



CONTRACT FOR THE PROVISION OF TECHNICAL SUPPORT SERVICES TO THE DEPARTMENT OF BUSINESS, ENERGY AND INDUSTRIAL STRATEGY (THE CONTRACT OFFER LETTER)

(Purchase Order Number: to be confirmed)

This Contract is dated 19th July 2022 and is made between:-

1. **The Secretary of State for Business, Energy & Industrial Strategy** (the “Authority”) of 1 Victoria Street, London SW1H 0ET, acting as part of the Crown;

and
2. **Ove Arup & Partners Limited** (the “Contractor”) whose registered office is at 8 Fitzroy Street, London, W1T 8BJ.

INTRODUCTION

- (A) On 17 May 2022 the Authority issued an invitation to tender for the provision of Network and Storage Requirements and Assessment Services - including the specification a copy of which is set out in Schedule 1 (the “Specification”).
- (B) In response the Contractor submitted a proposal dated 27 June 2022 and entitled ‘BEIS – Hydrogen Heating Network and Storage Requirements and Assessment Lot 2 – Assessment of deliverability, land use and disruption impacts’ explaining how it would provide the Services a copy of which is set out in Schedule 2, Lot 2 and a proposal dated 27 June 2022 and entitled ‘BEIS – Hydrogen Heating Network and Storage Requirements and Assessment Lot 3 – Assessment of costs’ explaining how it would provide the Services a copy of which is set out in Schedule 2, Lot 3 (the “Proposal”).

The parties agree as follows:-

1. SUPPLY OF SERVICES AND PRICE

In consideration of payment by the Authority to the Contractor of the sums set out in Schedule 4 (exclusive of Value Added Tax) (the “Contract Price”) and in accordance with (a) the Specification; (b) the Contractor’s Proposal; and (c) the Authority’s Standard Terms and Conditions of Contract for Services (the “Standard Terms”) (a copy of which is attached at Schedule 3); the Contractor shall provide the Services described in the Specification and the Contractor’s Proposal to the Authority.



2. COMMENCEMENT AND CONTINUATION

This Contract shall commence on 18 July 2022 and subject to any provisions for earlier termination contained in the Standard Terms or extension contained in the additional terms of this Contract Offer Letter, shall end on 31 March 2024.

3. TERMS AND CONDITIONS

3.1 The Standard Terms shall form part of this Contract.

3.2 The following additional term(s) also apply to this Contract

- The Authority may extend the Contract by up to fifty percent (50%) in duration and up to fifty percent (50%) in cost by giving the Contractor no less than 3 (three) months' written notice before the Contract expires

3.4 The Contractor's terms and conditions of business shall not apply to this Contract.

3.5 This Contract is formed of these clauses and the Schedules hereto. Any other attachments are provided for information purposes only and are not intended to be legally binding. In the event of any conflict or inconsistency, the documents prevail in the following order:

- a) these clauses;
- b) the Standard Terms (as set out in Schedule 3);
- c) the Specification (as set out in Schedule 1) and Contract Price (as set out in Schedule 4); and
- d) finally, the Contractor's Proposal (as set out in Schedule 2)

4. CONTRACTOR'S OBLIGATIONS

4.1 Where the Contractor is supplying goods to the Authority these shall be delivered to the Authority in full compliance with the Specification and shall be of satisfactory quality and fit for purpose. Where the Contractor is performing Services for the Authority it shall do so in accordance with the Specification and exercise reasonable skill and care.

5. MANAGEMENT AND COMMUNICATIONS

5.1 The Contractor shall perform the Services under the direction of the Authority.

5.2 Any direction by the Authority may be given by Rachel Lee (the "Contract Manager") who is an officer in the Authority's Clean Heat



Directorate or such other person as is notified by the Authority to the Contractor in writing. All queries (including any notice or communication required to be provided under this Contract) to the Authority from Contractor shall initially be addressed to the Contract Manager

- 5.3 The Contractor appoints Rob Duffin (rob.duffin@arup.com) to be the Contractor's first point of contact for this Contract. All queries (including any notice or communication required to be provided under this Contract) to the Contractor from the Authority's Contract Manager shall initially be addressed to the Contractor's first point of contact.
- 5.4 The Contractor's first point of contact and the Contract Manager shall meet as often as either the Contractor or the Authority may require to review the Contractor's performance of the Contract.

6. INVOICES AND PAYMENT

- 6.1 Subject to the Contractor providing the Services to the Authority in accordance with this Contract and submitting invoice/s to the Contract Manager in the manner reasonably required by the Contract Manager payment will be made by the Authority to the Contractor in accordance with condition 17 of the Standard Terms.

7. TRANSPARENCY

- 7.1 The Authority will publish the Contract and the Schedules hereto on a designated government internet site, using the redacted version of the contract attached. (That version is for illustrative purposes only and does not form part of the Contract). The Authority has made the decision on the specific redactions to be made in light of the exemptions under the Freedom of Information Act 2000 (FOIA) and Condition 40 of the Standard Terms.

However, subject to those redactions, the rest of the Contract and Schedules will be published in full, in accordance with the government's policy on the publication of contracts, which forms part of the government's transparency agenda, and the Contract is therefore entered into on the basis of such publication taking place.

The Authority emphasises that its decision to redact information on this occasion does not preclude it publishing such information in the future in the context of other contracts. Neither does it preclude the disclosure of such information in the circumstances of a request for disclosure under FOIA or the Environmental Information Regulations 2004 (EIR) or where such disclosure is required by virtue of any other legal requirement. In such cases, the Authority would need to consider



disclosure in the context of the particular circumstances of the request
or requirement concerned.

Signed by the parties' duly authorised representatives:-

For the Secretary of State for Business, Energy & Industrial Strategy

Signature: 

Print Name: Lucy Longstaff

Job Title: Project Director, Clean Heat

Date: 19/07/2022

For the Contractor

Signature: 

Print Name: Tristan McDonnell

Job Title: Director

Date: 19th July 2022



The following Schedules and Annexes form part of this Contract:

Schedule 1	The Authority's Specification
Schedule 2	The Contractor's Proposal
Schedule 3	The Authority's Standard Terms & Conditions of Contract for Supplies/Services
Schedule 4	Contract Price
Schedule 5	Annex 1 – Processing, Personal Data and Data Subjects Schedule
Annex 1	MI Reporting Template: Suppliers are required to provide data on their direct spend with SMEs in the supply chain relating to the Contract

Schedule 1 – Authority’s Specification

Full Tender Document (ITT) attachment:



BEIS Hydrogen
Heating - Network an

Section 2 of the ITT, including Authority’s Specification:

A. Glossary

Archetype	A section of network that, in combination with other archetypes, can be scaled to create a GB-wide output or a complete network system (e.g. an NTS configuration) that can be applied in multiple test cases.
B7B	Below 7 Bar Network
CFES	Common Future End-states and Transition Pathways
ECV	Emergency Control Valve
EE	Element Energy – Contractor who delivered initial “Common Future End States and Transition Pathways” work
FE	Frontier Economics - Contractor who delivered initial “Assessment Methodology” work
GNO	Gas Network Operator (National Grid, Cadent, Northern Gas Networks, Wales & West Utilities, SGN)
ENA	Energy Networks Association
LTS	Local Transmission System (owned and operated by gas distribution networks)
NTS	National Transmission System (owned and operated by National Grid)
ST	System Transformation (referring to the BEIS team managing this activity)
Test case	Comprises a scenario for hydrogen demands and production and continuing natural gas demands at a minimum of 5 yearly intervals from 2030 to 2050 together with an associated network ‘pathway’ and end-state configuration of network, which may involve repurposing and/or new build networks.



B. Background and introduction

Hydrogen Heating

Along with transport, heat in buildings is one of the biggest sources of greenhouse gas emissions in the UK, accounting for 22% of total UK emissions, with a further 14% of emissions coming from heat generation in industrial processes.¹

In 2019 the UK became the first major economy to pass laws to reduce its greenhouse gas emissions to net zero by 2050, and in April 2021, we enshrined the world's most ambitious climate change target into UK law, confirming that we are at the forefront of global efforts to combat climate change.

Meeting our net-zero target will require virtually all heat in buildings to be decarbonised, and heat in industry to be reduced to close to zero carbon emissions. The Clean Growth Strategy (CGS) identifies heat as the most difficult decarbonisation challenge facing the country. It will involve large-scale transformation and wide-ranging change to energy systems and markets. The way heating is supplied to homes, businesses and industrial users will need to change.

There are a number of options with the potential to play an important role in decarbonising heat, including heat networks, heat pumps, hydrogen and biogas. Given the diversity of heat demand, no one solution can provide the best option for everyone – a mix of technologies and customer options will need to be available to decarbonise heat at scale.

Low carbon hydrogen could have the potential to be a key option for decarbonising heat in buildings, with a number of potential benefits. For example, hydrogen-ready boilers could offer a similar user experience to natural gas and could be aligned with replacement cycles; it may also be possible to use parts of the UK's existing gas network to distribute hydrogen for heat; and hydrogen may be well-suited for use in a number of sectors where other heating options such as electrification are not feasible or too costly.

However, unlike other technologies such as heat pumps and heat networks, 100% hydrogen for heat is not yet an established option. Further work is required in order to fully test, assess and develop understanding of the potential of hydrogen as an option for decarbonising heat, and in particular to assess the safety and the practical feasibility of using hydrogen in place of natural gas for heating.

The Government is working with industry, regulators and others to deliver a range of research, development and testing projects to assess the feasibility,

¹ According to BEIS internal analysis for the Heat and Buildings Strategy (2021)



costs and benefits of using 100% hydrogen for heating. This evidence will enable strategic decisions in 2026, as set out in UK Hydrogen Strategy, on the role of hydrogen for heat decarbonisation. This work has been divided up into a number of workstreams and the outputs from this ITT will deliver vital evidence into the System Transformation workstream.

System Transformation

The System Transformation (ST) workstream is a key element of BEIS' work on hydrogen heating. Its objectives are to identify the design characteristics required of the GB gas system under an indicative range of scenarios of hydrogen deployment for heating and other sectors and assess their feasibility and impacts. The scope of this work comprises GB transmission and distribution networks from production to final consumer meter and requirements for storage. Importantly, the ST analysis includes understanding and assessing the need for maintaining natural gas supplies during the transition.

This work requires detailed technical modelling of gas system capacity and operability, transition pathway analysis and outline design of new gas grid infrastructure requirements including storage. It is not considered feasible to model every gas network in detail and archetypes, or representative networks, are expected to be used to scale across GB.

The outcomes of this modelling will then need analysis and evaluation to determine the technical and programme deliverability as well as costs and other impacts.

An initial set of projects, led by the Energy Networks Association, were started in 2021 and completed in May 2022 and consisted of:

- **Common Future End States and Transition Pathways (CFES)** – this project developed a set of Test Cases² that form a range of possible network demands and pathways to deliver a transition to a hydrogen grid. The outputs from this project can be found in Annex D.
- **Assessment Methodology** – this project developed an initial set of assessment criteria and associated methodology (which also identify the data requirements) to carry out the appraisal of the Test Cases. The outputs of this project can be found in Annex E.
- **Modelling Preparation** – this project undertook a capability assessment and review of current gas network modelling tools to assess what networks have and what is required for hydrogen. Also modelling a high-level picture of the capacity available

² A 'Test Case' comprises a scenario for hydrogen demands and production and continuing natural gas demands at a minimum of 5 yearly intervals from 2030 to 2050 together with an associated network 'pathway' and end-state configuration of network, which may involve repurposing and/or new build networks.



to transport hydrogen within the current networks, identifying specific limitations.

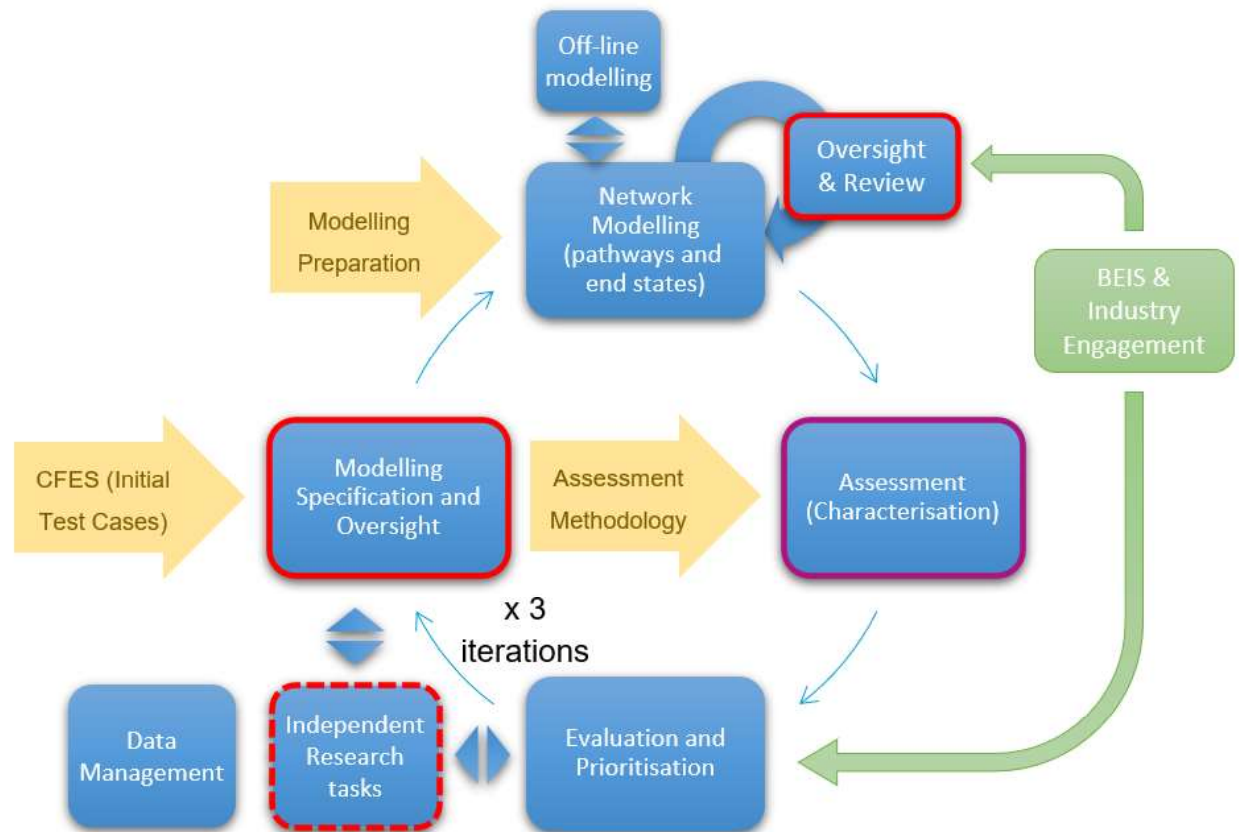


Figure 1: System Transformation Workstream Approach

The System Transformation workstream is now entering an enduring phase. This enduring phase is formulated as an iterative process, as illustrated in Figure .

This ITT relates to the delivery of the enduring ST work and will incorporate outputs and knowledge gained in the initial phase (the outputs from the initial phase of ST work are shown as yellow arrows). The enduring work will involve four different stages, and we expect to undertake three iterations of the process.

First stage – Modelling Specification and Oversight (Lot 1)

- The initial and subsequent Test Cases will be developed into detailed modelling specifications for network modelling, to be undertaken by the incumbent Gas Network Operators (GNO). The detailed modelling specification for the 1st iteration (I1) has already been produced so that the GNOs can proceed with the 1st iteration of Network Modelling.
- The development of the specifications for future iterations, and continuous oversight of the modelling, are to be undertaken under the



scope of Lot 1 of this ITT (red rectangle). At this stage it is envisaged that there will need to be a 2nd Iteration (I2) and then 3rd Iteration (I3).

Second stage – Network Modelling

- The GNOs will undertake network modelling in line with the specifications from stage 1. This will comprise hydraulic modelling of gas network configurations to determine capacity constraints and identify the need for new-build infrastructure, definition of those new-build and refurbishment requirements and network security and sensitivity analysis.

Third stage – Assessment (Lots 2 and 3)

- The outputs from the network modelling will then undergo assessment against a range of criteria (purple rectangle). Lots 2 and 3 relate to the development and application of criteria and methodologies relating to deliverability (Lot 2) and cost (Lot 3) for I1, I2 and I3. BEIS will also undertake some aspects of the assessment in house.

Fourth stage – Evaluation and Prioritisation

- The metrics produced through the assessment process will be evaluated within BEIS and recommendations on future research priorities passed forward to develop the detailed specifications required for the second and third iterations. This may result in removal, addition, modification, or greater granularity requirements within the Test Cases.

The work in the different stages will not be entirely sequential, with some overlaps to ensure that the work progresses in a timely way. In particular, it is expected that development of the Strategic Plan for the following iteration will proceed in parallel with modelling and assessment work. Further details of this are provided in the specific Lot specifications.

