indicative indicators. It is expected that these will need to be refined during the Inception Phase. Indicators will need to be monitored at the portfolio, workstream/component, and intervention levels *ex ante* and tracked accordingly.
- 8.39. Further VfM indicators may include:

<b>Value for Money Pillar</b>	<b>Indicator</b>
<b>Economy:</b> Are programme inputs being bought of the appropriate quality and at the right price?	% management cost to overall programme cost % management cost to intervention cost Sound procurement procedures used Costs over time of selected major line items
<b>Efficiency:</b> How well are inputs converted into outputs?	Management cost per beneficiary Average cost per beneficiary Cost per market actor change

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	Cost per policy action taken % of policy actions recommended that are implemented Indicators of strong programme and performance management: Risk management procedures implemented Finance e.g. reliable forecasting, low budget variances Project budgets – inputs for specific interventions implemented to plan
<b>Effectiveness:</b> How well are the outputs achieving the desired outcome?	NAIC per beneficiary per year Cost per £ of net attributable income change Programme cost per tonne of CO <sub>2</sub> avoided Average income increase per smallholder per £ invested in the intervention Private Sector leverage ratio
<b>Equity:</b> How fairly distributed are programme benefits?	% of female/male beneficiaries % female/male average income beneficiary % of beneficiaries are persons with disability % of beneficiaries from remote areas % businesses owned by women

8.40. The VfM framework will be used proactively during implementation to inform decisions and to gauge whether activities/interventions are on-track. For instance, the Supplier will be required to build in 'warning' and 'stop go' procedures – i.e. the programme should know when to cut losses and not proceed with a project that is deemed to be failing. It is intended this approach will facilitate decisions on stopping interventions, ensuring resources are directed to where they are more likely have impact. This approach will need to balance risk with reward, and other criteria in the portfolio.

8.41. The Supplier will be required to utilise VfM case studies as part of its monitoring, research and learning to have a more specific and richer understanding of performance and resource and give deeper insights. These case studies should follow a common template that shows the rationale for interventions and the change traceable to the intervention. The aim will be to see improvements in VfM or VfM 'stories' to really understand the return on investment for that particular component or intervention, but also to showcase achievements.

### **VfM of management or administrative costs**

8.42. The Supplier will be responsible for developing a culture of VfM around cost management within the Propcom+ team. To support this, the Supplier will detail in its bid processes that it will implement to maximise Value for Money in the day-to-day implementation of the programme. Such processes may include:

- A policy on booking flights and hotels no later than one month ahead of the travel date unless there is a strong reason not to.
- Office and accommodation sharing arrangements.
- Determining an optimal balance between owned and leased vehicles.

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## Reporting and Communications

8.43. The Supplier will engage with FCDO to ensure reporting is concise, efficient and meets requirements with minimal unnecessary information and effort.

8.44. It is expected that the Supplier will meet with the “FCDO Programme Team” on a weekly basis in the Inception Phase and fortnightly once the Inception Phase is complete. It will review progress towards delivery of activities, outputs, the budget, results achieved, forecasts and risk mitigation.

8.45. The FCDO Programme Team will consist of:

- **Senior Responsible Owner (SRO).** The SRO is accountable for Propcom+ meeting its objectives, delivering the required outcomes, and making the expected contribution to the British High Commission in Nigeria’s portfolio outcomes and FCDO as a whole.
- **Programme Responsible Owner (PRO) / Lead Adviser.** The PRO / Lead Adviser will be the primary FCDO contact point on Propcom+ (a role similar to the SRO role in former DFID). The PRO / Lead Adviser is accountable for driving, on a day-to-day basis, the delivery of programme outcomes within agreed time, cost, and quality constraints.
- **Programme Manager.** The programme manager will oversee programme management and delivery issues as detailed in Section 8.
- **Programme Officer.** The programme officer will support the programme manager, undertaking day-to-day administrative tasks.

8.46. Alongside the FCDO Programme Team, the Supplier will be required to engage with FCDO **Regional Coordinators** in managing implementation of interventions and government relationships at the regional and State levels. FCDO regional coordinators will also be invited to sit on programme governance arrangements.

8.47. The Supplier is required to provide the following narrative reports:

- **Monthly Dashboards,** in a two-page maximum briefing format or a 10-slide maximum PowerPoint deck, providing concise updates on key achievements, upcoming events/actions and emerging risks and mitigations.
- **Quarterly Reports,** a 25-page maximum report summarising key achievements in the previous quarter, an assessment of how the programme performed against the objectives set in the previous quarter, priority objectives for the next quarter, interim progress against output, outcome, and value for money indicators, updated risk analysis, and progress against the reporting KPIs (see Section 8.50 and **Annex 11**).
- **Annual Report and Strategy Refresh,** a 50-page maximum report delivered three months ahead of FCDO’s Annual Review deadline. The first section should include the same information as the quarterly report; however, it should cover the full year. The second section should include a strategy refresh based on lessons learnt from the previous year, and recommendations from FCDO and the independent evaluation, where appropriate (see Section 9.14).
- **Annual Workplan.** The Supplier is required to submit an annual workplan for the year ahead in Gantt chart format, detailing the activities and timelines for each workstream.

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8.48. The Supplier is required to ensure all reports are concise, clearly written and user friendly – for example using PowerPoints where appropriate. The main body of reports should only include the key information FCDO needs to know. The Supplier should make effective use of Annexes for additional details not necessary for FCDO's decision making or risk management.

8.49. All reports submitted to FCDO must be thoroughly quality assured. The Supplier is required to demonstrate in its bid how it will ensure all reports are quality assured to a high professional standard before being sent to FCDO.

8.50. The Supplier is required to commit to the following reporting KPIs:

- Monthly invoices submitted to FCDO on or before the 15<sup>th</sup> calendar day of the following month.
- Updated monthly forecasts for the current financial year submitted to FCDO on or before the 25<sup>th</sup> calendar day of the month. These will include, but not be limited to, a revised Cost Template in the format submitted at the time of bidding (or using an agreed revised template) and a costed workplan.
- Monthly dashboards submitted to FCDO on or before the 15<sup>th</sup> calendar day after the month-end, together with monthly invoice.
- Quarterly reports submitted to FCDO on or before the 20<sup>th</sup> calendar day after the quarter-end.
- Updated programme risk register to be submitted to FCDO on or before the 20<sup>th</sup> calendar day after the quarter-end, as part of an Annex to Quarterly Report; and when the need arises for an update of the risk register.
- Updated financial year and monthly forecasts for the remaining years of the programme submitted to FCDO on or before the 28<sup>th</sup> February of each year.
- Annual Report, Strategy Refresh and Annual Workplan submitted to FCDO no later than three calendar months before FCDO's Annual Review deadline.
- Updated asset register and delivery chain map to be submitted to FCDO on or before the 20<sup>th</sup> calendar day after the quarter end, as part of Annex to Quarterly Report, and when the need arises for an update of the asset register and delivery chain map.

8.51. The Supplier will need to keep records of all work and expenditure, including for 7 years after contract end, to have this in a form which can be transferred to FCDO and available upon request, for example for FCDO internal audit, National Audit Office (NAO), the Independent Commission for Aid Impact (ICAI), and so on. FCDO Nigeria uses Microsoft Teams so the Supplier is encouraged to use this platform as well for document retention and facilitating sharing of documents. The Supplier is also required to be open to changes in requirements and opportunities in relation to evolving technologies.

## **9. Monitoring, Evaluation, Research and Learning**

### **Overview**

9.1. Propcom+'s knowledge management strategy objectives will focus on:

- Providing information, data, and evidence to continuously improve programme interventions and reporting to FCDO.

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- Developing the evidence base needed to influence market players within market systems (including farmers, small scale rural entrepreneurs, larger private investors, and federal and state government stakeholders).
- Promoting the uptake of innovations piloted by the programme and stimulate additional investment.
- Facilitating information sharing and identifying synergies across the programme and through strategic partnerships, and
- Informing and building the capacity of other development actors in Nigeria and Africa.

9.2. Data, evidence and learning from the MERL unit will be used in intervention design and will ensure interventions remain value for money in achieving programme objectives, facilitate learning, and inform decision points on whether to scale-up, maintain, adapt, or drop approaches/interventions.

**Key Requirements**

9.3. The Supplier is required to design and implement a robust and comprehensive Monitoring, Evaluation, Research and Learning (MERL) system during Propcom+'s Inception Phase.

9.4. The MERL Unit must include:

- Reporting and forecasting logical framework results, as well as identifying broader non-logical framework indicators that can support the effective strategic management of Propcom+.
- Working with workstream leads to design appropriate intervention indicators, gather baselined data, milestones, data collection methodologies, verify assumptions, and monitor outputs, outcomes, and impacts.
- Developing a robust value for money framework based on the 5 E's – economy, efficiency, effectiveness, equity, and cost-effectiveness, including developing benchmarks, targets, and thresholds (see also Sections 8.32 to 8.42).
- Building 'stop-go' procedures and rolling economic analysis to guide when to cut losses and not proceed with a project that is deemed to fail thus saving on costs, and when to continue investing in a project, balancing risk, rewards, and other criteria in the portfolio.
- Generating management information and results data to inform decision making for the Supplier workstream leads and FCDO.
- Supporting lesson-learning within and between programme components and interventions, facilitating information sharing and identifying synergies.
- Providing strategic advice through commissioned research and diagnostics to evaluate progress, test programme performance, and assess interventions as they are being trialled.
- Developing a learning and dissemination plan, including commissioning evidence-based case studies and human-interest stories, for distribution to domestic and international audiences.
- Collaborate with the third-party independent monitoring, evaluation, research, and learning, responding promptly and fully to information and data requests.

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- 9.5. Each intervention will have its own standardised results monitoring tool, which will feed into a portfolio-level results aggregation tool. At the intervention level, the MERL unit will need to adopt a differentiated approach for intervention design, assessing intervention performance, and to guide investment decisions that recognises the strength of evidence, including gaps.
- 9.6. This tool will then feed into FCDO's overarching logical framework. The Supplier is required to develop systems to ensure the seamless translation of data and results at the intervention level to the portfolio level.
- 9.7. The programme is expected to maintain a public website during and for a period after the project (at least 4 years) to facilitate sharing of lessons or hosting of virtual events.

**Logical framework**

- 9.8. The logical framework forms the basis for internal monitoring of programme progress. The Supplier will provide quarterly and annual narrative reports, including a summary of progress made against the logical framework indicators. During year 1 of Propcom+, progress will be tracked against a series of process indicators.
- 9.9. The Supplier is required to submit a logical framework for the Inception Phase, which will be assessed as part of its bid. The logical framework will be assessed on the quality of the indicator definitions, the quality of justification provided for the indicator targets, and the level of ambition shown in the indicators and targets. The logical framework should be accompanied by a justification for the outcome and impact targets.
- 9.10. The Supplier will develop and refine a more detailed logical framework during the Inception Phase to guide programme implementation. The logical framework should be integrated with the Theory of Change and VfM framework, and include output, outcome and impact indicators and targets for the duration of the programme. This should feed into FCDO Nigeria's Country Business Plan and FCDO results framework reporting.
- 9.11. All relevant impact, outcome and output indicators should be disaggregated and tracked in terms of their gender and youth impact, including for women, disability and geographically where possible. A minimum 50% of benefits should be for women. Opportunities to support young entrepreneurs, smallholder farmers, and person with disability will be integrated into programme design and the monitoring framework.

**ICF Indicators**

- 9.12. The Supplier is required to demonstrate how it will report on the following ICF indicators<sup>5</sup>:
- **KPI 1:** Number of people supported to better adapt to the effects of climate change.
  - **KPI 4:** Number of people whose resilience has been improved.
  - **KPI 6:** Net Change in Greenhouse Gas Emissions (tCO<sub>2</sub>e).
  - **KPI 12:** Volume of private finance mobilised for climate change purposes.
  - **KPI 17:** Hectares of land that have received sustainable land management practices.

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<sup>5</sup> <https://www.gov.uk/government/publications/uk-climate-finance-results>

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9.13. Additional ICF indicators will be considered by the Supplier and FCDO during the Inception Phase.

### Independent Monitoring, Evaluation, Research and Learning

9.14. A third-party Monitoring, Evaluation, Research and Learning (MERL) supplier will be contracted separately by FCDO. Section 9.14 is for information only. The Supplier will be responsible for developing and maintaining a transparent and cooperative working relationship with the independent MERL supplier. The purpose of the independent MERL will be to:

- Provide an external audit of the programme's internal results measurement system at the end of 36 months of the Propcom+ Supplier contract.
- Provide independent analysis to contribute to critical evidence gaps, such as the cost-effectiveness of the market development approach.
- Conduct Propcom+'s mid-term evaluation at the end of 36 months of the Propcom+ Supplier contract. This evaluation will be used to determine whether performance is on track in delivering programme outcomes and impacts, provide a basis for agreeing next steps, and include recommendations on allocating funds from the reserve performance fund across the programme.
- Conduct the final evaluation at the end of the programme focusing on the attribution and contribution that the programme has made to its intended impact.

9.15. The Supplier (including sub-contractors) will be excluded from bidding for the independent MERL contract.

## 10. Commercial Requirements

### Programme Budget and Timeframe

10.1. The contract will run until 31<sup>st</sup> March 2030, with a value of **up to £58,400,000** subject to a mid-term evaluation after 36 months. The Supplier will likely be informed of its budget on an annual basis ahead of the FCDO financial year (April to March) and will have to demonstrate flexibility as annual budgets might change. The contract value is inclusive of all applicable taxes but excluding UK VAT that is recoverable from HMRC. It is the Supplier's responsibility to establish its taxation position both in the UK and in Nigeria and ensure it meets its obligations.

### Contract Review Points

10.2. The contract will be subject to break points after Inception (at 9 months) and at mid-term after 36 months from the commencement date.

10.3. The Supplier should have the capacity to rapidly mobilise and start delivering outputs within the Inception Phase. To ensure the Supplier is held accountable to this expectation, there will be a formal review point nine months after the contract start date, at the end of the Inception Phase, at which FCDO will decide whether to continue or terminate the contract.



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- 10.4. If FCDO decides to proceed to full implementation, a contract amendment will be issued to capture any changes to the contract from the Inception Phase.
- 10.5. The mid-term evaluation undertaken by the Independent MERL supplier will inform the decision to proceed to continue the contract after 36 months, and scale-up (see paragraph 10.8). This decision will be at FCDO's sole discretion and based on continuing need, the Supplier's and Propcom+'s performance, and an assessment of Propcom+'s potential to achieve its long-term objectives, including extension options.

**Extension provisions and scale up and down**

- 10.6. FCDO reserves the right to scale back or discontinue the programme at any point in line with the Terms and Conditions. Scaling down is at FCDO's discretion, and may occur for a number of reasons, including but not limited to:
- Shortage of funds.
  - Not achieving the results anticipated or weak value for money.
  - A change in the security and/or political circumstances of the country.
  - Political economy reasons, including a change in the situation of the security, government stability, corruption or delays in key, necessary government engagement.
- 10.7. Conversely, FCDO may also decide to scale up the programme should it prove to be having a strong impact and the potential to yield better results, dependent on budget, internal FCDO approvals and ongoing effectiveness of the programme.
- 10.8. If FCDO were to take the decision to increase the scale of the programme during its entire term (including any extensions), the increase will be up to an additional:
- i. £30 million for high performing activities recommended by the independent mid-term evaluation at the end of Year 3 of the contract.
  - ii. £25 million (subject to a Business Case addendum) and based on a review by year 7 of the programme. Any scale-up shall be subject to a maximum additional budget of £55 million.
  - iii. Up to 3-year time extension based on recommendations from a review by year 7 of the programme, subject to a maximum contract length of 10 years.
- 10.9. The Supplier must maintain flexibility in approach, for example adjustments and changes to sectors and geographies, and be able to exit as required and with agreement from FCDO. We expect the Supplier to be able to adjust to such requests.

**Payment by Results**

- 10.10. A Payment by Results model will be used for effective implementation of the Propcom+ programme to incentivise efficiency and maximise results and value for money whilst ensuring that risk is shared between FCDO and the Supplier.
- 10.11. A proportion of the payment to the Supplier will be based on Payment by Results (PbR). This section details the requirements of the PbR mechanism where total fee payments will be subject to either: 1) Key Performance Indicators (KPIs) or 2) Payment of Milestones.



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- 10.12. Propcom+'s PbR model is guided by the principles that the model should: (i) reflect the logical framework performance targets and workplan; (ii) identify verifiable, achievable but challenging milestones; (iii) assign a fair level of variable risk between FCDO and the Supplier, and (iv) recognise the practicability of the system.

**Key Performance Indicators**

- 10.13. A proportion of total fee payments to the Supplier shall be linked to Key Performance Indicators (KPIs). The purpose will be to manage the Supplier's performance throughout the life of this contract to allow the measurement of aspects such as service provision or programme delivery.

- 10.14. **Fees at risk.** The KPI pillar of the PbR mechanism will be paid monthly on time and materials, with the fees at risk based on a fixed percentage of total non-Frontline Delivery Fees including staff from programme leadership, programme management and programme administration fees. This will be 50%. Fees under the KPI pillar are:

10.14.1. Programme Leadership: This job family is split between the two PbR pillars and covers positions responsible for leading the whole programme. Responsibilities will include setting strategic direction to the programme team and interacting with FCDO leads and any identified stakeholders. Programme Leadership roles under the KPI pillar include but are not limited to the Programme Director and Senior Programme Manager.

10.14.2. Programme Management: This job family covers middle-management positions responsible for the execution/delivery of programmes and managing their related teams. The roles require effective co-ordination of the programme's interventions and management of their inter-dependencies including risk/financial and contract management control. It includes positions such as programme managers, finance managers, office managers, results managers, communications managers, and so on.

10.14.3. Programme Administration and Support: This job family covers all positions relating to the programme support and administration. Programme assistants provide administrative support in a variety of office settings and support programme management. These positions include office support staff such as programme assistants, security managers, finance assistants, cash officers, logistics assistants, operations associate, contracts and compliance, and so on.

- 10.15. The Supplier will be assessed against KPIs quarterly. The core framework for KPIs is set out in **Annex 11**. During the Inception Phase, these KPI's shall be refined, agreed, and subsequently used to measure performance during implementation.

- 10.16. **Performance Assessment.** Each KPI will be assessed on a scale of 1-6 and multiplied by the weighting for a total score out of 600. KPI payments will be in accordance with the KPI payment structure in **Annex 11**. The Supplier is required to submit evidence of delivery against the KPIs on or before the last day of the assessment period. FCDO will respond with feedback within ten working days. The Supplier will have ten additional working days to respond to any feedback.

- 10.17. **KPI invoice adjustments.** A KPI invoice adjustment will be made on a biannual basis. An invoice adjustment will only be applied if the average KPI score for the previous two quarters

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is 75% or lower. If an invoice adjustment is required, the Supplier will be required to add a credit to the next invoice equal to the sum of total KPI fees at risk for each quarter multiplied by [1 minus % KPI payment for each quarter]. An illustrative example is provided below.

Quarter	Total KPI Fees	Fees at risk (50%)	KPI Score	% KPI Payment	Invoice Adjustment
1	£400,000	£200,000	480 (80%)	Full payment	£0
2	£200,000	£100,000	360 (60%)	75%	£25,000
3	£300,000	£150,000	420 (70%)	90%	£15,000
4	£500,000	£250,000	540 (90%)	Full payment	£0
<b>Total invoice adjustment</b>					<b>£40,000 credit</b>

10.18. **“Major Performance Failure”**. In the event that the Supplier achieves a score of 75% or less, for 3 consecutive quarters this will be a material Default of the contract.

10.19. **Arbitration**. In the event of a disagreement on the assessment of the Supplier's performance against one or more KPIs, the independent MERL Unit will determine the final assessment.

10.20. **Force Majeure**. The Supplier must submit a Force Majeure Notice if a Force Majeure event prevents achievement of one or more KPIs. Force Majeure events are detailed in Section 42 and defined in Schedule 1 of the Standard Terms and Conditions.

### Payment of Milestones

10.21. A proportion of total fee payments to the Supplier shall be linked to Payment of Milestones. Suppliers should submit in their commercial bids a schedule for the first 12 months that addresses the Inception Phase milestones, including outlining the % risk profile. This should include personnel costs for all long-term, short-term and management positions in the bid. Verified achievement of the milestone will trigger payment. In subsequent years, the Supplier will be required to prepare a PbR schedule for the upcoming year along with the annual workplan, updated and reviewed on a six-monthly basis.

10.22. **Fees at risk**. 100% of the total Frontline Delivery fees, including Programme Leadership and Technical Adviser/experts, that are linked to Payment of Milestones, in which fees are distributed between milestones that broadly reflect the projected level of effort required to achievement.

10.22.1. Programme Leadership: This job family is split between the two PbR pillars and covers positions responsible for leading the programme. Responsibilities will include setting strategic direction to the programme team and interacting with FCDO leads and any identified stakeholders. These roles under the milestone pillar include but are not limited to the Political Director, Strategic Director, and MERL Director.

10.22.2. Technical advisory/experts: This job family covers positions that are recognised subject matter experts who are appropriately qualified in their particular fields of knowledge and hired as part of the extended team to deliver the technical assistance, provide detailed information, advice, and intervention leadership, in the successful delivery of the programme. These positions are expected to make up the majority of the short and long-term expert pools expertise set out in paragraphs 7.2 – 7.4 and relates to specific technical skills supporting programme objectives such as advisers,

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market development managers, field coordinators, state embedded officers, academics, and so on.

10.23. **Milestone Assessment.** Each milestone will be assessed as either a pass (scoring 100%) or fail (scoring 0%). Milestones cannot be partially met. Milestones due in the early stages of the contract i.e. at the end of Month 3, Month 6, and Month 9 of the contract are specified below. Milestones will be subject to six-monthly revision during the contract or more frequently if circumstances require a change, for example due to a policy change.

10.24. Any changes to milestones, including but not limited to due date, evidence of completion, etc., will need to be submitted to and approved by FCDO at least one month prior to the due date. Failure to follow this will result in the milestone missed.

10.25. **Month 3.** The Supplier will be required to meet the following milestones by the end of month 3 of the contract:

- Full achievement of the reporting requirements in Section 8.50 of the Terms of Reference.
- 100% of core team positions mobilised and working in their intended location. Political Director and Strategy Director as named in the bid working at their intended location.
- Analytical and diagnostic studies Terms of Reference agreed between FCDO and the Supplier, resourced and mobilised as detailed in Section 8.
- All governance, stakeholder advisory arrangements, and financial management policies finalised and documented.

10.26. **Month 6.** The Supplier will be required to meet the following milestones by the end of month 6 of the contract:

- Full achievement of the reporting requirements in Section 8.50 of the Terms of Reference.
- Submission of analytical and diagnostic studies as detailed in Section 8.5 of the terms of reference.
- Submission and decision point of quick win interventions for P1, P2 and P3.

10.27. **Month 9.** The Supplier will be required to meet the following milestones by the end of month 9 of the contract:

- Full achievement of the reporting requirements in Section 8.50 of the Terms of Reference.
- Quick win interventions established for P1, P2 and P3, operating with plausible theories of change.
- Submission of programme strategy that brings together the analysis and identifies intervention areas, markets, instruments, and partners as detailed in Section 6.
- Submission of Inception Phase report as detailed in Sections 8.6 and 8.7.
- Programme operating procedures documented, and workstreams fully operational.
- Monitoring, Evaluation, Research and Learning systems fully mobilised, including finalised logical framework, value for money framework and updated Theory of Change.

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- Milestone delivery recognises FCDO's 90:10 expenditure constraint which encourages limited expenditure during Q4. This means 90% of expenditure is required to be spent April-December, with the remaining 10% January-March. Every effort will be made to adhere to this, whilst also noting the realities of a milestone-based programme working in agricultural value chains.

10.28. The PbR schedule will use output-level and outcome-level milestones. All milestones will be assigned a risk category as outlined below (with increasing challenge from A to D), considering the level of risk for the achievement of the respective milestone. Definitions of the risk categories are below. All milestones for the Inception Phase are considered Category A. Milestones for the Implementation Phase will be identified with FCDO towards the end of the Inception Phase.

- **Category A:** milestones/output within the control of the Supplier – **supply side** – low risk for completion on time.
- **Category B:** milestones/output predominantly within the control of the Supplier though recognised as achievable-gradually more within a Supplier's control through learning what works - **demand and supply side** – some risk for Suppliers that gradually reduces.
- **Category C:** milestones/output partially within the control of the Supplier recognised as more difficult to achieve lower-level deliverables-stop or progress to category B – **demand and supply side** – **some risk for Suppliers though mitigated by lower expectations.**
- **Category D:** milestones/outputs contributing to the outcome – **demand side** - gradually within Supplier's control towards the end of the programme as risk reduces.

