



Foreign, Commonwealth & Development Office



CONTRACT FOR SUPPLIER SERVICES

Section 1 - FORM OF CONTRACT

CONTRACT FOR: UK Partnering for Accelerated Climate Transactions (UK PACT)

CONTRACT REFERENCE NUMBER: ecm_6105

THIS CONTRACT is made

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

AND: **Palladium International Limited ("Supplier")**, whose registered office is situate at 2nd Floor Turnberry House, 100 Bunhill Row, London, EC1Y 8ND.

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

WHEREAS:

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

IT IS HEREBY AGREED as follows:

1. Documents

This Contract shall be comprised of the following documents:

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

2. Contract Signature

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

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

3. Commencement Date and End Date of Initial Period

The Services shall commence on 09 February 2024 and the end date of the Initial Period shall be 31 March 2027.



Foreign, Commonwealth & Development Office



4. Financial Limit

Payments under this Contract shall not, in any circumstances, exceed £220,000,000 exclusive of any government tax, if applicable.

5. Programme Name

The Programme Name to which this Contract relates is **UK Partnering for Accelerated Climate Transactions (UK PACT)**.

6. Time of the Essence

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

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

Name: [REDACTED]

Position: [REDACTED]

Signature: [REDACTED]

Date: 09 February 2024

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

Name: [REDACTED]

Position: [REDACTED]

Signature: [REDACTED]

Date: 08 February 2024

Foreign, Commonwealth and Development Office (FCDO)

Standard Terms and Conditions – Service Contracts

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Preliminaries

1. DEFINITIONS AND INTERPRETATION

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

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

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

3. FINANCIAL LIMIT

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

Term of Contract

4. CONTRACT TERM

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

Provision of Services

5. OBLIGATIONS OF THE SUPPLIER

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

Supplier Personnel and Supply Chain Matters

6. SUPPLIER PERSONNEL

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

7. SUB-CONTRACTORS AND EXCLUSIVITY

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

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

8. VISIBILITY OF SUBCONTRACT OPPORTUNITIES

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

9. STAFF TRANSFER

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

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

11. PROCUREMENT OF EQUIPMENT

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

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

12. USE OF AND RESPONSIBILITY FOR EQUIPMENT

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

Contract Governance

13. MONITORING OF CONTRACT PERFORMANCE

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

15. OPEN BOOK ACCOUNTING AND AUDIT

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

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

16. EXIT MANAGEMENT

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

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

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

PAYMENT AND TAXATION

17. Charges

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

18. VAT

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

19. RETENTION AND SET OFF

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

20. SUPPLIER PROFIT

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

21. SATISFACTORY PERFORMANCE

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

22. PAYMENTS & INVOICING INSTRUCTIONS

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

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

24. TAX COMPLIANCE

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

Intellectual Property, Security and Information

25. INTELLECTUAL PROPERTY RIGHTS

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

- 25.8 The Supplier shall, during and after the Term, on written demand, indemnify FCDO against all Losses incurred by, awarded against, or agreed to be paid by FCDO (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.
- 25.9 If an IPR Claim is made or anticipated, the Supplier must at its own expense and FCDO's sole option, either:
- 25.9.1 procure for FCDO the rights in Clause 25.5 without infringing the IPR of any third party; or
- 25.9.2 replace or modify the relevant item with non-infringing substitutes with no detriment to functionality of performance of the Services.

26. SECURITY REQUIREMENTS

- 26.1 The Supplier shall comply, and shall procure that the Supplier Personnel comply, with the Security Policy and any security plan requested by FCDO, and the Supplier shall ensure that the security plan produced by the Supplier fully complies with the Security Policy.
- 26.2 The Supplier shall ensure that it keeps up to date with the latest version of the Security Policy.
- 26.3 If the Supplier believes that a change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a variation in accordance with Clause 38. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in discussion with the FCDO Contract Officer.
- 26.4 Until and/or unless a change to the Charges is agreed by FCDO pursuant to Clause 26.3 the Supplier shall continue to perform the Services in accordance with its obligations and for the Charges applicable prior to any change request.

27. MALICIOUS SOFTWARE

- 27.1 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.
- 27.2 Notwithstanding Clause 27.1 if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of FCDO Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 27.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 27.2 shall be borne by the Parties as follows:
- 27.3.1 by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software or the FCDO Data (whilst the FCDO Data was under the control of the Supplier); and
- 27.3.2 by FCDO if the Malicious Software originates from the FCDO Software or the FCDO Data (whilst FCDO Data was under the control of FCDO).

28. TRANSPARENCY

- 28.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of Clause 30 (Freedom of Information), the content of this Contract is not confidential information. FCDO shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 28.2 Notwithstanding any other term of this Contract, the Supplier hereby gives their consent for FCDO to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.
- 28.3 FCDO may consult with the supplier to inform its decision regarding any exemptions with regard to FOIA but FCDO shall have the final decision in its absolute discretion.
- 28.4 The Supplier shall assist and cooperate with FCDO to enable FCDO to publish this Contract.
- 28.5 The Supplier acknowledges that FCDO endorses/supports the requirements of the IATI standard and shall assist and cooperate with FCDO, to enable the Supplier to understand the different elements of IATI implementation and to comply with the different data, policy and technical considerations that need to be taken into account.
- 28.6 The Supplier shall:

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

29. CONFIDENTIALITY

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

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

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

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

30. FREEDOM OF INFORMATION

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

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

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

31. OFFICIAL SECRETS ACT

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

32. FCDO DATA

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

33. PROTECTION OF PERSONAL DATA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34. **PUBLICITY AND BRANDING**

34.1 The Supplier shall not:

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

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

Liabilities

35. LIMIT OF LIABILITY

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

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

36. INDEMNITY

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

37. INSURANCE

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

Control of Contract

38. VARIATIONS

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

39. ASSIGNMENT AND NOVATION

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

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

39.2.3 FCDO receiving notification under both Clauses 39.3 and 39.4.

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

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

Default and Termination

40. FCDO REMEDIES FOR DEFAULT

40.1 Remedies

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

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

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

40.2 Rectification Plan Process

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

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

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

41. FINANCIAL DISTRESS

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

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

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

43. TERMINATION WITHOUT DEFAULT OF THE SUPPLIER

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

44. TERMINATION WITH DEFAULT OF THE SUPPLIER

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

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

44.3.5 the Supplier is a company and:

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

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

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

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

45. PARTIAL TERMINATION, SUSPENSION AND PARTIAL SUSPENSION

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

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

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

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

46. CONSEQUENCES OF EXPIRY OR TERMINATION

46.1 Where this Contract has been terminated pursuant to Clause 43 (Termination Without Default of the Supplier), the Supplier shall:

- 46.1.1 take such steps as are necessary to terminate the provision of the Services or any part of the Services (including suspending or terminating any Sub-Contracts) in a cost-effective, timely and orderly manner;
- 46.1.2 act in accordance with Clause 16 (Exit Management); and
- 46.1.3 provide to FCDO, not more than 60 days after FCDO notifies the Supplier of the termination of this Contract an account in writing with detailed supporting evidence, stating:
 - (a) any costs, if any, due before the date of termination, which cannot be avoided by the Supplier using reasonable endeavours; and

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

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

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

MISCELLANEOUS AND GOVERNING LAW

47. DISPUTE RESOLUTION PROCEDURE

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

48. PREVENTION OF FRAUD AND BRIBERY

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

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

49. ANTI-TERRORISM REGULATIONS

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

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

50. SAFEGUARDING

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

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

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

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

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

50.8 Failure by the Supplier to:

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

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

51. **DISCRIMINATION**

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

52. **LAW AND JURISDICTION**

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

53. **ENVIRONMENTAL REQUIREMENTS**

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

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

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

58. NOTICES

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

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

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

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

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

58.3.2 any notice in respect of:

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

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

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

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

SCHEDULE 1: DEFINITIONS

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

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

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

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

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

“Auditor” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“DPA 2018” means the Data Protection Act 2018

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

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

“FCDO Background IPR” means:

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

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

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

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

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

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

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

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

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

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

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

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

“Euro Compliant” means that:

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

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

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

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

“Expiry Date” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Intellectual Property Rights" or "IPRs" means

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Occasion of Tax Non-Compliance” means:

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

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

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

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

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

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

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

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

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

“Prohibited Act” has the meaning;

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

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

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

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

“Project Specific IPRs” means:

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

but shall not include the Supplier Background IPR;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Supplier Background IPRs” means;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SCHEDULE 2: STAFF TRANSFER