Scope – Lots 1, 2 & 3

Geographical scope: Great Britain. Northern Ireland is excluded from the scope of this work.

Temporal scope: 2030-2050

Infrastructure scope: The entirety of the gas grid system (all pressure tiers) from points of supply within GB to points of delivery to end users and any additional infrastructure needed temporarily or permanently to transition the gas grid system to hydrogen and operate it. This includes, but is not limited to, hydrogen pipelines, hydrogen storage, hydrogen compression facilities, hydrogen/natural gas blending and deblending equipment, etc.



This work includes the repurposing, replacing/upgrading existing infrastructure as well as new infrastructure in the same location as or near existing infrastructure, and in new locations.

Gas scope: Hydrogen and natural gas including blends up to 100% hydrogen / 0% natural gas. (Note that whilst blending at any hydrogen/methane ratio may be considered an option in transmission systems, it is expected that end users will require de-blending facilities and that B7B networks are likely to require 100% hydrogen in the final end-state.) Bio-methane/gas is not a core part of this work, but where analysis indicates that hydrogen is unlikely to be viable, ongoing use of the existing networks for bio-methane may be a consideration.

SECTION C WAS EXCLUDED AS THEY ARE RELATED TO LOT 1 OF THE ITT



D. Lot 2 – Detailed Requirements

Summary of requirements – Lot 2

The Lot 2 Contractor will be responsible for assessing the impacts of delivery-related issues for the different test cases. They will:

- Have an excellent understanding of a wide range of issues associated with the deliverability of major gas/pipeline infrastructure projects and work with BEIS, the hydrogen heating team's technical contractor, and more widely, to ensure that all relevant aspects of deliverability, societal and energy supply disruption are understood and captured in the reporting.
- Develop appropriate methodologies for assessing delivery-related impacts and set out a programme for the work with milestones to be agreed with BEIS.
- Work with the Lot 1 Supplier to ensure that the modelling outputs required for Lot 2 are incorporated into the modelling specifications and that delivery-related impacts are considered in the development of future iteration options.
- Provide input and advice to the Lot 3 supplier where aspects of the delivery-related impact assessment have cost impacts (such as fees and resources for consenting).
- Develop appropriate methodologies for assessing deliverability and set out a programme for the work with milestones to be agreed with BEIS.
- Deliver archetype and test-case delivery-related assessment reports in accordance with the agreed programme and set out an assessment of robustness/confidence in conclusions and areas for further work.
- Support BEIS and the wider stakeholder group in evaluating and prioritising work for future iterations.

Aims and Objectives – Lot 2

For each iteration of the ST work, there needs to be an assessment of each test case in relation to delivery-related impacts, whether the infrastructure deployment is feasible within the required timeframes and what the key delivery risks are. The assessment needs to include, as a minimum, the technical, administrative, current land use and natural capital dimensions of deliverability. It will also need to seek to understand the impacts of delivery in terms of societal disruption, due to energy supply disruption and the impact of infrastructure works (e.g. road works). In addition to assessing test-cases, the Supplier will also need to assess more granular network archetypes and explore sensitivities in the analysis.



The commercial, financial and social acceptance of deliverability (other than the impact on planning and consenting processes) will be considered separately and are therefore outside the scope of this Lot.

Lot 2 needs to identify the appropriate criteria to assess the delivery-related impacts, develop a detailed methodology for assessment and undertake that assessment across each iteration.

Inputs

A high-level deliverability assessment criteria and methodology study undertaken by FE (Annex D) has already identified some of the criteria that relate to deliverability. The work undertaken on this Lot is expected to refer to and expand on this work. The Supplier will be expected to generate input data from reliable, referenced sources where required.

The outputs from the Network Modelling undertaken by the GNOs in each iteration will provide the main external input for assessment of the areas covered in the Lot 2 scope. For iteration 1 the Strategic Plan (see Annex C) and the Modelling Specification is available for review for Strategic Plan). The Lot 2 Supplier will be required to engage with the Lot 1 Supplier to ensure the planned delivery-related impacts assessment methodology is compatible with the outputs from the Network Modelling.

At least for iterations 2 and 3, and possibly for iteration 1, we expect that the GNOs will provide evidence as to delivery times for different types of network investment. Existing GNO reports, such as H21 strategic modelling work, have also considered issues such as gas changeover processes.

BEIS also expects to be able to provide access to a GB hydrogen storage database, being developed by the University of Edinburgh and expected to have a first cut available in July 2022. This will include details such as locations, capacities and capabilities of potential underground hydrogen storage sites.

Required services and deliverables

This section sets out a proposed series of work packages (WP) for Lot 2. These WPs will be repeated for each iteration. The approach outlined here is indicative only and we encourage Tenderers to consider how alternative approaches might better tackle the aims and objectives whilst delivering the required outputs and engagement with BEIS, GNOs and others.

Methodology



The Contractor will need to assess the outputs from the network modelling and develop an assessment of the associated delivery-related impacts, in terms of how realistic the timelines are, key delivery risks that could impact the feasibility of the options, and the environmental and societal disruption impacts associated with delivery.

It is anticipated the work will need to include but not necessarily be limited to:

- Technology readiness level of required infrastructure/equipment
- Supply chain/workforce readiness – the ability of current supply chains to deliver the equipment and capabilities needed for delivery, including to undertake the gas changeover process
- Pre-construction works for new build and conversion of existing assets, including planning and permitting (taking into account natural capital/biodiversity impacts) and necessary land rights acquisition
- Construction and conversion works to new and existing assets
- Consideration of the gas switchover process and what the test cases imply as the pace at which that would need to happen, and whether that is realistic (linking to assessments of workforce requirements and societal disruption due to customers being off gas supply for a period)
- Decommissioning of natural gas assets no longer needed in the test cases
- Natural capital/biodiversity impacts
- End user and societal disruption, such as time off gas and the impact of road works
- Ongoing issues related to hydrogen operation, which may include increased disruption due to reduced live working ability, different workforce requirements to manage operational changes etc.

The Contractor will also need to use these assessments to identify key timeframes for decisions, such as how far in advance would key pre-construction milestones and then Final Investment Decisions need to be in order to allow the intended dates to be achievable.

FE have developed a number of methodologies covering many of these issues (included at Annex E), which Tenderers may wish to use as a starting point for developing the required suite of analysis. Tenderers are asked to note the limitations of the methodologies and tools as described in Annex E] and set out proposals that address them.

Note that with respect to the environmental impacts included in FE's report, BEIS will be assessing the carbon emissions and air quality impacts internally, so the Contractor would focus on biodiversity impacts and other impacts



associated with land use (given the close links to the planning and permitting processes).

Although this is not always mentioned in the FE methodologies, BEIS confirms that the entirety of each test case will need to be assessed, this includes all infrastructure constituting the test cases inc. hydrogen and natural gas storage (short to long term) but also key above ground installations such as compression stations, pressure reduction stations, etc.

The results of the assessments will need to be presented using reports, spreadsheets, visuals and use total, per unit of energy delivered and other suitable metrics to allow comparisons between test cases. It is anticipated that reports will need updating as the work progresses and greater knowledge is gained, for example, regarding the robustness of assumptions.



Indicative Work Packages for Lot 2

This section sets out a proposed series of WPs for Lot 2. These WPs are not necessarily sequential and will be repeated for each iteration, although the scope for the WP2.1 will be reduced in future iterations. The approach outlined here is indicative only and we encourage Tenderers to consider how alternative approaches might better tackle the aims and objectives whilst delivering the required outputs and engagement with BEIS, GNOs and others.

WP2.1 – Assessment Methodology Review and Enhancement

The Contractor will review the methodologies developed by FE and assess their suitability for use in the current and future iterations. In addition, the Contractor will consider whether the scope of analysis outlined in the FE methodologies, or other work underway in BEIS, adequately captures all the reasonably anticipated impacts of gas network conversion and, if not, propose additional metrics to capture these. The Contractor will engage with the wider BEIS team to agree the methodologies and metrics to be used. The Contractor will also identify gaps in the current evidence base and set out a plan to develop additional data or propose assumptions where such data may not be available within the timeframe of the project.

WP2.1 – Outputs

- Workshops (a maximum of 4) to engage with relevant areas of BEIS to agree the methodologies to be applied to current and future iterations
- A report summarising the findings of the review and setting out the methodologies to be applied, referencing FE documentation where these are unchanged
- Tools (e.g. excel spreadsheets) for carrying out assessments and associated QA documentation
- Summary of evidence gaps and proposals to mitigate these (may be incorporated into bullet 2 report). In Iterations 1 and 2 this may include longer-term work to fill evidence gaps for later iterations as well as work for the current iteration
- A programme of work.

WP2.2 – Preparatory and Ad-hoc analysis

It is expected that the Contractor will need to undertake some preparatory analysis, and subsequent ad-hoc analysis, through the project to inform the test-case assessment or assembly of test cases, such as exploring the



impacts of land area sterilisation on the practical limits for salt cavern storage in a given area. These pieces of work are likely to test the validity of assumptions and inform the robustness analysis of the final test case metrics.

WP2.2 – Outputs

- Identification of ad-hoc analysis requirements
- Methodology for any ad-hoc analysis requirements
- Reports on ad-hoc analyses

WP2.3 – Archetype Assessment Reports

As an interim milestone, and to ensure the target programme can be maintained, we expect that the Contractor will produce assessments against each of the archetypes prior to scaling (noting that there may be caveats in regard to the ability to scale archetypes linearly when building test case outputs). The assessment reports will also need to identify any issues that might arise through the scaling process, set out the assumptions to be made and risk-weight the consequences of those assumptions being in error. (A qualitative approach to this is set out in the Iteration 1 Strategic Plan at Annex C.) The reports will be used for engagement within BEIS to assist in identifying refinements to the methodologies and metrics and enable more rapid assembly of test cases. The reports will also need to outline key decision timeframes (eg how many years ahead of commissioning would FIDs need to be made for different infrastructure investments).

As we progress through the iterations it is likely additional evidence will become available, either through further work by the Contractor or from additional GNO sensitivity work, that may affect the assessments of test case archetypes considered in previous iterations; reports will need to be revised to incorporate these findings.

WP2.3 – Outputs

- Archetype assessment reports
- Revised reports as more data becomes available

WP2.4 – Sensitivity analysis

The work conducted by the GNOs will, in the first instance, produce single-point results for each archetype examined (note that some archetypes will reflect ‘whole systems’ at transmission level). The Contractor will need to identify where sensitivity analysis is required (e.g. on labour availability and



associated limits on sector size during gas changeover) and conduct their own assessments, or work with the GNOs via the Lot 1 Contractor where necessary to ensure necessary network modelling sensitivities are undertaken. These pieces of work are likely to test the validity of assumptions and inform the robustness analysis of the final test case metrics. It is likely that the networks will generate additional sensitivity analysis after the initial test case outputs are made available and that further information will also become available from other work streams, such as NSI, that may affect the results of the assessments; reports will need to be revised to incorporate these findings.

WP2.4 – Outputs

- Identification of sensitivity requirements
- Methodology for applying sensitivities (e.g. for use by Contractor or GNOs)
- Reports on any sensitivity/ad-hoc analyses which are not associated with test cases (and included in those reports)

WP2.5 – Test Case Assessment Reports & Iteration Summary

Test-case assessment reports will be the key output from each iteration of the modelling process. These reports will need to be in a format agreed with BEIS to enable their integration into the complete test case assessment (which will also include outcomes from Lot 3 and internal BEIS analysis). These reports will need to include:

- Reference to individual archetype reports employed
- Scaling approach to develop overall test case assessments
- Presentation of metrics for each criteria evaluated
- Presentation of any related sensitivity analysis and/or ad-hoc research
- Assessment of robustness of results
- Identification of ongoing operational differences under hydrogen service
- Identification of key assumptions, risks and limitations
- Identification of key timeframes for decisions
- Identify areas for further work

The Contractor will also need to engage with the wider BEIS team, Lot 1 and 3 Contractors and the GNOs to ensure that the results are consistent and support the assessment of robustness and limitations.



As we progress through the iterations it is likely additional evidence will become available, either through further work by the Contractor or from additional GNO sensitivity work, that may affect the assessments of full test cases considered in previous iterations; reports will need to be revised to incorporate these findings.

WP2.5 Outputs

- Test case assessment reports
- Revised assessment reports
- Engagement workshops with BEIS teams, GNOs and external parties

WP2.6 –Ad-hoc analysis

Note: This WP is not to be costed by the Tenderer as the requirement is not yet certain. Once the need for work is ascertained then the pricing would be based on the day rates provided in Annex A. BEIS may then seek to agree a fixed price commission for work under this Work Package with the Contractor. We do not expect ad-hoc work to exceed 15% of the maximum contract value.

We anticipate that there may be a need for ad-hoc analysis and support for other deliverability activities in the BEIS team. Examples may include:

- Deliverability assessment of historic analysis undertaken by GNOs (e.g. H21 Strategic Modelling Reports)
- High-level deliverability analysis of options during the evaluation & prioritisation phase to determine whether options should proceed to full modelling and assessment
- Review of work carried out by the GNOs for other parts of the BEIS hydrogen heat team (e.g. on the village trial) to assess their robustness compared to ST test cases.

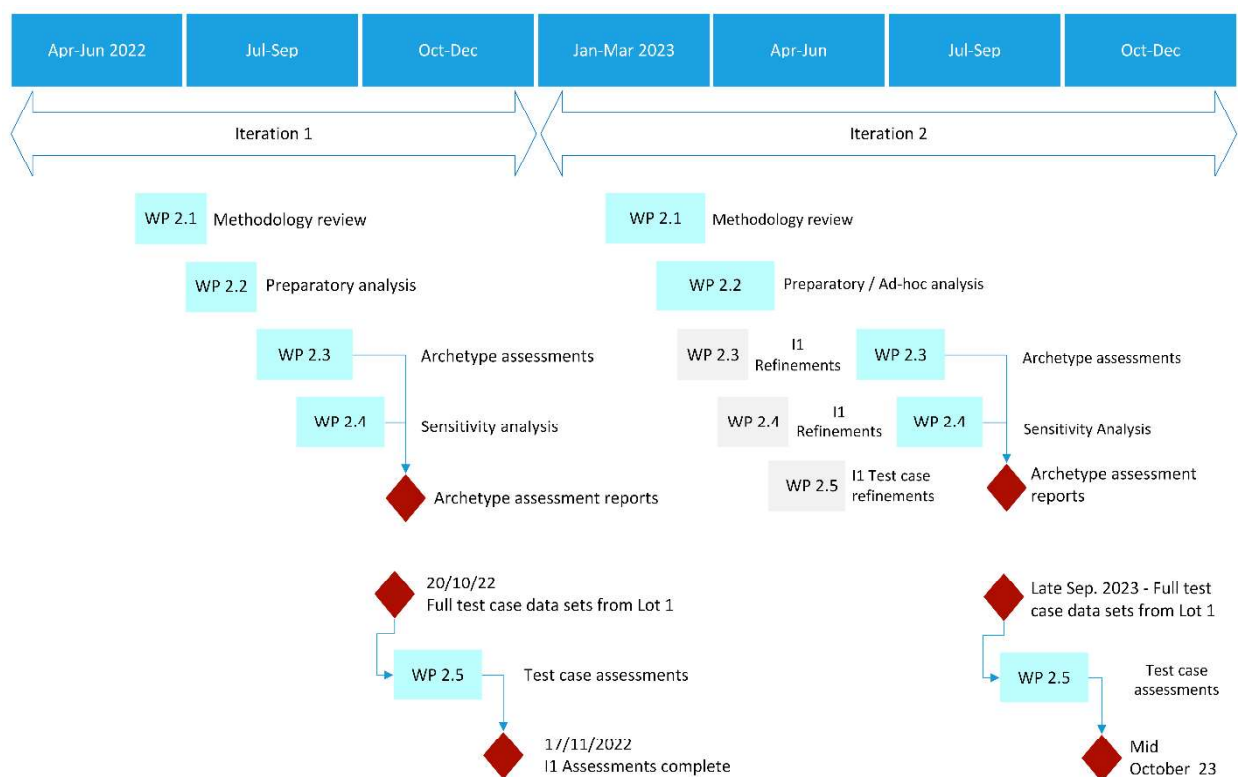
Timetable - Lot 2

An indicative iteration 1 and 2 timeline for the work packages suggested above is illustrated below, I3 will follow a similar pattern and aim to report by mid-summer to enable time to consolidate work. It is expected that some archetype data will be available from networks prior to complete test case datasets, and this will enable early archetype assessments to start. Complete test cases, compiled by the Lot 1 Contractor are expected to be available by 20th October 2022 for the first iteration and late September 2023 for the second. Dates for the third iteration are expected to be slightly earlier than this in 2024. The Lot 2 Contractor will deliver the Iteration 1 assessment reports



by 17th November 2022 for the first iteration, and progressively earlier in subsequent years for iterations 2 and 3. Once the GNOs have completed their initial modelling work, we expect they will conduct further sensitivity analysis and develop more data. The Contractor will need to evaluate this and, in combination with updated data from other sources and their own improved analysis, refine the outputs from I1 prior to datasets for I2 becoming available.