10.29. The table below assigns a share of risk for the achievement of the milestone between FCDO and the Supplier. Taking a practical example, should a Category B milestone be achieved and verified, then payment would be made in line with forecast. Should the milestone not be achieved, then only 25% of payment would be approved providing it was judged the Supplier had made reasonable effort. Means of verification have been identified to facilitate clear, unambiguous assessment.

**Table 1: Delivery Risk Profile**

<b>Risk Category</b>	<b>FCDO Risk (%)</b>	<b>Supplier Risk (%)</b>
Category A	0	100
Category B	25	75
Category C	50	50
Category D	75	25

### Payment by Results Schedule

10.30. All payment for fees, expenses and intervention costs will be made in arrears and in line with the Commercial Proforma Cost Template payment schedule.

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- 10.31. Expenses (including but not limited to Travel, Subsistence, Accommodation, Office Costs, Security, capital expenditure, etc.) will be reimbursed monthly and shall be based on actual expenditure – with the final Pro Forma Cost Template unit rates as a ceiling (provided they are in line with the overall budget agreed with FCDO and FCDO policy on expenses).
- 10.32. Grants will be reimbursed monthly and shall be based on actual expenditure.
- 10.33. Payment of fees will be made monthly and shall be based on: (i) the satisfactory completion and FCDO approval of milestones and, (ii) time and materials for programme management and administration fees, which will be subject to an assessment and agreed quarterly KPI performance.
- 10.34. As part of their Commercial Response, bidders are required to populate the Cost Template payment schedule with their proposed payment values – thus indicating the percentage of fees which they are prepared to base on assessed (and agreed) performance against milestone payments.
- 10.35. The Supplier accepts that a proportion of payment of fees will be withheld in accordance with **Annex 11** if KPI performance is assessed as less than ‘good’ and if any milestones are not achieved.
- 10.36. The successful Supplier will submit invoices to FCDO on the Supplier’s letterhead - in line with the Cost Template payment schedule and assessed and agreed KPI performance. The Supplier is required to assess and report on a quarterly basis against the KPI’s to FCDO. FCDO shall then undertake the final assessment of the KPIs prior to agreement on the KPI payment to be made for the quarter.

**Task Orders**

- 10.37. **Task Orders** - for pre-budgeting and approving arising pieces of work - may be utilised during the Implementation Phase. During the Inception Phase, the Supplier will review and submit to FCDO how they propose to develop workplans during implementation for scaling up/down existing work or to respond to arising pieces of work to be approved by FCDO.

**General Data Protection Regulation**

- 10.38. General Data Protection Regulations (GDPR) - Please refer to the details of the GDPR relationship status and personal data (where applicable) for this project as detailed in **Appendix A** and the standard clause 33 in Section 2 of the Contract.

**Duty of Care and Security Requirements**

- 10.39. The Supplier is responsible for the safety and well-being of their Personnel (as defined in Section 2 of the Contract) and Third Parties affected by their activities under this Contract, including appropriate security arrangements. They will also be responsible for the provision of suitable security arrangements for their domestic and business property. Suppliers must set out how they will respond to these requirements in their bid documentation. This should include how they will ensure subcontractors meet these requirements too (as they will have full responsibility for subcontractor compliance).

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- 10.40. FCDO will share available information with the Supplier on security status and developments in-country where appropriate. A named person from the contracted organisation should be responsible for being in contact with FCDO to ensure information updates are obtained. There should be a process of regular updates so that information can be passed on (if necessary). This named individual should be responsible for monitoring the situation in conjunction with FCDO.
- 10.41. The Supplier is responsible for ensuring appropriate safety and security briefings for all of their Personnel working under this contract and ensuring that their Personnel register and receive briefing. Travel advice is also available on the FCDO website, and the Supplier must ensure they (and their Personnel) are up to date with the latest position.
- 10.42. This Procurement will require the Supplier to operate in conflict-affected areas and parts of it are highly insecure. The security situation is volatile and subject to change at short notice. The Supplier should be comfortable working in such an environment and should be capable of deploying to any areas required within the region in order to deliver the Contract.
- 10.43. The Supplier is responsible for ensuring that appropriate arrangements, processes, and procedures are in place for their Personnel, taking into account the environment they will be working in, and the level of risk involved in delivery of the Contract (such as working in dangerous, fragile and hostile environments etc.). The Supplier must ensure their Personnel receive safety in the field training prior to deployment if judged necessary and that appropriate systems and processes and equipment are in place, including subscription to security companies who carry live information on security situations and can undertake due diligence on routes, hotels and work locations and use of appropriate equipment such as trackers. These facilities should be set out in your bid documents.
- 10.44. Tenderers must develop their Tender on the basis of being fully responsible for Duty of Care in line with the details provided above and information from UK Travel Advice for Nigeria.<sup>6</sup> They must confirm in their Tender that:
- They fully accept responsibility for Security and Duty of Care.
  - They understand the potential risks and have the knowledge and experience to develop an effective risk plan.
  - They have the capability to manage their Duty of Care responsibilities throughout the life of the contract.
  - They will give responsibility to a named person in their organisation to liaise with FCDO and work with FCDO to monitor the security context for the evaluation.
  - The nature of their security policies and how they manage security within the company
  - The type of facilities and equipment they will have in place to cover in particular travel to amber and red zones under FCDO travel advice.
- 10.45. FCDO will not award a contract to a Supplier which cannot demonstrate that it is willing to accept and have the capability to manage its duty of care responsibilities in relation to the specific procurement. Please refer to the Supplier Information Note on the FCDO website for further information on our Duty of Care to Suppliers Policy.

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<sup>6</sup> <https://www.gov.uk/foreign-travel-advice/nigeria>

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**Terms of Reference**

10.46. If you are unwilling or unable to accept responsibility for security and Duty of Care as detailed above, your tender will be viewed as non-compliant and excluded from further evaluation.

10.47. Acceptance of responsibility must be supported with evidence of capability and FCDO reserves the right to clarify any aspect of this evidence and to subsequently reject tenders if in the opinion of FCDO they cannot demonstrate this. In providing evidence Tenderers should consider the following questions:

- Have you completed an initial assessment of potential risks that demonstrates your knowledge and understanding, and are you satisfied that you understand the risk management implications (not solely relying on information provided by FCDO)?
- Have you prepared an outline plan that you consider appropriate to manage these risks at this stage (or will you do so if you are awarded the contract) and are you confident/comfortable that you can implement this effectively?
- Have you ensured or will you ensure that your staff are appropriately trained (including specialist training where required) before they are deployed, and will you ensure that on-going training is provided where necessary?
- Have you an appropriate mechanism in place to monitor risk on a live / on-going basis (or will you put one in place if you are awarded the contract)?
- Have you ensured or will you ensure that your staff are provided with and have access to suitable equipment, and will you ensure that this is reviewed and provided on an on-going basis?
- Have you appropriate systems in place to manage an emergency / incident if one arises?

10.48. **Other country-specific sources of information on potential risks can be obtained from the following sources:**

FCDO Travel advice:

<https://www.gov.uk/foreign-travel-advice/nigeria>

World Meteorological Organisation:

<http://severe.worldweather.org/>

Global Flood risk map:

<http://globalfloodmap.org/>

CIA World Fact file:

<https://www.cia.gov/library/publications/the-world-factbook>



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**Terms of Reference**

## **Annexes**

### **Annex 1: Propcom+ Business Case**

Separate attachment

### **Annex 2: Propcom+ Business Case Annexes**

Separate attachment

### **Annex 3: Strategic Response Fund – HarvestPlus Overview**

Separate attachment

### **Annex 4: Delivery Chain Mapping Smart Guide**

Separate attachment

### **Annex 5: FCDO's Policy on Subsidy to the Private Sector**

Separate attachment

### **Annex 6: FCDO's approach to Value for Money**

Separate attachment

### **Annex 7: UK Aid Branding Guidance**

Separate attachment

<https://www.gov.uk/government/publications/uk-aid-standards-for-using-the-logo>

### **Annex 8: Eligible Expenditure**

<https://www.oecd.org/development/financing-sustainable-development/development-finance-standards/officialdevelopmentassistance/definitionandcoverage.htm>

<https://www.legislation.gov.uk/ukpga/2002/1/contents>

### **Annex 9: Asset Register Template**

Separate Attachment

S/No	Asset Category	Description	Make/Model No	Registration Number/Asset Code	Chassis/Serial No	Status/Condition	Downstream Partner	Acquisition Cost NGN/Value at time of receipt	Acquisition Cost GBP/Value at time of receipt	Acquisition Date	Anticipated Years of Life	Useful life after disposal	Depreciated (Residual Value) at Disposal	Disposal Date (dd/mm/yyyy)	Proposed Disposal Method	Original Source of Asset	Location	Donation Location
1	Generator	Perkins	Perkins	80 Kva	Y	Fair condition	XXX	16,800,000.00	£30,000.00	2014	4	1	£7,500.00	1/9/17	Transfer to	condition	Freetown	N/A
2	Computer	Laptop	X220i	93331	R9-HD22R	Fair condition		708,400.00	£1,265.00	2014	4		£316.25	1/9/17	Donate to		Bo	Bo
3	Vehicle	Hiace Minibus	Hiace Minibus	AJY 018	04	Fair condition		17,920,000.00	£32,000.00	2015	4	1	£8,000.00	1/9/17	Transfer to	from	Kenema	N/A

### **Annex 10: Logical Framework Template**

Separate Attachment



## Annex 11: Key Performance Indicators, Scoring Methodology and Payment Mechanism

### Key Performance Indicators

<u>Key Performance Indicators</u>	<u>KPI Description</u>	<u>KPI % Weighting</u>	<u>Score</u> (1 to 6)	<u>Max. Possible Total Score</u>
1. Quality and Delivery	1a) Quality of deliverables and alignment of project output to project need. 1b) Timeliness of milestone delivery to the satisfaction of FCDO. 1c) All programme reports are submitted on time, of acceptable quality to FCDO, and are easily understandable with very little need for comments and revisions. 1d) Appropriate identification and management of risks.	30		180
2. Financial Management	2a) Robust cost control in line with contract. 2b) Accurate and timely submission of forecasting and invoices. 2c) Maximising Value for Money across inputs, outputs, and outcomes and FCDO's 4E framework through demonstration of effective programme management. VfM analysis to support/accompany regular reporting. 2d) Up to date and accurate records of all downstream partners	15		90
3. Strategic Partnerships and stakeholder relations	3a) Active engagement of FCDO throughout (monthly coherence and check-in meetings with stakeholders). Supplier is responsive and flexible to client and stakeholder needs and seeks to align with FCDO priorities. 3b) Dissemination of lessons learned, public good documents or similar 3c) Good access is maintained across Government of Nigeria (State and Federal), private sector and civil society with evidence of work progressing from key stakeholders. 3d) Partners satisfied with performance and engagement (feedback from steering committee meetings and annual surveys). 3e) Active engagement and communication with other FCDO programmes and development partners.	20		120

4. Innovation, adaption, and continuous improvements	<p>4a) Supplier has delivered new ideas, which have benefited the programme.</p> <p>4b) Supplier's management team ability to respond quickly and adapt to the changing contexts or requests within the agreed timeline.</p> <p>4c) The Supplier's management team responsiveness to FCDO's recommendations based on the findings of annual reviews, mid-term reviews, annual audit reports and performance improvement plans or evaluation reports.</p>	20		120
5. Safeguards & crosscutting priorities	<p>5a) Environmental safeguard policies are in place with publication of environmental performance reports on a regular basis.</p> <p>5b) Evidence of effective integration political economy considerations into programme interventions.</p> <p>5c) Evidence of effective integration of gender and social inclusion into programme interventions.</p> <p>5d) Evidence of effective integration of conflict sensitivity into programme interventions.</p> <p>5e) Evidence of effective integration of nutrition into programme interventions.</p> <p>5f) Safeguarding against sexual exploitation, abuse and harassment policies are in place</p>	15		90
	<b>TOTAL</b>	<b>100</b>	<b>-</b>	<b>600</b>

### KPI Scoring Methodology

Score	Definition
6	Responsibilities delivered with a high level of efficiency and effectiveness. Supplier proactive in taking steps to achieve outcomes according to contracted responsibilities
5	Responsibilities delivered efficiently and effectively
4	Minor effort required to improve delivery of one or more contracted responsibilities
3	Effort needed to deliver contracted responsibilities
2	Major effort needed to deliver responsibilities. Significant effort required from DFID where provider is not delivering
1	Serious under performance. Not meeting most contract deliverables

## KPI Payment Mechanism

In line with the maximum total score of 600, the proposed payment KPI % structure shall be as follows:

Scoring Methodology	Total Score Achieved	% KPI Payment
Serious Underperformance Consistently below requirements and/or quality	0-200	20% payment
Underperformance Often below requirements	201-300	40% payment
Less than Satisfactory Performs below requirements	301-350	60% payment
Satisfactory Sometimes performs below requirements	351-400	75% payment
Generally Satisfactory Mostly meets requirements	401-450	90% payment
Good Performance Consistently meets requirements	451-600	Full Payment

## Annex 12: FCDO's Digital Spend Guide

Separate Attachment

## Annex 13: FCDO's Due Diligence Guide

Separate Attachment

## Annex 14: FCDO's Summary Risk Assessment Template

Separate Attachment

## Appendix A: Schedule of Processing, Personal Data and Data Subjects

This schedule must be completed by the Parties in collaboration with each-other before the processing of Personal Data under the Contract.

The completed schedule must be agreed formally as part of the contract with FCDO and any changes to the content of this schedule must be agreed formally with FCDO under a Contract Variation.

Description	Details
<b>Identity of the Controller and Processor for each Category of Data Subject</b>	<p>The Parties acknowledge that for the purposes of the Data Protection Legislation, the following status will apply to personal data under this contract:</p> <p>The Parties acknowledge that Clause 33.2 and 33.4 (Section 2 of the Contract) shall not apply for the purposes of the Data Protection Legislation as the <b>Parties are independent Controllers</b> in accordance with Clause 33.3 in respect of the following:</p> <ul style="list-style-type: none"><li>• Personal Data such as names, email addresses, phone numbers, employment history, address, data of birth, bank details, etc) of programme staff and consultants for recruitment purposes;</li><li>• where the Supplier intends to gather and use personal data from individuals engaged through communication and knowledge management activities, e.g. interviewees and the Supplier is responsible for determining what data to collect and for which purpose</li></ul>



# Scaling Climate- and Nutrition-Smart Crops in North Nigeria

The CGIAR's HarvestPlus program leads a global movement to rapidly scale climate-smart biofortified staple crops, which are enriched with vitamin A, iron, or zinc using conventional (non-transgenic) breeding methods. Nearly 13 million farming households across Africa, Asia, and Latin America (comprising 64 million people) are growing and eating nutritionally enriched staple crops promoted by HarvestPlus, which are [proven](#) to improve nutrition and health.

Biofortified crops are internationally recognized as a cost-effective, food systems-based intervention to reduce micronutrient deficiencies while increasing the availability—and lowering the cost—of nutritious foods. In addition to improving nutrition security, they strengthen climate resilience: many are drought- and heat-tolerant and resistant to pests and diseases, helping farmers avoid climate-induced declines in agricultural productivity and nutrition.

Our scaling work is partner-focused: we enable and empower others to sustainably embed biofortification in food systems to improve nutrition, production, and climate resilience equitably and cost-effectively for the most vulnerable populations in low- and middle-income countries. These crops are generating new livelihood opportunities for farmers as well as SMEs in seed and food value chains. We also prioritize partnerships with women—as household members, farmers, and entrepreneurs.

The full potential of the impact of biofortification (tens of billions of dollars expressed in economic value) will be realized when biofortified varieties account for a high percentage of total staple food production, thereby building nutritionally resilient food systems. The ambition of HarvestPlus and partners is that most staple food varieties grown today will be replaced by nutrient-dense varieties.



Farmers growing vitamin A maize in Nigeria.

## HarvestPlus in Nigeria

HarvestPlus puts Nigerian smallholder farmers at the center of the African agriculture agenda, while generating employment for women and youth in rural and urban communities. HarvestPlus has a strong network of private sector partners in Nigeria who help scale biofortification and ensure that swift, targeted action reaches and supports farmers, aggregators and SMEs. The results of HarvestPlus' interventions include:

- Nearly 2 million smallholder farming households are currently growing vitamin A cassava, and 1.3 million are growing vitamin A maize.
- More than 1 million Nigerians are making significant income in jobs as producers, market facilitators, bulking agents, processors and distributors of biofortified planting materials and food products.
- Hundreds of Nigerian food businesses are producing in biofortified food products.
- Fifty nutrient-enriched food products have been developed, 10 of which have been commercialized.

## Program Summary

### The Scaling Climate and Nutrition Smart Crops through Market Systems in North Nigeria program

is a two-year market systems development initiative led by HarvestPlus and funded by UKAid in Kano, Kaduna, Jigawa, Adamawa and Gombe states. HarvestPlus will enhance the climate, nutrition and economic resilience of smallholder farming households and consumers. By strengthening climate-smart biofortified markets to work more effectively for poor farmers, women, and small-scale entrepreneurs, the program will create rural jobs, uplift incomes, enhance climate resilience, and improve access to healthy diets.

## The Challenge

Climate volatility in northern Nigeria is leading to decreased crop yields, and increased food prices, food insecurity and malnutrition. Rising CO<sub>2</sub> levels also will decrease nutrient content in staple crops, potentially exacerbating health burdens from hidden hunger. Increases in food production have come through expanding area under cultivation at the expense of forest cover rather than productivity improvements. Low adoption of improved technologies, especially low levels of intensification, weak investment in agribusiness, and fragmented markets particularly for staples crops must be addressed to improve climate resilience, food security and economic returns. Climate-smart crop production technologies and practices — such as nutritious drought tolerant varieties, natural resource management techniques and financing— are therefore critical as a means of adaptation and to boost crop production.

## Program Approach

The program will enhance the climate, nutrition and economic resilience of smallholder farmers and consumers in Northern Nigeria. It will do this by strengthening and scaling up climate-smart biofortified markets to work more effectively for poor farmers and small-scale entrepreneurs. It will support the promotion and scale-up of inclusive climate and nutrition smart business models, technologies, and practices to help agri-enterprises and smallholder farmers overcome critical market constraints that enhance the production, yields, quality and value of affordable, safe, and nutritious produce. This will create rural jobs, improve access

to climate insurance and finance, uplift incomes, enhance climate resilience, and improve healthy diets. The project will empower women and internally displaced persons and focus on three biofortified value chains: vitamin A maize, iron pearl millet, and iron and zinc cowpea.

*The project will help agri-enterprises and smallholder farming households overcome critical market constraints to improve and expand:*

- seed companies' capacity to rapidly multiply basic and certified biofortified seed
- farmer adoption and intensified application of climate- and nutri-smart inputs
- access to climate insurance and finance for farmers to invest in and adopt new technologies
- e-extension and physical outreach for tailored and timely messages to farmers
- technical capacity of aggregators for cost-effective offtake
- contract farming schemes to integrate larger numbers of farmers in procurement models
- women farmer's, including IDPs, engagement in seed and food markets

## The Program will result in:

- 650,000 farming households (HHs) producing nutritious, climate-smart biofortified crops
- 520,000 HH and 200 MSMEs with increased resilience to climate change
- 432,500ha of additional farmland under climate and nutrition smart agriculture technologies
- 391,000 people with improved incomes from biofortified markets

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**Partners:** HarvestPlus will leverage strong partnerships with national agricultural research centers, government extension services, and private sector companies (across seed production, processing, and food distribution). **GOVT. MINISTRIES** - FMARD, Climate & Land Resources Dept., Nutrition & Food Safety Dept., Maize, Millet & Cowpea Value Chain Depts., FMOH, Fed. Min. of Trade & Investment, Kano State Ministry of Agriculture, Kaduna State Ministry of Agriculture, Jigawa State Ministry of Agriculture, Gombe State Ministry of Agriculture, Adamawa State Ministry of Agriculture **GOVT. DEPTS/PARASTATALS/AGENCIES** - Kano State Agriculture & Rural Development Authority, Kaduna State Agriculture Development Agency, Jigawa State Agriculture and Rural Development Authority, Gombe State Agriculture and Rural Development Agency, Adamawa State Agriculture and Rural Development Agency **GOVT. RESEARCH INSTITUTES** - Center for Dryland Agriculture, National Store Products Research Institute, Institute of Agricultural Research, National Agricultural Extension & Research Liaison Services **NGOs** - Women Farmers Advancement Network, Green Sahel & Rural Development Agency.

**To learn more about the project and the work of HarvestPlus in Nigeria, contact: Yusuf Dollah, HarvestPlus Country Manager for Nigeria: [D.Yusuf@cgiar.org](mailto:D.Yusuf@cgiar.org). Tel.: +234.806.5423977**

# Delivery Chain Mapping and Delivery Chain Risk Mapping Guidance for external partners



Foreign, Commonwealth  
& Development Office



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## Introduction

**Delivery Chain Mapping (DCM)** and **Delivery Chain Risk Mapping (DCRM)** are useful tools for programme risk management for the Foreign, Commonwealth and Development Office (FCDO). These tools play an important role in the due diligence and programme monitoring processes and improve understanding of how FCDO funding flows throughout a delivery chain, to ensure that our programmes achieve their objectives.

By better understanding our delivery chains FCDO can:

- Establish a comprehensive view of all partners in receipt of FCDO funding and the extent of those arrangements.
- Develop and strengthen future supplier bases.
- Understand a delivery partner's role in achieving programme outcome(s) and opportunities for potential scale up.
- Capture and manage risks that could affect programme outcomes.
- Ensure risks are being managed by those best placed to do so.
- Strengthen our programme management capacity and programme delivery.
- Respond quickly and efficiently to requests for information about funding to specific organisations and provide greater transparency to the public.

## Delivery Chain Mapping (DCM)

**DCM** is a process that identifies and captures, usually in visual form, the names of all partners involved in delivering a specific product, service or change, ideally down to the end beneficiary or recipient of FCDO funding.

The focus should be organisations with which FCDO's implementing partners (i.e. signatories of a funding arrangement with FCDO) have formal funding arrangements involving FCDO funding, right down to the partners responsible for providing goods



or services to the end beneficiaries/recipients. As a minimum, we would expect our partners to provide the names of their **tier 1 partners** (e.g. organisation to which they provide direct funding) and where possible the names of partners at lower tiers.

## Delivery Chain Risk Mapping (DCRM)

**DCRM** is a visual depiction that builds on the DCM. It provides more information about the **formal relationships, flow of funds from the initial source and the potential risks**, ideally right down to the end beneficiaries/recipients.

Where DCM focusses on identifying all partners involved in delivering a specific product or service, the DCRM is about understanding, capturing, and managing the risks to the successful delivery of a programme, in relation to downstream delivery partners.

DCRM enables the FCDO to have focused discussions internally and with our partners about risk and risk management and supports improved risk escalating and reporting.

DCRM can help identify, highlight, or prompt the FCDO to consider areas such as:

- FCDO funds being distributed to each implementing (downstream or indirect) partner.
- Where capacity issues may exist with delivery partners (e.g. a partner's capacity to manage a large number downstream / indirect partners).
- Vulnerable links or gaps where we have limited information (e.g. where knowledge and information about certain partners is limited).
- Key dependencies on downstream partners.
- Risks involved at each stage in the delivery chain (e.g. resources being diverted to terrorist groups) and associated controls.
- Where risk management is transferred or where there may be opportunities to transfer risk management and where accountability sits for the management of such risks.
- Administrative costs incurred throughout the delivery chain.

DCRM should, where possible, identify all partners (funding and non-funding e.g. legal/contributions in kind) involved in the delivery of a programme. Good practice includes details of:

- The name of all downstream delivery partners and their functions.
- Funding flows (e.g. amount, type) to each delivery partner.
- Risks involved in programme delivery, mitigating measures and associated controls.

DCRM should identify, to the extent possible, the fiduciary and other risks associated with the management of FCDO funds down the delivery chain. For example, how funding might be diverted, and where the FCDOs knowledge of the downstream



partners may be incomplete. This should include consideration of potential fraud, bribery, or terrorist financing. It might also consider the dependency on key partners and the coherence and value for money (VFM) of the overall supply chain for the intervention.