1. DEFINITIONS

In this Schedule 2, the following definitions shall apply:

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

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

2. INTERPRETATION

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

PART A

TRANSFERRING FCDO EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

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

2. FCDO INDEMNITIES

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

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

the Supplier and/or any Notified Sub-Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6 Subject to the Supplier and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law, FCDO shall indemnify the Supplier and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or procures that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7 The indemnity in Paragraph 2.6:
 - 2.7.1 shall not apply to:
 - (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

- (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

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

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

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

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

4. INFORMATION

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

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

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

6. PENSIONS

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

ANNEX TO PART A: PENSIONS

1. PARTICIPATION

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

2. FUTURE SERVICE BENEFITS

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

3. FUNDING

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

4. PROVISION OF INFORMATION

The Supplier and FCDO respectively undertake to each other:

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

5. INDEMNITY

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

6. EMPLOYER OBLIGATION

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

7. SUBSEQUENT TRANSFERS

The Supplier shall:

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

8. BULK TRANSFER

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

PART B

TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

9. RELEVANT TRANSFERS

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

10. FORMER SUPPLIER INDEMNITIES

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

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

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

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

11. SUPPLIER INDEMNITIES AND OBLIGATIONS

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

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

12. INFORMATION

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

13. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

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

14. PROCUREMENT OBLIGATIONS

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

15. PENSIONS

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

ANNEX TO PART B: PENSIONS

1. PARTICIPATION

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

2. FUTURE SERVICE BENEFITS

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

3. FUNDING

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

4. PROVISION OF INFORMATION

The Supplier and FCDO respectively undertake to each other:

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

5. INDEMNITY

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

6. EMPLOYER OBLIGATION

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

7. SUBSEQUENT TRANSFERS

The Supplier shall:

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

8. BULK TRANSFER

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

PART C

NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1. PROCEDURE IN THE EVENT OF TRANSFER

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

2. INDEMNITIES

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

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

2.4 The indemnities in Paragraph 2.1:

2.4.1 shall not apply to:

- (a) any claim for:
 - (i) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or
- (b) any claim that the termination of employment was unfair because the Supplier and/or any Sub-Contractor neglected to follow a fair dismissal procedure; and

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

3. PROCUREMENT OBLIGATIONS

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

PART D
EMPLOYMENT EXIT PROVISIONS

1. PRE-SERVICE TRANSFER OBLIGATIONS

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

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

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

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

2. EMPLOYMENT REGULATIONS EXIT PROVISIONS

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

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

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

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

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

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

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

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

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

ANNEX TO SCHEDULE 2: LIST OF NOTIFIED SUB-CONTRACTORS

- ARUP INTERNATIONAL PROJECTS LTD (COMPANY REGISTRATION 9084147)
- SDDIRECT (COMPANY REGISTRATION 03846881)

SCHEDULE 3: INSURANCE REQUIREMENTS

1.OBLIGATION TO MAINTAIN INSURANCES

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

2.GENERAL OBLIGATIONS

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

3.FAILURE TO INSURE

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

4.EVIDENCE OF POLICIES

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

5.AGGREGATE LIMIT OF INDEMNITY

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

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

6.CANCELLATION

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

7.INSURANCE CLAIMS

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

ANNEX 1: REQUIRED INSURANCES

PART A: THIRD PARTY PUBLIC & PRODUCTS LIABILITY INSURANCE

1.INSURED

1.1 The Supplier

2.INTEREST

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

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

2.1.2 loss of or damage to property;

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

3.LIMIT OF INDEMNITY

3.1 As set out in Section 4 (Special Conditions).

4.TERRITORIAL LIMITS

4.1.1 Global

5.PERIOD OF INSURANCE

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

6.COVER FEATURES AND EXTENSIONS

6.1 Indemnity to principals clause.

7.PRINCIPAL EXCLUSIONS

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

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

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

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

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

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

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

8.MAXIMUM DEDUCTIBLE THRESHOLD

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

PART B: PROFESSIONAL INDEMNITY INSURANCE

1.INSURED

1.1 The Supplier

2.INTEREST

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

3.LIMIT OF INDEMNITY

3.1 As set out in Section 4 (Special Conditions).

4.TERRITORIAL LIMITS

4.1 Global

5.PERIOD OF INSURANCE

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

6.COVER FEATURES AND EXTENSIONS

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

7.PRINCIPAL EXCLUSIONS

- 7.1 War and related perils
- 7.2 Nuclear and radioactive risks

8.MAXIMUM DEDUCTIBLE THRESHOLD

8.1 Not to exceed £0 each and every claim.

PART C: UNITED KINGDOM COMPULSORY INSURANCES

1.GENERAL

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

SCHEDULE 4: TENDER

1. GENERAL

- 1.1 This Schedule 4 sets out a copy of the Supplier’s Tender.
- 1.2 Subject to Clause 1.4, in addition to any other obligations on the Supplier under this Contract, the Supplier shall provide the Services in accordance with the Tender.

APPENDIX A. CONTRACT AMENDMENT LETTER

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

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

File Ref: [
Date: [

Contract Amendment No: [

CONTRACT FOR: [

CONTRACT NUMBER: [

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

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

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

Name: [

Position:

Signature:

Date: [

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

Name: [

Signature:

Date:

APPENDIX B



FCDO Supply Partner Code of Conduct

Principles

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

Overarching Principles for Supply Partners

- ✓ **Act responsibly and with integrity**
- ✓ **Be transparent and accountable**
- ✓ **Seek to improve value for money**
- ✓ **Demonstrate commitment to poverty reduction and FCDO priorities¹**
- ✓ **Demonstrate commitment to wider HMG priorities²**

FCDO Supply Partner responsibilities

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

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

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

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

Scope

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

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

1. Value for Money and Governance

Key Performance Indicators KPI 1 a - c

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

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

Specific requirements include:

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

2. Ethical Behaviour

Key Performance Indicators KPI 2 a- f

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

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

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

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

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

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

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

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

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

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

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

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

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

Specific requirements for direct Supply Partners include:

- ✓ Provide assurance to the FCDO that the policies and practices of their delivery chain Supply Partners and affiliates comply with the Code;
- ✓ Maintaining and sharing with FCDO up-to-date and accurate records of all downstream partners in receipt of FCDO funds and/or FCDO funded inventory or assets. This should map how funds flow from them to end beneficiaries and identify risks and potential risks along the delivery chain;
- ✓ Ensuring delivery chain partner employees are expressly notified of the FCDO ‘reporting concerns’ mailbox³ found on FCDO’s external website and of the circumstances in which this should be used;
- ✓ Publication of FCDO funding data in accordance with the International Aid Transparency Initiative (IATI)⁴
- ✓ Supply Partners shall adhere to HMG prompt payment policy and not use restrictive exclusivity agreements with sub-partners.

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

⁴ <http://www.aidtransparency.net/>

4. Environmental issues

Key Performance Indicators KPI 4 a – b

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

Commitment to environmental sustainability may be demonstrated by:

- ✓ Formal environmental safeguard policies in place;
- ✓ Publication of environmental performance reports on a regular basis
- ✓ Membership or signature of relevant environmental Codes, both directly and within the delivery chain such as conventions, standards or certification bodies (e.g. the Extractive Industries Transparency Initiative⁵).

5. Terrorism and Security

Key Performance Indicators KPI 5 a – d

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

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

Specific requirements:

- ✓ Development and proof of application and embedding of a comprehensive Terrorism and Security Policy
- ✓ Development and proof of application and embedding of personal data processing processes within a Data Protection Policy
- ✓ FCDO Supply Partners must safeguard the integrity and security of their IT and mobile communications systems in line with the HMG Cyber Essentials Scheme⁶. Award of the Cyber Essentials or Cyber Essential Plus badges would provide organisational evidence of meeting the UK Government-endorsed standard;
- ✓ All FCDO Supply Partners who manage aid programmes with a digital element must adhere to the global Principles for Digital Development⁷, which sets out best practice in technology-enabled programmes
- ✓ Ensure that FCDO funding is not linked to terrorist offences, terrorist activities or financing.