Contractors should note that since the nature and complexity of future test cases is not fully understood, this programme is indicative only and flexibility in the approach and timings should be expected.



Challenges – Lot 2

The period of time between which the Contractor will receive the final network modelling outputs from the GNOs and needing to complete the assessment is relatively tight. BEIS anticipates that the Contractor will need to undertake preparatory research and analysis in parallel with the GNOs' network modelling activity so that they can undertake the assessment quickly once the final modelling outputs are available. Conducting assessments on archetypes prior to complete test case datasets being available will also help meet the tight timeframes here.



Close working with the Lot 1 Contractor will help the Contractor get early insights as to the emerging network modelling results and the form that outputs will take; we expect that the Contractor will influence the outputs available in subsequent iterations.



E. Lot 3 - Detailed Requirements

Summary of requirements – Lot 3

The Lot 3 Contractor will be responsible for the assessment of the cost impacts of different test cases. They will:

- Have an excellent understanding of costs associated with the construction, operation and maintenance of major gas/pipeline infrastructure and work with BEIS, the hydrogen heating team's technical contractor and more widely to ensure that all relevant aspects of network costs are understood and captured in the reporting.
- Develop appropriate methodologies for assessing cost impacts and set out a programme for the work with milestones to be agreed with BEIS.
- Work with the Lot 1 Contractor to ensure that the modelling outputs required for Lot 3 are incorporated into the modelling specifications and that cost-related impacts are considered in the development of future iteration options.
- Develop appropriate methodologies for assessing costs and set out a programme for the work with milestones to be agreed with BEIS.
- Deliver archetype and test-case assessment reports in accordance with the agreed programme and setting out an assessment of robustness/confidence in conclusions and areas for further work.
- Support BEIS and the wider stakeholder group in evaluating and prioritising work for future iterations.

Aims and Objectives – Lot 3

For each iteration of the ST work, there needs to be an assessment of each test case of the cost impacts, covering the component costs (DEVEX, CAPEX, REPEX, OPEX and Decommissioning costs etc.) for the lifetime of the infrastructure. In addition to assessing test cases, the Contractor will also need to assess more granular network archetypes and explore sensitivities in the analysis.

External costs ("externalities"), such as greenhouse gas or air quality impacts, will be considered separately and are therefore not in the scope of this Lot.

Lot 3 needs to identify the appropriate criteria to assess the costs, develop a detailed methodology for assessment and undertake that assessment across each iteration.

Inputs



The outputs from the Network Modelling undertaken by the GNOs in each iteration will provide the main external input for assessment of the areas covered in the Lot 3 scope. For iteration 1 the Strategic Plan and the Modelling Specification is available for review (see Annex C). The Lot 3 Contractor will be required to engage with the Lot 1 Contractor to ensure the planned costs assessment methodology is compatible with the outputs of from the Network Modelling.

We expect that the GNOs will provide evidence as to different elements of costs for different types of network assets, though the Contractor will need to use independent evidence to produce their own robust, objective estimates.

Required service and deliverables – Lot 3

This section sets out a proposed series of work packages (WP) for Lot 3. These WPs will be repeated for each iteration. The approach outlined here is indicative only and we encourage Tenderers to consider how alternative approaches might better tackle the aims and objectives whilst delivering the required outputs and engagement with BEIS, GNOs and others.

Methodology

The Contractor will need to review the outputs from the network modelling and develop an assessment of the associated costs.

FE have developed methodologies covering many of these areas (included at Annex E), which Tenderers may wish to use as a starting point for developing the required suite of analysis. Tenderers are asked to note the limitations of the methodologies and tools as described and to set out proposals to address them.

Although this is not always mentioned in the FE methodologies BEIS confirms that the entirety of each test case will need to be assessed, this includes all infrastructure constituting the test cases inc. hydrogen and natural gas storage (short to long term) but also key above ground installations such as compression stations, pressure reduction stations, etc.

The presentation assessments of assessment results will need to be agreed with BEIS, but is expected to comprise a mix of reports, spreadsheets and visuals and use total energy, per unit energy delivered, and other suitable metrics to allow comparisons between test cases.



Indicative Work Packages for Lot 3

These work packages will be repeated at each iteration, although the scope for the WP3.1 and 3.2 will be reduced.

WP3.1 – Cost Methodology Review and Enhancement

The Contractor will review the cost methodologies developed by FE and assess their suitability for use in the current and future iterations. In addition, the Contractor will consider whether the scope of analysis outlined in the FE methodologies, or other work underway in BEIS, adequately captures all the reasonably anticipated cost impacts of gas network conversion and, if not, propose additional metrics to capture these. It is important that the cost data developed is consistent with approaches being used across heat decarbonisation appraisal work and the Contractor will need to engage with wider BEIS teams to agree the methodologies and metrics to be used.

It is anticipated that the work will need to include but not necessarily be limited to:

- Hydrogen network and storage development Costs (DEVEX)
- Hydrogen network and storage Capital & Conversion Cost (CAPEX & REPEX)
- Hydrogen network and storage Operating Costs (OPEX), being cognisant of potential difference in operating practices for hydrogen
- Natural Gas network and storage Decommissioning costs
- Approaches to cost of capital, technical depreciation rates and post-2050 costs (noting that BEIS will identify the appropriate approach regarding economic asset life)
- Consideration of costs associated with stranded asset risks

The Contractor will also identify gaps in, and limitations of, the current evidence base and set out a plan to develop additional data or propose assumptions where such data may not be available. This work package will be repeated as a review for each subsequent iteration but focusing on where additional information has become available.

The Contractor will also need to identify where cost data can be applied at archetype level, how data can be scaled to provide a GB-wide cost assessment for different test cases, and where archetype scaling is inappropriate (e.g. for some fixed cost data), how such costs will be developed and presented. This could include, for example, 'system'



archetypes which can be combined with 'network' archetypes to arrive at complete test-case cost assessments.

WP3.1 Outputs

- Workshops (a maximum of 4) to engage with relevant areas of BEIS to agree the methodologies to be applied to current and future iterations
- A report summarising the findings of the review and setting out the methodologies to be applied, referencing FE documentation where these are unchanged
- Tools (e.g. excel spreadsheets) for carrying out assessments (using inputs from WP3.2) and associated QA documentation
- Summary of evidence gaps and proposals to mitigate these (may be incorporated into bullet 2 report)
- A programme of work

WP3.2 – Cost Database Development

The Contractor will develop a cost database that will be a single source for unit costs to be applied when developing archetype and test-case cost assessments. The database will also need to include an assessment of the robustness of, and confidence in, the costs of each item in the database; the Contractor will need to develop a methodology to assess this.

The Contractor will then need to populate the database. This will include having reference to any cost estimates provided by GNOs, but will also need to reflect independent, objective analysis of likely unit costs.

WP3.2 Outputs

- Proposed database structure for review prior to implementation
- Methodology for assessing confidence in data
- Populated cost database

WP3.3 – Archetype cost assessment & sensitivity analysis

We expect that archetypes will be used in different combinations to develop various GB-wide test cases and that modelling outputs for archetypes will become available prior to complete test case definitions. As such, the Contractor will need to produce cost assessments per archetype, together with application notes – i.e. identifying approaches to scaling the costs and any associated caveats.



This WP would also develop 'system cost' archetypes should these be considered feasible.

Where considered feasible at archetype level, the Contractor should also produce cost sensitivity analyses. This should enable a more granular approach to full test-case sensitivity analysis since cost variations can be applied with tolerances appropriate to the data used for each archetype.

As we progress through the iterations it is likely additional evidence will become available, either through further work by the Contractor or from additional GNO sensitivity work, that may affect the assessments of test case archetypes considered in previous iterations; reports will need to be revised to incorporate these findings.

WP3.3 – Outputs

- Archetype cost assessments with sensitivities
- Revised cost assessment reports
- Application notes

WP3.4 – Test case cost assessment and sensitivity analysis

Test-case assessment reports will be the key output from each iteration of the modelling process. These reports will need to be in a format agreed with BEIS to enable their integration into the complete test case assessment (which will also include outcomes from Lot 2 and internal BEIS analysis). These reports will need to include:

- Reference to individual archetype reports employed
- Scaling approach to develop test case output
- Presentation of metrics for each criteria evaluated
- Presentation of any related sensitivity analysis and/or ad-hoc research
- Assessment of robustness of results
- Identification of key assumptions, risks and limitations
- Identify areas for further work

The Contractor will also need to engage with the wider BEIS team, Lot 1 and 2 Contractor s and the GNOs to ensure that the results are consistent and support the assessment of robustness and limitations.

As we progress through the iterations it is likely additional evidence will become available, either through further work by the Contractor or from



additional GNO sensitivity work, that may affect the assessments of full test cases considered in previous iterations; reports will need to be revised to incorporate these findings.

WP 3.4 Outputs

- Test case cost assessments with sensitivities
- Revised cost assessment reports

WP3.5 –Ad-hoc analysis

Note: This WP is not to be costed by the Tenderer as the requirement is not yet certain. Once the need for work is ascertained then the pricing would be based on the day rates provided in Annex A. BEIS may then seek to agree a fixed price commission for work under this Work Package with the Contractor. We do not expect ad-hoc work to exceed 10% of the maximum contract value.

We anticipate that there may be a need for ad-hoc analysis and support for other costing activities in the BEIS team. Examples may include:

- Cost assessment of historic analysis undertaken by GNOs (e.g. H21 Strategic Modelling Reports)
- High-level cost analysis of options during the evaluation & prioritisation phase to determine whether options should proceed to full modelling and assessment
- Review of work carried out by the GNOs for other parts of the BEIS hydrogen team (e.g. on the village trial) to support assessments of confidence in cost data provided

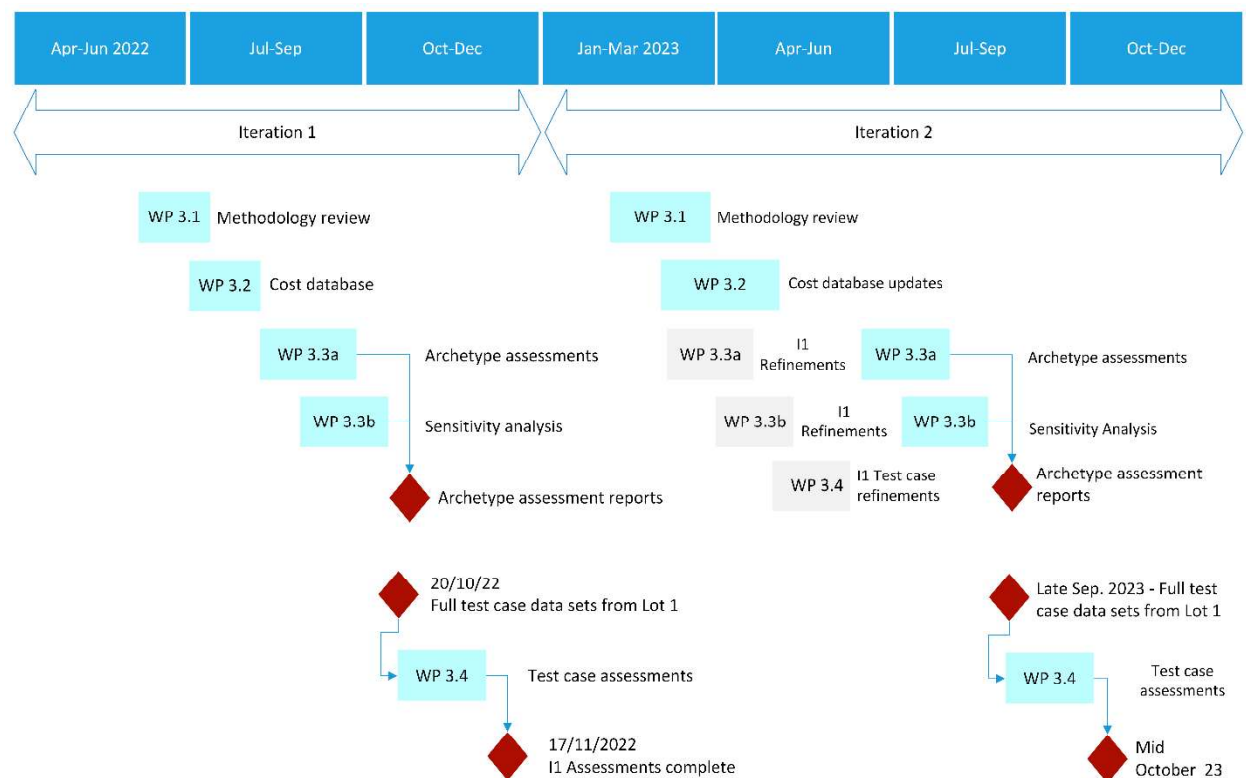
Timetable - Indicative Dates – Lot 3

An indicative iteration 1 and 2 timeline for the work packages suggested above is illustrated below, I3 will follow a similar pattern and aim to report by mid-summer to enable time to consolidate work. It is expected that some archetype data will be available from networks prior to complete test case datasets, and this will enable early archetype assessments to start. Complete test cases, compiled by the Lot 1 Contractor are expected to be available by 20th October 2022 for the first iteration and late September 2023 for the second. Dates for the third iteration are expected to be slightly earlier than this in 2024. The Lot 3 Contractor will deliver the Iteration 1 assessment reports by 17th November 2022 for the first iteration, and progressively earlier in subsequent years for iterations 2 and 3. Once the GNOs have completed their



initial modelling work, we expect they will conduct further sensitivity analysis and develop more data. The Contractor will need to evaluate this and, in combination with updated data from other sources and their own improved analysis, refine the outputs from I1 prior to datasets for I2 becoming available.

Contractors should note that since the nature and complexity of future test cases is not fully understood, this programme is indicative only and flexibility in the approach and timings should be expected.



Challenges – Lot 3

The period of time between which the Contractor will receive the final network modelling outputs from the GNOs and needing to complete the assessment is relatively tight. BEIS anticipates that the Contractor will need to undertake preparatory research and analysis in parallel with the GNO's network modelling activity so that they can undertake the assessment quickly once the final modelling outputs are available. Conducting assessments on archetypes prior to complete test case datasets being available will also help meet the tight timeframes here.

Close working with the Lot 1 Contractor will help the Contractor get early insights as to the emerging network modelling results and the form that



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& Industrial Strategy

outputs will take; we expect that the Contractor will influence the outputs available in subsequent iterations.



F. Demonstration of Skills and Experience – Lots 1, 2 & 3

Tenderers must also complete Declaration 4: Technical and Professional Ability. To note, the Department shall reserve the right to disqualify any bid from the procurement, which is not fully completed, or does not include all of the fully completed documentation and declarations requested in this ITT.

G. Working Arrangements – Lots 1, 2 & 3

Tenderers will be expected to outline in their tender response a team of named individuals responsible for project management of the Lots being bid for. The Contractor's management team will have regular meetings with the BEIS contract management team to: discuss progress on providing the services required under this ITT; track KPIs; manage invoicing; track spend against budget; and to discuss any existing or anticipated areas of concern.

Where undertaking research, the Contractor will need to comply with BEIS' Code of Practice for Research (Annex B). Tenderers should indicate acceptance of the Code when submitting their proposals.

H. Performance Management – Lots 1, 2 & 3

The performance of the Contractor will be monitored on an ongoing basis, both through regular informal communications with the BEIS project team, and via formal measurement of key performance indicators (KPIs), which will be recorded in a KPI log, and which will be monitored on a regular basis.

The KPIs which BEIS will measure are outlined in the table below. KPIs **1-3** will be measured for any substantive deliverable / work package specified in this ITT. KPIs **4** and **5** will be measured on a monthly basis in line with the agreed invoicing schedule. KPI **6** will be measured whenever a member of staff from the Contractor changes.

Key Performance Indicator	Description	Performance Target	Assurance provider/ responsible lead
1. Deliverable timeliness	Was the output delivered in the agreed timeframe?	90% (Within 5 working days)	BEIS project team



	(Y/N)	of deadline)	
2. Internal quality assurance	Was the output subjected to the agreed internal quality controls? (Y/N)	100%	Contractor
3. BEIS quality score	Was the output produced to satisfactory quality and did it meet the objective set? (Y/N)	90%	BEIS project team
4. Invoice timeliness	Was the invoice provided within the agreed timeframe? (Y/N)	100%	BEIS contract manager(s)
5. Invoice accuracy	Was the invoice provided accurate? (Y/N)	100%	BEIS contract manager(s)
7. Personnel changes	Was the personnel change handled subject to the agreed terms (see below for details)? (Y/N)	100%	BEIS contract manager(s)

To minimise disruption to ongoing work packages, the Contractor will be expected to endeavour to minimise its staff turnover as much as possible. However, BEIS recognises that staff turnover is sometimes unavoidable. To mitigate the disruption caused, the Contractor should endeavour to give at least 6 weeks' notice where a member of personnel has to be changed. The Contractor will also be expected to provide a like-for-like replacement and where possible allow for a period of at least 4 weeks for handover between the incumbent and replacement individual. Any additional costs associated with this handover will be borne by the Contractor. Where it is not possible to arrange a full in-person handover, the leaving staff member should prepare handover documents for their replacement to ensure continuity of work.