FCDO delivery partners are responsible for mapping the complete delivery chain. Once the initial mapping is complete this will form the basis for a discussion with FCDO to identify the key risks and management of such risks.

A good delivery chain risk map will:

- Provide a clear understanding of all delivery partners involved in the delivery of a programme and the relationships between them.
- Identify key delivery risks, mitigating measures and associated controls throughout the delivery chain.
- Help ensure suitable risk management throughout the delivery chain.

DCRM remains important throughout the programme lifecycle. The map will be a live document which will support programme management and monitoring, helping all those involved in programme delivery remain alert to new and emerging risks.

Risk maps should be reviewed and updated periodically, in line with agreed programme monitoring processes and procedures e.g. during quarterly progress meetings. Any material changes to either the programme risk assessment or delivery chain should be recorded as soon as possible. It is the responsibility of the partner to notify the FCDO programme of any changes to risk within the delivery chain.

## Application of the DCM and DCRM

**DCM is a key mandatory component of FCDO's Due Diligence Framework and Programme Operating Framework (PrOF)** which assesses a potential delivery partner's capacity and capability to deliver programmes and manage UK taxpayer's funds. DCM/DCRMs are developed iteratively throughout the programme lifecycle. However, FCDO require a complete DCM/DCRM as soon as possible before funding is disbursed, as part of FCDOs due diligence process. **DCRMs are currently considered as best practice by the FCDO within the Due Diligence Framework and PrOF.**

Partners are required to maintain an up to date and accurate record of their delivery chain, detailing all downstream partners in receipt of FCDO funds and/or FCDO funded inventory or assets. FCDO programme teams work with partners and may request up to date DCM/DCRM information regularly throughout the implementation of any programme as part of ongoing programme monitoring. Partners must inform the FCDO programme teams of any changes to the partners in the delivery chain as and when any changes arise.

DCM and DCRM remains relevant throughout the programme lifecycle. These maps are a live programme management and monitoring tool to help FCDO programme teams remain alert to new and emerging risks.

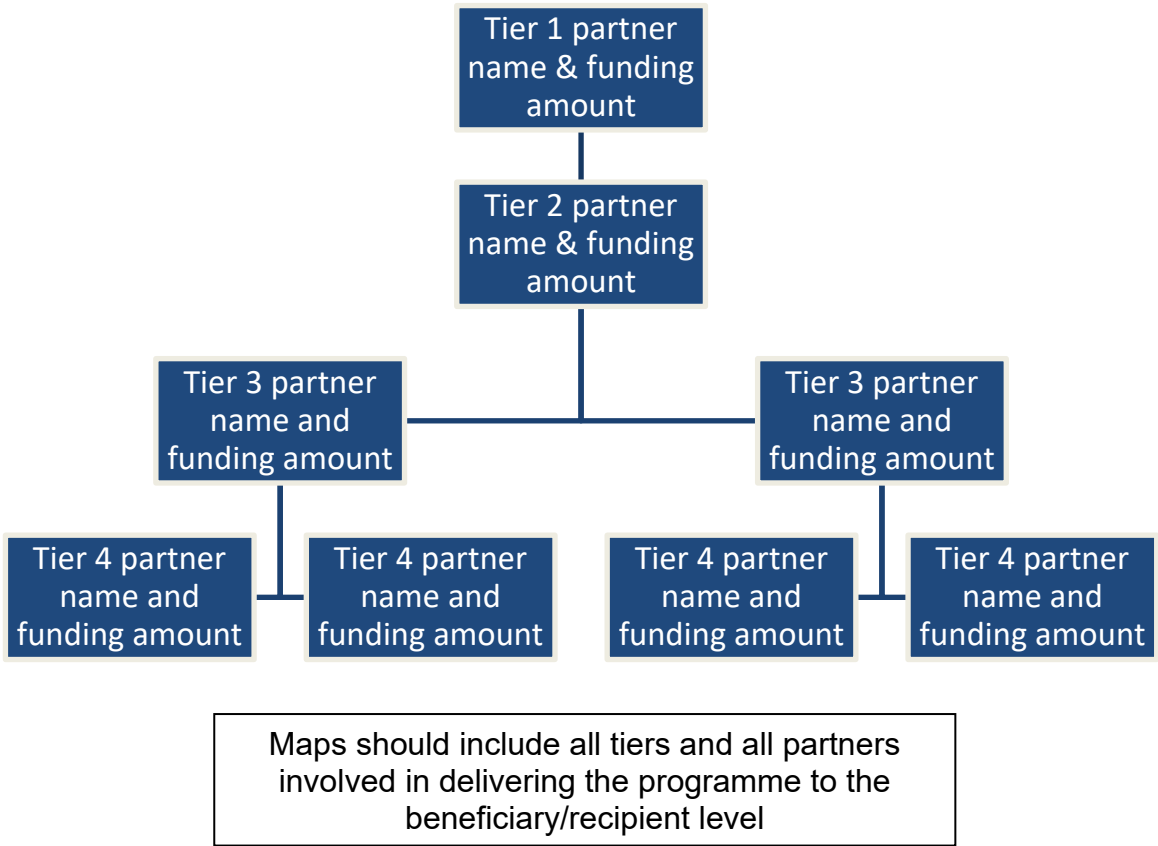
Where the partner organisation is publishing this information to the **International Aid Transparency Initiative (IATI)** and effectively connecting downstream partner information so that a specific FCDO activity is traceable down the delivery chain, you can refer the programme team to the data available. For more information on publishing to IATI please find the IATI guidelines on [gov.uk](https://gov.uk)

**Questions or Concerns**

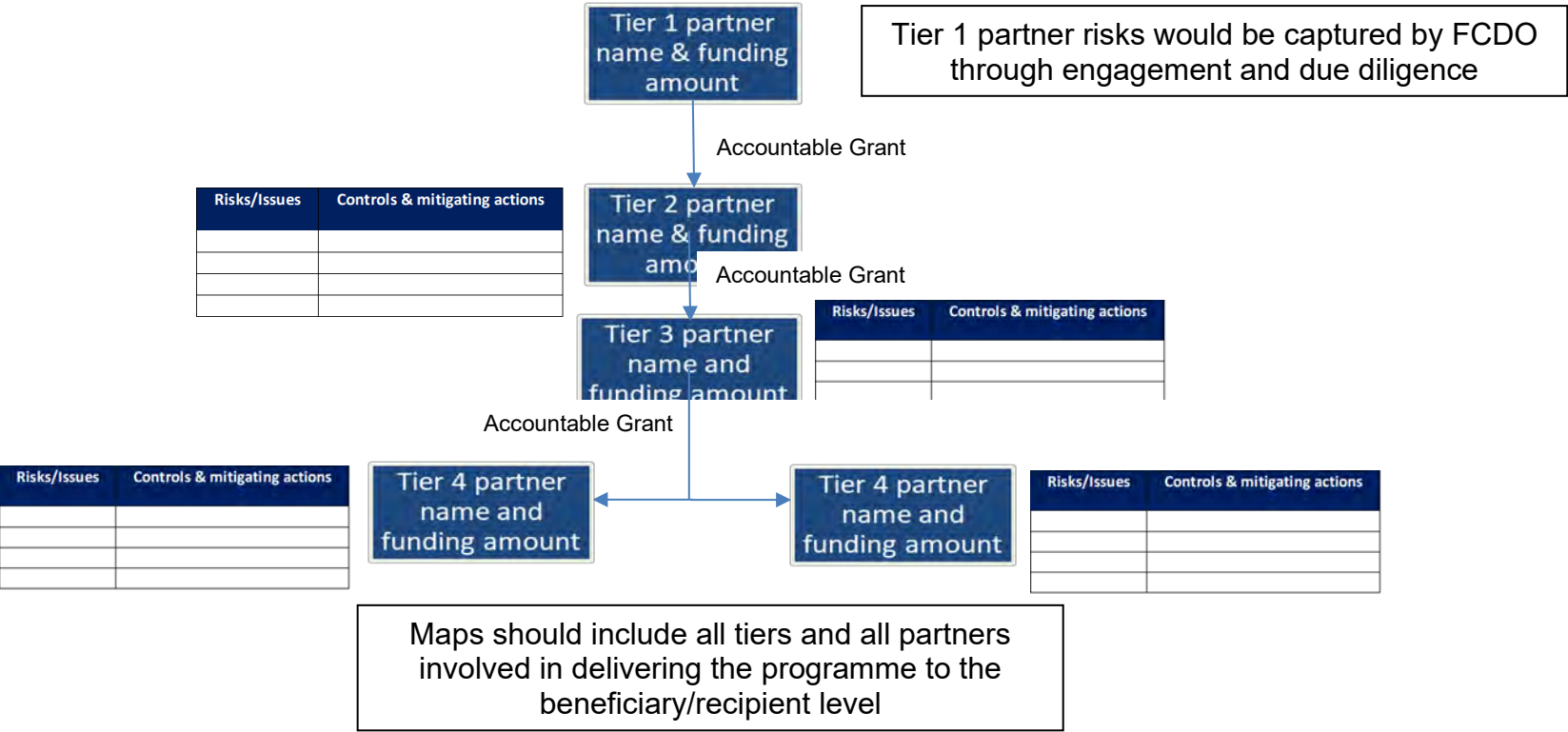
Please contact the Senior Responsible Owner or Programme Responsible Owner of the programme you are working on if you have any questions relating to this document.

The annexes below provide example formats for the DCM/DCRM but these are not prescriptive. The partner and the programme team can discuss and agree what format works best for DCM and DCRM to provide/ obtain the information required.

Annex A – Examples of a Delivery Chain Map



Annex B – Examples of a Delivery Chain Risk Map



## DFID policy framework for the provision of grants or concessional finance to for-profit firms

### The DFID Subsidy Policy Framework

1. Increasingly DFID is seeking to mobilise the assets, capabilities and resources of the private sector to achieve development outcomes, raising the question of when it is appropriate to provide public subsidy to for-profit companies<sup>1</sup>. There are circumstances where the commercial investment decisions of for-profit companies lead to under-investment in projects that deliver strong development returns. In these cases it can sometimes be justifiable for DFID to provide grants or concessional finance.
2. This policy outlines when such funding to for-profit companies is justifiable, the conditions that should be met and the additional risks and legal factors that should be considered. It covers all cases where DFID is extending an effective subsidy to for-profit companies by funding activities that can enhance their competitive position. This includes funding through intermediaries such as challenge funds or trust funds, direct funding to businesses and use of investment instruments.
3. The policy is targeted at staff designing interventions which extend subsidy to the private sector and this framework seeks to ensure that the right questions are being asked. The issues involved are necessarily subjective, so its application will rely on good judgement and utilising the best information available. Guidance on applying the policy is provided in Annex A.
4. Most forms of support that DFID provides to business can be classed as subsidy. A subsidy in this context refers to any transfer of state resources which affects competition by favouring certain firms, and can apply to both grants and concessional finance. The value of a subsidy can be measured by the difference in an investor's expected rate of return with and without DFID participation.

### The conditions under which subsidy can be provided to for-profit companies

5. We define **six conditions** that should be met before a firm subsidy is provided. These are:
  - i) **DFID subsidy must always have a clear development rationale and an economic rationale**  
Subsidising a firm should be the best possible way to achieve our development goals while providing value-for-money to the taxpayer. There are two primary rationales for public subsidy; firstly, overcoming market failures, and secondly, achieving equity or distributional goals.
  - ii) **DFID subsidy should demonstrate additionality**  
All subsidies should ensure additionality – that the development outcomes would not have been achieved without DFID support or would have been delayed for a sufficiently long period of time.
  - iii) **DFID subsidy should deliver sustainable development outcomes**  
Public subsidy to the private sector is intended to support investments with high developmental impact and where long-term commercial sustainability is expected. Subsidies should be time-bound and on-going subsidies should be avoided.
  - iv) **DFID subsidy should minimise market distortions**  
DFID subsidies should seek to temporarily incentivise certain investments, to nudge markets towards more socially efficient outcomes. The subsidy should be the minimum necessary and

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<sup>1</sup> A business or organisation which is established or operated with the primary intention of making a profit. The terms for-profit companies; companies; businesses; and, firms are used interchangeably throughout this note.

targeted as closely to the market failure as possible. Poorly designed or poorly targeted subsidies can distort markets and create inefficiency.

**v) DFID subsidy should make a credible contribution to achieving systemic market impact**

Targeting systemic market impact is important to ensure our interventions support the development of entire markets to achieve market transformation. They should avoid locking in inefficient market distortions by only benefitting individual firms.

**vi) DFID subsidy should align incentives with commercial partners**

The alignment of incentives between commercial and development partners is critical in achieving development outcomes through subsidised commercial projects.

**Risks of private sector partnerships**

6. There are additional risks associated with subsidising private companies. Teams should consider:

*Development legitimacy*

7. To ensure development legitimacy and impact, the companies we are subsidising should attain high levels of environmental and social governance, and avoid elite capture.

*UK political legitimacy*

8. The UK political legitimacy of financing private companies is multi-dimensional and means we should avoid perceived poor corporate citizens, perceived poor levels of business conduct and perceived excess profits from an investment. Strong due diligence of the companies we subsidise is essential.

*Financial Risk*

9. Partnerships should also be avoided with counterparties who present significant financial risks to DFID or the partnership.

**Considerations in structuring subsidies**

10. To maximise the effectiveness of DFID subsidy, we must consider the following:

*Instrument choice (grant vs. investment instruments)*

11. Subsidies can be deployed through a wide range of instruments, including grants, investments (loans and equity), guarantees, and technical assistance. Instrument choice should be tailored to the constraint to investment that is being overcome.

*Institutional Structures*

12. There are significant institutional competencies that suggest – in general – it is more appropriate to channel subsidy to the private sector through intermediaries who have the appropriate skills and experience.

*Legal and ODA Compliance*

13. DFID must ensure it adheres to all relevant requirements including the International Development Act (2002), conditions for ODA eligibility and EU State Aid rules.

**Annex A. Guidance on application of the DFID policy on the provision of grants or concessional finance to for-profit firms**

- 14. This section provides further detail on the policy framework and guidance for staff on implementing the policy including the conditions that should be met and the additional risks and legal factors that should be considered.

**1. Context**

- 15. There are circumstances where the commercial investment decisions of for-profit companies – that is the need to achieve appropriate risk-adjusted rates of return – lead to under-investment in projects that deliver strong development returns. In these cases it can sometimes be justifiable for DFID to provide grants or concessional finance to for-profit companies. The policy focuses on subsidy in the form of grant or concessional financing to the private sector.<sup>2</sup> The concepts are equally applicable to the provision of in-kind support including technical assistance.
- 16. Companies make investment decisions based on commercial criteria. At the simplest level, investments are expected to cover the full costs of the project – including the cost of capital employed – and achieve an appropriate rate of return having adjusted for the risks of the investment project. These considerations are not optional for a company – just as DFID has a legal requirement to only undertake activities likely to contribute to the reduction of poverty, company directors have a legal duty to promote the company’s success. Directors cannot direct resources to activities with high developmental returns unless these activities also promote the success of the company. Promoting the company’s success can include activities related to promotion of the brand including through development activities that may not be immediately monetised.
- 17. The policy covers cases where DFID is extending an effective subsidy to for-profit businesses by funding activities that can enhance their competitive position. This includes funding through intermediaries such as challenge funds or trust funds, direct funding to businesses and use of investment instruments.

**2. Application**

- 18. This section outlines the contexts and conditions that determine if and when DFID subsidy is justifiable. It is targeted at staff designing interventions which extend subsidy to the private sector and seeks to ensure that the right questions are being asked. In the absence of definitive answers, much of its application will rely on good judgement and the best information available. The policy and guidance do not replace or supersede existing HMG rules and guidelines on the management of public money or DFID operational procedures for aid disbursement. The policy is consistent with HMG-wide procedures and has been consulted on with HMT and Cabinet Office.
- 19. DFID provides subsidy to the private sector mainly through intermediaries. This includes challenge funds, trust funds, multilateral organisations and international financial institutions. DFID mainly uses grants to disburse funds, but can also use non-grant instruments. There may also be cases where DFID provides subsidy directly to a company, although this will be the exception rather than the norm. This policy does not cover the procurement of goods and services from the private sector where subsidy should not typically be considered. Rather, it targets DFID programmes and partnerships where the firm is a recipient of grant or concessional finance. The principles in this policy extend to social enterprises, defined as organisations with both social and commercial goals<sup>3</sup>. In these cases, the reputational risks are likely to be less, but the risks of market distortion and inefficient use of public resources remain relevant.

<sup>2</sup> The scope of this paper excludes the procurement of goods and services where procurement guidance should be followed.

<sup>3</sup> Social enterprises apply commercial strategies to maximise improvements in human and environmental well-being. They can be structured as either for-profit or not-for-profit – only the former are covered by this framework. Profits made by social enterprises are typically reinvested or used to further social goals rather than delivering a return to investors. SROs should use their judgement in assessing the extent to which the policy should be applied to social enterprises.

20. Third parties are a major delivery channel for DFID’s support to firms. Third parties managing programmes directly funded by DFID, such as challenge funds, are expected to ensure that subsidies provided to for-profit companies meet the conditions and consider all risks outlined in this paper. We expect other third parties, including development finance institutions and multilateral organisations, as well as bilateral partners, to apply similar principles when providing funding to for-profit companies. SROs should take a view on the materiality of any differences in policies on subsidies. DFID will have influence but not control over some of these organisations.

**3. Defining subsidy**

21. Most forms of support that DFID provides to business can be classed as subsidy. A subsidy in this context refers to any transfer of state resources which affects competition by favouring certain firms. It can apply to both grants and concessional finance. The value of a subsidy can be measured by the difference in an investor’s expected rate of return with and without DFID participation.

**4. The conditions under which subsidy can be provided to for-profit companies**

22. We define **six conditions** that should be met before a firm subsidy is provided. We give guidance on assessing these conditions, but cannot set definitive levels at which the conditions are met. Assessing the validity of a particular subsidy is a subjective decision that should be made on the balance of all factors affecting the particular case. DFID staff should consider all six conditions.
23. The relative importance given to any one will depend on the type of firm, the market failure and the size and nature of the subsidy under consideration. For example, large subsidies or grants to large firms with good access to finance should bear a higher burden of proof that the grant is truly additional, i.e. that the desired outcomes would not happen in its absence. Those considering awarding subsidies to firms in thin markets should think hard about how to avoid potential risks of distortion and excessive market capture by a single firm. External scrutiny will vary with the type of programme but will invariably ask why a profit-making firm needs subsidy and whether this a good use of public money. SROs must be able to answer these questions.

The six conditions which should be met before a subsidy is provided are:

- i) DFID subsidy must always have a clear development rationale and an economic rationale. Subsidising a firm should be the best possible way to achieve our development goals while providing value-for-money to the taxpayer.**

24. The first stage in determining if a subsidy to a firm is justifiable is to identify a clear development and economic rationale for intervention. There are two primary rationales for public subsidy:
- The economic rationale of overcoming market failures, where markets fail to allocate resources efficiently, or responding to distortions resulting from previous government failures; and*
  - The development rationale of achieving equity or distributional goals.*

DFID’s focus on poverty reduction means that both rationales are important for justifying interventions.

25. It is sometimes argued that helping firms to invest in developing countries and create jobs and incomes is sufficient rationale for subsidy. However, without targeting a market failure DFID risks distorting the market by skewing price signals and generating ‘deadweight losses’ – defined as inefficiencies in resource allocation. DFID can end up supporting firms with limited prospects for growth, because the underlying market failure remains. In most places where DFID works, there will be multiple market failures – i.e. more than one reason why a market does not allocate resources efficiently. An effective intervention will identify and target the failures that are binding constraints to development.



26. There are a number of ways to address market failures, some of which may lend themselves to providing subsidy to firms whilst others may not. When determining the economic case for firm subsidy, DFID should be confident not only that public financing will deliver sufficient value for money, but also that the development outcomes are expected to be achieved more efficiently through this route than through any other. This is particularly pertinent when thinking about subsidy to an individual firm where the risk of distorting competition in the market is high. Generally, if the market failure can be fixed via a market-wide solution, this will be preferable to supporting an individual firm. However, there are cases where the conditions of the market failure and the equity/distributional considerations can warrant support to an individual firm:

- a. First mover failure: First movers often face higher and sometimes prohibitively high costs or risks to enter a new market or to innovate within an existing one. The uncertainty around whether it is viable to sell or produce a good in a new location increases the return required to enter the market. Firms that follow can capitalise on some of the lessons learnt by the first mover as these are often difficult to keep within the firm. This generates a disincentive for firms to become first movers. For investments with high development potential, there is an argument for DFID to help overcome the first mover problem. The ideal, ‘first best’ solution would focus on reducing these costs or risks for all potential entrants. The case for supporting an individual, pioneer firm to enter arises where the benefits or spillover effects to other firms of doing so, such as large learning or demonstration effects, outweigh the potential costs of supporting and creating an incumbent in the market.
- b. Fostering development externalities: Externalities arise when there are spill-over effects for society from the production of a good or service that are not captured by the firm itself. Firms’ investment decisions are only based on the costs and benefits that accrue to the firm, leading to under- or over-investment for society as a whole<sup>4</sup>. Firms constantly generate positive externalities for society through the course of their regular business, for example through innovation, training and, in some cases, employment. As a result, externalities can appear to provide a relatively soft rationale for intervention. Discipline is required to determine the most effective public intervention, if any, to optimise firms’ investment levels. The solution to externalities usually rests in changes to government policy, or in interventions that target the whole market. The exception to this is when there is a strong equity case<sup>5</sup> for a firm level subsidy which has strategic importance for poverty reduction. In these cases, the subsidy is provided under a developmental rationale and should be deemed to justify the distortion that is created by supporting a single firm, whilst also meeting all the other conditions set out in this note.
- c. Missing markets or prices is another category of market failure. It often arises as a result of coordination failure where an institution or market fails to emerge for a good or service because it cannot find a way to coordinate a fee from the relevant market players. Firm-level subsidy is rarely an appropriate candidate for fixing this type of failure. Support to firms at the market or industry level on the other hand, can be an appropriate intervention. DFID’s role will depend on the underlying source of the coordination problem. If the problem is institutional e.g. allocating legal entitlements, subsidy to firms is unlikely to solve the problem in a sustainable way. If it is a lack of information, where the information has a public good element, there may be a case for public provision or for targeting support in a way that helps the market as a whole to emerge.

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<sup>4</sup> The first mover failure is a special case of this where the innovation or entry of a firm to a market generates valuable lessons for other firms that it cannot internalise for itself, thereby leading to lower levels of innovation or investment than are desired by the economy as a whole.

<sup>5</sup> An equity case is where an intervention is justified on the basis that it will improve the well-being of those on low incomes. An example would be supporting the development of a local value chain which is expected to significantly impact on the poor.

27. Further guidance on the economic principles can be found in the 2011 Chief Economist’s Office paper, “Principles for Private Sector Subsidy Provision.”<sup>6</sup>

ii) **DFID subsidy should demonstrate additionality**

28. As set out in the HMT Green Book<sup>7</sup> conditions for government intervention, all subsidies should ensure additionality – that the development outcomes would not have been achieved without DFID support or would have been delayed for a sufficiently long period of time that achieving development outcomes sooner justifies the subsidy. The Green Book emphasises the *net* effects of a subsidy – i.e. the positive gains minus what would have happened anyway plus any resulting negative impacts. Without expected net gains, the subsidy will simply result in a matching decrease in private expenditure, known as ‘crowding out’. Subsidising activity that would happen anyway is a waste of public money and should be avoided at all costs, no matter how significant the development impact. The greater the scale of the subsidy, the greater the burden of proof required to show that DFID support is additional – though all projects and programmes should be developed with the principle in mind. DFID’s additionality can be either financial or non-financial:

- a. Financial additionality – this refers to whether our money is really needed. It is necessary to assess: (i) if the firm could source financing from the market without DFID support; and if so, (ii) would it invest in this particular investment? It is important not to conflate these two questions; it should not be assumed that just because a firm can attract additional finance from the market that it would choose to allocate it to a particular investment over and above all other options. Similarly, if the answer is no for both questions, then we should ask why this is the case to understand if a firm-level subsidy is an appropriate solution.

If we offer support to business that is available from the market at affordable rates we will crowd out private sector financiers. This should be avoided as it not only reduces the commercial discipline in this particular investment but is also likely to suppress development of the capital market itself.