6. Safeguarding, Social Responsibility and Human Rights

Key Performance Indicators: KPI 6 a – d

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

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

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

Specific requirements:

- ✓ Development and proof of application and embedding of a Safeguarding Policy;
- ✓ Delivery of Social Responsibility, Human Rights and Safeguarding training throughout the delivery chain;
- ✓ Compliance level 1 Supply Partners must be fully signed up to the UN Global Compact⁸;
- ✓ Practices in line with the International Labour Organisation (ILO) 138⁹ and the Ethical Trading Initiative (ETI) Base Code¹⁰ are to be encouraged throughout the delivery chain;
- ✓ Policies to embed good practice in line with the UN Global Compact Guiding Principles 1 & 2 on business and human rights throughout the delivery chain are required, as detailed in Annex 2;
- ✓ Compliance level 1 Supply Partners to submit a Statement of Compliance outlining how the organisation's business activities help to develop local markets and institutions and further how they contribute to social and environmental sustainability, whilst complying with international principles on Safeguarding and Human Rights labour and ethical employment, social inclusion and environmental protection;
- ✓ Overarching consideration given to building local capacity and promoting the involvement of people whose lives are affected by business decisions.

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

⁹ http://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

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

Compliance KPIs and contractual checking mechanisms - FCDO Contracts

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

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

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

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

c)	<p><u>Tax Declaration (HMRC format)</u></p> <ul style="list-style-type: none">• Tax the organisation paid on profits made in the last 3 years, and in which countries• Compliance with relevant country level tax regulations fully understood and met	Annually updated documentation submitted by contracted supplier and on behalf of delivery chain partners	Terms and Conditions Clauses 15, 23 & 24 Terms of reference	Annual return Compliance checks
2.	<p><u>Ethical Behaviour</u></p>			
a)	Recruitment policy (which must address circumstances where there may be potential or actual conflict of interest)	Updated policy documentation submitted once annually by contracted supplier and on behalf of delivery chain partners	Terms and Conditions Clauses 6, 51 & 54	Annual return Compliance checks
b)	Ongoing conflict of interest, mitigation and management	As 2a. above	Terms and conditions Clause 54	Annual return Compliance checks
c)	Refresher ethical training and staff updates (including disclosure restrictions on FCDO confidential information)	Copy of training logs provided Delivery in accordance with training programme in place	Terms and conditions Clause 6, 29, 51 & 54	Annual return Compliance checks
d)	A workforce whistleblowing policy	Continuous workforce awareness maintained Policy in place	Terms and Conditions Clause 48	Annual return Compliance checks
e)	<ol style="list-style-type: none">1. Procedures setting out how, staff involved in FCDO funded business, can immediately report all suspicions or allegations of aid diversion, fraud, money laundering or counter terrorism finance or any suspicions/allegations/concerns which relate to safeguarding to the Investigations Department at reportingconcerns@fcdo.gov.uk or on +44(0)1355 8437472. Employees working on FCDO Contracts fully aware of the FCDO external website reporting concerns mailbox	<p>Continuous awareness maintained</p> <p>Procedure in place</p> <p>Continuous awareness maintained</p>	<p>Terms and Conditions Clauses 6, 48 & 54</p> <p>Terms and Conditions Clause 48</p>	<p>Annual return Compliance checks</p> <p>Annual return Compliance checks</p>
f)	<p>Declarations of direct or subcontractor staff members proposed to work on FCDO funded business if employed by FCDO or the Crown in the preceding two years</p> <p>Supply Partners and their subcontractors must provide proof of compliance with the HMG approval requirements under the</p>	Details submitted as applicable	<p>Terms and Conditions Clause 48</p> <p>HMG business appointment rules</p>	<p>Annual return Compliance checks</p> <p>Contract management</p>

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

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

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

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

Supply Partner Compliance Declaration

Key:

Contractual Requirement:

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

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

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

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

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

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

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

UN Global Compact – Human Rights

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

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

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

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

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

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

Volume 3: Terms of Reference

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Acronyms and key terms

Term	Description
Activity	Any project or other intervention that directly benefits the Beneficiaries of UK PACT
Activity Cost	Any costs related directly to an Activity (see Section 2.1)
ASEAN	Association of Southeast Asian Nations
BE	British Embassy
BEIS	Department for Business, Energy and Industrial Strategy, which co-funds UK PACT
Beneficiaries	Any individual or organisation that benefits from the Activities of UK PACT (see Section 1.2)
BHC	British High Commission
CfP	Call for proposals, a type of funding mechanism under UK PACT whereby projects or IPs are selected through a competitive process
Country Programmes	A component of the previous phase of UK PACT, which was referred to within early market engagement notices and events. In this Contract, this fund has been replaced by Country Funds.
DP	Delivery Partner, the Supplier which will be contracted via this procurement.
ECED	Energy, Climate and Environment Directorate, the directorate within FCDO where the UK PACT team sits
ELP	The Evaluation and Learning Partner for UK PACT, which will be procured separately
Extension Period	The period of time that the Contract will run following the Initial Period if an extension is granted.
FCDO	Foreign, Commonwealth and Development Office, which co-funds and manages UK PACT.
GDPR	General Data Protection Regulation
GRCF	Green Recovery Challenge Fund – a component of the previous phase of UK PACT, which was referred to within early market engagement notices and events. In this Contract, this fund has been replaced by the Flexible Fund.
HMG	His Majesty's Government (i.e. the UK Government)
ICF	International Climate Finance, the UK Government commitment to support developing countries to respond to the challenges and opportunities of climate change using ODA funds.
IP	Implementing Partner, an organisation receiving project funding from UK PACT
IPR	Intellectual Property Rights (see Section 5.14)
Initial Period	The duration of the initial contract, before any potential extension
KPIs	Key Performance Indicators – there are two types of KPIs relevant to this Contract – KPIs relating DP performance delivering UK PACT under this Contract, and ICF KPIs, which measure the results of the ICF across all programmes.
ODA	Official Development Assistance
MEL	Monitoring, evaluation, and learning. The DP will deliver monitoring services under this Contract, and some learning services.
QA	Quality assurance
RMS	Results management system
Roster	For the purposes of UK PACT, a roster is a list of experts that have been contracted to potentially deliver skill-share activities, usually through their employer. This roster includes details of their skills. Skill-share opportunities are advertised to the roster, and the most appropriate expert is then selected to deliver the activity.
Secondment	For the purposes of UK PACT, a secondment is when an individual is funded by the programme to move temporarily (usually between 6 months and 2 years) to work with a stakeholder (for example, within a government ministry or key government institution) in a UK PACT partner country.
Skill-share	A unique UK PACT funding mechanism whereby experts provide shorter-term capacity building interventions to beneficiary institutions.

Skill-shares and Secondments	These two funding mechanisms were previously managed as a separate component during the previous phase of UK PACT. They have now been integrated into the fund structures under this Contract, so this is no longer a separate component.
SRO	Senior Responsible Owner – the member of FCDO staff accountable for a programme meeting its objectives
Supplier	The Delivery Partner of UK PACT contracted to deliver the programme through this tender. This may be one organisation or a consortium.
Supplier Costs	Costs met by the Supplier to manage the programme and its activities (see Section 2.1).
TA	Technical assistance
Tasks	Work carried out by the Supplier to manage the programme and its activities.
T&Cs	Terms and Conditions – as set out in the Contract when signed. The standard T&Cs are set out in Volume 7 of the ITT, and special conditions are in Section 6E of Volume 8.
UK PACT	UK Partnering for Accelerated Climate Transitions, the programme being delivered through this Contract.

1. Introduction and overview of UK PACT

1.1 Introduction

UK PACT (Partnering for Accelerated Climate Transitions) is a UK Government programme funded through International Climate Finance (ICF) that has been running since 2018¹. ICF is part of the UK Government's wider Official Development Assistance (ODA) budget. Funding for UK PACT is currently provided by the Foreign Commonwealth and Development Office (FCDO), and the Department for Business, Energy and Industrial Strategy (BEIS), but other HMG Departments or Agencies may contribute additional funding to the FCDO for the programme. The programme will be jointly governed by both departments but managed by the FCDO.

Phase 1 of UK PACT lasted from 2018 to 2023 – during this period the programme was managed by three delivery partners with an independent monitoring, evaluation and learning (MEL) partner. Through this procurement HMG is seeking to identify a Delivery Partner (DP) to deliver phase 2 of the UK PACT programme 2023 to 2027 (with the possibility of extension to 2030). The DP will deliver the programme in close coordination with HMG in the UK and in British Embassies (BEs) and High Commissions (BHCs). For more information on the role of HMG and governance of the programme, see Annex 3. The DP will also carry out programme results monitoring and work closely with an Evaluation and Learning Partner (ELP), which will be procured separately. In this document, the DP will be referred to as the Supplier (i.e., the successful bidder). The Supplier can be a single organisation or a consortium (see Section 5.17). This document sets out a description of the programme and the role of the Supplier to deliver it.