Where the Contractor is failing to meet the KPI performance target, the issue will be raised during the regular meetings between the Contractor project management team and BEIS contract management team, where an approach will be agreed to address the issue.



I. Quality Assurance – Lots 1, 2 & 3

Tenderers must set out their approach to quality assurance (QA) in their response to this ITT, with a QA plan encompassing each Lot they are bidding for. The QA plan should be cognisant of the requirements of the BEIS Code of Practice for Research (Annex B). Contractors bidding for Lot 1 should note that this requirement is distinct from Quality Assuring the outputs from the GNOs modelling activities, which will require a separate QA plan.

Sign-off for the quality assurance must be done by someone of sufficient seniority within the Tenderer to be able take responsibility for the work done. Acceptance of the work by BEIS will take this into consideration. BEIS reserves the right to refuse to sign off outputs, which do not meet the required standard specified in this ITT.

As part of the QA process, the Contractor should ensure that:

- A QA plan is provided.
- A QA log is completed for each deliverable to record the QA undertaken and the outputs of the QA.
- For any outputs that rely on modelling, including spreadsheets, for any part of their production, the Contractor shall comply with “BEIS Modelling Quality Assurance tools and guidance”, the details of which may be found here:
<https://www.gov.uk/government/collections/quality-assurance-tools-and-guidance-in-decc>

J. Duration – Lots 1, 2 & 3

The contracts are expected to commence on 6th July 2022 and will run until 31st March 2025 unless terminated or extended by the Department in accordance with the terms of the contract.

Due to the nature of the contract, many deliverables will be required, and the associated deadlines will be agreed after the contract has commenced, when the commission is made.

K. Budget – Lots 1, 2 & 3

The Contract(s) for Lots 1,2 and 3 will have the following maximums per Lots:

- a. Lot 1: up to £1 million (Excluding VAT)
- b. Lot 2: up to £1.2 million (Excluding VAT)
- c. Lot 3: up to £0.8 million (Excluding VAT)



Cost will be a criterion against which bids which will be assessed. Payments will be made monthly on a time and materials basis according to the rate card submitted as part of Tenderer(s) bid(s). Project management and other overhead costs will be paid on a fixed price basis split equally across each month of the contract. Please refer to the Pricing Template to specify the daily rates (excluding VAT) that each partner within the Tenderer will charge for each level of staff along with project management and any other overhead costs. **Note:** all Tenderers must complete this Pricing Template.

L. Social Value – Lots 1, 2 & 3

Social value is a broad term used to describe the wider social, environmental and economic effects of an organisation's actions, and how they contribute to the long-term wellbeing of individuals, communities and societies. Social value is not just what the contract delivers but the legacy or footprint of the contract. The Contractor(s) should be going above and beyond the specified requirements to create added social value through the contract(s).

Organisations contracted to deliver services via central government contracts should endeavour to embed good practice of social value into everything they do, in line with guidance outlined in the Government's Procurement Policy Note PPN 06/20 – taking account of social value in the award of central government contracts (<https://www.gov.uk/government/publications/procurement-policy-note-0620-taking-account-of-social-value-in-the-award-of-central-government-contracts>).

Tenderers will be expected to describe in their tender how, in the course of delivering this/these contract(s), they will be able to demonstrate social value over and above the contractual and legal requirements. Bidders will be specifically evaluated against their ability to demonstrate social value against two criteria as outlined below.

Firstly, Tenderers should demonstrate how they would contribute towards increasing supply chain resilience and capacity, through creation of a diverse supply chain to deliver the contract(s), and collaboration throughout the supply chain, with a fair and responsible approach to working with supply chain partners in delivery of the contract. Tenderers may demonstrate this for example through:

- Activities to identify opportunities to open sub-contracting under the contract to a diverse range of businesses, such as new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals.



- Activities that demonstrate a collaborative way to work with a diverse range of businesses as part of the supply chain.
- Advertising of supply chain opportunities openly and to ensure they are accessible to a diverse range of businesses.
- Ensuring accessibility for disabled business owners and employees.
- Structuring of the supply chain selection process in a way that ensures fairness (e.g. anti-corruption) and encourages participation by a diverse range of businesses, including with regard to new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals.
- Measures to ensure supply chain relationships relating to the contract will be collaborative, fair and responsible.

Secondly, Tenderers should demonstrate how they and their Sun-contractors would contribute towards tackling workforce inequality, through action to identify and tackle inequality in employment, skills and pay in the contract workforce. Tenderers may demonstrate this for example through:

- Demonstrating an understanding of the issues affecting inequality in employment, skills and pay in the industries/sectors relevant to the contract(s), and in the member organisations of the Tenderer.
- Measures to tackle inequality in employment, skills and pay in the contract(s) workforce.
- Measures to support in-work progression to help people in the contract(s) workforce, including those from disadvantaged or minority groups, to move into higher paid work by developing new skills relevant to the contract(s).

M. Tenders with multiple suppliers – Lots 1, 2 & 3

Tenderers can consist of a single organisation, or it may partner with one or more Sub-contractors. The structure of the relationship must be clearly identified in the bid.

BEIS will form a contract with the Tenderer. The Tenderer will be responsible for coordinating the work of the Tenderer and its Sub-contractors. Only one submission covering all the organisations is required but Tenderers are advised to make clear the proposed role that each Sub-contractor will play in performing the contract as per the requirements of the technical specification. This should include an explanation of the full organisation and governance associated with the delivery, including which particular skills and experience are offered by each Sub-contractor.

The Department recognises that arrangements in relation to sub-contractors may (within limits) be subject to future change. Tenderers should therefore



respond in the light of the arrangements as currently envisaged. Tenderers are reminded that any future proposed change in relation to sub-contractors must be notified to the Department so that it can make a further assessment by applying the selection criteria to the new information provided.

N. Ownership and publication – Lots 1,2 & 3

Ownership

BEIS is committed to openness and transparency. Project outputs should be accessible, non-disclosive and suitable for publication and further use. The exceptions to this are where:

1. The intellectual property rights to an output (or part of an output) are owned by someone other than the Tenderer. The Tenderer should state in their tender if this is the case and indicate whether the third party copy righted materials can be redacted.
2. Data is commercial in confidence.
3. A non-anonymised dataset if required for the project.
4. The outputs are internal documents only for BEIS – e.g. project updates.

If these exceptions apply to any part of the outputs, Tenderers should indicate this in their proposal alongside any approaches to resolving these.

Unless otherwise stated in your tender, all outputs will be assumed to be owned by BEIS. The outputs, raw data and any tools developed during the course of this contract will be transferred to BEIS at times agreed with BEIS and cannot therefore be used by the Contractor for purposes other than our work.

BEIS standard terms and conditions require that BEIS retain the Intellectual Property (IP) from all models and software paid for by BEIS:

- Where the Contractor is using or building on top of existing IP, such as modules that interface with the model, or proprietary datasets, this must be explicitly stated in the tender response.
- Where open source code or models are to be used within this model, please make clear under which license this open source software is released.
- The Contractor agrees that any pre-existing IP owned by the Contractor and used in the course of meeting this contract will be freely available for use by BEIS in the Hydrogen for Heat team.



- The Open Government Licence should be used wherever possible:
<http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2/>

Non-disclosure

All outputs must be provided to BEIS in a format that is non-disclosive (i.e. no individuals or individual organisations are identifiable from the data or analysis, directly or indirectly). The Contractor is responsible for ensuring that the data is supplied in this form alongside a report on the checks made. A minimum standard for checking includes cell counts within sub-groups for all outputs and analysis. The Contractor will be asked to agree their approach to checking for disclosure with BEIS during the course of the contract(s), before the checks are carried out. Where data or analysis is found to be disclosive during checking, the Contractor will be required to suggest an approach or approaches to aggregate the analysis and to agree this with BEIS.

Storage and transfer

The Contractor will need to ensure that all appropriate regulations are adhered to regarding safe storage and transfer, compliant with BEIS requirements for the data processing of restricted data. The Contractor must submit an overview of their data handling and security protocols to demonstrate compliance.

O. Data Protection – Lots 1,2 &3

The Contractor will be compliant with the Data Protection Legislation, as defined in the terms and conditions applying to this Invitation to Tender. A guide to The General Data Protection Regulation published by the Information Commissioner's Office can be found [here](#).



Schedule 3 – Standard Terms and Conditions

BEIS STANDARD TERMS AND CONDITIONS OF CONTRACT FOR SERVICES

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1 Definitions and Interpretations

(1) In these terms and conditions of contract for services, unless the context otherwise requires, capitalised expressions shall have the meanings set out below.

“Annex 1” means the Annex 1 (Processing, Personal Data and Data Subjects schedule) attached to the Contract Offer Letter which forms part of this Contract;

“Authority” means the Secretary of State for Business, Energy and Industrial Strategy of 1 Victoria Street, London SW1H 0ET, acting as part of the Crown;

“Authority’s Premises” premises owned, controlled or occupied by the Authority which are made available for use by the Contractor or its subcontractors for provision of the Services (or any of them);

“Charges” means the Contract Price (or parts thereof) agreed in respect of the Services, excluding Value Added Tax (as more fully detailed in Schedule 4 of the Contract Offer Letter);

“Confidential Information”: information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, activities, suppliers, products, affairs and finances of the Authority or any other department or office of her Majesty’s Government or related to or connected with the Contract or the Services including, without limitation, technical data and know-how relating to Her Majesty’s Government, the Contract or the Services or any of their suppliers, agents, management or contacts and including (butnot limited to) information that the Contractor creates, develops, receives or obtains in connection with their Contract or the Services, whether or not such information (if in anything other than oral form) is marked confidential (but “Confidential Information” does not include the Contract itself and the provisions of the Contract where, or to the extent that, the Authority publishes them in the public domain);

“Consents” means all permissions, consents, approvals, certificates, permits, licenses and authorisations required for the performance of any of the Contractor's obligations under this Contract including for the avoidance of doubt environmental permits, planning permissions and obligations, consents of third parties (whether or not from a public authority or any other person whatsoever);

“Contract” means the agreement concluded between the Authority and the Contractor for the supply of Services, including without limitation the Contract Offer Letter (and Schedules thereto), Annex 1, these Standard Terms and Conditions (to the extent that they are not expressly excluded or modified), all specifications, plans, drawings and other documents which are incorporated into the agreement;



“Contract Offer Letter” means the offer letter that sets out inter-alia the Parties to the Contract and the key Contract terms;

“Contract Period” means the period from the commencement of this Contract to the date of expiry of this Contract set out in the Contract Offer Letter or such earlier date as this Contract is terminated in accordance with its terms;

“Contract Year” means a period of 12 consecutive months starting on the date of this Contract and each anniversary thereafter;

“Contractor” means the person who agrees to supply the Services and includes any person to whom all or part of the Contractor’s obligations are assigned pursuant to Condition 6;

“Contract Manager” means the person nominated by the Authority to manage the Contract;

“Contractor Personnel” means all directors, officers, employees, other workers, agents, consultants, persons and contractors engaged by or on behalf (whether directly or indirectly) of the Contractor and of any subcontractor (of any tier) engaged in the performance of the Contractor’s obligations under this Contract;

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

“Controller” shall have the same meaning as given in the UK GDPR;

“Crown” means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales) including, but not limited to, government ministers and government departments and particular bodies, persons and government agencies;

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

“Data Protection Impact Assessment” means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

“Data Protection Legislation” means:

- a. the UK GDPR and any applicable national implementing Laws as amended from time to time;
- b. the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy;
- c. all applicable Law about the processing of personal data and privacy;

“Data Protection Officer” shall have the same meaning as given in the UK GDPR;

“Data Subject” shall have the same meaning as given in the UK GDPR;



“Data Subject Request” means 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;

“Default” means any breach of the obligations of the Contractor (including abandonment of a Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Contractor, of any person acting on its behalf (including subcontractors) howsoever arising in connection with or in relation to the subject-matter of a Contract and in respect of which the Contractor is liable to the Authority;

“Deliverables” means any objectives or deliverables that are required to be provided by the Contractor as part of the Services under the Contract, or any goods ordered under the Contract including, without limitation, any documentation required to be provided;

“Existing IPR” means any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the commencement of this Contract or otherwise);

“Force Majeure” means any of the below circumstances provided that they are not within a party's reasonable control including, only:

- a. acts of God, flood, drought, earthquake or other natural disaster;
- b. epidemic or pandemic;
- c. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d. nuclear, chemical or biological contamination or sonic boom;
- e. collapse of buildings, fire, explosion or accident; and
- f. interruption or failure of utility service.

“Government Property” means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Authority, including but not limited to equipment, parts, materials, documents, papers or data issued in electronic form and any other materials;

“Health and Safety Policy” means the health and safety policy of the Authority as provided to the Contractor from time to time;

“Intellectual Property Rights” or **“IPR”** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted,



renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“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 Deliverables or otherwise provided and/or licensed by the Contractor (or to which the Contractor has provided access) to the Authority in the fulfilment of its obligations under the Contract;

“Law” means any legal provision the Contractor must comply with including any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972 (as implemented into UK law, by virtue of the European Union (Withdrawal Agreement) Act 2018 (as amended by the European Union (Withdrawal Agreement) Act 2020)), regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body;

“Material Breach” means a material breach of the Contract, which, for the avoidance of doubt, shall include:

- a. the failure on the part of the Contractor to provide a Rectification Plan to the Authority within 10 Working Days of being so requested;
- b. the Contractor’s proposed Rectification Plan is rejected by the Authority in line with Conditions (4) and b; or
- c. failure to deliver on an agreed Rectification Plan;

“MI Reporting Template” means the document (included as an annex to the Contract Offer Letter) as amended in accordance with Condition 23;

“New IPR” means a) IPR in Deliverables or other items created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of the 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 Contractor’s obligations under the Contract and all updates and amendments to the same; but shall not include the Contractor’s Existing IPR;

“Open Book Data” means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Contract, including details and all assumptions relating to:

- a. the Contractor’s costs broken down against each Service and/or Deliverable, including actual capital expenditure (including capital



replacement costs) and the unit cost and total actual costs of all Deliverables;

- b. operating expenditure relating to the provision of the Deliverables including an analysis showing:
 - i. the unit costs and quantity of goods and any other consumables and bought-in Deliverables;
 - ii. work force resources broken down into the number and grade/role of all Contractor Personnel (free of any contingency) together with a list of agreed rates against each work force grade;
 - iii. a list of costs underpinning those rates for each work force grade, being the agreed rate less the Contractor profit margin;
 - iv. and reimbursable expenses, if allowed under the Purchase Order form;
- c. overheads; and all interest, expenses and any other third-party financing costs incurred in relation to the provision of the Deliverables;
- d. the Contractor's profit achieved over the Contract period and on an annual basis;
- e. confirmation that all methods of cost apportionment and overhead allocation are consistent with and not more onerous than such methods applied generally by the Contractor;
- f. an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and
- g. the actual costs profile for each service period;

"Party" means a Party to this Contract, and "Parties" shall mean both of them;

"Personal Data" shall have the same meaning as given in the UK GDPR;

"Personal Data Breach" shall have the same meaning as given in the UK GDPR;

"Processor" shall have the same meaning as given in the UK GDPR;

"Protective Measures" means any 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;

"Purchase Order" means the document so described by the Authority to purchase the Services which makes reference to the Conditions;

"Rectification Plan" means a plan (or revised plan) by the Contractor to rectify a Default, which shall include:



- a. full details of the Default that has occurred, including a root cause analysis;
- b. the actual or anticipated effect of the Default;
- c. the steps which the Contractor proposes to take to rectify the Default and to prevent such Default from recurring, including the Contractor's proposed timescales for such rectification;
- d. an analysis of the Contractor's ability to provide the Services and Deliverables under the Contract; and
- e. any reasonably foreseeable events that may impact on the Contractor's ability to comply with the measures contained within the Rectification Plan.

“Required Insurances” means those insurances required pursuant to Conditions **Error! Reference source not found.** and (1);

“Services” means the services including the Deliverables to be supplied under the Contract;

“SME” means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;

“Standard Terms and Conditions” means the terms and conditions contained in this document;

“Sub-Processor” means any third Party appointed to process Personal Data on behalf of the Contractor related to this Contract;

“UK GDPR” the General Data Protection Regulation (EU) 2016/679 as retained into UK law by virtue of the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019;

“VCSE” means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

“Working Day” means any day other than a Saturday, Sunday or public holiday in England and Wales.