Capital markets are continually evolving, meaning the window where it is appropriate for DFID to supply subsidy this year, may not be the same next year. The range of capital market actors is increasingly large and diverse. There is a growth of impact and other investors who are offering finance in new, higher risk, lower risk-adjusted return areas. It is important that we do not restrict development of these markets. We need to continually reassess the readiness of the market to finance investments, and as a default should design exit routes from our investments that allow the market to move in as this frontier shifts.

The dynamic nature of capital markets means the counterfactual for many development results delivered through subsidy to the private sector is that they would have been achieved later – rather than not at all – without public subsidy. In these cases we should be able to demonstrate that achieving the results earlier delivers sufficient value for money, over waiting for the market to deliver them itself. The case for DFID support is likely to be stronger for more frontier investments where the market will take significant time to get there, or for investments that will reach scale quickly.

Assessing whether a firm would invest in an activity is generally harder than assessing if it could source the financing to do so. If a firm thinks it can access free or concessional finance, it may have an incentive to exaggerate its need for the subsidy. There are various ways to test for additionality. It will normally require some analysis of the markets affected by the intervention, including whether any business is already delivering similar outcomes without support. It is important to understand the firm’s incentives and areas of expansion and interrogate the extent to which the outcome is likely to lead to clear commercial gains. Likelihood of commercial gain does not however mean that the firm

<sup>6</sup> EDM: 3212142

<sup>7</sup> The Green Book: appraisal and evaluation in central government, HM Treasury, <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

would definitely invest regardless of the subsidy. Perceptions of risk may prevent it from doing so or there may be investments that offer better returns. Firms are also more likely to under-invest in activities that have public good elements – e.g. open research which others can then access, or activities with clear externalities. Finally, there is a risk throughout of moral hazard: firms are less likely to invest up front in normal market conditions if they believe that, should they hold off, DFID will step in to assist them with a subsidy. There is potential for DFID’s subsidy regime to actually delay development outcomes if the balance and incentives are wrong.

- b. Non-financial additionality – Importantly, there are cases where DFID can add value beyond the provision of finance. We can, for example, help existing investors think through how to increase the development footprint of investments they would make anyway. In these cases it is critical that we can describe precisely what it is that DFID is adding to the investment and why the market cannot provide this. In many cases DFID is likely to be providing both financial and non-financial additionality. Where DFID is only providing non-financial additionality there is a high burden of proof that enhanced development outcomes will be achieved. In these cases DFID’s inputs should be small relative to the overall investment.

**iii) DFID subsidy should deliver sustainable development outcomes**

- 29. Public subsidy to the private sector is intended to support investments with high developmental impact and where long-term commercial sustainability is expected. Subsidies should be time-bound and on-going subsidies should be avoided. We require a clear exit strategy from subsidies and our analysis should mean we are confident of the prospects for the investment to become self-financing over time. We should also be careful of supporting markets or firms that may be short lived due to external threats or substitutes. Without ensuring the above, development outcomes can quickly be eroded once a subsidy ends. Or, if subsidy is extended for a prolonged period it can lead to undesirable changes in firm behaviour and entrench inefficient market distortions and is therefore unlikely to provide good value for money.
- 30. The timeframe over which a subsidy is appropriate will depend on the geography, sector or market of the investment and the constraints to that investment. As a default, subsidy should reduce over time as investments transition to commercial terms.
- 31. Investments delivering public goods or where there are continuing issues of equity to address are an exception that may receive on-going subsidy. Generally, domestic governments (rather than DFID or other agencies) should provide these subsidies. For example, infrastructure projects may often have an on-going subsidy to reduce the cost at the point of use. An assessment of the long-term robustness of this on-going subsidy should be included in our analysis of the investment.

**iv) DFID subsidy should minimise market distortions**

- 32. Our subsidies seek to temporarily incentivise certain investments, to nudge markets towards more socially efficient outcomes. Poorly designed or poorly targeted subsidies can distort markets creating inefficiency. Two factors should be considered:
  - a. Minimum subsidy: A subsidy should be set at a level that is just sufficient to prompt investment. It should be large enough to induce real change in the way desired, but no larger. This in practice is difficult to judge. We also need to be realistic about how prescriptive we can be. Market scoping and analysis of the constraints to investment are required, and competitive bidding processes can be used to allocate subsidy efficiently. When this is not feasible, commercial negotiations are required based on market benchmarks. This principle also includes the need for subsidies to be time-bound as discussed above in “sustainable development outcomes”.

- b. Subsidy targeting: Subsidy should be targeted as closely to the market failure as possible to avoid distortions. Where possible the subsidy should be linked to the achievement of development outcomes. For example, linking subsidy to minimum service quality, outreach targets or to performance.

**v) DFID subsidy should make a credible contribution to achieving systemic market impact**

- 33. Targeting systemic market impact is important to achieve market transformation and avoid locking in inefficient market distortions. There may be a strong developmental case for subsidising an individual firm to overcome the constraints to investment, but such an approach may not be the most effective way of tackling the underlying problem and is likely to limit the scale of our impact. It is critical to understand the constraints to investment and try to tackle these constraints through our intervention. Often a market-wide approach to overcome market failure is preferable to approaching an issue through a single actor.
- 34. For example, if the primary constraint to investment is related to the investment climate or perceived or real political risk then subsidy to an individual firm would allow that investment to go ahead but would not tackle the underlying constraint for other investors, thereby locking in an anti-competitive position and failing to support market transformation. In this case our support would be better targeted at improving the investment climate or supporting political stability. In contrast, where the primary constraint is perceptions of high commercial risk related to first movers then subsidy to a firm can, in some cases, help not only the firm itself, but also the broader market by reducing the perceived commercial risk for subsequent investors.
- 35. Many of the markets DFID works in are very thin, sometimes with no more than one or two players. A balance should be drawn between working with the few players available and avoiding inadvertently supporting their excessive capture of the market. Critically, the design of our support can help to ensure that a market-wide impact is achieved even if this is relatively long-term and requires subsequent complimentary support. For example, ensuring that the products of subsidy to an individual firm, such as an innovation or the interpretation of regulation, are transferrable to other market players. A combination of instruments (e.g. firm subsidy and market capacity building) may often be required to achieve systemic market impact. Where we are seeking to achieve equity or distributional impacts alone, these can, in exceptional cases, be achieved without systemic market impact. However, more often than not we can seek to create replicable approaches even in these cases that can spread across the relevant market.

**vi) DFID subsidy should align incentives with commercial partners**

- 36. The alignment of incentives between commercial and development partners is critical in achieving development outcomes through subsidised commercial projects. The design of a subsidy (covered above in the third condition, “minimise market distortions”) and the way it is delivered (covered below in “instrument choice”) are two important factors. However, many partnerships in development are more complicated than mere financial transactions. Incentives of commercial partners can also be related to factors which are not immediately commercial, such as increasing the future productivity of workers, securing supply chains or improving the reputation of the firm. Partner selection should be considered carefully, particularly the commitment of the commercial partner to achieving an investment’s development outcomes in addition to its commercial outcomes. Governance structures are also critical, particularly those that bind the joint commitment of partners to both commercial and development objectives within the investment.

**5. Risks of private sector partnerships**

37. There are reputational risks associated with subsidising for-profit companies. As both a Whitehall department and a development agency, DFID should ensure the UK political legitimacy and the development legitimacy of both the project and its commercial partner. Strong due diligence of the companies we subsidise (or indeed work with) is essential.
38. DFID has specific guidance on identifying and managing reputational risks when working with business, including a tool to assess corporate engagement risk that complements DFID’s existing due diligence framework<sup>8</sup>. DFID’s due diligence framework guides the assessment of key risks with regards to bodies with which we are considering contractual relationships. It includes guidance on how far into an organisation, its subsidiaries, downstream partners and suppliers our analysis should go based on a proportional evaluation of identified risks. The level of due diligence required will depend on the financing mechanism, but in all cases where there is a formal relationship and a firm receives subsidy, a comprehensive risk assessment is required. Both pre and concurrent due diligence is important for decision-making. DFID is currently reviewing its risk assurance processes to ensure they remain fit-for-purpose.

**5a. Development legitimacy**

39. To ensure development legitimacy and impact, the companies we are subsidising should:
- a. Attain high levels of environmental and social governance including positive interactions with local communities. Businesses have different approaches and it is important to take account of their overall development impact, not just support the front runners in terms of standards. There may be cases with large scale multinationals where we would engage with them at a global level, but would not engage in certain geographies due to specific localised impacts. We need to be careful to consider both the global and local impact of our engagement in any particular project. When operating in fragile and conflict-affected states we should also consider the conflict sensitivity of our subsidy; and,
  - b. Avoid elite capture – DFID’s approach to poverty reduction is grounded in the “golden thread” of open societies and open economies. Where business is captured by elites, it is unlikely that our subsidy will be effective and undermines this broader approach to poverty reduction. It is important that we understand the political economy surrounding the businesses we are partnering with.

**5b. UK Political legitimacy**

40. As a UK government department we should consider the need to be responsive to our political legitimacy as seen from the point of view of UK taxpayers, and the structures in which we are allowed to work. The UK political legitimacy of financing private companies is multi-dimensional and means we should avoid:
- a. Perceived poor corporate citizens – particularly those perceived as acting poorly in the UK, e.g. aggressively avoiding UK tax. When considering support to multinationals, we should also consider favouring those global corporations which opt to report to tax authorities on where they make their profits and pay taxes around the world. The G8 members are drawing up a database to collect this data.
  - b. Perceived poor levels of business conduct – e.g. labour standards. Once the right organisation to deliver a particular development outcome has been identified, the challenge is to decide when to engage with, and build the capacity of, businesses that cannot yet set out a clear description of how they reflect and support our development priorities. The risks of engaging with these businesses are higher, but potentially worthwhile if engagement with DFID not only leads to the achievement of the desired development outcomes but also leads companies to raise their standards in future.

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<sup>8</sup> This work is led by PSD. Draft guidance is currently subject to consultation with relevant DFID departments to consider options for implementation.

- c. Perceived excess profits from an investment – Whilst important for legitimacy, this focus needs to be balanced against the risk of distorting our own incentives to support losers rather than winners. The evidence of organisations like the IFC is that, on average, commercially successful projects deliver greater development outcomes. It is critical for DFID to share in the upside of investments where they may be perceived as making excess profits. It is difficult to identify in advance those investments that will have large upsides. Programme design should systematically consider the option of securing claims on future returns, and assess whether the size of the grant warrants the transaction costs of establishing a share in the upside. Returnable capital instruments could enable DFID to secure the return of its capital. Section 6 discusses instrument choices in more detail. Another option is to retain rights to the intellectual property. This is a common approach in DFID’s supplier contracts. In practice however, firms are likely to resist any conditions that permit DFID to profit from the intellectual property rights of an investment, not least as this would affect the competitive position of the firm and be contrary to the spirit of partnership.
- d. Projects with hard to demonstrate development returns – will be harder to justify within DFID’s remit than those with clearly demonstrable and uncontroversial development impact.

**5c. Financial Risk**

- 41. Partnerships should also be avoided with counterparties who present significant financial risks to DFID or the partnership. A weak counterparty may default financially or operationally on their obligations to a partnership. Due diligence should include an assessment of the counterparty’s financial position and the risk that they will not meet their obligations to the investment. DFID should also be careful to avoid taking on any additional liability or obligation as a result of these partnerships, particularly those that may impose unduly onerous burdens and obligations.

**6. Considerations in structuring subsidies**

**6a. Instrument choice (grant vs. returnable capital)**

- 42. Subsidies can be deployed through a wide range of instruments; including grants, investments (equity, debt, and mezzanine products<sup>9</sup>), guarantees, and technical assistance. In this section we highlight the main factors to consider in determining the appropriate use of these instruments. We focus on financing products but the concepts can be equally applied to technical assistance where cost recovery can be used.
- 43. The instrument choice should be tailored to the constraint to investment that is being overcome. Subsidy should seek to incentivise investment by raising the risk-adjusted rate of return. This can be achieved by return enhancement or risk reduction, but each will create different incentives. It is critical to understand if the constraint to investment is one associated with increased cost, increased risk or a combination of the two.
- 44. In general, a grant is likely to encourage greater risk taking on the part of the firm, whilst a returnable capital instrument is more likely to incentivise a firm to think about long term sustainability. Debt products are effective in addressing high costs. Guarantees and other risk mitigation products are effective where perceptions of commercial risks are high. Mezzanine products and equity products can address both high costs and perceived risks. Guarantees are good at targeting clearly identified risks, whilst equity finance and mezzanine products may be more appropriate in new, frontier markets.
- 45. Where we expect that our support will result in commercially viable investments, there is both a legitimacy and a value for money case for sharing in the potential upside of the investment. This is particularly the case with investments that may deliver “blockbuster” returns. However, where the subsidy required to achieve social benefits is greater than the commercial return to the firm, it will not be willing to repay the subsidy in full. In these cases it may be possible to increase the legitimacy of the aid

<sup>9</sup> Mezzanine products combine both debt and equity components e.g. a loan that can be converted into equity

either by formalising agreements around matching grants and in-kind contributions or by providing a concessional returnable instrument to demonstrate partial repayment; however these arrangements will increase transaction costs.

- 46. Non-grant instruments can lead to significantly higher transaction costs for DFID, both upfront and throughout the life of the investment, as a result of the additional design and management required. Where the size of the subsidy is small, these transaction costs can outweigh the additional value for money to DFID from the financial return. It is important to maintain proportionality in the administrative burden of non-grant instruments; however, there can still be reasons to provide non-grant instruments where these costs are high, including political legitimacy and to enhance commercial discipline in the partner.
- 47. DFID is developing an investment policy to ensure that DFID’s non-fiscal budget is managed effectively. The policy will set out in detail the conditions for the management and use of returnable capital instruments.

**6b. Institutional Structures**

- 48. There are significant institutional competencies that suggest – in general – it is more appropriate to channel subsidy to the private sector through intermediaries who have the appropriate skills and experience.
- 49. Skillsets: Providing subsidy to for-profit firms inevitably requires a degree of commercial acumen. DFID – as other development ministries – has a skillset recruited and developed to assess and make development investments rather than commercial investments. DFID does not currently have sufficient staff with the commercial and investment skills or experience to successfully pick commercial winners in-house. This skillset could be acquired, but this is unlikely within existing remuneration structures. In contrast, a number of development actors, including CDC, already have appropriate skillsets, experience and systems in place to take these sorts of investment decisions<sup>10</sup>.
- 50. Risk management: DFID, as a Whitehall department, faces significant reputational risks associated with individual failures. Each individual project can be viewed by the public as a failure regardless of overall portfolio performance. We therefore cannot run a diversified portfolio in the same way that a commercial actor would, thereby increasing the information requirements and management costs associated with our investments. Intermediaries have the advantage of being able to diversify risk by operating a portfolio of investments. While individual failures can still impact on DFID’s reputation, the impact is reduced and can be more easily cited against the overall performance of the intermediary’s portfolio. This means that arm’s length relationships can be more attractive vehicles, and increasingly so where risks are higher or information is more uncertain.
- 51. There are certain special cases where it may be appropriate to take decisions in-house. The administrative costs of using intermediaries may be too great for small investments and there will also be cases where the impact of DFID’s unique skills is significant<sup>11</sup>.

**7. Legal and ODA Compliance**

- 52. DFID must ensure it adheres to all relevant legal requirements including the International Development Act and EU state aid requirements as well as conditions for ODA eligibility. Through legal advice sought on individual proposals, DFID is building a clear determination of the appropriate limits on its engagement with the private sector. SROs should seek legal guidance as appropriate.

<sup>10</sup> Skillsets may require minor additions/adjustments through new hires (e.g. CDC’s addition of impact investment expertise) but are broadly aligned with existing overall competencies.

<sup>11</sup> There is ongoing work looking specifically at CDC’s role versus DFID’s in providing support to firms. The outcomes will inform DFID’s deployment of its non-fiscal budget.



53. The UK International Development Act (2002) governs how we can spend our budget. Finance and other support can be provided to ‘bodies’ that undertake activity to reduce poverty. Current guidance on the Act suggests that the provision of public subsidy to business is acceptable where the primary purpose of the aid is for economic development and the welfare of recipient countries in line with OECD DAC reporting requirements, and not for commercial objectives.
54. The Act also makes the practice of giving ‘tied aid’ illegal, meaning all UK aid (including any subsidies) must be untied. Untied aid is defined as “Official Development Assistance for which the associated goods and services may be fully and freely procured in substantially all countries”.<sup>12</sup> The DAC is the ultimate arbiter on whether aid is tied, untied or partially tied. DFID (FCPD) provides the returns to DAC reporting on untied aid for which DFID is responsible. There are a number of exceptions for ODA that does not have to be included in the “tied aid” report and this includes technical cooperation and scholarships.
55. For subsidies provided directly to companies to qualify as ODA, DFID must seek a ruling from the DAC on a case-by-case basis. Subsidies which are extended via DFID programmes or via ODA-eligible institutions, qualify automatically as ODA as per DAC guidelines (under the assumption that as part of the broader programme they will meet the DAC criteria). All financial support must meet the DAC’s minimum concessionality requirements. The DAC is currently reviewing the definition of ODA, including the scope to include private sector financing instruments in a modernised definition. Initial outcomes of negotiations are expected by the end of 2014.
56. EU State aid rules are relevant where support from the UK government may distort competition within the EU and there is a potential impact on trade between EU member states (for example if there could be an impact on imports to the EU or the holding company of the beneficiary is an EU one). State aid is defined by the EU as “an advantage in any form whatsoever conferred on a selective basis to undertakings by national public authorities.”<sup>13</sup> The EU Treaty prohibits in principle any form of government assistance for commercial undertakings.
57. EU State aid rules do not apply if the total public assistance received from DFID (or a DFID controlled or funded entity or agent) by an entity is less than Euro 200,000 over 3 years or if DFID is investing on an equal terms to other investors and on a fully commercial basis into an entity. In a worst case scenario, aid has to be reimbursed or the UK must pay damages to other entities harmed. It is wise to consider early whether State aid rules apply. This allows time to work out whether any other exemptions are available, or, if necessary, to seek Commission agreement.<sup>14</sup>
58. The risks of a complaint and of aid being found not compatible are reduced if aid is granted under an open competition or challenge fund, where there is a clear market failure being addressed, and if the principles in this subsidy paper are followed together with documented evidence of compliance. Where there are discretionary subsidies given or market failures are not so clear, then legal advice should be obtained.

**8. Additional resources**

59. This paper provides the over-arching policy framework and principles for public subsidy to the private sector. As we scale up our partnerships with commercial partners we require a more sophisticated and consistent application of these principles. Please contact the Policy Team in Private Sector Department if you require advice on assessing proposals against the conditions in this policy. Contact details are posted on DFID’s Economic Development Themesite

<sup>12</sup> OECD Untied aid <http://stats.oecd.org/glossary/detail.asp?ID=2817>

<sup>13</sup> EU state Aid Overview [http://ec.europa.eu/competition/state\\_aid/overview/index\\_en.html](http://ec.europa.eu/competition/state_aid/overview/index_en.html)

<sup>14</sup> State Aid can be made legal by notifying and obtaining clearance from the Commission who may find aid compatible with the Treaty by balancing the market distortion against the public interest (development).



60. The guidance in this paper is additional to that set out in the DFID Smart Rules and is only intended for programmes that involve subsidies to the private sector. These programmes, as with all programmes, will also need to ensure that they follow the Smart Rules throughout the programme cycle.
61. Detailed guidance and supporting work referenced in this policy framework include:
- i. Guidance on assessing reputational risks when working with business and appropriate integration with DFID’s due diligence framework;<sup>15</sup>
  - ii. Investment policy and smart guide for Investment Capital programmes;
  - iii. DFID Smart Rules for Better Programme Delivery<sup>16</sup>
  - iv. The UK International Development Act (2002)<sup>17</sup>

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<sup>15</sup> <http://insight/corporate/Pages/Due-Diligence-Framework-launched.aspx>

<sup>16</sup> DFID Smart Rules <http://insight/Smart-Rules/Pages/default.aspx>

<sup>17</sup> UK International Development Act (2002): <http://www.legislation.gov.uk/ukpga/2002/1/contents>

Smart Guides have been developed to help build confidence and capability, distilling useful tips and considerations that may help teams think through programme delivery issues and interpret elements of the Smart Rules. However, nothing should be perceived as mandatory.

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This Smart Guide aims to help DFID staff and external partners to better understand what we mean by Value for Money (VfM) and how to maximise it across our work.

The Smart Guide:

- sets out **what DFID means by VfM** in the different areas of our work
- describes some **key principles for understanding VfM** in any context
- outlines some **common VfM misconceptions**
- discusses how to develop suitable **VfM metrics**
- outlines some recommended VfM actions for partners

This guide supplements the [core HM Treasury guidance](#). The [Green Book](#) provides the central government guidance on appraisal and evaluation which teams should also consult when considering VfM.

## What do we mean by Value for Money?

DFID has a duty to those living in extreme poverty and to the UK taxpayer to ensure that we do everything we can to maximise the VfM of our actions. This means **making the best possible use of our resources to maximise our impact on poor people's lives**.

VfM in DFID means that **we maximise the impact of each pound spent to improve poor people's lives**

This means more than just ensuring the benefits of our work outweigh the costs. It means that in everything we do we try to maximise our impact<sup>1</sup> on poor people's lives, given the financial, political and human resources we have available. The Cost-effectiveness of an intervention is the intervention's ultimate impact on poverty reduction, relative to the inputs used and DFID can maximise total impact by ensuring that our actions have the greatest impact per pound possible. Good evidence an intervention is highly cost effective is one the most reliable guide to be confident something is VfM. VfM is a concept that goes far beyond appraising a business case, or reviewing indicators during programme delivery, and should be applied in all that we do.

### ***Maximising VfM applies to all aspects of DFID's work***

At a **strategic level**, we work to improve the impact of all UK ODA and international development finance, to amplify the impact of our and others' aid.

At a **portfolio** level, VfM means we aim to allocate our limited resources to maximise impact by doing the right things, in the right places, and in the right ways. It means working to ensure that portfolios are coherent, capitalise on synergies and that the impact of DFID's total spend may be greater than the sum of its parts. This relates to both the DFID portfolio and to DFID Department/Office portfolios. We have strong corporate oversight to monitor and drive VfM.

At a **programme** level, VfM means we strive to design, procure, manage, and evaluate our interventions to maximise impact, given available resources (***for more detail on delivering VfM at the programme level skip [here](#)***).

At an **administrative** level, VfM means that the ways we work as an organisation maximise the impact that our people and resources can have and that our systems, cultures and behaviours empower staff to deliver more efficiently, whilst ensuring full accountability to the British taxpayer.

Across all these levels, we invest in the **central enablers to delivering VfM**, such as transparency, data, scrutiny, performance based funding mechanisms and learning. A strong evidence base is essential for the provision of more effective development assistance, helping us to maximise VfM, learn lessons for the future and demonstrate impact.