- Section 1 describes the objectives and structure of the programme, including the funds within it and the funding mechanisms that are used.
- Section 2 sets out the budget, timeframe and structure of the Supplier contract.
- Section 3 sets out the detailed scope of tasks the Supplier will carry out.
- Section 4 provides guidance on resourcing required of the Supplier.
- Section 5 describes delivery requirements the Supplier must follow.

1.2 Aims and objectives

The programme's overall objective is to alleviate poverty, working primarily through reducing greenhouse gas emissions. UK PACT is a flexible technical assistance (TA) programme that is designed to support ODA-eligible countries to increase their future climate ambitions, reduce their emissions, and accelerate just transitions to clean growth. A key feature of UK PACT is that it aims to respond explicitly to partner government demand for capacity building interventions, and that it shares UK expertise (for example in areas such as climate legislation, green finance, and smart energy).

¹ See www.ukpact.co.uk for more information on the programme and its current portfolio of activities.

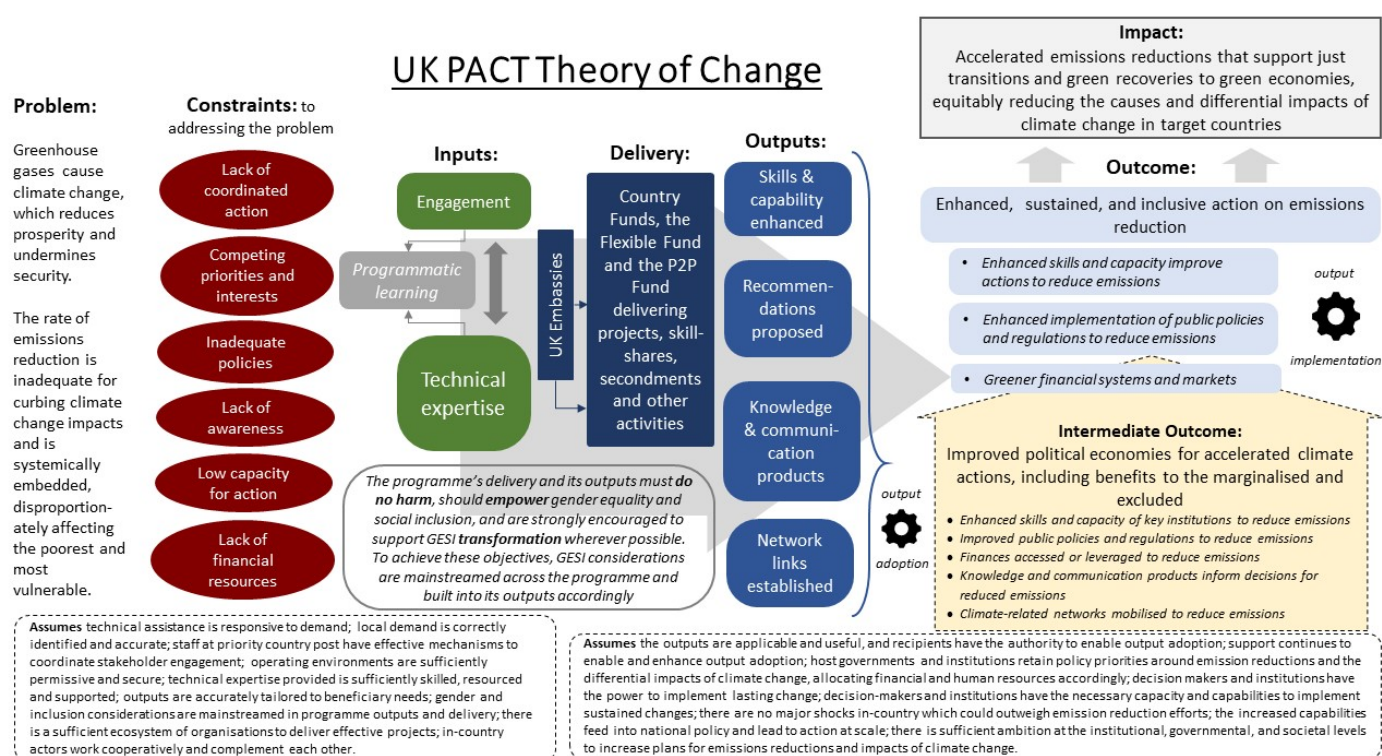
Under this phase 2 of UK PACT, the programme will continue to work primarily in countries with higher emissions reduction potential (primarily Middle-Income Countries²). UK PACT will partner with governments and key institutions to support the development of low-carbon policy, to increase their capacity, and to leverage further funding from public and private sources. While the programme will be primarily focused on supporting mitigating actions, as UK PACT expands it will broaden its offer to support adaptation and resilience where these are complementary. UK PACT projects will be designed to be catalytic in nature, aimed at shifting public funding and private finance towards low-carbon development and infrastructure investment. For example, it will focus on:

- supporting the creation of low-carbon policy, regulations and financial mechanisms that will result in wide-spread change.
- piloting innovative ideas that can be mainstreamed by the Government and private sector.
- building long-term capacity in key institutions so they can integrate climate into their work.

The programme will be able to support a just low-carbon transition in any sector of the economy, depending on demand in the country. UK PACT will co-ordinate with other UK programmes and other donors to make sure that our interventions are additional and focused on where UK PACT can add value. The programme will deliver this capacity building by funding projects that support key institutions (for example, government departments, local authorities, research institutes, or the private sector), as well as funding experts who are embedded within these organisations through long-term secondments. In addition, the programme will have unparalleled access to UK public sector policy experts and a large roster of industry and academic experts that it will flexibly deploy to build capacity in specific areas through short-term “skill-shares.”

The UK PACT Theory of Change (Figure 1) articulates how the programme intends to achieve impact, by identifying the problem addressed, the proposed solutions, the objectives achieved in doing so, and the assumptions about how change will occur.

Figure 1: UK PACT Theory of Change (January 2021)



² See the OECD's [DAC List of ODA Recipients](#) for a full list of Middle Income Countries

Adaptation

UK PACT is a climate mitigation-focused programme. However, some of our projects, particularly around nature-based solutions, have had an adaptation component. Under this Contract, the Supplier is expected to maximise the adaptation and resilience co-benefits of UK PACT-funded activities. This may include adaptation-specific projects within a portfolio in a country, or adaptation components within a project, that are complementary in ensuring the longevity of our mitigation efforts (for example by helping to build government buy-in for climate action). The Supplier will be expected to have access to adaptation expertise to ensure the inclusion of adaptation into project design and delivery.

Technical assistance principles

UK PACT operates under the following guiding principles for effective technical assistance:

- **Country-led:** UK PACT responds to country demand, working with beneficiaries to identify needs.
- **Transformational:** UK PACT targets barriers and constraints to emissions reduction. It uses UK and local expertise to influence strategy and policy and demonstrates impact and to crowd in private investors.
- **Flexible:** UK PACT works with a range of countries and supports interventions across multiple sectors and stakeholders. It has flexibility to evolve to changing contexts through adaptive programming.
- **Opportunities for learning:** UK PACT prioritises monitoring, evaluation and learning, and looks to continuously improve and base its work on evidence of what works.
- **Sustainable beyond exit:** UK PACT supports projects that build capacity and capability at a personal and organisational level, with peer-to-peer support facilitating change (ultimately reducing the dependency on external aid and financial support).

Recipients and beneficiaries

Each UK PACT activity will have specific recipients. For projects, these are called implementing partners (IPs) and are the organisations or companies receiving funding. For skill-shares and secondments, the recipients are individual experts.

Each UK PACT activity, carried out by these recipients, will deliver capacity building for defined beneficiaries³. Because of UK PACT's flexible approach, the direct beneficiaries of UK PACT ODA-funded activities can be in a broad range of groups. For example:

- National, regional and city government ministries and agencies within our partner countries
- Other key institutions within the country (e.g. representative bodies of different industries)
- Academic and research organisations
- Private sector companies (e.g. companies that pilot low-carbon approaches)
- Local communities

The ultimate beneficiaries of the programme are the citizens of our partner countries, who will benefit from enhanced and more equitable low-carbon transitions, and those of the world's poorest countries, who will be most negatively affected if low-carbon transitions do not take place globally.