(2) The interpretation and construction of the Contract shall (save where context requires otherwise) be subject to the following provisions:

- a. a reference to any statute, enactment, order, regulation or similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
- b. a reference to any agreement, consent, permission or other document at a particular time shall be construed as a reference to it as it may then have been amended, restated, varied, supplemented, modified, suspended, assigned or novated;



- c. a reference to this Contract includes any schedules or annexures to this Contract;
- d. references in the singular shall include references in the plural and vice versa;
- e. a reference to a “day” means a calendar day, a reference to a “month” means a calendar month and a reference to a “year” means a calendar year;
- f. the *ejusdem generis* rule shall not apply and references to “includes”, “including”, “in particular”, “other”, “otherwise” or any such similar terms shall be construed without limitation;
- g. the headings in this Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract;
- h. any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after 11pm on 31 December 2020; and
- i. references to “person”, any person, firm, company, corporation, government (including any government department), state or agency of a state, or any association, trust or partnership.

2 Conflict

In the case of any conflict or inconsistency between these Standard Terms and Conditions and any specific terms of the Contract:

- (1) the specific term of the Contract dealing with conflicts shall determine which provision shall prevail; or
- (2) (if applicable) where there is no such specific conflicts provision in the Contract then, the specific terms of the Contract shall prevail (save that these Standard Terms and Conditions shall prevail over and above any terms, conditions or provisions set out in any Contractor’s proposals or terms and conditions provided by the Contractor).

3 Entire Agreement

The Contract constitutes the entire agreement and understanding between the Parties and supersedes all prior written and oral representations, assurances, warranties, representations, agreements or understandings between them relating to the subject matter of the Contract provided that neither Party excludes liability for fraudulent misrepresentations upon which the other Party has relied.

Subject to any liability for fraudulent misrepresentation, each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract.



4 Acts by the Authority

Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either expressly or impliedly, by the Authority to take or do that decision, act or thing.

5 Contractor Status

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Authority and the Contractor. Nor shall anything in this Contract entitle the Contractor to make or enter in to any agreements or commitments for or on behalf of the other Party.

6 Assignment and Subcontracting

- (1) The Contractor shall not give, bargain, assign, transfer, mortgage, charge, delegate, declare a trust over, sell, assign, subcontract or otherwise dispose of the Contract or any part thereof without the previous agreement in writing of the Authority.
- (2) The Contractor shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the Authority.
- (3) If the Contractor uses a subcontractor for the purpose of performing the Services or any part of it, the Contractor shall include in the relevant contract a provision which requires the Contractor to pay for those goods or services within 30 days of the Contractor receiving a correct invoice from the subcontractor.
- (4) Notwithstanding any subcontracting by the Contractor in accordance with this Condition 6, the Contractor shall remain responsible for all acts and omissions of its subcontractors and the acts and omissions of those employed or engaged by its subcontractors as if they were its own.
- (5) The Authority shall be entitled to assign any or all of its rights under the Contract to any “contracting authority” as defined in Regulation 2(1) of the Public Contracts Regulations 2015.
- (6) Where the Authority notifies the Contractor that it estimates the Charges payable under this Contract are due to exceed £5 million in one or more Contract Years the Contractor shall:
 - a. subject to Condition (9), 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 Contract Period;

- b. within 90 days of awarding a subcontract to a subcontractor, update the notice on Contracts Finder with details of the successful subcontractor;
- c. monitor the number, type and value of the subcontract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
- d. provide reports on the information in Condition (6)c to the Authority in the format and frequency as reasonably specified by the Authority; and
- e. promote Contracts Finder to its Contractors and encourage those organisations to register on Contracts Finder.

(7) Each advert referred to in Condition (6)a above shall provide a full and detailed description of the subcontract opportunity with each of the mandatory fields being completed on Contracts Finder by the Contractor.

(8) The obligation in Condition (6)a shall only apply in respect of subcontract opportunities arising after the date of the commencement of the Contract.

(9) Notwithstanding Condition (6), the Authority may, by giving its prior written approval, agree that a subcontract opportunity is not required to be advertised on Contracts Finder.

7 Amendments and Variations

No amendment or variation to the terms of the Contract shall be valid unless agreed in writing between the Authority and the Contractor.

8 Information Confidential to the Contractor

(1) Unless agreed expressly by both Parties:

- a. in writing; and
- b. in a confidentiality agreement identifying the relevant information, information obtained by the Authority from the Contractor shall not constitute confidential information relating to the Contractor.

(2) Where any information held by the Authority does constitute confidential information relating to the Contractor, the Authority shall nonetheless have the right to disclose that information:

- a. on a confidential basis to any other government department or agency for any proper purpose of the Authority or of that department or agency;
- b. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- c. to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;



- d. to report a suspected criminal offence to the police or any law enforcement agency or co-operating with the police or any law enforcement agency regarding a criminal investigation or prosecution;
- e. to comply with an order from a court or tribunal to disclose or give evidence;
- f. to make a disclosure required by law or required by HMRC, a regulator, ombudsman or other supervisory authority;
- g. on a confidential basis to a professional adviser, consultant, Contractor or other person engaged by any of the entities described in Condition (2)a (including any benchmarking organisation) for any purpose relating to or connected with the Contract or the Services;
- h. on a confidential basis for the purpose of the exercise of its rights under the Contract; or
- i. 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 the Contract.

(3) For the purpose of clause (2) of this Condition, references to disclosure on a confidential basis mean disclosure subject to a confidentiality agreement.

9 Transparency

- (1) In order to comply with the Government's policy on transparency in the areas of procurement and contracts, the Authority will, subject to Conditions 0 and (3), publish the Contract and the tender documents issued by the Authority which led to its creation on a designated web site.
- (2) The entire Contract and all the tender documents issued by the Authority will be published on that web site save where the Authority, in its absolute discretion, considers that the relevant documents, or their contents, would be exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 ("FOIA").
- (3) Where the Authority considers that any such exemption applies, the Authority will redact the relevant documents to the extent that the Authority considers the redaction is necessary to remove or obscure the relevant material, and those documents will be published on the designated web site subject to those redactions.
- (4) Where the Parties later agree changes to the contract, the Authority will publish those changes, and will consider any redaction, on the same basis.
- (5) In Condition 9, the expression "tender documents" means the advertisement issued by the Authority seeking expressions of interest, the pre-qualification



questionnaire and the invitation to tender and the contract includes the Contractor's proposal.

10 Confidentiality

- (1) The Contractor agrees not to disclose any Confidential Information to any third party without the prior written consent of the Authority. To the extent that it is necessary for the Contractor to disclose Confidential Information to its staff, agents and subcontractors, the Contractor shall ensure that such staff, agents and subcontractors are subject to the same obligations as the Contractor in respect of all Confidential Information.
- (2) Condition (1) shall not apply to information which:
 - a. is or becomes public knowledge (otherwise than by breach of these Conditions or a breach of an obligation of confidentiality);
 - b. is in the possession of the Contractor, without restriction as to its disclosure, before receiving it from the Authority or any other department or office of Her Majesty's Government;
 - c. is required by law to be disclosed;
 - d. was independently developed by the Contractor without access to the Confidential Information.
- (3) The obligations contained in this Condition shall continue to apply after the expiry or termination of the Contract.
- (4) The Contractor shall comply with any security requirements and instructions issued by the Authority in relation to any document classified as "Official – Sensitive", "Confidential", "Secret" or "Top Secret".
- (5) The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the Authority.
- (6) Except with the prior consent in writing of the Authority, the Contractor shall not make use of the Contract or any Confidential Information otherwise than for the purposes of carrying out the Services.

11 Freedom of Information

- (1) The Contractor acknowledges that the Authority is subject to the requirements of FOIA and the Environmental Information Regulations SI 2004 No. 3391 ("EIR") and shall provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and the EIRs.
- (2) In this Condition:



“Information” has the meaning ascribed to it in section 84 of the FOIA (and also includes “environmental information” as defined in the EIR;

“Request for Information” has the meaning ascribed to it in section 8 of the FOIA, or means any request for environmental information to which the EIR applies or any apparent request for information or environmental information under the FOIA or EIR.

- (3) The Contractor shall (and shall procure that its subcontractors shall):
 - a. transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within two Working Days;
 - b. provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - c. provide all necessary assistance as reasonably requested by the Authority to enable it to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- (4) The Authority shall be responsible for determining, at its absolute discretion, whether any Information:
 - a. is exempt from disclosure in accordance with the provisions of the FOA or the EIR;
 - b. is to be disclosed in response to a Request for Information.
- (5) In no event shall the Contractor respond directly to a Request of Information unless expressly authorised to do so in writing by the Authority.
- (6) The Contractor acknowledges that the Authority may, acting in accordance with the Freedom of Information Code of Practice (issued under section 45 of the FOIA in July 2018), be obliged under the FOIA or the EIR to disclose Information unless an exemption applies. The Authority may at its discretion consult the Contractor with regard to whether the FOIA applies to the Information and whether an exemption applies.
- (7) The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure in accordance with law and shall permit the Authority to inspect such records as requested from time to time.
- (8) The Contractor acknowledges that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that the Authority may nevertheless be obliged to disclose information



which the Contractor considers confidential in accordance with Conditions (4) and (6).

12 Data Protection

- (1) The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in Annex 1 of this Contract by the Authority and may not be determined by the Contractor.
- (2) The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- (3) The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, 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.
- (4) The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
 - a. process that Personal Data only in accordance with Annex 1, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
 - b. ensure that it has in place Protective Measures, as appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the Protective Measures), having taken account of the:
 - i. nature of the data to be protected;
 - ii. harm that might result from a Data Loss Event;
 - iii. state of technological development; and
 - iv. cost of implementing any measures;

The review and approval of the Protective Measures by the Authority shall not relieve the Contractor of its obligations under the Data Protection Legislation,



and the Contractor acknowledges that it is solely responsible for determining whether such Protective Measures are sufficient for it to have met its obligations under the Data Protection Legislation.

c. ensure that:

- i. the Contractor Personnel do not process Personal Data except in accordance with this Contract and in particular Annex 1;
- ii. it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 1. are aware of and comply with the Contractor's duties under this Condition;
 2. are subject to appropriate confidentiality undertakings with the Contractor or any Sub-Processor;
 3. 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 Authority or as otherwise permitted by this Contract; and
 4. have undergone adequate training in the use, care, protection and handling of Personal Data;

(5) Subject to clause (6) below, the Contractor shall notify the Authority immediately if it:

- a. receives a Data Subject Request (or purported Data Subject Request);
- b. receives a request to rectify, block or erase any Personal Data;
- c. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- d. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- e. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- f. becomes aware of a Data Loss Event.

(6) The Contractor's obligation to notify under clause (5) of this Condition shall include the provision of further information to the Authority in phases, as details become available.

(7) Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Condition (5) (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:



- a. the Authority with full details and copies of the complaint, communication or request;
 - b. such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - c. the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
 - d. assistance as requested by the Authority following any Data Loss Event; and
 - e. assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- (8) The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this Condition. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
 - a. the Authority determines that the processing is not occasional;
 - b. the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
 - c. the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- (9) The Contractor shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
- (10) The Contractor shall designate a Data Protection Officer if required by the Data Protection Legislation.
- (11) Before allowing any Sub-Processor to process any Personal Data related to this Contract, the Contractor must:
 - a. notify the Authority in writing of the intended Sub-Processor and processing;
 - b. obtain the written consent of the Authority;
 - c. enter into a written agreement with the Sub-Processor which give effect to the terms set out in this Condition 12 such that they apply to the Sub-Processor; and
 - d. provide the Authority with such information regarding the Sub-Processor as the Authority may reasonably require.
- (12) The Contractor shall remain fully liable for all acts or omissions of any of its Sub-Processors.



- (13) The Authority may, at any time on not less than 30 Working Days' notice, revise this Condition 12 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 Contract).
- (14) The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- (15) If the Contractor fails to comply with any provision of this Condition 12, the Authority may terminate the Contract immediately in which event the provisions of Condition 33 shall apply.
- (16) The Contractor shall indemnify and keep indemnified the Authority against all claims and proceedings, and all costs and expenses incurred by it in connection therewith, made or brought against the Authority by any person in respect of the Data Protection Legislation or equivalent applicable legislation in any other country which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor, its subcontractors and/or its Sub-Processors and hold it harmless against all costs, fines, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in the Authority being in breach of its obligations under the Data Protection Legislation or equivalent applicable legislation in any other country.
- (17) Upon expiry or earlier termination of this Contract for whatever reason, the Contractor shall, unless otherwise specified in Annex 1 or required by Law, immediately cease any processing of the Personal Data on the Authority's behalf and at the written direction of the Authority:
 - a. provide the Authority with a complete and uncorrupted version of the Personal Data in electronic form (or such other format as reasonably required by the Authority); and
 - b. delete the Personal Data (and any copies of it) including from any computers, storage devices and storage media that are to be retained by the Contractor after the expiry of the Contract. The Contractor will certify to the Authority that it has completed such deletion.
- (18) Where the Contractor is required to collect any Personal Data on behalf of the Authority, it shall ensure that it provides the relevant Data Subjects from whom the Personal Data are collected with a privacy notice in a form to be agreed with the Authority.



13 Bribery and Corruption

- (1) The Contractor shall not, and shall ensure that its Contractor Personnel do not:
 - a. offer or promise, to any person employed or engaged by or on behalf of the Authority, any financial or other advantage as an inducement or reward for the improper performance of a function or activity, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority;
 - b. agree to receive or accept any financial or other advantage as an inducement or reward for any improper performance of a function or activity in relation to this Contract or any other contract with the Authority; or
 - c. enter into the Contract or any other contract with the Authority or any other department or office of Her Majesty's Government in connection with which commission has been paid, or agreed to be paid by the Contractor or on the Contractor's behalf, or to the Contractor's knowledge, unless, before the Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to any person duly authorised by the Authority to act as its representative for the purpose of this Condition.
- (2) Nothing contained in this Condition shall prevent the Contractor paying such commission or bonuses to the Contractor's own staff in accordance with their agreed contracts of employment.
- (3) Any breach of this Condition by the Contractor, or by any person employed or engaged by the Contractor or acting on the Contractor's behalf (whether with or without the Contractor's knowledge), or any act or omission by the Contractor, or by such other person, in contravention of the Bribery Act 2010 or any other anti-corruption law, in relation to this Contract or any other contract with the Authority, shall entitle the Authority to terminate the Contract with immediate effect by notice in writing and to recover from the Contractor the amount of any loss resulting from such termination, and the amount of the value of any such gift, consideration or commission as the Authority shall think fit.
- (4) In any dispute, difference or question arising in respect of:
 - a. the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under clause (2) of this Condition in respect of any loss resulting from such determination of the Contract); or
 - b. the right of the Authority to determine the Contract; or
 - c. the amount or value of any gift, consideration or commission,



the decision of the Authority shall be final and conclusive.

14 Official Secrets

The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989. The Contractor shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the expiry or early termination of the Contract.

15 Contractor's Personnel

- (1) The Authority reserves the right to refuse to admit to the Authority's Premises any person employed or engaged by the Contractor or its subcontractors, whose admission would be undesirable in the opinion (and at the discretion) of the Authority.
- (2) If and when requested by the Authority, the Contractor shall provide a list of the names and addresses of all persons who may at any time require admission (in connection with the performance of the Services) to the Authority's Premises, specifying the role in which each such person is concerned with the Contractor and giving such other particulars as the Authority may require.
- (3) If and when requested by the Authority, the Contractor shall procure from each person identified by the request, a signed statement that they understand that the Official Secrets Acts 1911 to 1989 applies to them both during the carrying out and after expiry or termination of the Contract and that they will comply with the provisions of the Official Secrets Acts 1911 to 1989 in so far as they apply to the work/Services they are performing under the Contract.
- (4) If and when requested by the Authority the Contractor agrees that it will submit any person employed or engaged by the Contractor or its subcontractors to the Authority's security vetting procedure. The Contractor further agrees that any individual who refuses to submit to such vetting procedure or does not attain the clearance required by the Authority, will not carry out any work/Services on the Contract which the Authority certifies as suitable only for people who have passed its security vetting procedure.
- (5) If the Contractor fails to comply with clauses (1), (2) or (3) of this Condition and the Authority decides that such failure is prejudicial to its interests, the Authority may immediately terminate the Contract by notice in writing to the Contractor, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to, the Authority.



- (6) No action of the Authority under this Condition shall entitle the Contractor to any additional costs or charges (this includes any requirement of the Authority to replace any personnel). Further no action of the Authority under this Condition shall entitle the Contractor to any relief in respect of its obligations under this Contract.
- (7) The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989. The Contractor shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the expiry or early termination of the Contract.