### ***The Results Chain and the 5 Es***

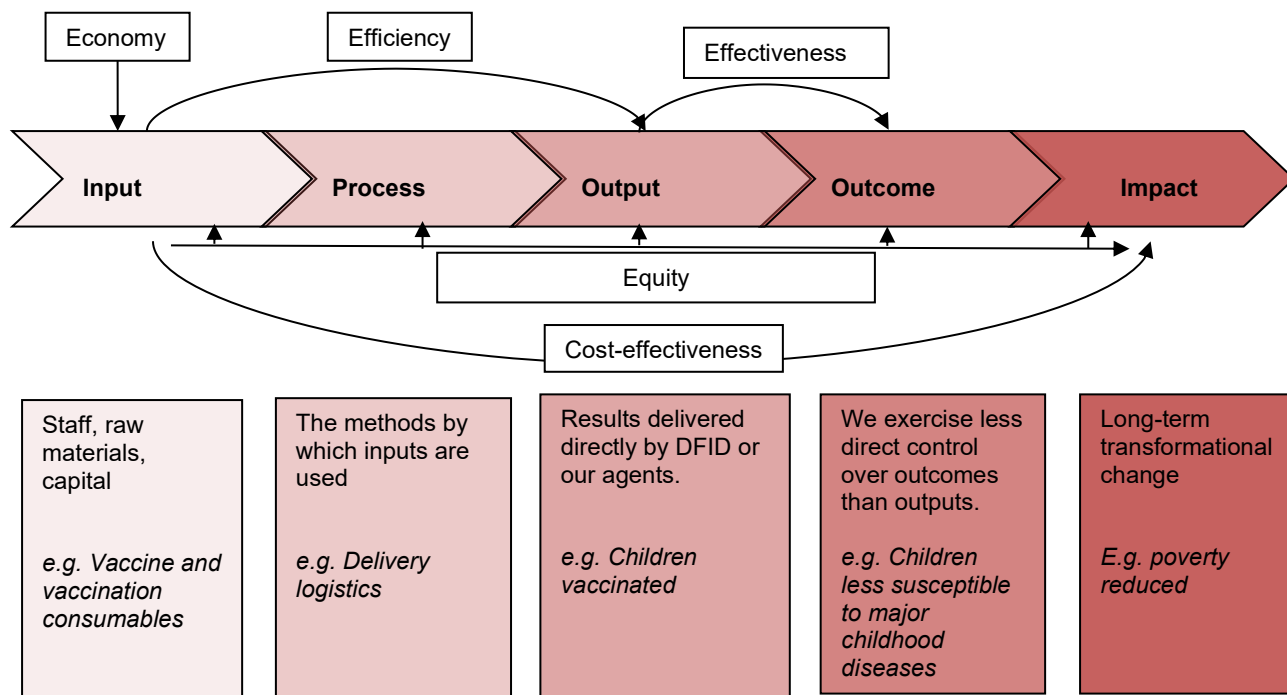
At all these levels, delivering value for money depends on having an accurate understanding of how resources are able to translate into impact. Understanding this consists of identifying the **result chain**, which breaks down the steps between inputs and impact (See "[VfM in the Programme cycle](#)" for more detail on programme level Theories of Change)

**Figure 1** below sets out the results chain, and what we mean by *economy*, *efficiency*, *effectiveness*, *equity* and *cost-effectiveness*. These consider the costs to deliver results at different points on the chain. **Maximising cost-effectiveness maximises overall VfM** by maximising impact on poor people's lives, given the resources spent. Improving the economy, efficiency, effectiveness and equity of actions are intermediate steps which help maximise cost-effectiveness.

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<sup>1</sup> By impact, we mean long-term, transformational change.

**Figure 1 DFID's Results Chain**



#### The '5 Es'

**Economy** - Are we (or our agents) buying inputs of the appropriate quality at the right price?

**Efficiency** - How well are we (or our agents) converting inputs into outputs? (*'Spending well'*)

**Effectiveness** - How well are the outputs produced by an intervention having the intended effect? (*'Spending wisely'*)

**Equity** - How fairly are the benefits distributed? To what extent will we reach marginalised groups? (*'spending fairly'*)

**Cost-effectiveness** - What is the intervention's ultimate impact on poverty reduction, relative to the inputs that we or our agents invest in it?

[Figure 2](#) at the end of this guide sets out diagrammatically what VfM means for DFID.

## The key principles for understanding VfM

Maximising VfM means maximising our impact, given our resources. To do this we must:

### Understand the benefits

Work to understand and increase the **impact** of our actions to poor people's lives:

- Benefits should be understood within the context of where an intervention will be implemented, accounting for relevant contextual factors that could effect the overall impact, including coherence with DFID's portfolios and with programming implemented externally.
- Ensure all relevant consequences and knock-on effects are considered, recognising that some effects may occur at a later date. This should also consider and reflect whether programme benefits will be sustained beyond the period of the intervention.
- Analysis should be supported by available evidence on effectiveness (intervention benefit) and cost-effectiveness (level of benefit per pound). Major differences in cost-effectiveness

can arise within any sector, so good evidence your intervention is cost-effective is central to VfM analysis.

- Risk, and the likelihood of benefits being realised should also be considered and balanced across the DFID portfolio to maximise overall expected impact.
- We should consider whom any benefits accrue to.

We should always aim for impact, but this does not mean we only do the easiest things to measure. The more robust the evidence we have for results, based on good evidence, monitoring and evaluation, and meaningful beneficiary feedback, the more confidently we can scale up high impact interventions and manage or close lower impact interventions, increasing our overall impact on poor people's lives.

## Understand costs

VfM doesn't mean we only do the cheapest things, but that we strike the balance between cost and benefit which uses our total resources as effectively as possible. We should work to understand and reduce the **costs** of our actions:

- This means costs to DFID including financial, political, and human resources- costs may not always carry an obvious price tag.
- It means understanding potential costs to beneficiaries (including time or effort commitments for engaging in the programme – 'free' support is rarely costless).
- All relevant direct and indirect costs are captured, including costs to other partners and recognising that there may be future costs.
- All relevant non-financial costs or knock-on effects have been considered.
- The risks of real cost changes within the supply chain, due to factors such as exchange rate fluctuations or security, should be considered and whether these may impact VfM through budget pressures or through the ability to deliver fully on outcomes.

We should seek to understand our costs and ways to drive ourselves, our partners, and our contractors to deliver more for each pound we spend. We should remember that economies of scale<sup>2</sup> can be an effective way to reduce costs and increase the VfM of what we do.

## Consider the counterfactual

Consider the benefits and costs of our work relative to what we expect would happen if we did not implement a new programme or make changes to an existing programme – the **counterfactual**. This includes consideration of what other donors, NGOs and governments might do if DFID chose not to intervene and of any coping strategies the poor would use to sustain their livelihoods. Understanding what would happen if the intervention under consideration were not to be implemented helps pin down its value added. This counterfactual is often referred to as the 'Do Nothing' option; this does not mean that nothing will be done, still less that nothing will happen, but means continuing without DFID making any changes. Thinking about this helps identify the changes we expect to see as a result of the intervention.

## Assess our actions against credible alternatives

Whether there are other, better ways to deliver the same intended result, or to deliver the results with lower costs, should be considered. **Alternatives** could include different programme designs, as well as alternative delivery channels like use of CMPs or Multilaterals. Try not to include improbable alternatives ("straw men") but rather think through sensible alternative approaches. When comparing

<sup>2</sup> Economies of scale are when organisations have lower costs per unit of a good or service because they operate on a larger scale.

options it may be necessary to apply discounting to compare costs and benefits, if the costs and benefits of options accrue over different timeframes. More guidance on discounting is available in the [HM Treasury Green Book](#).

### Consider opportunity cost

It is important to assess our actions **strategically** and consider the **opportunity cost** - with the same resources, could we deliver equivalent or greater impact on poverty elsewhere, or if we were to target different results?

Drawing on learning, evidence and experience from other parts of the department can help ensure VfM has been delivered. It is not possible to show that every action we take achieves more impact per pound than any other possible alternative, however using the evidence available on what does and doesn't work within a sector can be a good starting point for selecting cost-effective actions.

For more detail on what these principles mean at the programme level, see "[VfM at the Programme Level](#)" later in this guide.

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## Common VfM misconceptions

**The VfM balance: VfM does not only change when costs change.** VfM is a balance between costs and benefits, and improves when the balance shifts away from costs, and towards benefits. Note that cost reductions could be bad for VfM if the lost output or impact outweighs the cost saving. Cost rises might be good VfM if the corresponding extra benefits outweigh the extra costs. Additionally, VfM can change even when budgets don't- if there are changes to benefits or if there are other costs incurred which are not captured within the budget.

**Delivery Risk: VfM does not necessarily mean low risk.** Maximising the total development impact of DFID's work will mean a balanced portfolio of programmes, with high-risk but potentially high-impact activities balanced by lower risk programming with more dependable development impact. The core principle of risk management is to deliver our business objectives and in doing so maximise value for money. And to do that our decisions should be informed so we understand the risk upfront.

**Flexibility: VfM does not mean perfectly predicting costs and benefits before we begin work.** Because that's impossible. Uncertainty is simply a fact of the world and why evidence and analysis matters. Contexts may change during programme implementation, in which case delivery plans and even objectives may need to be updated in response to needs. We may also have an imperfect understanding of the conflict-affected and fragile places at programme inception and interventions in these environments often must adapt to deliver development impact, as we learn what works and what does not through doing. That requires practical monitoring mechanisms to provide information to make decisions and sufficiently flexible management arrangements to implement those decisions. Delivering VfM requires ongoing validation of results, reassessment and adaptation, as we manage our programmes to maximise impact.

**Understanding reductions in VfM: VfM does not mean that decisions which result in lower VfM than original estimates were 'bad' decisions.** Contexts may change. Delivering good VfM



means considering the costs and benefits of the different options that are possible at the time and selecting the action with the best VfM, from those options. It is important to understand how VfM is changing and, where appropriate, reassess if the programme still represents VfM.

**Speed:** VfM does not always mean slower procurement to achieve lower prices. The expected benefit of an intervention can change dramatically with the time period it is implemented over. In humanitarian crises or other very time-sensitive situations, the benefits of intervening rapidly can far outweigh the additional costs of procuring and mobilising rapidly. This does not mean that minimising costs and maximising benefits are not centrally important in these situations, but it does mean that the opportunity cost of time is much greater than in other development contexts.

**Equity:** DFID's approach to VfM does not mean we should always maximise number of beneficiaries and ignore difficult to reach populations. But it does mean we should make informed choices. There is often a trade-off between reaching a larger number of people with a programme and improving outcomes for people who are relatively disadvantaged. DFID's approach to VfM recognises equity as a relevant objective for all programming and effects on equity should be viewed alongside programme objectives, and any trade-offs considered.

**Acute vs long-term needs:** VfM does not mean we should only do things that have immediate benefit. DFID faces very difficult decisions, for example, in deciding on how much of our resource we devote to humanitarian protection of those in most extreme and acute need, against how much which we devote to longer-term sustainable improvements in opportunities for those in deep poverty. These decisions are informed by our ability to have impact in different contexts, given our resources – in other words, the value for money of the options available to us.

**Assessments:** A VfM assessment does not have to be perfect to be useful. The Value for Money being delivered by teams and projects changes constantly and is impacted by every decision that is made. Thinking through how impact per pound might be assessed is important because what gets measured gets managed. Imperfection is a given and assessment based on evidence and analysis is a guide. Metrics will never fully capture true value for money, but they can inform decisions and changes over time can indicate if things are getting better or worse. Our approach to VfM does not mean that DFID should avoid projects where benefits are harder to capture or longer-term, if these projects deliver good value in practice.

**Relevance:** VfM is not something that applies only to programme design; it should drive decision making and management throughout the programme cycle and in relation to our strategic, portfolio and administrative activities.

## VfM at the Programme Level

### *The Theory of Change*

Our programmes often operate in uncertain and challenging environments over a number of years. It is difficult to predict development impact with certainty at design stage. Given this uncertainty, each intervention should have a theory of change, which describes **how change is assumed to come about through intervention in a prevailing situation**.

The theory is usually laid out in a diagram showing the connections between interventions and outcomes – elaborating on **results chains (See Figure 1)** to spell out the steps in the causal pathway. It also makes clear that these causal pathways rest on a set of **assumptions**. And these

assumptions have varying degrees of evidence to support them. It makes all three things explicit: **causal pathways**, **assumptions**, and the **evidence** that underpins them. In some cases, a theory of change can draw heavily on evidence of existing pathways for change that are effective in a given context. In other cases, the evidence base may be more limited. Weak evidence does not mean we should not go ahead, but it will influence how the programme is designed and managed.

Creating a Theory of Change is beneficial because it:

- 1) Provides a framework to **think logically through the assumed change pathways** of an intervention, or design an intervention based on the current change pathways in a certain environment. It also helps identify the most important steps to focus on and manage – those which have either the greatest importance for results or carry the greatest risk or uncertainty.
- 2) Prompts you to weigh the evidence behind each assumption of change, highlighting:
  - I. **Evidence gaps** to be aware of.
  - II. Areas of weak evidence that need to be **monitored** and maybe **evaluated**
 These are areas to specifically keep in mind in annual reviews.
- 3) Helps to identify **potential blockages** or **risky pathways** that need to be managed, the potential impact of those risks, and alternative change pathways that could act as a contingency plan.
- 4) Helps to identify **opportunities** - other partners/events/circumstances that contribute to an intended outcome, which could be strengthened rather than putting a new intervention in place, therefore offering better VfM.
- 5) Forms the basis of a **results framework**, often in the form of a logframe - helping to identify SMART<sup>3</sup> outputs, outcomes, and impacts, in an open and transparent way. It lays the foundation for annual reviews and assessing programme performance, which are key parts of the programme cycle.

A Theory of Change approach should be used in **design**, **risk assessment**, and to inform the **monitoring and evaluation** framework. Importantly, Theories of Change need to be periodically tested and if necessary revised, for example as new information comes to light. A well thought out theory of change forms the basis for a strong monitoring and evaluation approach, which **drives VfM by enabling** us to understand whether our projects are delivering the results we expect and, in some cases, by contributing to the global evidence base.

## ***Principles - delivering VfM through the programme cycle***

Maximising VfM in DFID's programmes means that we design, procure, deliver, and close our interventions to maximise impact, given available resources. The text below summarises best practice in achieving VfM at each stage of the programme cycle.

At the **design stage**, achieving VfM means consideration is given in the concept note and means a robust business case. A robust business case helps programme designers identify interventions which fit within a coherent portfolio, and uses evidence, experience and external engagement with the people we are aiming to serve to design options, management and procurement arrangements that maximise the impact of each pound spent. Making clear our logic and assumptions through a testable theory of change should pave the way for effective procurement, programme management

<sup>3</sup> Specific, Measurable, Agreed-upon, Realistic, Time-bound



and evaluation. Programmes should consider the 5Es and how well resources translate into benefit at each stage. The expected VfM of a programme can be further improved by risk assessment and mitigation strategies, early market testing, beneficiary feedback and, where appropriate, pilot phases. It also means developing plans for monitoring outputs, costs and VfM metrics throughout delivery so changes to VfM can be identified, understood and managed.

At the **procurement/mobilisation stage**, achieving VfM means minimising costs, given the quality and quantity of outputs required through robust and commercially savvy procurement; ensuring an appropriate balance of risk between DFID and our suppliers or delivery partners; ensuring that suppliers or delivery partners' incentives are aligned with maximising development impact during programme delivery, and ensuring that the contract or agreement allows effective and suitably adaptive programme and contract management during delivery and at closure.

At the **delivery stage**, achieving VfM means a delivery plan, developed and maintained by the programme's SRO, allowing delivery partners and DFID's SRO to manage and adapt the programme to maintain or increase impact through delivery. Best practice would see managers efficiently monitor output and outcome indicators which accurately track the programme's progress towards delivering impact, managing identified risk and validating results through engagement with key stakeholders. Best practice would also see managers monitor project costs and VfM indicators. These indicators all help managers track and understand any changes to VfM, and to respond promptly and proportionately, adapting the programme so that it remains VfM in light of unforeseen circumstances. Equally, VfM is delivered where programme managers are able to act on opportunities to increase the impact of a programme, as new evidence and information comes to light, such as during annual reviews, or on opportunities to deliver the quantity and quality of outputs for less, if changes to circumstance should allow.

Achieving VfM at the **closure stage** may mean closing a programme early, if its expected additional impact no longer justifies the expected additional costs. Equally, teams extend programmes where the expected impact of a programme extension significantly exceeds expected extension costs, and where an extension has good strategic fit with DFID and other donor activity. Sustainability of outcomes at closure is important and should be considered during project design and delivery.

**Learning, evolving and adapting** should occur at all stages of programme design and delivery. Achieving VfM means learning from, not hiding, failure. It means proportionate monitoring and evaluation, including through annual reviews, which allows problems to be identified and programmes to be adapted promptly to maintain or enhance outcomes. It also means effective, proportionate knowledge management to allow lessons learned – either through formal knowledge or informal 'know how' - from a programme to be used to improve future programme design.

## **VfM Metrics**

In addition to the logframe indicators, VfM metrics can play a valuable role in programme management – helping us to monitor the impact than any changes on costs or outcomes are having on the VfM of our programming and respond appropriately. VfM metrics can help complement the output scores tracked during the Annual Review.

Metrics are a means, not an end; the objective of a metric is driving performance improvement. The aim is to be clear and transparent about the VfM of a project at the start, and to manage and improve that value through understanding and monitoring the main cost and impact drivers, ensuring the programme remains optimal use of DFID's resources. If VfM indicators are improving over time, a programme is adding value, not just demonstrating it.

### What is a VfM metric?

A **metric** is a measure: a value quantified against a benchmark at a point in time. A **VfM metric** can measure how much we get per pound spent, for instance:

- Input unit costs measure **economy** of key programme cost drivers; e.g. cost per kg of grain, or litre of fuel.
- Output unit costs measure **efficiency**; the costs of achieving one output, e.g. the cost of a girl graduating, or getting an unemployed person into work.
- Outcome unit costs measure the cost of achieving an outcome, e.g. cost per death averted in health interventions.
- Cost-Benefit and Cost-Effectiveness Analyses measure **cost effectiveness** of alternative interventions.
- **Equity** can be captured by disaggregating output or outcome indicators across population groupings; using specific targets for vulnerable groups; and/or conducting distributional analysis of outcomes, e.g. over wealth quintiles.
- **Proxy metrics** are also sometimes used in programmes or portfolios i.e. metrics that drive VfM, but don't directly link a cost to a result (e.g. leverage ratio of private sector finance, business failure rate in a given subsector of the economy).

Metrics to assess VfM for **adaptive programmes** may look slightly different. For instance efficiency metrics for a programme with built in testing and experimentation will also measure the speed and cost with which the programme generates learning that informs programming decisions. Effectiveness metrics may assess how this process supports the programme to contribute to outcome level change.

### Principles for VfM metrics

VfM metrics should be developed during project design; however, where projects are already in implementation DFID will work alongside partners to develop suitable metrics. It is therefore important for partners to understand the general principles that we would expect good VfM metrics to follow. Most of these are dependent or overlap.

- **Have a clear methodology:** The metric should be clearly defined, to enable both consistent collection of data and calculation of metric value.
- **Reflect main objectives and cost drivers:** Economy measures should reflect the key cost drivers and the output or outcomes that matter most for a programme, in order to assess cost-effectiveness and best indicate true value for money. This involves understanding which aspects of total cost contribute the most to key outputs or outcomes being delivered and which of those are likely to change in a way that significantly affects the total cost of delivering the outcome.
- **Fewer and better:** It must be possible to assess a metric in practice. It is tempting to think of a long list of things that might, hypothetically, be metrics when designing a business case, but these are longer than what can be monitored in practice. A test of a useful metric is whether you have a baseline or know where to get the evidence: otherwise they are likely to remain purely hypothetical and cannot support a programme to monitor value over time.
- **Remember economies of scale:** Economies of scale can be a critical element in VfM as they may enable more poor people to be helped. Doing fewer things, at greater scale, can often give better VfM than doing many things in an attempt to address multiple problems. Doing things at scale can allow work to be transformative. VfM is a balance of costs and benefits, so it is always necessary to think through the costs and consequences associated with different options and weigh them up.

- **Think nationally:** Outside of a rigorous evaluation it's impossible to make attribution. We should recognise all the possible determinants of development outcomes and think about whether things are getting better overall. Having data on national trends – e.g. what has been happening in health or education in the last 5 or 10 years – is useful contextual information for thinking about what happens during a programme.
- **Use benchmarking:** On their own, VfM metrics do not answer the question 'how well are we doing?' A metric should have an appropriate benchmark against which performance can be assessed, to make a judgement on whether VfM is being realised or not. If well designed, a programme's VfM Metrics can be benchmarked against their estimated values from the project design stage to indicate how the value of a programme is performing over time, against expectations. Our aim is to make things better so evidence of improving metrics is important. Benchmarks can also come from other programmes or similar programmes in other countries to assess a programme's VfM as compared to other programming. Care should be taken in drawing comparisons: differences in country contexts often account for big differences in costs; the average cost of a past intervention does not tell you the marginal cost of achieving the next output; unit costs are rarely known with certainty in advance; and interventions can complement each other. The key is to examine the underlying data to understand the extent to which costs are comparable. Ultimately the valuable insights on VfM are drawn through trying to understand the differences and seeking to explain them.
- **Keep things simple to interpret:** Changes to the metric value should clearly represent an improvement or deterioration of VfM, or simple explanation should be feasible to explain what a metric is showing. It should easily guide decisions on what steps can be taken to improve value for money where it is not being realised. Narrative may be helpful to explain and contextualise changes in VfM metrics.
- **Be proportionate:** Whatever metrics are used, the data required for them should not be excessively costly to gather and the metric should not be unreasonably resource intensive to calculate. The benefits from collecting data must outweigh their own costs.

## Recommended VFM Actions for Partners

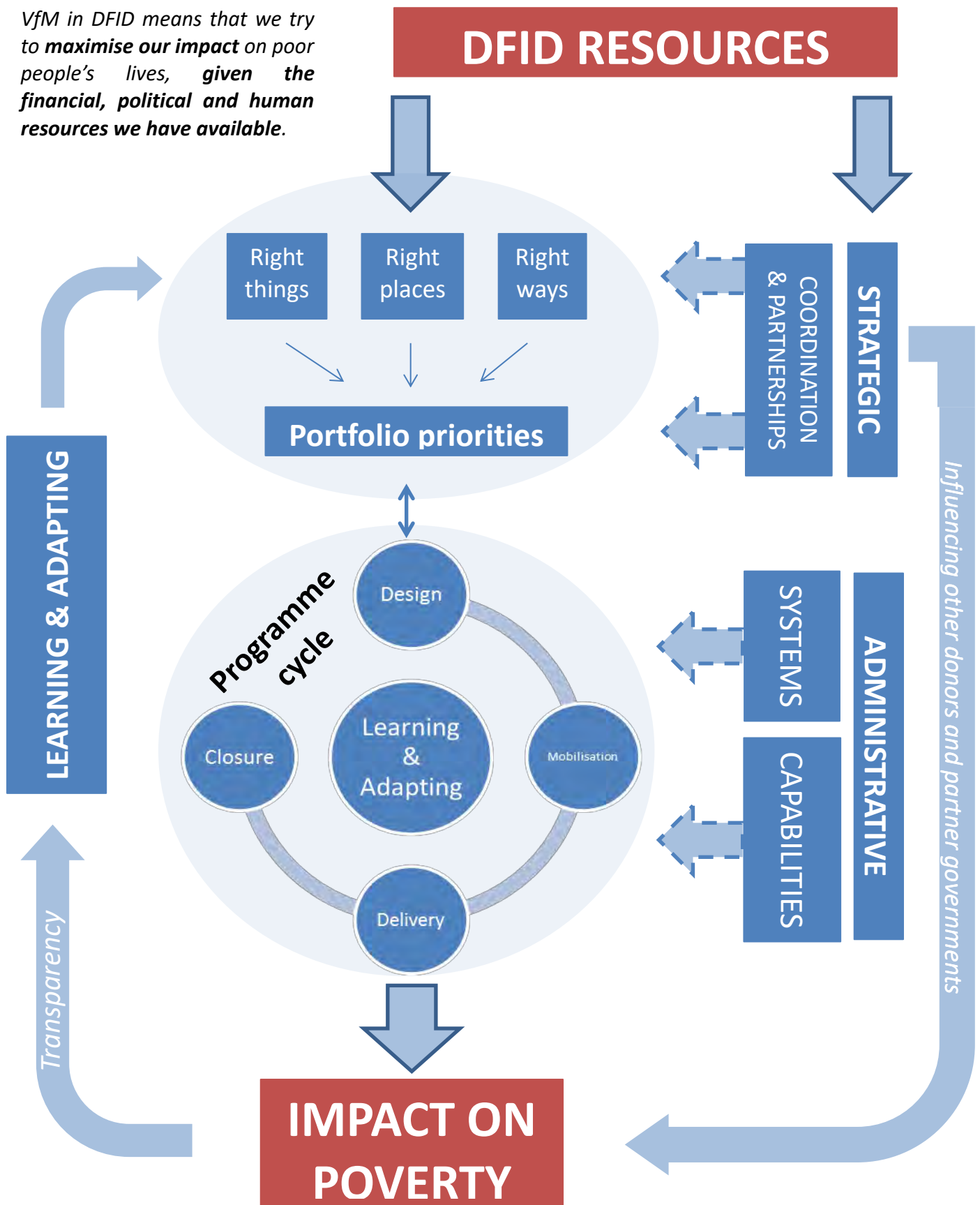
This section set outs the actions that we recommend that partners take in order to ensure VFM in every intervention. Details on how to take these actions forward should be discussed and agreed with the relevant team/office in DFID.