Non-ODA activities

UK PACT's core budget is ODA, and as such will be used to meet the poverty alleviation-focused objectives, as set out in the Theory of Change (Figure 1). However, some non-ODA funding may be used through this Contract with the aim of realising commercial benefits for UK companies from low-carbon transitions in other countries. These activities are likely to be limited to skill-shares. The non-ODA objectives will be clearly articulated by the FCDO to any experts or IPs delivering them, and to the Supplier. The amount of non-ODA funding will be limited to £3m

³ The use of the word "beneficiaries" is not intended to overlook the critical and active roles that these individuals play as change makers. The FCDO is cognisant of the language it uses and prefers to refer to "partners" or "counterparts" during the delivery of UK PACT to better reflect their role. Nevertheless, for the sake of clarity, in this document the word "beneficiaries" is used to distinguish these groups from other partners in the delivery chain.

throughout the life of the Contract, including any extension period. Any non-ODA funding will need to be reported separately by the Supplier in the programme's accounts and invoiced separately, if required.

1.3 Fund structure

Introduction

To deliver our objectives of supporting transformational change, UK PACT will operate as a series of separate funds during the period of this contract. Each fund will deliver activities using a suite of funding mechanisms (outlined in Section 1.4) to maximise impact. The funds of the core programme are:

- **Country Funds (c.75% of funding)** – dedicated country-specific budgets to support action in countries that have been prioritised because of their current emissions, potential for emissions growth and strategic importance. The UK PACT team and the Supplier will work in partnership with the government and key institutions in the country to scope their demands for capacity building, identify funding priorities, create a strategy, and determine how this can best be delivered. Country Funds will have access to all the funding mechanisms listed in Section 1.4, and these should be deployed flexibly to respond to their country strategies (subject to demand and budget availability). The Supplier is expected to have staff based in each country (see Section 4.2), and the FCDO will have dedicated UK PACT staff in the BE/BHC. It is expected that around 75% of UK PACT funding for activities (i.e. Activity Costs as defined in Section 2.1) will be used by the Country Funds.
- **Flexible Fund (c.20% of funding)** – a fund that is available to a wider range of countries that do not have dedicated Country Funds, to allow UK PACT to support some priorities in those countries. Interventions under this fund will be approved based on need and demand, but country-specific budgets will not be defined up-front. In Flexible Fund countries the FCDO expects to deploy all funding mechanisms listed in Section 1.4 apart from private sector secondments (unless the Supplier has a suitable mechanism available). It is expected that the Flexible Fund will use around 20% of available funding for activities within UK PACT.
- **Peer-to-Peer Fund (under 1% of funding)** – This fund will be used to support skill-shares in ODA-eligible countries that are not included in the Country Funds or Flexible Fund, where there is a strong strategic case and delivery capacity for doing so. It may also deliver non-ODA activities in any country (see Section 1.2). It will be administered as a sub-fund of the Flexible Fund, because of its small size. Its budget for activities will be limited to around £0.3m a year (i.e. under 1%).
- **Reserve Fund (c.5% of funding)** – the reserve fund is an unallocated fund that can be deployed across Country Funds, the Flexible Fund, or the Peer-to-Peer Fund to increase existing fund budgets where appropriate or fund new, unforeseen priority interventions. It is expected that around 5% of funds each year will be set aside for the Reserve Fund.

Each of these funds are described further in the following sections. These funds will be managed in a flexible way and their scope may change (see Section 2.1 for more information). However, this section sets out the FCDO's current strategy for delivering UK PACT.

Although each fund will be managed separately and have its own objectives, the Supplier will be expected to ensure learning between the funds (for example that lessons learned about a successful green finance project influence work on that sector in other countries). Promoting such "cross-pollination" between funds will support UK PACT's ambition to create transformational change.

Country Funds

The FCDO expects that the UK PACT programme will have Country Funds for 10 countries during the Initial Period of this Contract. This is subject to scoping by the FCDO, which will be completed before the Contract begins, and may go up or down during the Initial Period and the optional Extension Period (see Section 2.2 for more information on flexibility within the contract), for example if the programme budget increases. A dedicated budget for activities will be set for each Country Fund with the aim of responding to demand from counterpart governments for technical assistance to build their capacity and capability to reduce emissions, implement their Nationally Determined Contributions (NDCs) under the Paris Agreement, and raise ambition. Table 1 shows the countries that will be

covered by these funds, with indicative annual budgets that cover Activity Costs (e.g. project, skill-share and secondments – see Section 2.1 for more information) in each country.

As UK PACT is a demand-led programme, scoping and planning is a critical first, and continuous, stage of delivery. Each UK PACT Country Fund will therefore have a strategy, developed by the relevant BE/BHC with the FCDO team in the UK, which incorporates findings from scoping with partner governments, and defines the areas should be focused on in that country. It is likely that these strategies will have been developed before this contract begins, but they will be kept under review and may be amended over the course of the contract, particularly in light of major policy or political shifts in a country. The Supplier may be required to support this amendment, for example providing inputs from sectoral experts (see section 3.3 on fund management for more information). The Supplier will then develop these strategies into implementation plans, which will include the activities that will be supported in a way that maximises value for money and co-benefits.

The Supplier must be able to deliver all funding mechanisms within a Country Fund (see Section 1.4). It is not intended that each Country Fund will have targets for the proportion of their budget spent on a specific funding mechanisms – the most appropriate mix of interventions should be delivered that best meets each country's needs, delivers on the strategy and offers value for money from the budget available. As the most flexible, strategic, and responsive intervention, skill-shares should always be considered as a critical part of each implementation plan, both early on in establishing our engagement, and on an ongoing basis, to build on that engagement and/or enable or supplement longer term secondments or projects with the aim of achieving outcomes and impact.

Portfolio development

The Supplier will take over management of the existing portfolio of activities that are ongoing in Country Fund countries, which are being managed by the current Delivery Partners (see Section 5.8 and Annex 5 for more information). In general, we expect that in order to sustainably scale the Country Funds across 10 countries during 2023 and 2024, each country will have a portfolio of larger multi-year projects in certain key areas, supplemented by more responsive funding, including skill-shares and secondments, that allow the Country Funds to flexibly respond to new demands.

The development of each Country Fund portfolio will be an iterative process involving the Supplier and the FCDO, with the aim of maximising outcomes and impacts based on UK PACT's theory of change. When each activity under the fund comes to an end, there is a review point and the Supplier must make recommendations regarding potential follow-up work or new avenues that could be explored to increase the chance of the activity's outcomes being realised, and consider if they could be magnified or replicated elsewhere. These will then be considered for approval by the Country Fund strategy board (see Annex 3 for more information on governance arrangements). The Supplier should also ensure that lessons learned from the activity are captured and shared between funds in the programme. In this way, activity management will be circular, feeding into the Country Fund's (and UK PACT's) future strategy and activities.

Budgets and sectoral coverage

It is expected that Country Funds will use around 75% of UK PACT activity funding in total (see Section 2.1 for more information on the overall programme budget). Detailed budgets for each Country Fund have not been set, as they are subject to further scoping, but they will range from around £2m to £8m per year for activities (i.e. not including the Supplier Costs involved in managing them), as set out in Table 1. Exact budgets for each fund will be agreed during the Mobilisation Phase of the Contract.

The strategy for each Country Fund will specify which sectors or sub-sectors UK PACT will work in. Scoping on sectoral priorities is being carried out in early 2023, and will be completed before the Initial Period of the Contract begins. We would expect the following core sectors to be explored in each:

- Climate policy
- Energy transition
- Sustainable mobility
- Nature-based solutions (NBS) including forests

- Green finance
- Just transition issues

Table 1 also indicates where additional sectors or sub-sectors that are likely to be included, where they are known. The Supplier should therefore be able to access expertise in each of these sectors and sub-sectors during the delivery phase of the contract that is relevant to the local context to ensure the delivery of quality outputs (see Section 4 on skills, expertise and staffing for more information).