16 Government Property

- (1) All Government Property shall remain the property of the Authority and shall be used in the execution of the Contract and for no other purpose whatsoever except with the prior agreement in writing of the Authority. Save where this Contract states to the contrary, the Contractor shall not be entitled to the provision of any Government Property to carry out the Services. Further, the Authority shall not be obliged to replace any item of the Government Property provided.
- (2) All Government Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Authority is notified to the contrary within 14 days or such other time as is specified in the Contract. The Contractor shall be responsible for the maintenance of any of the Government Property provided to it at its own expense. To the greatest extent permissible by law, the Authority does not guarantee, warrant or give any assurances as to the age, state of repair or suitability for use in the Services of any item of the Government Property provided and the Contractor hereby acknowledges that it has carried out its own due diligence including inspections of such Government Property and has satisfied itself as to the condition and suitability of each item for use in the provision of the Services and accordingly the Contractor shall not be relieved from any liability in relation to any failure to provide the Services or any part of them where such failure is caused by a failure in of or the unsuitability of any of the Government Property provided.
- (3) The Contractor undertakes to return any and all Government Property on completion of the Contract or on any earlier request by the Authority.
- (4) The Contractor shall, except as otherwise provided for in the Contract repair or replace or, at the option of the Authority, pay compensation for all loss, destruction or damage occurring to any Government Property caused or



sustained by the Contractor, or by the Contractor's servants, agents or subcontractors, whether or not arising from the Contractor's or their performance of the Contract and wherever occurring, provided that if the loss, destruction or damage occurs at the Authority's Premises or any other Government premises, this Condition shall not apply to the extent that the Contractor is able to show that any such loss, destruction or damage was not caused or contributed to by the Contractor's negligence or default or the neglect or default of the Contractor's servants, agents, or subcontractors.

- (5) Where the Government Property comprises data issued in electronic form to the Contractor (including Personal Data) the Contractor shall not store, copy, disclose or use such electronic data except as necessary for the performance by the Contractor of its obligations under the Contract (including its obligation to back up electronic data as provided in clause (5) below) or as otherwise expressly authorised in writing by the Authority.
- (6) The Contractor shall perform secure back-ups of all such electronic data in its possession and shall ensure that an up to date back up copy is securely stored at a site other than that where any original copies of such electronic data are being stored.
- (7) The Contractor shall, and shall procure that its subcontractors, agents and personnel, shall observe best practice when handling or in possession of any such electronic data. By way of example if the Contractor removes any such data or information from a Government establishment, or is sent such data or information by the Authority it shall ensure that the data and any equipment on which it is stored or is otherwise being processed is kept secure at all times. The Contractor shall impress on any of its subcontractors, agents and personnel who are required to handle or have possession of such electronic data that they must safeguard it all times, and shall not place it in jeopardy for example by leaving it unattended in a vehicle or on public transport or by transmitting or posting it by insecure means.
- (8) If at any time the Contractor suspects or has reason to believe that such electronic data has or may become corrupted, lost, destroyed, altered (other than to the extent that the Contractor alters it by lawful processing in accordance with its obligations under this contract) or so degraded as a result of the Contractor's default so as to be unusable then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.
- (9) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith arising from the corruption, loss, destruction, alteration (other than by lawful



processing permitted by this Contract) or degradation of electronic data which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or subcontractors, agents and personnel and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in such corruption, loss or degradation.

17 Invoices and Payment

- (1) The Contractor shall submit invoices at times or intervals required by the Authority in the Contract or otherwise. The Contractor shall ensure that any invoice it submits sets out the Authority's Purchase Order or contract number, the Charges and, where not all of the Services have been completed, the relevant part of the Charges with an appropriate breakdown of time worked, the part of the Services (if all the Services have not been completed) and period to which the invoice relates, and its confirmation that the Services (or relevant part of the Services referred to on the invoice) have been fully performed in accordance with this Contract.
- (2) In consideration of the provision of the Services by the Contractor, the Authority shall pay the Charges after receiving a correctly submitted invoice as set out in clause (1) above. Such payment shall normally be made within 30 days of receipt of the correctly submitted invoice.
- (3) The Contractor shall not be entitled to charge for the provision of any services that are not part of the Services agreed within the Contract, unless the Contract has been properly varied in advance in accordance with Condition 7.
- (4) Except as a result of default or negligence on the part of the Authority, if the Contractor either fails to provide, or, in the reasonable opinion of the Authority, has inadequately provided, any Services or Deliverables due under the Contract, the Authority may:
 - a. reduce payment in respect of those Services or Deliverables; and/or
 - b. recoup payment(s) already made in respect of those Services or Deliverables

without prejudice to any other rights or remedies of the Authority. Such reduction or recoup of payments shall be a reduction or recoupment in direct proportion to either: (A) the amount of the Services that have actually been provided in accordance with the Contract, or (B) (if lower) the value in the Services that have been fully provided in accordance with the Contract.

- (5) If the Contractor believes that payment for a correctly submitted invoice is overdue, the Contractor should, in the first instance, speak to the named



contact on the face of the Contract. In the event that the problem is not resolved to the Contractor's satisfaction, they should write to the Head of Procurement at the Department for Business, Energy and Industrial Strategy setting out their case. The Head of Procurement shall ensure that the complaint is dealt with by an official who is independent of the main contact and that the Contractor is not treated adversely in future for having made a complaint.

- (6) For the purpose of calculating any statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998, the relevant date for the payment of the debt shall be deemed to be the last day of a period of 30 days commencing on the day when the Authority received the invoice, or, if the Contractor had not completed the Services (or the part of the Services to which the invoice relates) before submitting the invoice, the last day of a period of 30 days commencing on the day when the Contractor completed the Services, (or the part of the Services to which the invoice relates).
- (7) Where the Contractor submits an invoice (including an electronic invoice) to the Authority in accordance with this Condition 17 the Authority will consider and verify that invoice in a timely fashion and shall make payment in accordance with this Condition 17.
- (8) Where the Contractor enters into a Subcontract, the Contractor shall include in that Subcontract:
 - a. provisions having the same effect as Condition (6) of this Contract; and
 - b. a provision requiring the counterparty to that Subcontract to include in any Subcontract which it awards provisions having the same effect as Condition (6).

In this clause (7), "**Subcontract**" means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

18 Accounts

- (1) The Contractor shall keep full and proper accounts, records and vouchers relating to all expenditure reimbursed by the Authority and all payments made by the Authority in respect of the Services.
- (2) The Contractor shall permit the Authority acting by its officers, servants and agents or independent auditor on request and at all reasonable times to examine all accounts, records and vouchers at the offices of the Contractor or at such other places as the Authority shall direct, and to take copies of such accounts, records and vouchers and the Contractor shall provide the Authority



or its independent auditor with such explanations relating to that expenditure as the Authority may request.

- (3) The Contractor shall ensure that the said accounts, records and vouchers are available for a period of six years after termination or expiry of the Contract.

19 Recovery of Sums Due

- (1) The Authority may set off any amount owed by the Contractor to the Crown or any part of the Crown (including the Authority) against any amount due to the Contractor under this Contract or under any other agreement between the Contractor and the Authority.
- (2) If the Authority wishes to set off any amount owed by the Contractor to the Crown or any part of the Crown (including the Authority) against any amount due to the Contractor pursuant to Condition 17 it shall give notice to the Contractor within 15 days of receipt of the relevant invoice, setting out the Authority's reasons for withholding or retaining the relevant amounts.
- (3) The Contractor shall make any payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.

20 Value Added Tax

- (1) If this Contract gives rise to a taxable supply for Value Added Tax purposes by the Contractor to the Authority under law from time to time in force, on the production of a valid Value Added Tax invoice, the Authority will pay to the Contractor a sum equal to that Value Added Tax in respect of relevant amounts of the Charges that become payable in accordance with this Contract.
- (2) The Contractor shall provide to the Authority any information reasonably requested in relation to the amount of VAT chargeable in accordance with this Contract. Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if they are a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Value Added Tax Act 1994.
- (3) The Contractor shall, if so requested by the Authority, furnish such information as may reasonably be required by the Authority relating to the amount of Value Added Tax chargeable on the Services.
- (4) Notwithstanding any other clause of this Condition 20 a VAT invoice will not be valid for the purposes of charging VAT if more than twelve (12) months have elapsed since the time of supply.



21 Provision of Services

- (1) The Contractor shall provide the Services (and the Deliverables):
- a. in accordance with the requirements of this Contract (including the Specification);
 - b. in a manner which does not damage the Authority's reputation;
 - c. in accordance with Law;
 - d. in accordance with any applicable Consents;
 - e. exercising the reasonable skill, care, prudence, efficiency, foresight and timeliness which would be expected from a reasonably and suitably skilled, trained and experienced person performing the relevant obligations;
 - f. in accordance with all appropriate and applicable standard specifications and standard codes of practice issued by the British Standards Institution or European Economic Community;

(in each case) to the reasonable satisfaction of the Authority (whose decision shall be final and conclusive as to the quality of Services provided). The Authority shall have the power to inspect and examine the performance of the Services at any location at which they are performed.

In the event of any conflict between the requirements set out in this Condition (1), the Contractor shall notify the Authority and the Authority shall instruct the Contractor as to which requirement should apply. The Contractor shall comply with any such instruction from the Authority (and such instruction shall not give rise to any variation to this Contract or right to any additional remuneration or relief whatsoever for the Contractor).

- (2) If the Authority reasonably considers that the Contractor has, except as a result of default or negligence on the part of the Authority:
- a. provided inadequate Services or Deliverables; or
 - b. provided Services or Deliverables that are differing from those required under Contract in any material respect,

the Authority may request that the Contractor perform (or re-perform) the work correctly at the Contractor's expense, without prejudice to any other rights or remedies of the Authority.

- (3) If the Authority exercises its right under Condition 0 above, the work shall be performed to the Authority's reasonable satisfaction and within such reasonable time as may be specified by the Authority.
- (4) Without prejudice to any other rights or remedies of the Authority, if there is a Default, the Authority may request that the Contractor provide a Rectification Plan.



- (5) Where the Authority receives a proposed Rectification Plan, in line with Condition (3) above, it can either:
 - a. reject the proposed Rectification Plan; or
 - b. accept the Rectification Plan (without limitation) and the Contractor must immediately begin work on the proposed corrective measures and actions under the Rectification Plan at its own cost.
- (6) Where the Rectification Plan is rejected, the Authority:
 - a. must provide reasonable grounds for its decision; and
 - b. may request that the Contractor provides a revised Rectification Plan.
- (7) Where the Authority requests that the Contractor provides a revised Rectification Plan the Contractor must provide such a revised plan within five (5) Working Days of the date of such request except where otherwise agreed. The revised Rectification Plan must address the grounds given by the Authority for its initial rejection of the proposed Rectification Plan.
- (8) If the performance of the Contract by the Contractor is delayed by reason of any act on the part of the Authority or by industrial dispute (other than by an industrial dispute occurring within the Contractor's or its subcontractor's organisation) or any other cause which the Contractor could not have prevented then the Contractor shall be allowed a reasonable extension of time for completion. For the purposes of this Condition, the Contractor shall be deemed to have been able to prevent causes of delay that are within the reasonable control of the Contractor or Contractor Personnel.
- (9) Timely provision of the Services shall be of the essence of the Contract, including in relation to commencing the provision of the Services within the time agreed or on a specified date.
- (10) The Contractor warrants that it shall provide the Services with all due skill, care and diligence, and in accordance with good industry practice and legal requirements.
- (11) Without prejudice to the provision of Condition (1), the Contractor shall reimburse the Authority for all reasonable costs incurred by the Authority which have arisen as a direct consequence of the Contractor's delay in the performance of the Contract which the Contractor had failed to remedy after being given reasonable notice by the Authority.

22 Conflicts of Interest

- (1) For the purposes of this Condition 22, a reference to a "conflict of interest" includes any scenario where the Contractor or any person engaged by it or on its behalf (including any subcontractors) is in a position where there is or may be an actual, potential or perceived conflict between the pecuniary and/or



personal interests of that person and the duties owed to the Authority under the provisions of this Contract.

- (2) The Contractor shall ensure that there is no conflict of interest likely to prejudice the Contractor's independence and objectivity in performing the Contract and undertakes that upon becoming aware of any conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) the Contractor shall immediately notify the Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Authority may reasonably require.
- (3) Where the Authority is of the opinion that a conflict of interest notified to it under Condition (1) is capable of being avoided or removed, the Authority may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:
 - a. if the Contractor fails to comply with the Authority's requirements in this respect; or
 - b. if, in the opinion of the Authority, it is not possible to remove the conflict,

the Authority may terminate the Contract immediately and recover from the Contractor the amount of any loss resulting from such termination.

- (4) Notwithstanding Condition (2), where the Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Authority may terminate the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such termination.

23 Reporting, Monitoring and Management Information

- (1) Where requested by the Authority, the Contractor shall supply to the Authority such information - including in the form of progress reports or management information ("MI") reports - relating to the Services and to the Contractor's management and performance of the Contract as they may require.
- (2) Where reports are required by the Contract, the Contractor shall render such reports in such a form and timeframe as specified by the Authority, or as otherwise agreed between the Contractor and the Authority.



- (3) The MI reports referenced in Condition (1) above shall include, without limitation, the information required by the MI Reporting Template and any guidance issued by the Authority from time to time.
- (4) The Contractor will maintain Open Book Data in relation to the Services to be performed under the terms of this Contract. The Authority may request any information comprising the Open Book Data and the Contractor will provide the information requested within five Working Days.
- (5) The Contractor's performance of the Services shall be monitored by the Contract Manager. Without prejudice to any other rights and remedies under the Contract, the Contract Manager shall be entitled to review the Contractor's performance and make reasonable recommendations to the Contractor for improving the standard of the Contractor's performance in undertaking the Services. The Contractor must use reasonable endeavours to implement such recommendations. The Contractor's Representative shall attend any meetings arranged by the Contract Manager for the purpose of discussing the Services being provided, and reviewing the Contractor's performance.
- (6) If the Contractor (or any Contractor Personnel) is unable, or considers that it is likely to be unable to provide any of the Deliverables, the Contractor must immediately:
 - a. tell the Contract Manager and provide reasons;
 - b. propose corrective action(s); and
 - c. propose a deadline for completing the corrective action(s).

24 Intellectual Property Rights

- (1) Each Party keeps ownership of its own Existing IPRs. The Contractor hereby grants the Authority a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Contractor's Existing IPR to enable it to both:
 - receive and use the Deliverables
 - make use of (including to modify) the Deliverables
- (2) The Parties hereby agree that (and the Contractor hereby assigns to the Authority) any New IPR created under the Contract is wholly owned (with full-title guarantee) by the Authority (this clause shall act as a grant and assignment of such New IPR as applicable including acting as an assignment of future New IPR). The Authority gives the Contractor a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations under the Contract..



- (3) The Parties will (as required by the Authority) execute (and procure that any Contractor Personnel or relevant third parties including consultants and subcontractors execute) any documentation at their own cost and in a timely manner to the extent required to give effect to the intent of clause (2).
- (4) Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- (5) Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 24 or otherwise agreed in writing.
- (6) The Contractor indemnifies the Authority against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of any IPR Claim.
- (7) If an IPR Claim is made or anticipated the Contractor must at its own expense and the Authority's sole option, either:
 - obtain for the Authority the rights in Clause 24.1 and 24.2 without infringing any third party IPR
 - replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables
- (8) The Contractor shall indemnify, and keep indemnified, the Authority in full against all costs, expenses, damages and losses, including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Authority as a result of or in connection with any claim made against the Authority for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Contractor or Contractor Personnel.

25 Rights of Third Parties

It is not intended that the Contract, either expressly or by implication, shall confer any benefit on any person who is not a party to the Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.



26 Indemnities and Liabilities

- (1) Subject to Condition 35 the Contractor shall hold harmless and indemnify the Authority on demand from and against all:
 - a. claims;
 - b. demands;
 - c. proceedings;
 - d. actions;
 - e. damages;
 - f. costs (including legal costs);
 - g. expenses; and
 - h. any other liabilities,arising from claims made by the Authority's staff or agents, or by third parties, in respect of:
 - i. any death or personal injury; or
 - j. loss or destruction of or damage to property;
 - k. any other direct loss, destruction or damage, including but not limited to direct financial losses which are caused,by the breach of contract or breach of duty (whether in negligence, tort, statute or otherwise) of the Contractor, its employees, agents or subcontractors.
- (2) The Contractor shall be liable to the Authority for any loss, damage, destruction, injury or expense (and including but not limited to loss or destruction of or damage to the Authority's property, which includes data) arising from the Contractor's breach of contract or duty (whether arising in negligence, tort, statute or otherwise).
- (3) Nothing in these Conditions nor in any part of the Contract shall impose any liability on any member of the staff of the Authority or its representatives in their personal capacity.
- (4) The Contractor shall indemnify the Authority against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party's Intellectual Property Rights used by or on behalf of the Contractor for the purpose of the Contract, provided that any such infringement or alleged infringement is not knowingly caused by, or contributed to, by any act of the Authority.
- (5) Subject to clause 0, each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the estimated annual Charges due under this Contract.



- (6) Nothing in this Contract shall limit or exclude any of the following (nor shall any liabilities in respect of the following in any way cause or contribute to the erosion of any liability cap):
- a. liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
 - b. its liability for bribery or fraud or fraudulent misrepresentation by it or its employees or subcontractors;
 - c. any liability that cannot be excluded or limited by Law;
 - d. any claim pursuant to Condition **Error! Reference source not found.**;
or
 - e. any liability that is covered by an insurance policy the Contractor is required to procure pursuant to this Contract.