- **Logframe & VFM metrics:** All interventions need a robust results framework. Many interventions opt to follow a standard logframe format with SMART output, outcome and impact indicators and targets while other approaches may be more suitable for flexible and adaptive programmes. To strengthen VfM, the results framework should be agreed between DFID and partners/suppliers at the start of the project and should reflect the theory of change for the intervention. In case VFM metrics/indicators are to be captured outside of the logframe, details on data collection and reporting should also be agreed between DFID and partners. DFID has committed to collecting beneficiary data disaggregated by sex, age, disability and geography (to find out more, please refer to [DFID's Inclusive Data Charter Action Plan](#)) – partners/suppliers should discuss with DFID how they can support us in this commitment.

- **Understanding VFM:** Partners/suppliers are recommended to ensure that all of their staff understand the concept of VFM and how to apply it on a day-to-day basis.
- **Reporting on VFM:** Partner/supplier reports should include the information agreed with the programme team in a funding agreement. It is recommended that reports use the 5Es framework to communicate VfM issues and analysis.
- **Input costs and their drivers:** As part of the effort to better understand the costs involved in delivering our programmes, partners/suppliers should be aware of their key input costs and cost drivers, including tracking these over time and, where possible, benchmarking input costs against relevant comparators (e.g. other projects, countries or market rates).

**Figure 2: How DFID systems aim to maximise VfM**

*VfM in DFID means that we try to **maximise our impact** on poor people's lives, **given the financial, political and human resources we have available.***



# About this guidance

This branding guidance is for staff in FCDO and UK government departments other than FCDO that spend Official Development Assistance (ODA) money. It is also relevant for staff in implementing partner organisations.

Branding is a requirement under FCDO's Smart Rules for programme management (Smart Rule 14) and, for FCDO's implementing partners, it is a condition of accepting funding from the UK government. Key points are highlighted in the checklists on page 3.

UK government departments other than FCDO that spend ODA money should consult Section 7 for information on using the UK aid logo on their ODA funded programmes. They should also consider the actions in the checklists on page 3 and are strongly encouraged to apply these wherever possible alongside their department's own rules for programme delivery.

## Smart Rule 14

Smart Rule 14: The SRO must ensure that all programmes follow FCDO's UK aid branding guidance – including having a completed visibility statement in place - and that digital elements of programmes (e.g. text messaging, cash transfers with a digital angle, websites and databases), are reviewed at the earliest possible stage in the process by FCDO's Digital Service Team.

# Branding checklists

## Checklist for SROs (Senior Responsible Owners)

FCDO SRO's must:

- ! Read this branding guidance in full and apply it to your programmes, in accordance with Smart Rule 14
- ! Ensure there is a finalised visibility statement in place for each programme you are responsible for, saved with the programme documentation
- ! Ensure exceptions to recognising UK aid have written record of approval from the Head of Department of the team in whose portfolio the programme sits
- ! Review past programme branding decisions in light of this guidance – are these still relevant or there any additional opportunities to increase UK aid visibility?
- ! Agree with implementing partners how and when they will provide updates to show that agreed branding is in place e.g. at programme review meetings, programme visits, or by asking implementing partners to provide photos
- ! Share any good examples of photographs showing UK aid branding in situ with [corporatecommunications@FCDO.gov.uk](mailto:corporatecommunications@FCDO.gov.uk)

## Checklist for Implementing Partners

Implementing Partners must:

- ! Read the full branding guidance and ensure that your programme complies – if you have questions on applying the guidance, discuss these with your FCDO SRO
- ! Work with your FCDO SRO to ensure a completed visibility statement is in place for your programme, setting out how and where you will recognise funding from the UK government
- ! Discuss and agree with your FCDO SRO at the earliest opportunity any circumstances requiring an exception from recognising funding
- ! Ensure your programme colleagues are aware of the commitment to brand as set out in the visibility statement, and use the logo wherever appropriate, observing this guidance on correct usage
- ! Provide evidence of branding to your FCDO SRO, e.g. at programme review meetings, programme visits, or by supplying photos from the field
- ! Ensure that your supply chain and any sub-contractors bidding for work know that the funding for the work is from the UK government, and that they are also committed to acknowledging this on the work they deliver



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# 1. Introduction

Effective branding helps build the UK's reputation as a global leader in international development, communicates to beneficiaries and wider audiences where aid comes from, and recognises the role that British taxpayers play in international development efforts. The main way we communicate this is through use of the UK aid logo.

This branding guidance is for FCDO staff working on ODA programmes and FCDO ODA funded implementing partners. Branding is part of the Smart Rules for FCDO programme management (Smart Rule 14) and FCDO Senior Responsible Owners (SROs) are responsible for making sure it is applied to their programmes.

Staff from other UK government departments that spend Official Development Assistance (ODA) money should also consult this guidance if permission has been granted by FCDO to use UK aid branding on their programmes (refer to Section 7 for further information).

SROs should share this guidance with implementing partners at the earliest opportunity, so they can familiarise themselves with the guidance, be clear about their own responsibilities with respect to UK aid branding and visibility, and make sure they are compliant.



Shelter provided by UK aid for people displaced by Daesh in Dalal, Iraq, July 2015. Picture: Florian Serieux / Action Against Hunger.



A UK aid funded humanitarian flight arriving in Cebu in the Philippines, following Typhoon Haiyan. Picture: Simon Davis / FCDO.

## 2. FCDO's logos



Foreign, Commonwealth  
& Development Office



### The FCDO corporate logo

This represents who we are as an organization. The FCDO leads the UK's work internationally, promoting the UK overseas, defending our security, projecting our values, reducing poverty and tackling global challenges. This logo uses the same style as all other UK government departments.

### The UK aid logo

This is used to show where the UK development budget is spent. It should be used on ODA funded programme assets, communications and events to recognise the contribution of the UK government and UK taxpayers.

### How to get the UK aid logo

To get the UK aid logo files, send an email to [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk). There is a separate process for staff from UK government departments other than FCDO wishing to use the logo - refer to section 7.

If you are an ODA funded implementing partner, please include in your email: your name, the name of your organization, the name of a contact person in FCDO and the programme your request relates to, a sentence to explain why the logo is required and where it will appear.

If you are from FCDO, please include in your email: your name, the name of your team / department in FCDO, the name of the implementing partner and the programme your request relates to, a sentence to explain why the logo is

required and where it will appear.

Rules on how to use the UK aid logo artwork are in Annex B.

### Creation of new logos

FCDO staff and implementing partners must not create or commission any new

logos, programme identities or other branding outside of the UK aid and FCDO logos, whether to represent their department, team or programmes. This rule applies also to the creation of logos for FCDO internal purposes e.g. for a specific work stream or project. If there is a perceived need for a new logo, either for external or internal programmes, FCDO staff must contact [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk) first to discuss whether there is an exceptional case.

This guidance predominantly covers use of the UK aid logo, which is the logo most relevant to ODA funded implementing partners. Brief information on use of the FCDO corporate logo is provided in Section 9 of this guidance. Before using the FCDO corporate logo, contact [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk) as permission must be sought for each use.

### 3. Recognising UK aid: roles and responsibilities

**Recognising UK aid is not optional - it is a requirement under FCDO's Smart Rules for ODA programme management (Smart Rule 14) and, for ODA funded implementing partners, it is a condition of accepting funding from the UK government.**

FCDO SROs and programme managers in other ODA spending departments must ensure implementing partners use the UK aid logo and acknowledge funding from the UK government when communicating about their programme work. This can take a variety of forms, fully detailed in Section 4, but includes branding on programme assets, communications that are part of the programme (operational) and communications about the programme (proactive) such as mentioning UK aid in interviews and press releases.

The primary global brand for all ODA funded programmes is UK aid, except for in transition countries where specific considerations apply. FCDO SROs in transition countries must first seek advice on use of the logo for their programme(s) from their Head of Office before contacting [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk) for further guidance.

Implementing partners must use the UK aid logo on ODA funded programmes to be transparent and acknowledge that they are funded by UK taxpayers. Typically this will be wherever the partner's own logo and that of any other donors is displayed (see Section 4 for further information how to acknowledge UK aid). See page 3 for a full checklist of SRO and implementing partner responsibilities.



Humanitarian response work for people affected by Typhoon Haiyan / Yolanda in the Philippines, led by the International Organisation for Migration. Picture: Henry Donati / FCDO

## Visibility statements

A UK aid visibility statement must be completed for all FCDO ODA funded programmes at the time of signing the formal funding arrangement. The visibility statement sets out how organisations will acknowledge funding from the UK government on programmes, in written materials and verbal statements, and through use of the UK aid logo on programme assets.

ODA spending department other than FCDO who have been permitted to use the UK aid logo must document agreements made with implementing partners, and are strongly encouraged to use the visibility statement as a template to do so. See Section 7 for advice on working with implementing partners to ensure UK aid visibility and appropriate use of the logo.

Visibility statements are a vital part of recognising UK aid, which:

- ! ensure that implementing partners are clear on their branding responsibilities from the outset of the programme
- ! enable SROs to answer questions and provide information about branding on their programmes as required e.g. in advance of a ministerial visit
- ! empower SROs in their conversations with implementing partners about their branding responsibilities throughout the lifetime of the programme

The requirement to complete a visibility statement comes under Smart Rule 14 and it is the responsibility of FCDO SROs to make sure that this is completed with implementing partners at the programme set up stage. The completed visibility statement should be saved alongside other programme documentation for future reference.

Visibility statements must include details of any exceptions to using the UK aid logo and the rationale for this (see Section 5 for further detail on branding exceptions).

Even where the exception applies to the whole programme a visibility statement must still be completed to this effect. This will ensure that there is a record of this having been discussed and agreed with the implementing partner. In all cases, exceptions must be approved by the Head of Department of the team in whose portfolio the programme sits.

A record of this approval, e.g. an email, and the completed visibility statement detailing the exception should be saved together.

See Section 6 for further guidance on multilateral and core funded programmes.

FCDO SROs can find the visibility statement template on the intranet along with the other Smart Rules documents and templates, and in Annex A of this document.

A staff member with the appropriate authority within the implementing partner should complete and sign this form as part of their funding arrangement with FCDO.

For any programmes where a visibility statement is not in place, the programme SRO should now ensure this is completed.

Examples of completed versions are available on request from [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk).

# 4. Where UK aid brand should appear

Examples of where the UK aid logo and/or written and verbal statements should be used to acknowledge UK support include but are not limited to:

## Programme assets

- ! infrastructure (e.g. bridges, buildings, roads, wells, pumps)
- ! educational materials (e.g. public health leaflets)
- ! shipments and goods (e.g. blankets, tents, tarpaulins, jerry cans) as part of humanitarian responses
- ! building signage (e.g. on health centres, distribution points)
- ! packaging of smaller items for distribution (e.g. malaria nets, hygiene kits and medical supplies) where possible and appropriate on these items
- ! staff clothing, but only where relevant to successful project delivery,

such as uniforms for community outreach staff. During emergency humanitarian relief operations, FCDO staff should be the only personnel wearing UK aid branded clothing, to avoid confusion on the ground

- ! other materials where donors and other sources of funding are recognised

## Communications and events associated with the programme or partnership

- ! publications (e.g. annual reports, research reports)
- ! banners, posters or backdrops for interviews or media events
- ! media relations activity (e.g. press releases, briefings, presentations, in interviews)
- ! websites (e.g. on home page or a page listing donors)
- ! social media content
- ! video content
- ! speeches and lectures
- ! on tenders for subcontractors/sub-grantee

Visual examples of the UK aid logo in use appear in Annex C.

## Verbal / written acknowledgement of UK aid

Branding is not limited to the use of the UK aid logo. ODA funded implementing partners should also acknowledge funding from the UK government in any interviews, press releases, public statements, on social media and in all other public communication.

ODA funded implementing partners must, as a minimum include the following statement in communications activities such as those listed above: 'this project was funded with UK aid from the UK government' or 'this project was funded with UK aid from the British people' or some appropriate variation agreed with the programme SRO.

The UK government, rather than FCDO or other UK government department, should be credited as the source of funding within the text of a document.

The following disclaimer can be used: 'This material has been funded by UK aid from the UK government; however the views expressed do not necessarily reflect the UK government's official policies.'

## Logo translation

The UK aid logo is available in English and Arabic. Translation of the logo into other languages may be permissible following discussion with Corporate Communications - please contact [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk) for further guidance.



# 5. Where UK aid brand should not appear

The default position is that ODA funded implementing partners should always use the UK aid logo to highlight UK government funding in line with the guidance above. However, in deciding where and how UK funding is recognised, consideration should be given to the safety, security and dignity of beneficiaries and staff. Implementing partners must agree exceptions with FCDO SROs. Exceptions (for entire programmes or aspects of them) must then be approved by the Head of Department of the team in whose portfolio the programme in question sits.

These exceptions may be relevant to any ODA funded programme. ODA spending departments other than FCDO must consider them when seeking permission to use UK aid branding on their programmes, and detail any exceptions on their request form (see Section 7 for further information).

An exception to branding a programme or aspects of a programme may be approved where:

- !it may cause loss of individual or organisational human dignity– for example personal goods, individuals' homes and businesses
- !visual or verbal identification of UK support in country may endanger the lives, safety and security of beneficiaries and staff, and threaten the safe and effective delivery of the project or humanitarian assistance
- !it obstructs, humanitarian operations. For example, the delivery of humanitarian aid supplies should never be slowed down for a branding activity
- !visibility of funding towards a

specific programme or organisation could undermine the independence or credibility of the programme or organisation. For example, programmes supporting civil society organisations lobbying the local government to increase transparency; programmes in which the final delivery partner in the chain (for example, with multilateral development banks) is a partner government

- !the number of donors is too large for co-branding to be practical, and none of the donors are being recognised individually. In such cases, branding with UK aid may risk being misrepresentative

**Generally, the following items should not be branded and no exception need be sought:**

- ! every day stationery used by implementing partners
  - ! business cards
  - ! an organisation's own office signage and office equipment including computers
  - ! vehicles not exclusively used for delivering UK-funded projects
  - ! staff clothing (unless by prior agreement for project-specific materials)
  - ! small, personal goods (for example, toothbrushes, razors)
  - ! school books/bags
  - ! clothing for beneficiaries
- ODA funded implementing partners with queries about items that do not appear here should speak to the relevant FCDO SRO or contact at another government department in the first instance for advice and agree what is appropriate.

## 6. Co-branding with other organisations

While for some programmes, the number of donors makes it impractical to acknowledge them all, generally programmes should be co-branded. Where there are multiple donors all contributing similar amounts to a programme, UK aid should be given recognition in line with that given to other donors. This includes use of the UK aid logo alongside other donor logos and implementing partner logos, and equal acknowledgement in any public statements or other communications.

FCDO will not accept instances in which acknowledgement of UK government funding and UK aid branding is less than that of other co-donors contributing similar amounts.

If the UK government is the main donor and contributes a significantly larger amount than other donor organisations, this should be duly recognised by the partner where feasible.

For example, by citing UK aid from the UK government as the main source of funding in public statements or in other communications / documents.

There may be some programmes where the number of donors is so large that it would be impractical to acknowledge them all through co-branding. In such cases, an exception to using UK aid branding may be agreed, but FCDO will look at each one on its merits.

### Multilateral agencies

FCDO has negotiated specific arrangements with ODA funded multilateral agencies with respect to communications and branding. FCDO SROs should ensure they are familiar with these arrangements and apply this UK aid branding guidance as appropriate in light of the provisions within these arrangements. This includes completing a visibility statement wherever possible. Templates for formalising agreements with UN agencies, development banks

and other multilateral agencies, which include provisions on communications and branding, can be found on the intranet.

### Core funding

It is generally not feasible to apply UK aid branding to core-funded programmes because the contribution

of UK aid is not identifiable from that of other donors and to recognise UK aid alone would misrepresent the UK government's involvement. However FCDO should actively consider if opportunities to acknowledge funding are available, and enact these where appropriate.



Dereige refugee camp, Sudan, co-funded with UK aid Picture: WFP

# 7. Use of the logo by other ODA spending departments

UK government departments other than FCDO may use the UK aid logo on their ODA funded programmes. Permission to do so must first be sought from FCDO via [HMG-UKaidrequest@fcdo.gov.uk](mailto:HMG-UKaidrequest@fcdo.gov.uk).

A form will be sent to you to complete with information about your programme, which will help FCDO assess the benefits and risks of using the UK aid logo on the programme in question. Completed forms should be sent to [HMG-UKaidrequest@fcdo.gov.uk](mailto:HMG-UKaidrequest@fcdo.gov.uk).

Other UK government departments are responsible for ensuring their departmental colleagues and implementing partners adhere to the full UK aid branding guidance, as set out in this document, once approval is given to use the UK aid logo.

Measures to support this include, but are not limited to:

- ! Sharing the UK aid branding guidance with colleagues / implementing partners
- ! Discussing visibility and branding arrangements with implementing partners at the earliest opportunity, documenting agreements made using the visibility statement in Annex A as a template
- ! Including provisions on the use of UK aid branding and visibility in contracts and other formal agreements with partners, where feasible (e.g. when new agreements are being made)
- ! Agreeing with partners to review branding arrangements, and asking partners for evidence (e.g. pictures) of UK aid branding in situ, at regular intervals, such as existing programme review meetings

There is approved artwork and design standards for the UK aid logo that must be adhered to, to ensure brand consistency and integrity. Other UK government departments should only use the approved artwork as provided by FCDO and must not alter the UK aid logo. Artwork will be provided once approval to use UK aid branding has been given.



# 8. Spending on branding and communications activities

Funding from the UK government must not be used by ODA funded implementing partners to pay for communications materials and activities that do not directly support agreed programme outcomes. These include, but are not limited to, branded promotional goods, including:

- pens
- mugs
- bags
- hats /caps/t-shirts (unless part of a uniform that necessarily identifies those delivering the programme)
- communications activity and materials to promote the implementing partner organisation (as opposed to activities to promote the adoption of the development activity e.g. hand washing campaigns, vaccination drives, gender equality advocacy, etc)

## Cost of using the UK aid logo

Where branding forms part of an organisation's own standard practices, applying the UK aid logo is unlikely to incur significant additional costs and will, in most cases, be used wherever the implementing partner's own logo is to be used in the field. For instance, if signage at a health centre is required, incorporating the UK aid logo onto that signage should not add significant cost.

If applying the UK aid logo to acknowledge funding from the UK government does involve additional costs, for example for production of signage that would not otherwise have been required, a proportionate amount of the programme budget may be used. This amount should be agreed in advance as reasonable by both the implementing partner and programme SRO. In all cases, costs associated with

applying the UK aid logo should be kept to a minimum, and implementing partners should always ensure that UK aid branding is being applied in the most cost effective way.

If branding is not in place on ODA funded programme assets but should be according to the completed visibility statement, the implementing partner is responsible for any costs associated with putting this right.

## Ordering branded items

FCDO staff may occasionally need to order branded items, such as pop up banners or t-shirts, for events, field visits, or to refresh branding in country offices. Enquiries about ordering branded items should be sent to [GovernmentClientServices@theapsgroup.com](mailto:GovernmentClientServices@theapsgroup.com), copying in [corporatecommunications@FCDO.gov.uk](mailto:corporatecommunications@FCDO.gov.uk)

Spend on branded materials may be subject to communications spending controls. FCDO staff should read the information on communications spending controls on the intranet to make sure they are compliant.

## 9. The FCDO corporate logo



This logo is used to represent FCDO's organisational presence – such as on FCDO letters, and on FCDO offices - rather than FCDO funding.

There are only a few circumstances in which it should be used instead of the UK aid logo by FCDO's ODA funded implementing partners, which may include:

- ! invitations to some co-hosted events
- ! to recognise a working partnership or collaboration in which no funding is involved

Permission must be sought for each use. All queries regarding which logo to use should be directed to: [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk)

# Annex A: visibility statement template

## UK aid visibility statement

As part of your funding agreement with FCO, you are required to acknowledge funding from the UK government on your ODA funded programme, in written materials and verbal statements and through use of the UK aid logo on programme assets. Please refer to the UK aid branding guidance for further information on how to acknowledge ODA funding from the UK government

You may be asked to provide, as part of your agreed reporting to FCDO, evidence of the branding in use, including photographs of the logo in the field and examples of communications materials.

By completing and signing this statement you agree to fulfil these requirements.

<b>1. Organisation name:</b>
<b>2. Programme name and brief description of what it will deliver:</b>
<b>3a. Please list the assets that will be delivered by the programme that will carry the UK aid logo or acknowledgement of UK aid funding.</b> <i>List all assets including physical items and supplies, and other non-physical items that will be delivered as part of the programme e.g. annual reports, research reports, websites, press releases, other communication or event materials (refer to Sections 5 &amp; 6 of the branding guidance for more information on where UK aid branding should / should not appear).</i>
<b>3b. Please list the assets that will be delivered by the project that will not carry the UK aid logo or acknowledgement and explain clearly why these items will not carry UK aid branding. All exceptions require approval by the Head of Department of the team in whose portfolio the programme sits and a record of this approval, e.g. an email, should be kept along with the programme documentation (refer to Section 6 of the UK aid branding guidance for more information on branding exceptions):</b>

**Declaration:**

I understand that no UK aid funds may be used to procure any promotional communications goods or activities that do not have a direct impact on the successful delivery of this programme or serve to increase the transparency of funding.

By signing this statement, you agree to fulfil the commitments stated above:

**Partner organisation representative:**

Name:

Job title:

Signature: \_\_\_\_\_ Date:

**Agreed by FCDO programme manager:**

Name:

Job title, department:

Signature: \_\_\_\_\_ Date:

## Annex B: using the logo - the elements

The UK aid logo is made up of four elements:

- **the Union Flag:** one of the most recognised images in the world, clearly linking our work to the UK
- **UK:** this signifies that the activity is funded by the government of the United Kingdom of Great Britain and Northern Ireland
- **aid:** a word that members of the UK public associate with our work
- **from the British people:** reinforces recognition that UK aid is funded by British taxpayers
- the **colours** used are the officially recognised colours of the Union Flag.

If you are using red and blue elsewhere in your design, try to match them to those of the logo.

Figure 1. UK aid large logo version





## Annex B: using the logo - clear space and minimum size

The UK aid logo should always have a border of clear space to ensure it stands out clearly. This is also known as the exclusion zone, and its width is determined by the width of the letter 'U'. Nothing, including the edge of a page, should fall within the exclusion zone.

See Figure 2 opposite for details.

### Minimum size

The minimum width of the logo is 17mm, measured by the width of the flag.

See Figure 3 below.

Figure 2.  
UK aid logo  
exclusion zone

Exclusion zone



**UKaid**  
from the British people

The width  
of the 'U'  
in the 'UK  
aid' text  
equals the  
depth of the  
exclusion  
zone

Figure 3. UK aid minimum size



# Annex B: using the logo - official versions

You can obtain the logo files by emailing [corporatecommunications@fcdo.gov.uk](mailto:corporatecommunications@fcdo.gov.uk) (see Section 2, p6)

## Colour

The red, white and blue colours reflect the Union Flag and are integral to the logo's design. You should use the colour logo where possible. The colour logo should be used against a white background with white exclusion zone.

## Black

The black logo format should only be used when colour production is not possible, and where the background does not interfere with the legibility of the logo.

## White

If your communication uses a background colour that clashes with the logo, for example, because it is too dark, you may reverse the logo out in white (see Figure 5). You must ensure that colour or any image or pattern on the background does not interfere with the logo's legibility.

All UK aid logo formats are available for print and online use.

Figure 3. Colour UK aid logo



Figure 4. Black UK aid logo



Figure 5. White UK aid logo



## Logo file format best for you

The logo files are available in two different file formats, JPEG and AI.

JPEG files can be used in most programmes, including Microsoft office, and on the web.

AI files are vector files - files that can be enlarged without losing resolution. For professional print and design you should always use these files.

## For designers: how to identify the different colour logo files

Each file name uses one of the following suffixes:

**1S** (spot or Pantone - for single colour printing (blue) for stationery)

**4C** (CMYK or 4 colour - for normal colour printing)

**WT** (White - for use on solid colour backgrounds)

**BK** (black - for use on black & white documents only)



## Annex B: using the logo - what not to do

Alterations to the UK aid logo are not permitted. It is important for consistency and recognition that you use only official versions of the UK aid logo. Start with the original artwork files each time.

The full colour UK aid logo should only be used against a white background.

If you use a sign painter, do not accept work unless it is faithful to the original.

Do not alter the size of or rearrange any of the elements



Do not change the font or alter any of the text



Do not remove or create your own straplines



Do not rotate



Do not change the colours



Do not stretch the logo out of shape



Do not use the text without the flag





## Annex C: the UK aid logo in use

The images here provide just a few examples that illustrate how FCDO's partners have used the UK aid logo to acknowledge the UK as a donor.