Table 1: Indicative Country Fund annual budgets and sectoral priorities

	<u>Indicative annual budget</u>	<u>Additional sectors or important sub-sectors</u>
Brazil	£5m–£8m	NBS – Adaptation within this sector
South Africa	£5m–£8m	Energy – just energy transition, energy efficiency and demand side management, renewable energy, alternative fuel sources (hydrogen) Sustainable mobility – green hydrogen and electric vehicles NBS – climate smart agriculture
Indonesia	£5m–£8m	Sustainable mobility – cities and transport Energy – efficiency Climate policy/green finance – carbon markets
India	£5m–£8m	Energy – power sector policy reform and green hydrogen NBS – support to the India-UK Forest partnership Climate policy/green finance – carbon pricing Other sectors – industrial decarbonisation
Colombia	£2m–£4m	NBS – Sustainable livelihoods (e.g., agroforestry and ecotourism) and bioeconomy All – incorporating adaptation across other sectors
Mexico	£2m–£4m	NBS – forests Green finance – taxonomies, environmental and social governance (ESG), climate risk and disclosure.
Nigeria	£2m–£4m	Energy – Just Transition issues NBS – sustainable agriculture and mangroves Climate policy/green finance – carbon markets Climate policy – gender and climate change
Kenya	£2m–£4m	Energy – county-level energy planning, and demand-side creation for energy (including electric vehicles) NBS – adaptation within this sector Green finance – innovative financing mechanisms in all sectors, but particularly in forests NBS – forest governance
Thailand	£2m–£4m	Climate policy – net zero pathway development Sustainable mobility – electric vehicle policy NBS – Sustainable rice agriculture Green finance - climate related risk disclosure
Vietnam	£2m–£4m	Climate policy/green finance – carbon pricing

Please also note that Country Funds can receive additional funding from the reserve fund, or other sources as specified under “scale up” in Section 2.2, (which is not included in the figures above).

Flexible Fund

A new Flexible Fund will be created to support priority projects and skill-shares in a separate list of countries that are not covered by Country Funds. Activities under this fund will be approved based on need and demand, with the aim of taking forward activities that are likely to have the most impact. Unlike the Country Funds, the FCDO does not anticipate setting specific country/regional budgets and strategies (although this will be subject to change as per

provisions in ‘changes of scope’ in Section 2.2). In Flexible Fund countries (see below) we expect to deploy all key funding mechanisms, apart from private sector secondments. We would not expect to be able to offer these routinely unless the Supplier has an effective and value for money mechanism available for recruitment and deployment in a particular country. See Section 1.4 for more information on funding mechanisms.

This Flexible Fund should continue the high quality deliverables and outcomes of the UK PACT Green Recovery Challenge Fund (GRCF), which has been operating since 2020 (see www.ukpact.co.uk/green-recovery-challenge-fund for more information). This has funded projects in a number of countries focused on global priority sectors.

The Flexible Fund will allow UK PACT to support governments and other key institutions to increase their capacity to mainstream climate change into their work, and to meet their commitments under the Paris Agreement. Examples of this could be, but not limited to, developing a new climate law, a green bond framework, an NDC investment plan, an emissions inventory system or a city transport plan. Projects can be in any sector, and we expect most activity will be in the same core sectors listed in the Country Funds section above.

The Flexible Fund will work in tandem with the Country Funds: for example, it may be used to assess a country’s suitability for a Country Fund in the future. If the FCDO decides to not take forward a Country Fund following scoping, or one closes, the country could become eligible for the Flexible Fund instead.

The Governance process of the Flexible Fund is expected to be:

- BEs and BHCs in relevant countries will be able to request funding from the UK PACT Funding Board (which would include FCDO staff working on UK PACT, as well as representatives of the Supplier), which will meet at least quarterly. See Annex 3 on *HMG role and governance of UK PACT* for more information on this board. Requests for funding will take the form of a concept note, which will be developed by the BE/BHCs with specialist technical support from the Supplier. This concept note must, at a minimum, include:
 - Concrete and actionable project idea or sectoral priority, with evidence of partner government demand
 - Activity outputs (if known) and indicative budget
 - Indication of appropriate funding mechanism
- If the concept note is approved, the Supplier will then develop a full terms of reference for the activity, which will be reviewed by the FCDO. Once finalised, the Supplier will then carry out tasks to mobilise the activity. See section 3 for more information on how activities will be delivered under the programme.
- Each quarter, the Funding Board will also review progress updates from the Supplier on previous project, skill-share and secondment ideas which have been approved. If the UK PACT Funding Board deems that insufficient progress has been made following the approval, for example, the ToRs have not been progressed, or the IP has not been appointed, the board may choose to rescind or reallocate funding to ensure best value for money.

The FCDO reserves the right to change this governance process as the programme evolves over the length of this Contract, as this is a new fund and it is important to learn from experience. If the process is changed in any material way, the Supplier will be consulted before the FCDO makes a decision, and any additional resourcing requirements will be negotiated through the task order process (see Section 2 for more information).

To be eligible for Flexible Fund support, activities will be expected to meet the following criteria:

- Be focused on one or more Flexible Fund countries
- Be aligned to the overall objectives of UK PACT
- Respond to demand from the partner government or a key institution within the relevant country/countries
- Be focused on priority sectors, defined by HMG in coordination with partner countries, in each country. The FCDO anticipates these will be aligned with priority sectors in Country Funds and are likely to include climate policy, energy transition, sustainable mobility, nature-based solutions (NBS) including forests, green finance, and just transition issues.

- Be deliverable (for example, the security situation allows for in-person skill-shares or for the necessary in-person involvement from the Supplier), and with sufficient capacity from the BE/BHC to provide support.

Under the core UK PACT programme, the FCDO expects the following countries to be eligible for Flexible Fund access from the start of the contract (subject to further scoping):

- Bolivia
- Cambodia
- Ecuador
- Egypt
- Guyana
- Laos
- Malaysia
- Peru
- Philippines
- Suriname
- Venezuela

Country eligibility for the Flexible Fund will be kept under review during the lifetime of the programme, and the geographic scope may expand. The FCDO is particularly interested to explore using the Flexible Fund to support countries in the Congo Basin, particularly on land- and forest-related projects, given the importance of the region for global emissions.

The annual budget of the fund is expected to be around 20% of the overall UK PACT budget for activities, exclusive of administration costs (see Section 2.1 for more information on budgets). The FCDO does not anticipate that the Flexible Fund budget will contain country- or funding mechanism-specific allocations and will be allocated to countries based on need and demand using the most appropriate funding mechanisms – the budget does not have to be evenly allocated. As the most flexible, strategic, and responsive funding intervention, skill-shares should always be considered, both early on in establishing our engagement with Flexible Fund countries, and on an ongoing basis, to build on that engagement, and/or enable or supplement longer-term projects.

There may be a small number of projects and skill-shares on-going in Flexible Fund countries when the Contract begins, which the Supplier will need to take over (see Section 5.8 and Annex 5 for more information). This will form the initial portfolio for the Flexible Fund, which will be added to.

As with Country Funds, when Flexible Fund activities come to an end, the Supplier will review whether follow-up work could increase the likelihood of achieving or replicating outcomes and impacts, and make recommendations to be approved by the FCDO. This may result in concept notes for additional activities, that can be considered by the Funding Board.

Peer-to-Peer Fund

This fund will be used to support the delivery of skill-shares in ODA-eligible countries that are not covered by Country Funds or the Flexible Fund. These will be approved on a case-by-case basis where this responds to partner government demand, supports wider UK political or climate diplomacy objectives, and is in an area of UK climate expertise and leadership. Skill-shares provide a direct mechanism for the UK to support countries in areas of strategic importance and is the funding mechanism UK PACT can most directly and flexibly shape to focus on building capacity in the most strategic areas. It is expected that the Peer-to-Peer Fund will have a budget of around £0.3m per year for skill-share Activity Costs, not including Supplier Costs for managing the fund – see Section 2.1 for definitions).

All requests from BE/BHCs for skill-shares must be approved by the FCDO and:

- Meet the overall objectives of UK PACT
- Respond to demand from the partner government or a key institution within the relevant country

- Be deliverable (for example, the security situation allows for in-person skill-shares), and with sufficient capacity from the BE/BHC to provide support
- Be affordable within the Peer-to-Peer Fund
- Must complement existing HMG work in that country

As it is a small fund, it is expected that the administration and governance of the Peer-to-Peer Fund will be carried out by the Supplier as part of the Flexible Fund (see section above), with skill-shares and secondments approved by the UK PACT Funding Board. It can therefore be considered a sub-fund of the Flexible Fund, with a dedicated budget of around £300k a year (i.e. under 1% of available Activity Costs). As with the Flexible Fund, the Supplier will support the development of concept notes and full terms of reference for each skill-share and secondment considered by the Funding Board, as well as managing the implementation of those that are approved.

Note that if non-ODA funding is available for UK PACT, it is likely to be used to supplement the Peer-to-Peer Fund, funding additional skill-shares (see Section 1.2 for more information).