27 Insurance

- (1) The Contractor shall obtain and maintain for a period of 12 years after the expiration of termination of this Contract (and on business as usual terms) with a reputable insurance company the following policy/policies:
- a. Public liability insurance with a limit of indemnity of not less than £10,000,000 (Ten Million Pounds) in relation to any one claim, the number of claims being unlimited;
 - b. Professional indemnity insurance with a limit of indemnity of not less than £5,000,000 (Five Million Pounds) in relation to any one claim, the number of claims being unlimited;
- (2) The Required Insurances, detailed above, to be effected by the Contractor shall be in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of the Contract including death or personal injury, loss of or damage to property or any other loss. The required insurance shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor.
- (3) The Contractor shall give the Authority, on request, copies of all the insurance policies required under this Condition or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- (4) If, for any reason, the Contractor fails to give effect to and maintain the Required Insurances, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- (5) The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Contract or otherwise.



28 **Dispute Resolution**

- (1) The Parties shall attempt in to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.
- (2) If the Parties cannot resolve the dispute pursuant to clause (1) of this Condition, the dispute may, by agreement between the Parties, be referred to mediation pursuant to clause (3) of this Condition.
- (3) The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to clause (1) of this Condition.
- (4) If the Parties agree to refer the dispute to mediation:
 - a. in order to determine the person who shall mediate the dispute (the “**Mediator**”) the Parties shall by agreement choose a neutral adviser or mediator from one of the dispute resolution providers listed by the Government Procurement Service on its website or in its printed guidance on dispute resolution within 30 days after agreeing to refer the dispute to mediation;
 - b. the Parties shall within 14 days of the appointment of the Mediator meet with them in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the Government Procurement Service to provide guidance on a suitable procedure;
 - c. unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
 - d. if the Parties reach agreement on the resolution of the dispute within 60 days of the Mediator being appointed, or such longer period as may be agreed between the Parties, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by both the Authority and the Contractor;
 - e. failing agreement within 60 days of the Mediator being appointed, or such longer period as may be agreed between the Parties, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.
- (5) If the Parties:
 - a. do not agree to refer the dispute to mediation;



- b. fail to reach agreement as to who shall mediate the dispute pursuant to Condition (4); or
 - c. fail to reach agreement in the structured negotiations within 60 days of the Mediator being appointed (or such longer period as may be agreed by the Parties),
- then any dispute or difference between them may be referred to the courts.

29 Termination for Insolvency or Change of Control

- (1) The Contractor shall notify the Authority in writing immediately upon the occurrence of any of the following events:
- a. the Contractor party fails to pay any amount due to the Authority (whether under this Contract or otherwise) on the due date for payment and remains in default not less than 30 days after being notified to make such payment;
 - b. the Contractor party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;
 - c. the Contractor commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Contractor with one or more other companies or the solvent reconstruction of that Contractor;
 - d. applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
 - e. petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Contractor;
 - f. an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Contractor;
 - g. the holder of a qualifying floating charge over the assets of the Contractor has become entitled to appoint or has appointed an administrative receiver;
 - h. a person becomes entitled to appoint a receiver over all or any of the assets of the Contractor or a receiver is appointed over all or any of the assets of the Contractor;
 - i. a creditor or encumbrancer of the Contractor attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part



of the Contractor's assets and such attachment or process is not discharged within 14 days;

- j. the Contractor suspends, ceases or threatens to suspend or cease trading or carrying on a substantial part of its business;
- k. the Contractor's financial position deteriorates materially in the reasonable view of the Authority;
- l. any event occurs, or proceeding is taken, with respect to the Contractor in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above; or
- m. the Contractor undergoes a change of control, where "control" is interpreted in accordance with Section 1124 of the Corporation Tax Act 2010.

- (2) After receipt of the notice under clause (1) above or earlier discovery by the Authority of the occurrence of any of the events described in that clause, the Authority may, by notice in writing to the Contractor, terminate the Contract with immediate effect without compensation to the Contractor and without prejudice to any right or action or remedy which may accrue to the Authority thereafter. The Authority's right to terminate the Contract under Condition (1)l will exist until the end of a period of three months starting from receipt of the notice provided by the Contractor pursuant to Condition (1), or such other period as is agreed by the Parties.

30 Termination for Breach of Contract

- (1) If the Contractor commits a Material Breach that is not capable of remedy the Authority shall be entitled to terminate the Contract with immediate effect by notice in writing to the Contractor.
- (2) The Authority's right to terminate the Contract under Condition (1) above is without prejudice to any other right or remedies in respect of the breach concerned or any other breach of the Contract.

31 Cancellation

- (1) The Authority shall be entitled to terminate the Contract, or to terminate the provision of any part of the Services, if:
 - a. the Authority gives the Contractor not less than 90 days' notice in writing to that effect;
 - b. any of the mandatory or discretionary exclusion events listed under Regulations 57(1) or 57(2) of the Public Contracts Regulations 2015 (the "PCR") occur; or
 - c. a declaration on ineffectiveness is made pursuant to the PCR in respect of this Contract or any variation thereof.



- (2) If the Authority has given notice under Condition (1) above, the Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Contractor during the period of extension.

32 Suspension of the Services

- (1) The Authority may at any time demand that the Contractor suspend the provision of the Services. If the Authority exercises such right to suspend the provision of the Services or any part of them (for a reason other than the default of the Contractor), the Authority shall be responsible for loss incurred by the Contractor as a result of such suspension. In such circumstances, subject to the Contractor taking reasonable steps to mitigate its loss, the Contractor will be able to recover from the Authority under this Condition 32 those losses which:
 - a. were reasonably foreseeable as arising as a direct result of the suspension; and
 - b. relate to the cost of any commitments entered into by the Contractor which cannot be met as a result of the suspension and in respect of which the Contractor cannot obtain a refund (where the Contractor has already paid in relation to the commitment) or is obliged to pay (where the Contractor has not already paid in relation to the commitment).
- (2) The provisions of this Condition shall not apply where the reason for the suspension of the Services arises from any of the circumstances listed in Condition 39.

33 Consequences of Termination/Expiry

- (1) If the Authority terminates the Contract in accordance with Condition 12, **Error! Reference source not found.**, 15, 22, 29, (2), 31, 42, 43 or this Contract is otherwise terminated for any other reason (or indeed expires):
 - a. the Contractor shall forthwith cease to provide the Services (but may be required to comply with the Exit Plan – see below);
 - b. the Contractor shall submit to the Authority within five (5) Working Days of termination or expiry (at the Contractor's own cost) a comprehensive status report which shall be current as at the date of submission relating to the Services (this report shall summarise all the Services delivered up to the date of termination/expiry);
 - c. the Contractor shall cease to use the Government Property in good condition (with any keys or access cards) (and any data related to the Services or Confidential Information) and (if so requested) shall hand over to the Authority a complete and uncorrupted version of all relevant data related to the Services and all records, information, documents howsoever held and including any media used to store such data including, without limitation, correspondence with staff engaged



for or on behalf of the Authority, the Authority's service departments, any users of the Services and any other relevant third party and anything else relating to the performance of the Services in its possession custody or control either in its then current format or in a format nominated by the Authority whether such Government Property (or other data related to the Services or Confidential Information) is on hard copy or on a disk or on any computer systems;

- d. the Contractor shall return all Personal Data or (if instructed by the Authority) destroy or dispose of it in a secure manner, in accordance with the specific instructions issued by the Authority (for the avoidance of doubt, Personal Data shall include but not be limited to that data which is Personal Data and for which the Authority retains its Controller responsibilities);
- e. the Contractor shall vacate any Authority's Premises;
- f. in the event that termination takes place in accordance with Condition 12, **Error! Reference source not found.**, 15, 22, 29, (2), 42, 43 or otherwise based on Contractor default:
 - i. the Authority shall immediately cease to be under any obligation to make further payment to the Contractor until the costs, loss and/or damage to the Authority resulting from or arising out of the termination shall have been calculated; and
 - ii. such termination shall be at no loss or cost to the Authority and the Contractor hereby indemnifies the Authority against any losses, costs and expenses (including legal costs) which the Authority may suffer as a result of any such termination, including:
 - 1. any demonstrable and reasonably incurred wasted expenditure;
 - 2. any demonstrable and reasonably incurred additional costs (including the costs associated with time spent by Authority staff) of procuring and implementing replacements for, or alternatives to, the Services, including consultancy costs, additional costs of management time and other personnel costs and costs of equipment and materials;
 - 3. reasonable costs incurred associated with time spent by Authority officers in terminating the Contract;
 - 4. any demonstrable and reasonably incurred losses incurred by the Authority arising out of or in connection with any claim, demand, fine, penalty, action, investigation or proceeding by any third party (including any subcontractors, staff, regulator or customer of the Authority) caused by the act or omission of the Contractor; and



5. any demonstrable loss of anticipated savings (including the cost of providing the Services for the remainder of the period of the Contract to the extent that such cost exceeds the payment that otherwise would have been payable to the Contractor).
- (2) The rights of the Authority under this Condition are in addition to, and without prejudice to, any other rights that the Authority may have at law or under the Contract.
- (3) The amounts to be recovered by the Authority in accordance with Condition (1)e may be recovered by the Authority as a debt and may be deducted from any sum or sums which would but for this Condition 33 have been due to the Contractor.
- (4) If the Contractor fails to comply with Conditions (1)b-(1)d , the Authority may recover possession thereof and the Contractor grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or subcontractors where any such items may be held.
- (5) Without prejudice to the Authority's other remedies, failure to comply with this Condition may result in the Authority withholding any payment due until reasonable compliance by the Contractor.

34 Exit Management

- (1) The Contractor shall:
 - a. within 30 days from the commencement of this Contract provide to the Authority a copy of its depreciation policy (if so required) for the purpose of calculating net book value of relevant assets related to this Contract (which shall at all times be in accordance with good industry practice);
 - b. create and maintain a detailed register of all assets used to provide the Services (including description, condition, location and details of ownership and status as either exclusive assets (used only for the Authority) or non-exclusive assets and their net book value) and subcontracts and other relevant agreements required in connection with the Deliverables; and
 - c. create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Contractor provides the Deliverables.

(Limbs (b) and (c) together being the “**Registers**”).



- (2) The Contractor shall:
- a. ensure that all assets to be used exclusively for the Authority listed in the Registers are clearly physically labelled and identified as such;
 - b. procure that all licences for software provided by third parties and used in the Services and all sub-contracts shall be assignable and/or capable of novation (at no cost or restriction to the Authority) at the request of the Authority to the Authority and/or any replacement contractor upon the Contractor ceasing to provide the Services and if the Contractor is unable to do so then the Contractor shall promptly notify the Authority and the Authority may require the Contractor to procure an alternative sub-contractor or provider of Deliverables; or
 - c. where required, appoint an exit manager, who will liaise with the relevant representative of the Authority regarding the expiration or termination of this Contract.
- (3) The Contractor shall, on reasonable notice, provide to the Authority and/or its potential replacement contractors (subject to the potential replacement contractors entering into reasonable written confidentiality undertakings), such information (including any access) as the Authority shall reasonably require in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential replacement contractors undertaking due diligence (the "**Exit Information**").
- (4) Notwithstanding any other provision or restriction in this Contract, the Contractor acknowledges that the Authority may disclose the Contractor's Confidential Information (excluding the Contractor's or its subcontractors' prices or costs) to an actual or prospective replacement contractor to the extent that such disclosure is necessary in connection with such engagement.
- (5) The Contractor shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Authority within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Services and/or Deliverables (and shall consult the Authority in relation to any such changes).
- (6) The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Contractor.
- (7) The Contractor shall, within three (3) months after the date on which this Contract commences, deliver to the Authority an exit plan ("**Exit Plan**") which complies with the requirements set out below and is satisfactory to the Authority.



- (8) 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 the latest date for its submission (see above), then such Dispute shall be resolved in accordance with Condition 28.
- (9) The Exit Plan shall set out, as a minimum:
- a. a detailed description of both the transfer and cessation processes, including a timetable;
 - b. how the Deliverables will transfer to the replacement contractor and/or the Authority;
 - c. details of any contracts which will be available for transfer to the Authority and/or the replacement contractor upon the date of expiration or termination of this Contract together with any reasonable costs required to effect such transfer;
 - d. proposals for the training of key members of the replacement contractor's staff in connection with the continuation of the provision of the Deliverables following the date of expiration or termination of this Contract;
 - e. proposals for providing the Authority or a replacement contractor copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
 - f. proposals for the assignment or novation of all services utilised by the Contractor in connection with the supply of the Deliverables;
 - g. proposals for the identification and return of all Government Property in the possession of and/or control of the Contractor or any third party;
 - h. proposals for the disposal of any redundant Deliverables and materials;
 - i. how the Contractor will ensure that there is no disruption to or degradation of the
 - j. Deliverables during the six (6) month period after the termination/expiration of the Contract ("**Termination Assistance Period**"); and
 - k. any other information or assistance reasonably required by the Authority or a replacement contractor
- (10) The Contractor shall:
- a. maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - i. every six (6) months throughout the Contract Period; and
 - ii. no later than twenty (20) Working Days after a request from the Authority for an up-to-date copy of the Exit Plan;
 - iii. as soon as reasonably possible following the Termination Assistance Notice, and in any event no later than ten (10)



- Working Days] after the date of the Termination Assistance Notice;
- iv. as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
 - v. jointly review and verify the Exit Plan if required by the Authority and promptly correct any identified failures.
- (11) The Authority shall be entitled to require the provision of all assistance as reasonably required on expiry of termination of this Contract ("**Termination Assistance**") at any time during the Contract Period by giving written notice to the Contractor (a "**Termination Assistance Notice**") at least one (1) months prior to the expiration or termination date. The Termination Assistance Notice shall specify:
- a. the nature of the Termination Assistance required; and
 - b. the start date and the Termination Assistance Period during which it is anticipated that Termination Assistance will be required.
- (12) In the event that Termination Assistance is required by the Authority but at the relevant time the Parties are still agreeing an update to the Exit Plan pursuant to this Condition, the Contractor will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Authority approved version of the Exit Plan (insofar as it still applies).
- (13) Throughout the Termination Assistance Period the Contractor shall:
- a. if required by the Authority, provide the Termination Assistance;
 - b. provide to the Authority and/or its replacement contractor any reasonable assistance and/or access requested by the Authority and/or its replacement Contractor including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Authority and/or its Replacement Contractor;
 - c. use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Authority;
 - d. at the Authority's request and on reasonable notice, deliver up-to-date Registers to the Authority;
 - e. seek the Authority's prior written consent to access any Authority Premises from which the de-installation or removal of Contractor Assets is required.

35 Consequential Losses

- (1) Save where expressly stated to the contrary in this Contract, neither Party shall be liable to the other Party for any:
- a. indirect loss;



- b. special loss;
 - c. consequential loss;
 - d. loss of profits;
 - e. loss of turnover;
 - f. loss of business opportunities; or
 - g. damage to goodwill.
- (2) Notwithstanding Condition (1), the Contractor agrees that the Authority may, amongst other things, recover from the Contractor, the following losses incurred by the Authority to the extent that they arise as a result of the Contractor's default:
 - a. any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Contractor's default;
 - b. any wasted expenditure or charges;
 - c. the additional cost of procuring alternative arrangements for the provision of the Services, which shall include any incremental costs associated with procuring such alternative arrangements above those which would have been payable under the Contract;
 - d. any compensation or interest payable to a third party by the Authority;
 - e. any fine or penalty incurred by the Authority pursuant to law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty; and
 - f. where applicable, the compensation described in Condition (1)e.

36 Survival of Terms

Any provision of this Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Contract shall remain in full force and effect (including for the avoidance of doubt Conditions 10, 11, 12, 14, (6)c, 34 and 37).

37 Transfer of Services

- (1) Where the Authority intends to continue with services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement contractor, the Contractor shall (both during the term of the Contract and, where relevant, after its expiry or termination):
 - a. provide all information reasonably requested to allow the Authority to conduct the procurement for any replacement services; and
 - b. use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the Authority.



- (2) Without prejudice to the generality of clause (1) of this Condition, the Contractor shall, at times and at intervals reasonably specified by the Authority, provide the Authority (for the benefit of the Authority, any replacement Contractor and any economic operator bidding to provide the replacement services) such information as the Authority may reasonably require relating to the application or potential application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 including the provision of employee liability information.
- (3) Without prejudice to the generality of clause (1) of this Condition, the Contractor shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic or written form, which the Authority considers necessary.