South Sudanese refugees in a child friendly space in Bidibidi settlement, Uganda  
Picture: Angela Balakrishnan / DFID



A tented settlement home to Syrian refugee families, Bekaa Valley, Lebanon  
Picture: Russell Watkins / DFID



A MAG mine clearance team at work in Ban Naxai district, Laos  
Picture: San Sutton / MAG



UK aid supported 'She Leads' programme in Burma providing training to Burmese women.  
Picture: IFES



The Girls' Education South Sudan Programme which is supported by UK aid.  
Picture: Bruno Bierrenbach Feder



A UK aid supported water, sanitation and hygiene facility in DRC.  
Picture: Alexandra Jonnaert / Mercy Corps

## Annex C: the UK aid logo in use

The images here provide just a few examples that illustrate how FCDO's partners have used the UK aid logo to acknowledge the UK as a donor.



UK aid funded Protection of Civilians site  
in Wau, South Sudan  
Picture: IOM



Vehicle used by Action Against Hunger to  
deliver water to those in need in Gaza  
Picture: Action Against Hunger



Emergency food distribution point for  
people fleeing violence in Burma  
Picture: Anna Dubuis / DFID



A UK aid funded food parcel in Leer, South  
Sudan provided as part of famine relief.  
Picture: Angela Balakrishnan / DFID



In 2013 HMG committed to spend 0.7% of UK Gross National Income (GNI) on aid. For 2021 this was reduced to 0.5% because of the economic impact of COVID-19 on the UK but it is expected to return to 0.7% when fiscal conditions allow.

'Official development assistance' or ODA is the internationally agreed definition of what counts as aid. HMG reports to the OECD annually and as part of its national statistics. If FCDO spend is incorrectly or misleadingly classified as ODA, it may be rejected by the OECD impacting on the UK's ability to meet its ODA commitment, forcing a reclassification to non-ODA causing significant difficulties with budgetary planning in HMG's ODA and non-ODA budgets.

**Note:** FCDO non-ODA programme spend is typically either for activity to deliver FCDO objectives in non-ODA countries or for activities in ODA countries which falls outside the OECD definition and domestic legislation on ODA (all non-ODA spend should be based on separate spending powers – if in doubt check with legal and/or finance business partner). Some programmes may combine ODA and non-ODA spend e.g. co-efficients for multilateral activity. This means non-ODA programmes support a broad range of activities: key requirements are that the work is programmed in accordance with the PrOF rules/principles and that it will contribute to the specific policy goal for which the money was allocated. Non-ODA cannot be used to fund ODA eligible activities (See also Rule 3).

ODA can only be spent on activities which have the economic development and welfare of [an eligible country](#) as the **main objective**. Secondary benefits to non-ODA eligible countries, including the UK, are acceptable only if the activity primarily benefits developing countries. There are more specific and detailed rules on ODA such as administrative costs, debt relief, social and cultural programmes, student costs, refugees, research, and peace and security activities, including counterterrorism and countering violent extremism. If you are proposing ODA spend in these areas or are unsure about the rules you should consult with the ODA eligibility team (details below).

In addition to the OECD DAC ODA rules and the [International Development Act 2002](#) requirements further internal policies require that UK ODA should **not be used** to fund or procure the following:

- Activities which are not aligned with the **Paris Agreement** on climate change
- **Exploitation** of adult workers or **employment of children**.
- **Luxury goods** (incl. alcohol, tobacco, fur skins, pearls and precious and semi-precious stones).
- **Drugs not on the World Health Organization Essential Drugs List** (with limited exceptions).
- **Pesticides**, unless agreed by a Climate and Environment Adviser. The UK is a signatory to the Stockholm Convention that seeks to eliminate 12 persistent organic pollutants.
- **Chlorofluorocarbons (CFCs)**. The UK is a party to the Montreal Protocol and the substances currently controlled by the Protocol may not be supplied under the aid programme.
- **Tobacco**. For any purpose that **identifiably supports** the tobacco sector, including the agricultural production and processing. General agricultural inputs, such as fertilisers can still be funded if the tobacco sector is not an identifiable consumer.
- Any relationship, financial, programmatic or bilateral with **Breast Milk Substitute manufacturers that violate the International Code of Marketing of Breast Milk**

**Substitutes.** FCDO may on a case-by-case basis engage with these companies in multilateral or multi-donor funded programmes or initiatives, if approved by the relevant Director General.

- Settlement or Confidentiality Agreements (also known as non-disclosure agreements or NDAs) which could be used to prevent staff or downstream partners from raising allegations of wrongdoing, including SEAH, bullying, general harassment or discrimination.

Partner	Asset Category	Description	Make/Model No.	Registration Number/Asset Code	Chasis/Serial #	Status(Condition)	Downstream Partner	Acquisition Cost GBP/Value of DIK at time of receipt	Acquisition Date	Anticipated Years of Life	Useful life after disposal	Depreciated(Residual Value) at Disposal	Disposal Date (dd/mm/yy)	Proposed Disposal Method	Original Source of Asset	Location	Donation Location
GOAL	Generator	Perkins	Perkins	80 Kva	RS51277U592841Y	Fair condition	GOAL	£30,000.00	2014	4	1	£7,500.00	1/9/17	Transfer to IAPF	from DEERF grant	Freetown	N/A
Health Co	Computer	Laptop	X220I	93331	R9-HD2ZR	Fair condition	IRC	£1,265.00	2014	4		£316.25	1/9/17	Donate to IRC		Bo	Bo
GOAL	Vehicle	Hiace Minibus	Hiace Minibus	AJY 018	04	Fair condition	GOAL	£32,000.00	2015	4	1	£8,000.00	1/9/17	Transfer to IAPF	CAIPA	Kenema	N/A

Use this change log to record all changes to the logframe over the life of the project.

ID	LOGFRAME SECTION	DETAILS OF CHANGE	AUTHOR	DATE
<i>E.g.</i>	<i>Output 1, Indicator 2</i>	<i>Indicator amended from 'No of children enrolled in primary schools' to 'Number of children enrolled in UNICEF supported primary schools (disaggregated by sex)</i>	<i>Joe Bloggs</i>	<i>01/01/2018</i>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Smart Guide

Teams should use the guide below to complete the logframe template.

PROJECT TITLE

A meaningful, easily understood (plain English) Project Title.

IMPACT

Long term goal to which the project will contribute towards achieving. When drafting the impact statement, consider how your project fits with other efforts from FCDO and partners to achieve the impact, ie is your project nested within a broader undertaking?

OUTCOME

The outcome of your project identifies what will change, who will benefit and how it will contribute to reducing poverty, including contributions to the Millenium Development Goals (MDGs) or Climate Change.

An assessment of whether your project achieved the Outcome will be included in the Project Completion Review (PCR). Ongoing monitoring of progress against outcome milestones should still take place as an assessment of whether you expect to achieve the Outcome by the end of the programme will be included in Annual Reviews.

OUTPUTS

Outputs are the specific, direct deliverables of your project. These will provide the conditions necessary to achieve the Outcome. The logic of the chain from Output to Outcome therefore needs to be clear.

Progress against Output milestones and results achieved will be assessed and scored during Annual Reviews and the Project Completion Review.

IMPACT WEIGHTING

Once you have defined your Outputs, assign a percentage for the contribution each is likely to make towards the achievement of the overall Outcome.

The impact weights of all the Outputs will total 100% and each are rounded to the nearest 5%.

Impact weightings for Outputs are intended to:

- Promote a more considered approach to the choice of Outputs at project design stage; and
- Provide a clearer link to how Output performance relates to project Outcome performance.

INPUTS

Clarification of inputs is a key part of results-chain thinking. Inputs are specified at the country-level in country operational plans and the project information contained in logframes should feed up into these.

The input-level boxes show the amount of money provided by FCDO and any partners (£) including, where relevant, the government's own contribution. This only relates to monetary (not in kind) contributions. At Outcome level this is equal to the sum of Inputs for all Outputs. The FCDO share at Outcome Level is a simple, pro rata calculation of DFID's contribution in monetary terms for all outputs.

Information should also be provided for the total number of Annual DFID Full-Time Equivalents (FTEs) allocated to this project, based on the time individual staff members will spend on the project. It is understood that this may change through the project cycle, and is intended as a management tool.

INDICATORS

Indicators are performance measures, which tell us what will be measured not what is to be achieved. Avoid including elements of the baseline or target.

What makes a good indicator?

- **Specific** – what will be measured? And how?
- **Measurable** - data can be collected
- **Relevant** - to the results chain
- **Useful** – for management decision making
- Does not include any element of the target
- Can be **disaggregated** if relevant
- Good mix of **qualitative** and **quantitative**
- **Already defined** - if relevant include indicators which towards the DRF / OP / ICF KPIs / MDGs.
- Consider using **standard indicators / best practice indicators / learning from other projects**

The basic principle is that "if you can measure it, you can manage it".

**Top Tip** – select indicators based on relevance to the Results Chain and the availability of data.

Best Practice suggests a maximum of three indicators per Output.

Some example indicators for a WASH project are shown below.

IMPACT: Improved well being and rural health	•Under 5 mortality rate •Quality of water used per capita per day
OUTCOME: Increased sustainable access to and use of improved water, sanitation and hygiene facilities for the rural population	•% of rural population with access to improved water supply within 500m. •Number of additional people provided with clean water •% of rural population with access to adequate sanitation •Number of additional people with access to adequate sanitation
OUTPUT: Increased and improved access to well maintained water and sanitation facilities	•Number of new (and rehabilitated) water points constructed •Number of new (and rehabilitated) small piped systems functioning •Number of improved latines constructed

BASELINE

Baselines set the starting point and provide a measure of the situation before your project starts (could be zero if a new project).

The baseline is used to measure change and monitor progress.

Include a baseline for each of your indicators. The first 6 months of a project may exceptionally be used for assembling baseline data at output level if agreed by your PRO.

Use existing data where possible, but check reliability and seek assurances regarding the data quality eg use data from national statistical systems / MIS.

If you need to collect your own data - collect baseline data early – as soon as beneficiaries have been identified but before any results are expected.

MILESTONES

Milestones are the desired trajectory from baseline to target, helping you to track progress and make changes to underperforming areas.

Will depend on sequencing of activities and data availability.

Include REALISTIC milestones given resources and capacity.

At the output level include annual milestones for each year of the project (or monthly if short term). At outcome & impact level data may not be available annually.

TARGET (DATE)

Targets set the desired point, showing what is achievable within the timeframe available.

The target is often the last year of the project (or month if its short term).

Include realistic targets given resources and capacity, the baseline situation, funding available and country/operational context. Project targets might be informed by evidence about what has worked in the past and take into account lessons learned from other projects.

Include targets disaggregated by sex/geography/income etc where appropriate.

Consider using government targets although if they are too ambitious then make a more realistic estimate.

**Top Tip** - A good Theory of Change will help you think about what is realistic and achievable as it will enable critical reflection of context, external influences & assumptions.

SOURCE

Each Indicator will have a data source to verify the results achieved.

List the specific data sources i.e. give the specific data collection e.g. named survey / report and avoid just naming the organisation.

State the frequency of the data source and ensure consistency with milestones and targets.

Check the source can provide disaggregated data as required.

Consider and specify the data collection and reporting responsibilities to ensure the results planned and forecast rows in the logframe are updated on a regular basis.

**Top Tip** - Before using a data source, assess its quality and seek assurances from data providers where needed ie consider its validity, reliability and availability.

ASSUMPTIONS

Define any assumptions which are linked to the realisation of your project's individual outputs, as well as those which are critical to the realisation of the outcome and impact: these will not all be the same.

VALUE FOR MONEY

Ensure the outputs and outcome projected represent good value for the invested resources, at the beginning of the project, and through its life.

Consider including VIM metrics in the logframe (or other documents such as the Delivery Plan) to allow VIM to be measured through the life of the project and to provide assurance at Annual Review.

VIM is achieved at different stages of the results chain. Thus for each result we seek to achieve we should aim to have metrics for each of the following:

**Economy** - Are we (or our agents) buying inputs of the appropriate quality at the right price?

**Efficiency** - How well are we (or our agents) converting inputs into outputs? ('Spending well')

**Effectiveness** - How well are the outputs produced by an intervention having the intended effect? ('Spending wisely')

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# Guidance on digital spend advice and controls for FCDO partners and suppliers

Last updated: September 2020

## Contents

1. Introduction
2. What is “digital spend”?
3. Getting advice and approval
4. Meeting the Digital Service Standard
5. Adhering to the Principles for Digital Development
6. Completing a digital spend proposition form
7. Restrictions on mobile apps and web domains
8. Timing for seeking spend approval

## 1. Introduction

This guidance explains to our partners and suppliers what the UK Government’s and FCDO’s standards are for the use of digital in international development programmes. It sets out FCDO’s expectations when submitting digital proposals and explains how to engage with the Digital Service Team through the procurement process.

## 2. What is “digital spend”?

The UK government defines digital spend as “any *external-facing* service provided through the internet to citizens, businesses, civil society or non-government organisations.” In FCDO, this applies to any spend on web-based or mobile information services, websites, knowledge or open data portals, transactional services such as cash transfers, web applications and mobile phone apps.

FCDO’s partners and suppliers **must** get digital spend approval for the following activities (note this list is not exhaustive as digital technologies are proliferating rapidly) so that FCDO achieves good value for money:

- websites and knowledge hubs (the digital elements include user research, design, build, hosting, licences, maintenance and support)
- transactional services (including interfaces for applying online for services such as grants)
- open data platforms, collection tools, monitoring, analytics
- mapping tools – mapping, geocoding (which could be no cost)
- mobile delivery systems – SMS, mobile money, cash transfers
- mobile apps (special conditions apply – see point 7 below)
- online databases and management information systems, if they are external facing
- external facing e-learning tools or resources.

### **What digital or technology spend does not require approval?**

Technology is defined as any internal facing service delivered by government for government and there are separate spend rules for it that are managed within FCDO.

The following costs do not require digital spend approval:

- any systems or online tools that are internally facing to FCDO
- IT hardware and software
- recruitment and training costs for digital/web contractors and associated expenses
- social media activities (which we would expect to be free)
- content production for websites or knowledge hubs.

Funding arrangements where funding is pooled alongside that of other donors, making it difficult or impossible to attribute the extent of FCDO funding allocated to specific digital projects do not require Digital Spend approval.

Instead, we ask that you notify [FCDO's Digital Service Team](#) of your proposed digital development, but you not be required to seek explicit approval.

Trust funds where FCDO is the only donor still require approval as costs can be determined.

If your total digital development costs are below £10,000 please send an email to the [Digital Service Team](#) providing a brief overview of what the digital element is, the cost and the partner or supplier, in lieu of completing a full proposition form.

If you are unsure as to whether digital spend via your specific funding arrangement requires approval, please contact the [Digital Service Team](#).

### **3. Why suppliers need to go through the review and approval process**

In FCDO, we want to learn from what has worked in other programmes **before** we commission or procure any new digital systems, so we don't waste valuable resources duplicating something that's already working elsewhere.

Suppliers should set out in their proposals for new work how they will meet the standards below, while maintaining value for money and designing services that meet user needs.

If you are developing ideas for extension of existing programmes with digital elements, you should consider how you can apply the Digital for Development Principles (see point 5 below).

When a Prior Information Notice (PIN) is released, it will state whether there is a digital element to the programme. There may be an early market engagement session to which suppliers are invited, in which further details will be set out at the event. The terms of reference (TOR) in the Invitation to Tender (ITT) pack will contain a digital description and advice tailored to the programme for suppliers to follow.

### **How to get advice and approval**

FCDO's Digital Service Team and the FCDO programme team will help you through the digital spend process, before work proceeds.

The Government Digital Service (GDS), on behalf of Cabinet Office, monitors all digital spend across government. FCDO is required to report all spend and show that what we have approved meets with the [GDS Service Standard](#).

We have a process where we ask FCDO programme teams to complete a **digital proposition form** setting out their planned digital activity, explaining:

- who their partners and suppliers are
- how they will design around users' needs
- what delivery approach they will take
- what it will cost (see section 6 below).

Digital spend propositions must be approved by our internal Digital Spend Panel before work can proceed.

Almost all digital spend propositions are for less than £100,000 in a single programme. However, any spend proposition for **over £100,000** needs to go to the GDS Approvals Board, as well as gaining FCDO spend approval. The Digital Service Team facilitates this process.

#### 4. Meeting the UK Government's Digital Standard

All new government-funded digital services must be designed in accordance with the [Service Design Manual](#) and delivered in phases. The phases are known as:

1. **Discovery** - the crucial first phase, in which you identify the problem to be solved and start researching the needs of your users, encapsulated in user stories.
2. **Alpha** - a short phase in which you prototype solutions for your users' needs and get early feedback about the design of the service.
3. **Beta** - releasing a version to test in public or private before it goes live, seeking further feedback in order to improve it.
4. **Live** – after which user feedback is sought and the system iterated and improved on an ongoing basis.



Any online transactional services provided to citizens or businesses are also required to undergo a Service Assessment as they progress through each of the stages above. FCDO staff can provide advice and more information can be found here [Service Standard](#).

## 5. Adhering to the Principles for Digital Development

The [9 Digital Principles](#) are a set of guidelines that have been agreed as a result of consultation with donors and NGOs globally. The Principles are endorsed by many development organisations including USAID, World Food Programme, UNDP, Unicef, Gates Foundation and World Bank.



They are based on and closely match the UK Government's design principles.

In any new procurement, **FCDO requires our partners and suppliers to set out how they will adhere to the relevant principles**. This will be clearly stated in the Invitation to Tender. There is practical information and advice on the [Digital Principles website](#).

The Principles are guidelines, not rules, and FCDO requires any spend propositions to show evidence on how each of the Principles has been considered.

## 6. Completing a digital spend proposition form

FCDO's programme staff are required to complete a digital proposition form with their partners/suppliers to get approval before the work starts. The form (attached) asks for details on how the user need for the digital element of the programme will be met, how it will be designed and delivered, and the costs. It also requires a statement on who will own the digital output at the end of programme, including intellectual property.

Propositions are reviewed by an internal Digital Spend Approval Panel. The Panel provides comments and feedback which are sent to proposers along with the approval decision.

Teams that have been through the digital approval process have given feedback to say that they found the advice very valuable and it helped them to agree with partners and suppliers on what digital tools to choose and how to evaluate their effectiveness.

## 7. Restrictions on mobile apps and web domains

### i) Mobile apps

The UK Government has restrictions on spending on mobile applications (apps). This means that unless there is a very clear business reason for a mobile app, they should be avoided. There is an exemption route available to gain approval from GDS.

Apps are not usually considered value for money, as they need to be developed for several different platforms (Android and iOS) and then updated on a regular basis – as well as being optimised for several different handsets and/or tablets. A mobile friendly responsive website is usually a much cheaper and more inclusive alternative.

There are many "free" data collection tools (available through open source apps) that require some expenditure for customisation, training, and maintenance – Google's Open Data Kit is one that has been used very successfully in FCDO programmes. Suppliers should consult their FCDO adviser if they propose using one of them.

## ii) URLs/domains

UK Government spending rules mean that no money can be spent on purchasing UK citizen-facing website domains. Content should be placed on GOV.UK or existing websites wherever possible. If you think you need a separate domain/URL for a programme, you should seek advice first from [FCDO's Digital Service Team](#).

Websites for programmes overseas are permissible in certain cases if a clear user need is demonstrated, but they require internal FCDO approval before any work starts. FCDO provides guidance on how to decide if a website is required and how to achieve value for money.

## 8. Timing for seeking spend approval

Once FCDO has selected a partner or supplier, the digital proposition form should be completed with actual costs over the lifetime of the programme and submitted for approval to the Digital Service Team. The programme manager will initiate this process and let you know the timing.

We recommend you engage early with FCDO's [Digital Service Team](#) to benefit from their expert advice and guidance.



# Digital Spending Proposition

## Guidance for FCDO Staff

The purpose of this form is to seek approval for the development and delivery of digital elements of externally facing admin and programme work.

Once the proposal has been submitted, the Digital Spend Team will review and respond within **3 working days**.

## Digital Spend Checklist

The checklist below should be used as a reference point throughout the Digital Spend process.

### Before seeking Digital Spend approval

- Review the Government [Digital Service Technology Code of Practice \(TCoP\)](#)
- Become familiar with the [Programme Operating Framework Digital Guide](#)
- Carry out user research to identify the needs of your user base, and determine if your digital tool will meet these needs.
- Reach out to the [Digital Service Team](#) with a short description of the need for a digital element and what that element may be. This allows us to give you advice and guidance at the earliest possible opportunity.
- Share our [Guidance for Suppliers and Partners](#) and ensure that your partners and suppliers are following it throughout the lifetime of the programme.
- Familiarise yourself with the [Principles for Digital Development](#), which are a global standard for doing development which FCDO expects its partners and suppliers to adhere to.

### Getting Digital Spend approval

- Complete this Digital Spend Proposition Form
- Send the completed form to the [Digital Service Team](#) where a member of the team will review it and get back to you with any queries or questions.
- Review and take action on any comments or questions that we have asked and send the revised form back to us.
- A member of the [Digital Service Team](#) will present your proposition to the Digital Spend Panel.
- The Panel will review and make any recommendations.

### After Digital Spend approval

- Consider sharing what you have learned with your department or wider team
- If you have created a website, when the website is live the URL should be sent to the Digital Service Team, who will arrange for it to be added to [DevTracker](#).
- When your digital tool or service is live you should continue to review and improve your digital element based on user feedback, analytics and further user research. The [Agile delivery guide](#) from GDS and [Principle 5](#) ("Be data driven") of the Principles for Digital Development endorse this way of working.

# The Proposition

## Section A

Requestor details (FCDO staff member)	
Your name	
Your job title	
Your team / office	
Date first submitted	

Partner contact (if known)	
Name	
Organisation	
Email address	

## Section B

Programme details	
Programme title	
Component ID	
Total programme value	
Is this a procurement, an accountable grant or an MOU?	
Title of business case and Vault ID	
Aims of the programme (250 words max)	

**Section C**

	Proposition details					
1	Name and short description of digital element					
2	What is the user need for the digital element? <i>(There should be at least three user stories in the following format:</i> <i>"I am a..."</i> <i>"I need to..."</i> <i>"So that..."</i> )					
3	What is the anticipated cost of the digital proposition? (table format preferred)  <i>This includes:</i> <ul style="list-style-type: none"> <li>• <i>User research</i></li> <li>• <i>Design</i></li> <li>• <i>Development</i></li> <li>• <i>Hosting</i></li> <li>• <i>Maintenance</i></li> <li>• <i>Software License</i></li> </ul> <i>This does not include:</i> <ul style="list-style-type: none"> <li>• <i>Hardware costs</i></li> <li>• <i>Production of content</i></li> </ul>	Example:				
		Activity	Day Rate	Number of Days	Total	Grand Total



4	<p>How will this be designed and implemented?</p> <p><i>You should be implementing in phases – <a href="#">discovery</a>, <a href="#">alpha</a>, <a href="#">beta</a> and <a href="#">live</a> – as this allows you to get feedback at each stage and make any required changes.</i></p> <p>(300 words max)</p>	
5	<p>Describe how you will adhere to each of the nine <a href="#">Principles for Digital Development</a>.</p>	
6	<p>What have you done to ensure value for money on this digital spend?</p>	
7	<p>What is the proposed URL of your website (if known)?</p> <p><i>HTTPS should be used for all new websites. HTTPS encrypts any communications sent between your browser and the website for heightened security.</i></p>	

8	How will you ensure that your website meets <a href="#">WCAG 2.1 AA accessibility standards</a> ?	
9	Specify the key milestones associated with the proposition, such as target start and end dates.	
10	How will the digital output be monitored and evaluated through the life of the project so it remains fit for purpose, relevant and demonstrates value for money?  <i>You should consider how you will include this as part of your annual reviews.</i>	
11	a) Who will own the digital output at the end of programme, including intellectual property?  b) Who will ensure the digital continuity of any website URLs or platforms?	

12	<p>a) If your programme is producing data how will you make it open?</p> <p><i>Open data is data that anyone can access, use or share.</i></p> <p>b) If your programme is producing resources, where will you make them freely available?</p>	
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Please return the completed form to the Digital Spend team at [Digital Service Team](#).



# FCDO

# Due Diligence Guidance for External Partners

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## 1. Purpose of the Guide

This guide is designed to explain to the Foreign, Commonwealth and Development (FCDO) partners and external stakeholders how due diligence processes operate within the FCDO. This document should prepare partners for what to expect if undergoing an FCDO Due Diligence Assessment (DDA) or Central Assurance Assessment (CAA).