Reserve Fund

UK PACT aims to work flexibly to make sure that it responds to the changing context in our partner countries, and the FCDO recognises that it cannot anticipate how priorities and country contexts may evolve over time. Therefore, it will keep around 5% of the total activity funding unallocated each year so that it can be used wherever it would add most value, be it to supplement Country Funds, the Flexible Fund, or the Peer-to-Peer Fund.

The FCDO anticipates that the fund will either be reviewed and allocated at set points within each financial year, in line with the programme planning cycle, to ensure effective utilisation (e.g. following the scoping of a Country Fund strategy) or on a quarterly basis alongside requests for the Flexible Fund and Peer-to-Peer Fund. However, in exceptional circumstances decisions could be made outside of this quarterly cycle. In addition, countries will be able to request a portion of the funding on an ad hoc, first come first served basis, subject to approval by the UK PACT Funding Board (see Annex 3). Decisions will be based on maximising outcomes and impacts in line with the UK PACT Theory of Change (Figure 1).

The Supplier must be able to effectively mobilise this additional funding – which could be allocated to any Fund through any eligible funding mechanism for that country – on a flexible basis. Once approved, the funding would transfer from the Reserve Fund to the relevant Country Fund, Flexible Fund or Peer-to-Peer Fund budget, therefore any requests for funding must satisfy the requirements of the relevant fund and funding mechanism. The Task Order governing the relevant fund will be updated if there are additional resource requirements from the Supplier to manage this additional funding (see Section 2.3 for more information on the structure of the Contract).

All reserve funding allocations will be approved through the UK PACT Funding Board, which will consist of key UK-based HMG staff working on UK PACT and representatives of the Supplier. The timings for Funding Board meetings and more detailed governance of the Reserve Fund will be scoped and developed prior to contract commencement.

1.4 Funding mechanisms

Key funding mechanisms

The funds set out in section 1.3 will carry out a range of activities to support transformational change. To date, UK PACT has developed a number of funding mechanisms for our activities that allows the programme to respond flexibly to partner government demand.

The following section sets out the suite of key funding mechanisms that the FCDO expects the Supplier to continue to manage under this contract, including how they respond to different levels of partner government demand and the key characteristics of each funding mechanism. The FCDO would also like to grow the list of funding mechanisms being delivered under the programme, and some ideas for new funding mechanisms have been set out below. The FCDO would also welcome improvements or additions to this list.

Please note that all funding mechanisms listed below, with the exception of skill-shares and secondments, result in UK PACT supporting projects. The different project funding mechanisms reflect different ways of selecting and

setting up projects, but the Supplier should ensure common yet proportionate management standards across all mechanisms during the project delivery phase. The size of projects will vary depending on their scope, but typically budgets are between £200,000 and £500,000 annually, for a period of up to three years.

In contrast, skill-shares and secondments result in UK PACT supporting individuals or small teams of experts to provide shorter-term capacity building interventions or longer-term embedded secondments into government counterpart institutions. There are no minimum or maximum budgets for skill-shares, but they tend to range from a few thousand pounds to £70,000 depending on length and complexity with the aim of delivering best value. The FCDO expects the Supplier to contract or otherwise employ the experts deployed through roster skill-shares and private sector secondments.

For more information on agreement types the Supplier will use to govern projects, skill-shares and secondments under this Contract, see Section 5.8.

Figure 2 below is a visualisation of these mechanisms and these are then defined and explained in more detail in Table 2 below. Note that timings in this table are based on experience of delivering the programme so far, to give an indication of what the Supplier is expected to deliver during the programme. The Supplier must select which funding mechanisms to use and deliver them in a way that promotes value for money (see section 5.1).

Figure 2: Scheme of funding mechanisms showing when each is most appropriately used