38 Service of Notices and Communications

- (1) A notice or communication given to a Party under or in connection with the Contract shall be in writing and sent to the Party at the address or email address given in this Contract or as otherwise notified in writing to the other Party.
- (2) This Condition (1) sets out the delivery methods for sending a notice to a Party under the Contract and, for each delivery method, the date and time when the notice is deemed to have been received (provided that all other requirements of this clause have been satisfied and subject to the provision in Condition (2)d below):
 - a. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address;
 - b. if sent by pre-paid first class post or other next working day delivery service, providing proof of delivery, at the time recorded by the delivery service;
 - c. if sent by pre-paid airmail providing proof of postage, at 9.00am on the fifth Working Day after posting; or
 - d. if sent by email, at the time of transmission.
- (3) If deemed receipt under Condition (1) above would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause (2)d, business hours means 9.00am to 5.00pm on a Working Day.
- (4) This clause 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.



39 Force Majeure

- (1) Provided it has complied with Condition (2), if a Party (“**Affected Party**”) is prevented, hindered or delayed in or from performing any of its obligations under this Contract by a Force Majeure Event, the Affected Party shall not be in breach of this Contract for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- (2) The corresponding obligations of the other Party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- (3) The Affected Party shall:
 - a. as soon as reasonably practicable after the start of the Force Majeure Event but no later than 7 days from its start, notify the other Party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and
 - b. use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- (4) If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 4 weeks, the Party not affected by the Force Majeure Event may terminate this Contract by giving 4 weeks’ written notice to the Affected Party.

40 Waiver

- (1) 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 prevent or restrict the further exercise of that or any other right or remedy.
- (2) No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- (3) No waiver shall be effective unless it is communicated to the other party in writing.

41 Severability

If any Condition, clause or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the Parties shall



immediately commence negotiations in good faith to remedy the invalidity in a manner that achieves the intended commercial result of the original position.

42 Payment of Taxes: Income tax and NICs

- (1) Where the Contractor is liable to be taxed in the UK in respect of consideration received under the Contract, the Contractor shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
- (2) Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under the Contract, the Contractor shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
- (3) The Authority may, at any time during the term of the Contract, require the Contractor to provide information to demonstrate that:
 - a. the Contractor has complied with clauses (1) and (1) above; or
 - b. the Contractor or its staff are not liable to the relevant taxes.
- (4) A request under clause (2) above may specify the information which the Contractor must provide and a reasonable deadline for response.
- (5) The Authority may supply any information which it receives under clause (2) to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
- (6) The Contractor shall ensure that any subcontractors (including consultants) and agents engaged by the Contractor for the purpose of the Services are engaged on, and comply with, conditions equivalent to those in clauses (1) to (4) above and this clause (5), and the Contractor shall, on request, provide the Authority with evidence to satisfy the Authority that the Contractor has done so. Those conditions shall provide both the Contractor and the Authority with the right to require the subcontractor or agent to provide information to them equivalent to clause (2), and the Contractor shall obtain that information where requested by the Authority.
- (7) The Authority may terminate the Contract with immediate effect by notice in writing where:
 - a. the Contractor does not comply with any requirement of this Condition 42; or
 - b. the Contractor's subcontractors or agents do not comply with the conditions imposed on them under clause (5) above.



- (8) In particular (but without limitation), the Authority may terminate the Contract under clause (6) above:
- a. in the case of a request under clause (2):
 - i. the Contractor fails to provide information in response to the request within the deadline specified; or
 - ii. the Contractor provides information which is inadequate to demonstrate how the Contractor or (where relevant) its subcontractors and agents have complied with the conditions set out or referred to in clauses (1) to (5); or
 - iii. the Authority receives information which demonstrates, to its reasonable satisfaction that the Contractor, its subcontractors or agents, are not complying with those conditions.

43 Payment of Taxes: Occasions of Tax Non-Compliance

- (1) This Condition 43 applies where the consideration payable by the Contractor under the Contract equals or exceeds £5,000,000 (five million pounds).
- (2) The Contractor represents and warrants that it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non Compliance.
- (3) If, at any point during the term of the Contract, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- a. notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
 - b. promptly provide to the Authority:
 - i. details of the steps which the Contractor 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
 - ii. such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- (4) In the event that:
- a. the warranty given by the Contractor pursuant to clause (1) of this Condition is materially untrue;
 - b. the Contractor commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by clause (2) of this Condition; or
 - c. the Contractor fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Authority, are acceptable,
- the Authority may terminate the Contract with immediate effect by notice in writing.



- (5) In this Condition 43, “Occasion of Tax Non-Compliance” means:
- a. any tax return of the Contractor 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 Contractor 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 Contractor 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 Contractor submitted to a Relevant Tax Authority on or after 1 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 commencement of the Contract or to a penalty for civil fraud or evasion.
- (6) For the purpose of clause 0 above:
- a. “**DOTAS**” means the Disclosure of Tax Avoidance Schemes rules (including VAT disclosure regime (VADR), Disclosure of Tax Avoidance Schemes: VAT and other indirect taxes (DASVOIT) and Direct taxes (including Apprenticeship Levy) and National Insurance contributions (DOTAS)) 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;
 - b. “**General Anti-Abuse Rule**” means:
 - i. the legislation in Part 5 of the Finance Act 2013 (inclusive of Schedules 43, 43A, 43B and 43C of the same legislation and section 10 and 11 of the National Insurance Act 2014) (in each case as understood in accordance with HMRC’s General Anti-Abuse Rule Guidance as approved from time to time); and



- ii. any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
- c. “**Halifax Abuse Principle**” means the principle explained in the CJEU Case C-255/02 Halifax and others and any equivalent case law; and
- d. “**Relevant Tax Authority**” means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

44 **Equality and Non-Discrimination**

- (1) The Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and any other anti-discrimination legislation in relation to the provision of the Services or otherwise and shall take all reasonable steps to ensure that its Contractor Personnel do not do so.
- (2) The Contractor shall comply with the Authority’s equality scheme as published on the Authority’s website and shall take all reasonable steps to ensure that its Contractor Personnel do so.
- (3) The Contractor will comply with any request by the Authority to assist the Authority in meeting its obligations under the Equality Act 2010 and to allow the Authority to assess the Contractor’s compliance with its obligations under the Equality Act 2010.
- (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 Contractor, its agents or subcontractors, or Contractor Personnel, and where there is a finding against the Contractor in such investigation or proceedings the Contractor will indemnify the Authority 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 the Authority may have been ordered or required to pay to a third party.
- (5) The Contractor shall (and shall procure that all Contractor Personnel shall):
 - a. perform its obligations under this Contract (including those in relation to the Services) in accordance with:
 - i. all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - ii. the Authority’s equality and diversity policy as provided to the Contractor from time to time; and



- iii. any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and
 - b. take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation); and
 - c. at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Contract. The Contractor shall also undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998.
- (6) The Authority may (without prejudice to its other rights under the Contract) terminate the Contract with immediate effect by notice in writing where the Contractor fails (or the Contractor Personnel) to comply with clauses (1) to (4) of this Condition.

45 Welsh Language Act

The Contractor shall for the term of the Contract comply with the principles of the Authority's Welsh Language Scheme.

46 Sustainable Procurement

- (1) The Contractor shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Contractor shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Authority.
- (2) The Contractor shall meet all reasonable requests by the Authority for information evidencing compliance with the provisions of this Condition by the Contractor.
- (3) All written outputs, including reports, produced in connection with the Contract shall (unless otherwise specified) be produced on recycled paper containing at least 80% post consumer waste and used on both sides where appropriate.
- (4) The supplier shall meet the Government Buying Standards applicable to Deliverables which can be found online at:
<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>



47 Cyber Essentials

- (1) Cyber essentials certification (“**Compliance Certification**”) shall be required where:
 - a. Personal Data is handled;
 - b. data marked ‘OFFICIAL’ is being stored by the Contractor, or by any Contractor Personnel; or
 - c. the Contract involves the provision of certain ICT products or services as specified by the Authority from time to time.
- (2) The Authority shall determine whether the Contract requires a cyber essentials or cyber essentials plus Compliance Certification, or if no Compliance Certification is necessary.
- (3) Upon request, the Contractor shall provide the Authority with a copy of each such Compliance Certification before the Contractor or the relevant Contractor Personnel (as applicable) shall be permitted to use the Core Information Management System to receive, store or Process any Authority Data. Any exceptions to the flow down of the certification requirements to third-party suppliers and Contractor Personnel must be agreed with the Authority.

48 Safeguarding

- (1) For the purposes of this Condition 48, “**Reasonable Measures**” shall mean: “all reasonable endeavours expected to be taken by a professional and prudent contractor in the Contractor’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 Contractor Personnel, Contractor Providers and where appropriate, beneficiaries;
 - b. developing, implementing and maintaining a safeguarding plan throughout the term (including monitoring);
 - c. provision of regular training to Contractor Personnel, Contractor Providers and where appropriate, beneficiaries;
 - d. clear reporting lines and whistleblowing policies in place for Contractor Personnel, Contractor Providers and beneficiaries;
 - e. maintaining detailed records of any allegations of Serious Misconduct and regular reporting to the Authority and the Appropriate Authorities (where relevant) of any such incidents; and
 - f. any other Good Industry Practice measures (including any innovative solutions).”



- (2) The Contractor shall take all Reasonable Measures to prevent Serious Misconduct by the Contractor Personnel or any other persons engaged and controlled by it (“**Contractor Providers**”) and shall have in place at all times robust procedures which enable the reporting by Contractor Personnel, Contractor Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the Contractor or Contractor Personnel to investigate such reports.
- (3) The Contractor shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the Contractor Personnel and Contractor Providers to BEIS Contract Manager and where necessary, the Appropriate Authorities.
- (4) The Contractor 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 Contractor acknowledges may include vetting of the Contractor Personnel by the UK Disclosure and Barring Service in respect of any regulated activity performed by the Contractor Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where BEIS reasonably believes that there is an increased risk to safeguarding in the performance of the Services, Contractor shall comply with any reasonable request by BEIS for additional vetting to be undertaken.
- (5) Failure by the Contractor to:
 - a. put in place preventative measures to eliminate and/or reduce the risk of Serious Misconduct; or
 - b. fully investigate allegations of Serious Misconduct; or
 - c. report any complaints to BEIS and where appropriate, the relevant authorities (including law enforcement)

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

49 **Modern Slavery**

- (1) The Contractor shall, and procure that each of its Contractor Personnel shall, comply with:
 - a. the Modern Slavery Act 2015 (“**Slavery Act**”); and
 - b. the Authority’s anti-slavery policy as provided to the Contractor from time to time (“**Anti-Slavery Policy**”).
- (2) The Contractor shall:



- a. implement due diligence procedures for its Contractor Personnel and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;
 - b. respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;
 - c. prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
 - d. maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract; and
 - e. implement a system of training for its employees to ensure compliance with the Slavery Act.
- (3) The Contractor represents, warrants and undertakes throughout the Term that:
 - a. it conducts its business in a manner consistent with all applicable laws, regulations and codes including the Slavery Act and all analogous legislation in place in any part of the world;
 - b. its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and
 - c. neither the Contractor nor any of its Contractor Personnel, nor any other persons associated with it:
 - i. has been convicted of any offence involving slavery and trafficking; or
 - ii. has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence regarding slavery and trafficking.
- (4) The Contractor shall notify the Authority as soon as it becomes aware of:
 - a. any breach, or potential breach, of the Anti-Slavery Policy; or
 - b. any actual or suspected slavery or trafficking in a supply chain which relates to the Contract.
- (5) If the Contractor notifies the Authority pursuant to Condition (3)c.ii above, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.
- (6) If the Contractor is in Default under Condition (1)b above or (2)e above Authority may by notice:



- a. require the Contractor to remove from performance of the Contract any Contractor Personnel or other persons associated with it whose acts or omissions have caused the Default; or
- b. immediately terminate the Contract.

50 Other Legislation

- (1) The Contractor shall, and shall procure that its subcontractors, agents and personnel, comply with all other applicable law in force from time to time for the duration of the Contract.
- (2) The Contractor must use reasonable endeavours to comply with the provisions of Schedule X (Corporate Social Responsibility).
- (3) The Contractor indemnifies the Authority against any costs resulting from any Default by the Contractor relating to any applicable Law to do with the Contract.
- (4) The Contractor must appoint a Compliance Officer who must be responsible for ensuring that the Contractor complies with the Law and Conditions **Error! Reference source not found.**, 22, 42, 43, 44 and 46.

51 Health and Safety

- (1) The Contractor shall (and shall procure that the Contractor Personnel shall) perform its obligations under this Contract (including those in relation to the Services) in accordance with:
 - a. all applicable Law regarding health and safety; and
 - b. the Health and Safety Policy whilst at the Authority's Premises.
- (2) Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority Premises of which it becomes aware and which relate to or arise in connection with the performance of this Contract. The Contractor shall instruct the Contractor Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

52 Law and Jurisdiction

This Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.



Annex 2

Suppliers are required to provide data on their direct spend with SMEs in the supply chain relating to the Contract.



MI%20Reporting%20Template.xlsx

BEIS SME Data Collection

v2.1

The UK government has made a commitment that 33% of central government procurement spend should go to Small and Medium-sized Enterprises (SMEs), either directly or via the supply chain, before the end of this parliament (2022). To support this key agenda item and to measure progress, the UK government is now requesting that from 1 April 2018 all new contracts valued over £5 million per annum provide data on supply chain spend. Guidance about the data required is provided below.
PLEASE NOTE YOU WILL NEED TO COMPLETE A SEPARATE TEMPLATE FOR EACH CONTRACT.

1) When answering the survey please endeavour to answer every section in full to the best of your knowledge. 2) Please only report on the relevant contract - do not include spend you have with the departments on other contracts

Questions A1-A3: Please specify the numbers in full. All figures should be in GBP pounds sterling. Please see an example of how to complete the questions below.

A1. Total contract revenue (£) received directly from selected department including arms length bodies (ALBs)

Supplier X has received £1,200,000 revenue directly from the selected department within the requested financial reporting period. Enter **£1,200,000** for question A1.

£1,200,000 ✓

£1.2m ✗

1.2m ✗

A2. Total value of subcontracted revenues (£)

(Please note that this is the total value of all sub-contracted revenues for SMEs and non-SMEs.

Of the £1,200,000 Supplier X received directly from the selected department, £50,000 was subcontracted to SMEs and £140,000 was subcontracted to organisations not covered by the definition of an SME. Enter **£190,000** for question A2.

£190,000 ✓

£190k ✗

190k ✗

A3. Total value of subcontracted revenues to SMEs (£)

Of the £1,200,000 Supplier X received from the selected department, £50,000 was subcontracted to an SME. Enter **£50,000** for question A3.

£50,000 ✓

£0.05m ✗

0.05m ✗

Data provided by

In the event we need to contact you about your return, please provide your full contact details. Please provide details of the preferred contact for future reporting (if different).

Please also provide your DUNS Number. The Data Universal Numbering System (DUNS) is a system developed and regulated by Dun & Bradstreet which assigns a unique numeric identifier, referred to as a 'DUNS Number' to a single business entity.

Definitions and Interpretations:

In this document and all documentation from the Crown Commercial Service SME team:

1. Department(s) – means central government department that you have a contract with.
2. Supplier(s) – means a company or organisation that sells or supplies goods or services not limited to the UK.
3. SMEs – means Suppliers with less than 250 employees and whose annual turnover does not exceed £50m or annual balance sheet total does not exceed €43m. The organisation also has to be autonomous.
4. Autonomous – means that the SME does not have more than 25% of its capital or voting rights owned by an organisation or multiple organisations that themselves do not
5. Contract Revenue – means the monetary value (Excl VAT) received through a contract between you and a Central Government Department or its ALBs.
6. Subcontracted Revenue – means the monetary value of the contract (Excl VAT) that has been passed to a supplier within the supply chain. It should not include the suppliers overhead expenditure e.g. cleaning services, that might be provided by an SME.
7. Supply Chain – means all suppliers that are involved in the production, handling, provision and /or distribution of any part of the contract.
8. Contract – means the commercial agreement between the department or its ALB and the supplier for the provision of goods or services.



BEIS SME Data Collection

Please refer to the guidance tab. Please answer questions A1 to A6 (populating yellow cells only) as applicable and return to [DEPARTMENTAL CONTACT]		
INSERT YOUR ORGANISATION/COMPANY NAME	Full Year 2022/23 (Apr 2022- Mar 2023)	
BEIS	£	%
CONTRACT NAME		
A1. Total contract revenue (£) received directly from selected contract.	£0.00	
A2. Total value of subcontracted revenues (£)	£0.00	
A3. Total value of subcontracted revenues to SMEs (£)	£0.00	
Breakdown of Departmental Contract Revenue (100%= £0)		
<div><div></div> Total Revenue retained (£)</div> <div><div></div> Total subcontracted revenues to non SME (£)</div> <div><div></div> Total subcontracted revenues to SMEs (£)</div>		
Data provided by:		
Name		
Organisation	INSERT YOUR ORGANISATION/COMPANY NAME	
DUNS Number		
Email		
Phone		
Date		
Please provide details of the preferred contact for future reporting (If applicable)		
Name		
Email		
Phone		