## 2. Why due diligence matters

The FCDOs due diligence approach forms part of our risk assessment process intended to gain assurance that our potential delivery partners have the technical capability, capacity, and financial stability to deliver our programmes effectively and efficiently, and that outcomes and value for money are achieved. Due diligence can also identify risks to our partners' ability to deliver in line with FCDO's expectations and in line with the funding arrangement, which partners and programme teams can then manage over the programme cycle. It is also an opportunity for our partners and FCDO to get to know each other's expectations and priorities, which in turn can lead to improved understanding, communication and helps to foster positive partnerships into the future.

Due diligence helps the FCDO ensure that the delivery partnerships we form are appropriate before funds are released or agreements signed, but its value extends beyond this decision point. Due diligence informs risk management and programme delivery throughout the programme cycle, enabling our programme teams to work closely with partners to tackle potential concerns in implementation and share and build on good practice.

The importance of due diligence is underlined by its requirement as a programme rule, which forms part of the [FCDO Programme Operating Framework](#) (PRoF)

The FCDO understands the resource burden due diligence places on our partners, and we will strive to minimise that, however, we have a responsibility for safe use of government money which demands that we do conduct appropriate assessments of our partners.

## 3. Overview of the FCDO Due Diligence Framework

The FCDO takes a risk-based approach to partnerships as we operate in highly complex and challenging environments and will undertake higher risk activities if the expected results justify this, and FCDO are comfortable that the mitigating actions keep the residual risk to an acceptable level. Our programme teams



achieve this by agreeing a risk appetite (the risk they can tolerate to achieve objectives) during the design stage and managing risk exposure within appetite across the programme cycle, escalating or mitigating risks, which exceed appetite.

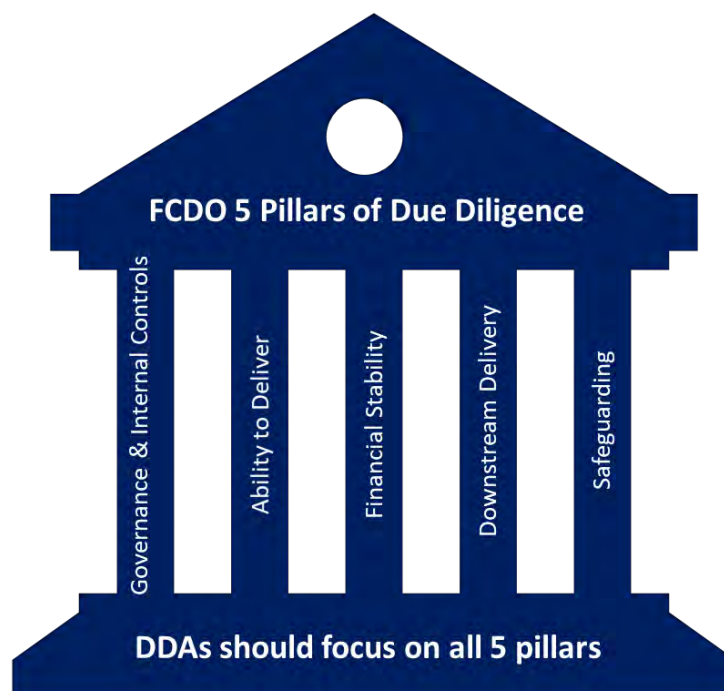
The FCDO operates under five principles and five pillars of due diligence:

### 3.1 Five Principles of Due Diligence

Principles	Description
<u>Responsible and Accountable:</u>	Effective risk-based due diligence provides assurance that public funds are being spent to maximise impact and value for money. It can help improve performance by identifying and appropriately responding to risks.
<u>Context-specific</u>	It is important to understand the capacity and capability of the partner to deliver in the context that they are operating in.
<u>Evidence-based</u>	Due diligence critically analyses a range of evidence including policies, processes, controls, and financial information to inform decisions on each partner and provides an opportunity to identify and share lessons and good practice internally and externally.
<u>Proportionate and balanced:</u>	Assessment scope and depth depends on a range of criteria, including risk appetite, programme size and complexity programme, value, inherent risks, availability of evidence, programme objectives, timeline (urgency) and any history with the partner.
<u>Transparent:</u>	Due diligence helps us fully understand what we are investing in. This can help in being transparent with the public. Due diligence also helps assess whether partners have the capacity and capability to be transparent too.

### 3.2 Five Pillars of Due Diligence

Due diligence assessments and central assurance assessments evaluate partners through five pillars:



Pillar	Assurance areas
Governance and Internal Controls	This pillar focusses on how partner organisations are established, structured, directed and controlled. It seeks to understand how the organisation operates.
Ability to Deliver	This pillar focusses on an organisation's capacity and capability to deliver programmes of the type, size, and complexity that the funding applies to.
Financial Stability	This pillar focusses on establishing if the partner organisation exposes the FCDO to any financial or Value for Money VFM risks and how these are managed.
Downstream Delivery	This pillar focusses on how the organisation manages any downstream delivery partners in terms of governance, and how due diligence is cascaded further down the delivery chain.
Safeguarding	This pillar focusses on controls and processes to avoid harm to people or the environment with a specific focus on the prevention of harm via sexual exploitation, sexual abuse, and sexual harassment.



**The depth to which the five pillars are examined during an assessment will vary according to a range of factors, considering the risk appetite and level of Inherent risks, as a result this will look different depending on the programme.**

Pillar	Description	Indicative areas of focus
Governance and Internal Control	<p>Understanding who the partner is, and who they are owned by (if applicable) by and how the partner is:</p> <ul style="list-style-type: none"> <li>- organised.</li> <li>- directed.</li> <li>- controlled.</li> </ul> <p>It is important to understand how the oversight and risk management in the organisation and how governance is well embedded in the country or region where the programme will operate.</p>	<ul style="list-style-type: none"> <li>• Ownership and legal structure</li> <li>• Board/management/business unit structure and experience</li> <li>• Conflict of interest protocols</li> <li>• Risk management &amp; Policy governance (and across all pillars)</li> <li>• Performance management</li> <li>• Audit structure and approach</li> <li>• General Whistleblowing</li> <li>• Counter-aid diversion</li> <li>• Data protection, information security and Cyber security</li> <li>• Diversity and inclusion across the organisation</li> </ul>
Ability to Deliver	<p>It is important to understand if the partner will be able to deliver the project in line with our objectives.</p> <p>Critically assessing if the partner has the capability and capacity to deliver the programme.</p>	<ul style="list-style-type: none"> <li>• Experience and skills of key staff managing or delivering the programme</li> <li>• Stakeholder engagement processes (such as beneficiary engagement)</li> <li>• Recruitment protocols</li> <li>• Performance management systems (staff and programmes)</li> <li>• Business continuity</li> </ul>
Financial Stability	<p>It is important to ensure that there is no risk of the partner going into financial distress, as this failure could result in the programme closing or needing to be redesigned.</p> <p>Financial reporting (to FCDO and within the partner) should be regular, timely, understandable, complete, and accurate. FCDO want to ensure that the partner is attaining results in a value for money way with limited opportunities for waste/losses.</p>	<ul style="list-style-type: none"> <li>• Financial stability</li> <li>• Financial reporting (internal and external)</li> <li>• Asset and inventory management</li> <li>• Procurement processes</li> <li>• Fund and Financial risk management</li> <li>• Segregation of duties</li> </ul>
Downstream Delivery	<p>Partners using downstream partners can transfer risk management responsibly.</p> <p>FCDO partners should be taking steps to understand their partners and managing risks from working through them (such as safeguarding, delivery or fiduciary).</p> <p>It is important to ensure that partners can trace further disbursement of funding through the supply chain.</p>	<ul style="list-style-type: none"> <li>• Selection criteria and process</li> <li>• Downstream mapping and transparency &amp; downstream due diligence</li> <li>• Performance management systems</li> <li>• Monitoring and evaluation of downstream partners</li> <li>• Financial reporting</li> <li>• Aid diversion controls</li> </ul>
Safeguarding	<p>Programme interventions should not risk inadvertently causing harm to people or the environment. Partners should have appropriate measures to prevent, detect, respond to and report safeguarding incidents. The assessment will investigate what expertise, systems, and policies they have in place to safeguard against harm. The relevance of this expertise will be mapped against the programme design in question.</p> <p>FCDO have a zero-tolerance approach to inaction, mishandling or ineffective controls in relation to Sexual Exploitation and Harassment (SEAH)</p>	<ul style="list-style-type: none"> <li>• Policy, culture, and processes</li> <li>• Environment and social impacts, indigenous people, vulnerable people, cultural heritage, and labour management (HR)</li> <li>• Consultation and engagement methods</li> <li>• Whistleblowing/grievance procedures</li> <li>• Code of conduct</li> <li>• Environmental and social safeguard capacity within the downstream partners</li> </ul>



## 4 FCDO Due Diligence Assessments (DDA)

***FCDO Accountable Grant (AG) and Memorandum of Agreement (MoU)*** DDAs must be completed before an agreement is signed and funding is disbursed to the chosen partner or, for “rapid onset” humanitarian emergencies a formal DDA can be completed after disbursing the initial funds but must still be completed.

Our programmes team engage with our partners at an early stage to explain the process and discuss any concerns the partner may have. The partner will be issued with an “**Acknowledgement of due diligence and processing of data**” notice which will specify how the FCDO manage information that is gained through the due diligence process.

Our programme teams will scope a DDA to be proportionate to the risks and risk appetite of the project or programme, considering how complex the programme/project is imperative when determining proportionality in due diligence.

Our programme teams are encouraged to use any available information either within FCDO or publically available to limit requests on our partners for already available information as part of FCDO’s review while scoping. This includes previous DDAs or other assessments that the partner is willing to share.

After scoping out a DDA, proportionality is continually reassessed, as such throughout the DDA there may be further areas that arise that require further investigation.

The DDA itself may be conducted in several different ways, depending on the context, risk, or history of engagement with the FCDO. However, in many cases our programmes team will issue a tailored questionnaire to the partner seeking answers to some open questions regarding the processes, policies, and controls in place. This will also be an opportunity for the partner to explain and demonstrate strong controls and provide documentary evidence to support responses. The partners responses will be analysed and may lead to our teams seeking to gain further documentation. In some cases, face-to-face meetings will take place at the partner’s locations or done virtually, if more appropriate. In person meetings facilitate shared learning and fosters positive relations and outcomes.

After the analysis there may be discussions regarding recommendations or actions that can be put in place to tackle any identified risks or gaps in a partner’s controls, capabilities, or processes. If the DDA identifies risks that sit outside the specific FCDO risk appetite there will be a discussion on how to bring that within risk appetite through various actions. These actions will be recorded in the programmes risk register and managed as part of ongoing programme management.



The FCDO does not consider due diligence as a one-off exercise; but rather link with risk assessments and other tools that can help manage risks. FCDO will review risks raised at the initial assessment regularly, for example, through risk assessments and through regular monitoring meetings, reporting or reviews (including beneficiary engagement). Actions, agreed with the partner, for managing risks or gaps identified in the initial due diligence, are tracked to effective implementation.

## **5. Multilateral due diligence**

The significant proportion of the UK's ODA spend is delivered through core or non-core contributions to multilateral organisations. There is a different approach to assurance and due diligence for core and non-core funding to multilateral organisations.

### **5.1 Core Contributions to multilateral organisations**

Core contributions are made directly to multilaterals to support the overall aims of the organisation and deliver objectives in line with their core mandate. When FCDO provides core funding to a multilateral organisation, due diligence of that organisation is undertaken by the FCDO Institutional Lead through a Central Assurance Assessment (CAA). If there is no CAA arrangement in place, then a proportionate due diligence assessment will be completed.

The CAA is a periodic assessment (usually done every 3 years) conducted in close cooperation with the multilateral organisation and focuses on the central systems and processes of the organisation. The FCDO works with the partner to gather evidence to evaluate the organisation against the same five pillars identified in the due diligence framework at 3.2 of this document.

The CAA aims to provide an overall judgement of the risks related to working with that organisation, underpinned by assurances that it has an appropriate governance structure, that central policies, controls, and processes of sufficient quality are in place to ensure that core funding will be administered effectively and appropriately.

### **5.2 Non-core funding to Multilateral organisations**

Non-core funding is provided when FCDO decides a multilateral organisation is the most effective delivery partner for a specific outcome in a local context or policy area.



Non-core arrangements (often referred to as “multi-bi” or “bilateral through multilateral” programmes) can take many forms, from large Centrally Managed Programmes (CMP), to programmes in a specific country or region where FCDO posts have selected a multilateral partner as the best delivery option over others (e.g., NGOs or contractors). Multi-bi programmes may also involve other donors, such as multi-donor trust funds.

Non-core multilateral programmes should be supported by appropriate funding arrangement-specific due diligence to understand and gain appropriate assurance on how the multilateral’s governance, rules, policies, and procedures will be operated in the specific local contexts and operating environments. Local DDA questions focus on local operational delivery to establish how the programme will be implemented and managed in country and ensure that any contextually specific issues or risks are being properly considered by the multilateral and its implementing partners.

Local due diligence is conducted by the multi-bi programme team (e.g., in country). The Senior Responsible Owner (SRO) or Programme Responsible Owner (PRO) for any potential multi-bi programme will consult with the Institutional Lead for the relevant multilateral organisation concerned, to ensure that they are aware of any overarching reform priorities, performance concerns or risks linked to the overall governance or performance of that organisation.

The multi-bi programme team will use the CAA (if available) as a starting point for desktop research to prevent duplication of effort for our programme teams and for the partner. Programme teams draw key information from the CAA of the multilateral concerned and not re-request or seek to duplicate assurances that have been gained through the central process. Instead, local due diligence should focus on assessing the capacity and capability of the organisation to apply its own procedures and implement the non-core programme in the local context and operating environment.

## 6. Commercial Contract Due Diligence

As part of the competitive tender process, FCDO’s Commercial Department will perform due diligence assessments. The assessment differs depending on the value of the contract. Programme teams are expected to conduct due diligence with support from a Delegated Procurement Officer if below a certain financial threshold.

## 7. Sharing due diligence information/reports

FCDO may share the due diligence information with the partner organisation who is subject to the assessment. The assessment is intended for FCDO use only and has been classified as such. However, FCDO may share assessments with other

UK government or public bodies. Our partners must not make assessments available to other external bodies without the express permission, granted in writing, from the FCDO.

In the circumstance that FCDO is asked by another donor/delivery partner to share an assessment performed by FCDO, then permission will be sought in writing from the partner in question, prior to releasing the information. FCDO teams will make it clear who the report may be shared with and explain the reason why FCDO wish to share the document.

## 8. Delivery Chain Mapping

As part of the FCDO five pillars of due diligence it is important that there is a good understanding of any subsequent partners within the delivery chain.

As part of the initial due diligence, partners must submit a Delivery Chain Map (DCM), this enables the FCDO programme team to initially identify any risks arising from the proposed delivery chain. There is a delivery chain mapping guide publically available for partners here. [PRoF - Delivery Chain Mapping Guide](#).

FCDO predominantly focus DDAs on the partner in direct receipt of FCDO funding and as part of this DDA we would seek to gain an understanding and assurance on how the partner is subsequently managing any risk in the supply chain and downstream partner network.

## 9 Environmental and Social Safeguarding

FCDO are responsible for delivering against ministerial and UK Government priorities, with a clear understanding of our role and the role of others in pursuing government policy. We are accountable for rigorous programme design, managing programme risk and performance effectively; and avoiding doing harm.

The FCDO expect partners to attentively consider social and environmental safeguards through their own processes. The capacity and capability of our partners to manage risks of the interventions causing harm to either people or the environment, within the programme risk appetite, are considered throughout the programme cycle.

The safeguarding pillar of the FCDOs due diligence framework covers all safeguarding elements that are relevant to the programme in question: this includes all social (which includes sexual exploitation, abuse, and harassment) and environmental impacts. FCDO Programme teams take a risk-based approach to scoping the relevant safeguarding assessment as part of the due diligence assessment. When carrying out DDAs, programme teams review the programme and the partner's risk register with a lens on possible social and environmental risk and impacts.



One part of ensuring environmental and social safeguards are being well addressed is through the existence of strong beneficiary feedback and engagement throughout the stages of the programme ensures feedback loops are in place.

Based on the context of the programme, programme teams gather evidence from prospective partners that provide assurance they have the capacity to manage those impacts and risks sufficiently to deliver the 'Avoiding Harm' approach to development. This means understanding and managing risk of any potential harm that could occur to people or the environment. It is important for the FCDO to understand the scope of safeguarding risks that might need to be considered in each project and work with partners to ensure that any risks are identified, noted and mitigation measures in place and monitored with clear oversight responsibility.

## **10 Sexual Exploitation and Abuse and Harassment (SEAH)**

As highlighted in section 3.2 of this document FCDO has a specific focus on Safeguarding in our framework. We have detailed guidance and criteria when it comes to assessing partner capability on safeguarding against sexual exploitation and abuse and sexual harassment (SEAH) and on child safeguarding. The table below summarises the six areas related to SEAH that are examined through the safeguarding due diligence process. For more information, please access the detailed guidance here:

### **SEAH Safeguarding Due Diligence Guidance:**

<https://www.gov.uk/government/publications/dfid-enhanced-due-diligence-safeguarding-for-external-partners/enhanced-due-diligence-safeguarding-for-external-partners>

### **Child Safeguarding:**

<https://www.gov.uk/government/publications/dfid-enhanced-due-diligence-safeguarding-for-external-partners/child-safeguarding-due-diligence-for-external-partners>



## 10.1 Six Areas of SEAH due diligence

### A summary of the six areas of SEAH due diligence

SEAH Approach	Complaints & Whistleblowing	Recruitment & Training	Risk Management	Code of Conduct	Governance & Accountability
Policy Standards Children & Vulnerable Adults Beneficiary Engagement Survivor Support	Policy Training Internal Complaints External Complaints Case Register	Job Descriptions & Risk Selection & Interview References & Vetting Induction & Refresher Training	SEAH Risk Category Regular Review Fundraising Online Risks Downstream Partners	Code of Conduct IASC Six Principles Staff Signature	Designated Board Safeguarding Lead Board Handling of SEAH Local Focal Points Requirements of Others

1

## 11. Compliance with the International Aid Transparency Initiative (IATI)

Prior to programme commencement FCDO may check that the potential partner has a file registered on the IATI website and whether they are publishing information. FCDO staff may check via [d-portal.org](https://d-portal.org), looking for the partner's name in the publisher field. If they are visible on the site, FCDO will note that the organisation has completed the expected first step. Programme teams then consider whether information is being published by checking the results available. If this is not present the staff member may discuss with the organisation FCDO expectations for IATI publication. During the programme delivery and at annual checks, some parts of FCDO may go further and check that programme information is being published to the website regularly, and that downstream partner information is also present.



## 12. Data Protection and Information Sharing

As part of the FCDO due diligence process information will be gathered that will help us gain assurance that our partners:

- Have the capacity and capability to deliver our programmes
- Do not present unacceptable fiduciary, fraud, safeguarding or other reputational risks.

As part of the due diligence process, we may conduct background checks on key management (staff and/or volunteers), directors and/or trustees to provide assurance in respect of the points outlined above using publicly available information or our internally held data. In addition, we may ask for other information, including personal information such as, but not limited to, salaries for given positions, to help us assess value for money and fiduciary risk, information about individuals' criminal records to assess safeguarding and other risks, or CVs to assess the experience and skills of the staff delivering or involved in FCDO programmes.

We may need to share information gained through this assessment with other UK government departments and public bodies (including law enforcement entities).

The [FCDO Privacy Notice](#) sets out how we process any personal data which we use or obtain and we specifically refer you to it.

The FCDO is subject to the requirements of the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the UK General Data Protection Regulation, the Data Protection Act 2018 (DPA), subordinate legislation and guidance and codes of practice issued by the Information Commissioner and relevant Government Departments.

Should you have any queries regarding the above please discuss them with your point of contact within the FCDO in the first instance.

For more information on personal data: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/what-is-personal-data/>





## 13. Reporting Concerns

The FCDO expects partners to have effective incident management procedures in place to respond to incidents of any kind effectively. This may include the capacity and capability to initiate their own investigation or to commission an external investigation. Incident investigation and reporting is an important part of good governance, transparency, and overall performance. Partners should keep FCDO programme teams informed of incidents relating to FCDO funded programmes. Incidents can include any suspected fraud, theft, bribery, corruption or other breach of governance policies or any suspected harm caused to people or the environment.

If there is a suspected safeguarding incident which includes incidents of sexual exploitation, abuse, or harassment, the FCDO expect our partners to take it seriously through reporting, learning (e.g., changes made to policies and practices) and providing support to those affected. It is also important to take a survivor-centred approach when deciding upon reporting safeguarding incidents to authorities. For example, whether reporting would cause harm to the survivor, witnesses, or other parties. Consideration should also be given by the organisation to the support needed by all those affected by the incident, including staff and volunteers assisting victims of sexual abuse, exploitation, and harassment.

Concerns should be reported immediately to FCDO's Reporting Concerns inbox at [reportingconcerns@fcdo.gov.uk](mailto:reportingconcerns@fcdo.gov.uk) or through the confidential reporting hot line +44 (0)1355 843 747.





## 14. Further support

The topics below will be of help. Programme teams are advised to seek help from departmental colleagues which may include the Social Development Adviser or Safeguarding Lead.

- [FCDO Programme Operating Framework](#)
- Contact [reportingconcerns@fcdo.gov.uk](mailto:reportingconcerns@fcdo.gov.uk) to report concerns
- SEAH Safeguarding Due Diligence Guidance: [SEAH Safeguarding Due Diligence](#)
- Child Safeguarding: [Child Safeguarding](#)
- The [Core Humanitarian Standard](#), the CHSA [Guidance Notes and Indicators](#) (including the new PSEA [Index](#)), and the CHSA PSEAH [Handbook](#).
- IASC [Minimum Operating Standards](#) on Preventing Sexual Exploitation and Abuse and PSEA [Guidance](#)
- FCDO [Resource and Support Hub](#)
- [ICED SEAH Infrastructure Tool](#)
- <https://safeguardingsupporthub.org/>

**FCDO Partners** – for any specific queries relating to this guide please contact your designated FCDO programme representative. For any general queries regarding this guide please contact the FCDO Due Diligence Hub at [duediligencehub@dfid.gov.uk](mailto:duediligencehub@dfid.gov.uk)

### Control sheet

Version	Preparation	Sign off	Date
1.0	Margaret Tracey – Senior Due Diligence Adviser	David Wasley – Team Leader – Due Diligence Hub	December 2021

Risk Register: Add Name of DG/Directorate/Post/Programme

Number	Risk Description (cause, event, consequence)	Risk Category	Proximity	Gross Likelihood	Gross Impact	Gross Risk Rating (autofills)	Mitigation Strategy (including timescales)	Residual Likelihood	Residual Impact	Residual Risk Rating (autofills)	Trend	Risk Owner	Progress in Implementing Mitigation Strategy	Last Updated (DD/MM/YY)	Status	Risk Appetite	Within Appetite?	Escalated To You By? (Name of Risk Owner)	Escalated To You For? Information or Support	Date Escalated To You (DD/MM/YY)	Escalated Onwards To? (Name of Senior Manager/Board)	Escalation Onwards For: Information or Support	Date Escalated Onwards (DD/MM/YY)	Date Removed
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						#N/A				#N/A														
						#N/A				#N/A														
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## Risk Appetite

Set your appetite appropriately for your business area/programme, drawing on the FCDO Risk Appetite Statement. See link below.

[Risk Appetite Statement](#)

Risk Category	Appetite	Set By (Name/Title - SRO/HoM/Direct or/DG)	Date Set (DD/MM/YY)	Updated Appetite	Change Date (DD/MM/YY)
Strategy and Context					
Policy and Programme Delivery					
Public Service Delivery and Operations					
People					
Safeguarding					
Financial and Fiduciary					
Reputational					

## Risk Appetite

Set your appetite appropriately for your business area/programme, drawing on the FCDO Risk Appetite Statement. See link below.

[Risk Appetite Statement](#)

Risk Category	Appetite	Set By (Name/Title - SRO/HoM/Direct or/DG)	Date Set (DD/MM/YY)	Updated Appetite	Change Date (DD/MM/YY)
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Public Service Delivery and Operations					
People					
Safeguarding					
Financial and Fiduciary					
Reputational					