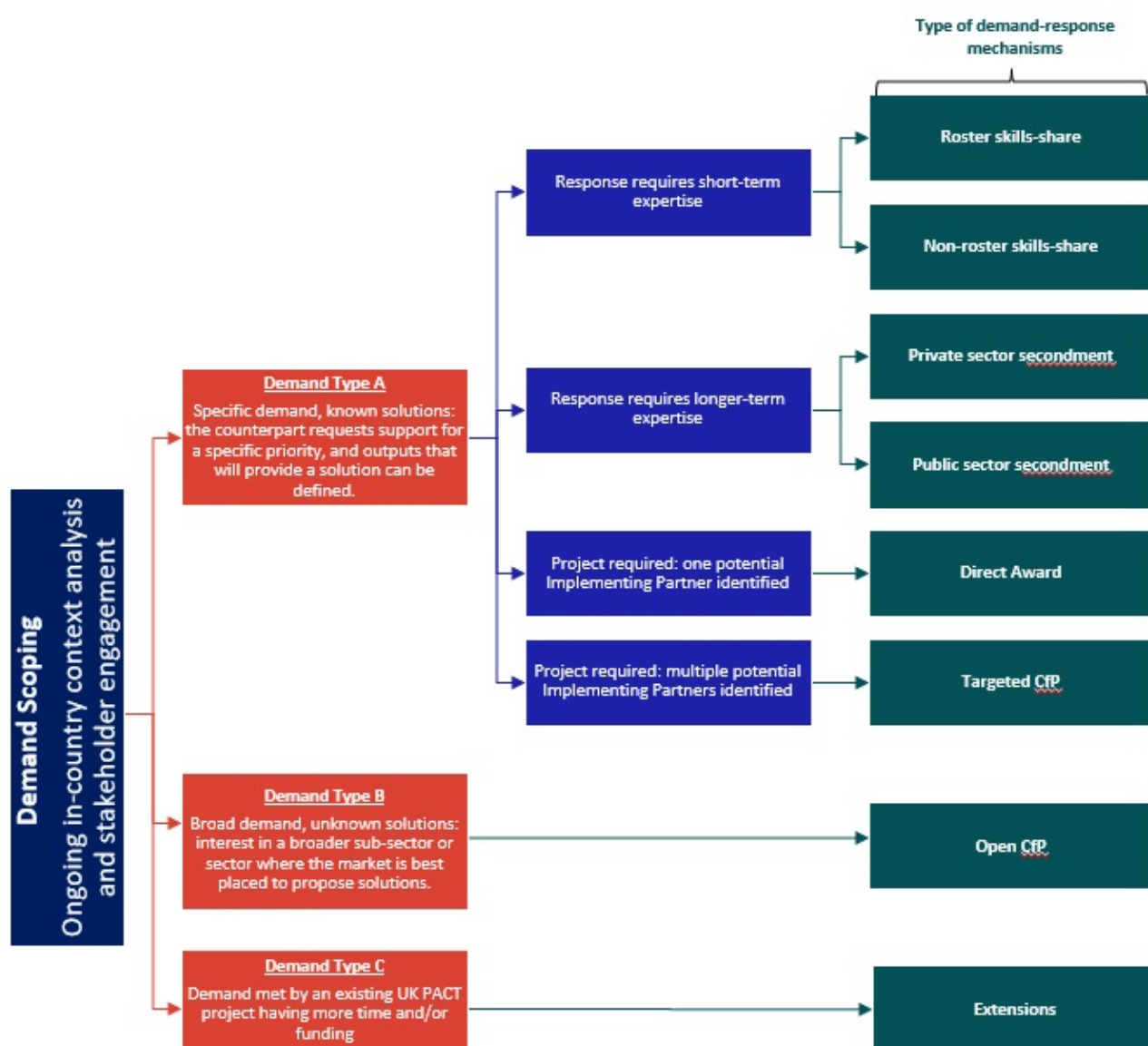


Table 2: Description of key funding mechanisms that the Supplier will deliver

Name of key funding mechanism	Approx.time taken from approval to launch	Number of activities mobilised
Skill-shares and secondments		
Roster skill-shares: Funding individual or small teams of experts to provide short-term knowledge exchange and capacity building to partner governments and other key institutions. These individuals are selected from a “roster” of experts that will be managed by the Supplier. Skill-shares can be delivered remotely, in person, or as a combination of the two. Experts can be from the private sector, academia, NGOs, and the public sector. An individual skill-share activity can use a combination of these experts. Roster members will be comprised of individuals who work for UK-based and international organisations as well as independent individuals and are able to be contracted by the Supplier under UK law. See Section 3.1 and 3.4 for more information on the roster and how skill-shares work.	1 month	1
Non-roster skill-shares: UK PACT funds a limited number of staff embedded within key UK public sector bodies with expertise in low-carbon sectors, who are able to deliver skill-share activities as part of their roles. While the FCDO will maintain management of these experts during the period of this contract, and manage the relationship with their organisations, the Supplier may be involved in designing skill-share activities, organising the logistics of the skill-share, and monitoring the results. See Section 3.4 for more information on the tasks the Supplier may be involved with in these skill-shares.	1 month	1
Private sector secondments: Funding experts to be embedded into institutions in partner countries (for example ministries, public bodies, or key private sector institutions) to build technical capacity over longer time periods (typically at least six months). These experts could be from the country in question, or move to the country for the duration of the secondment (for example, from the UK). See Section 3.4 for more information.	2 months	1
Public sector secondments: Funding UK public sector experts to be embedded into institutions in partner countries (for example ministries, public bodies or key private sector institutions) to build technical capacity over longer time periods. The FCDO or BEIS recruit and manage these individuals, but other elements of the activity will be carried out by the Supplier (for example, finalising the scope of the secondment and monitoring the results). See Section 3.4 for more information on the tasks the Supplier may be involved with in these secondments.	2 months	1
Projects		
Project extension: An extension of an existing project to either allow the project to deliver a wider or additional scope within the existing project timeframe, or to extend the project in terms of time or both time and funding	1 month	1
Direct award: Allow projects to be selected and funded without competition, subject to meeting certain criteria. See Section 5.9 for more details.	Approx. 3 months	1
Targeted Call for Proposals (CfP): This mechanism is best used when the FCDO and the Supplier have identified an area of demand and it is clear what activities are needed in response. It is a competitive process that aims to identify one or more projects in response to a detailed terms of reference (TOR), usually in one sector in one country. The ToR should set out one or more discrete interventions, and the focus of the call is choosing the best IP or IPs to deliver them.	Approx. 4 months	1 to 5
Open CfP: This mechanism is best used when the FCDO and the Supplier have identified an area of demand but it is unclear what activities are required in response, as it allows UK PACT to go to the “market” to find the best solutions. It is a competitive mechanism that focus on one or multiples sector(s) in one country or multiple countries and seeks to mobilise multiple projects. The scope for this CfP is expected to be relatively broad, i.e., not specifying specific interventions. The focus of the call is choosing the best project ideas the market has to offer (while making sure the IP is able to deliver them).	Approx. 6 months	3-10 for single sector Up to 15 for multi sector

Improving key funding mechanisms

The information in Table 2 on each key delivery mechanism is based on learning from the delivery of UK PACT to date. The FCDO will welcome ideas from the Supplier on how processes can be improved throughout the life of the Contract, ensuring they are both appropriately streamlined but also robust. The FCDO will also expect the Supplier to continuously learn from delivery and adapt accordingly during the life of the Contract.

New funding mechanisms

UK PACT aims to be a flexible programme, and the FCDO will welcome ideas for new funding mechanisms, or innovative uses of existing mechanisms from the Supplier during the lifetime of the Contract. The FCDO UK PACT team has identified the following challenges that may require new funding mechanisms to address, based on delivery so far:

- **Long-term sectoral support** – In Country Fund countries, the FCDO has identified long-term demand for support within a sector or sub-sector that requires technical advice that can be deployed flexibly. For example, a government may want to develop many different green finance regulations over a few years, but has not yet defined what these are in detail. Current project funding mechanisms may not be appropriate as they require a clear scope of work up-front, with defined milestones and outputs, and demand from beneficiaries may not be specific enough to do this. A programme of skill-shares could provide on-going advice, but may be labour intensive to organise for the Supplier and could become expensive for longer-term activities unless discounted rates can be negotiated with Experts. There may be alternative funding mechanism that could offer long-term technical advice with better value for money and more flexibility for our partner countries, which we welcome the Supplier suggesting.
- **“Local skill-shares”** – The FCDO has found there is demand for short-term knowledge exchange by local experts within a country, or from another country (for example, sharing between city/national governments or supporting academics to share their knowledge with central government agencies), but it may not be appropriate to contract these experts through a UK-based roster. The FCDO therefore welcomes ideas for how this local expertise could be mobilised.
- **Maximising the impact of the skill-share roster** – The roster of experts created for skill-shares may be used for other capacity building activities, for example creating public-facing learning and training tools, or delivering webinars, that are relevant to UK PACT beneficiaries in many countries. The FCDO welcomes ideas for innovative ways the roster could be used.

The FCDO will welcome other innovative ideas from the Supplier that could support the programme to meet its objectives and offer value for money.

1.5 Cross-cutting themes

Results monitoring and learning

Introduction

UK PACT has identified MEL (Monitoring, Evaluation and Learning) as core to the success of the programme; the programme is adaptive, and the outcomes from MEL will inform programme decision-making to maximise the impact of UK PACT’s investments. The Supplier will be expected to lead on the monitoring of results for the programme and aspects of learning. An independent Evaluation and Learning Partner (ELP) will be procured through a separate procurement process (it is expected that the ELP will not be contracted until after the new Supplier is in place). The ELP will

conduct evaluation, review monitoring processes, contribute to learning, and complete value-for-money assessments for the programme.

The results monitoring delivered by the Supplier under this Contract will:

- Provide robust evidence of UK PACT's results for the FCDO's reporting processes
- Allow for adaptive programme management and delivery by learning and adapting based on evidence
- Communicate findings and lessons learned to the community of UK PACT implementing partners (IPs), the wider international climate finance (ICF) and donor community to support further transformational change.

The learning-related tasks delivered by the Supplier under this Contract will aim to:

- Encourage lesson sharing and learning from UK PACT-funded activities between IPs, beneficiaries and experts at the fund level and between funds to maximise outcomes and impacts (for example, sharing successful approaches in the green finance sector between IPs working in different countries, approaches to integrating GESI into activities, or reasons why approaches have not worked).
- Encourage lesson sharing and learning about how UK PACT is delivered across the Supplier team to make sure best practice is embedded (for example, a more efficient way of running a call for proposals, or an equally effective but less burdensome way of managing projects could be shared).

The Supplier will be expected to work closely with the FCDO MEL adviser on this aspect of the programme, who will provide technical advisory support, as well as to the separately procured evaluation and learning services. The MEL advisor will support in coordinating logistics between stakeholders across the programme; providing strategic oversight and guidance over MEL frameworks and approaches, to ensure coherence with HMG best practice; escalating/resolving key issues; and managing internal communications. Regular contact is expected, particularly before key outputs are delivered.

The Supplier will collaborate with the ELP and will be required to engage fully in any requests from the ELP to furnish them with evidence, reports and any other information required to support this independent evaluation.

Note that all research and monitoring carried out under this contract must adhere to the FCDO's Ethical Guidance for Research, Evaluation and Monitoring Activities⁴, and may be subject to additional approvals before a research activity begins.

Risks associated with the monitoring workstream are expected to be incorporated into a programme-wide risk register, with appropriate mitigations. There are a number of challenges associated with the results monitoring workstream, which are outlined in Annex 1, and risks around these should be monitored.

Requirements

The tasks involved in the monitoring and learning services under this Contract can be summarised as:

⁴ Available at: [FCDO Ethical Guidance for Research, Evaluation and Monitoring Activities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674441/FCDO_Ethical_Guidance_for_Research_Evaluation_and_Monitoring_Activities.pdf)

- Ongoing: Develop and manage a results management system (RMS), to enable accessible results data visualisation for UK PACT HMG staff to guide programming and aid evaluation of the programme (for example, a dashboard of expected vs. achieved results). This would ideally be integrated into the overall activity management and record-keeping systems of the programme, so that all activity-level information is held together (including financial data, results, and case studies). The FCDO will provide the evidence gathered by the programme in the previous phase, which should be integrated into the new system;
- Quarterly: Collect, quality assure and report results at the fund level, reflecting the latest achieved results against expected results, to inform portfolio performance analysis for each fund, alongside narrative reporting which gives qualitative information on results achieved that quarter;
- Annually (between January–April): Theory of Change (see Figure 1) and logframe (see Annex 2) review to ensure its continued relevance to the programme’s dynamic operating environment;
- Annually (April): Deliver an evidenced assessment against the relevant ICF Key Performance Indicators (KPIs): KPI 15 – “likelihood that UK PACT is achieving transformational impact”⁵, and the technical assistance ICF KPIs 1 to 5 (see below). Note that these KPIs are different to contractual KPIs as detailed in Section 2.5.
- Annually (June): Collate and quality assure results at the programme level through the programme’s logframe. Review future logframe targets, and make recommendations for changes and improvements;
- Ongoing: Provide reporting oversight and provide critical, constructive guidance, supporting implementing partners and experts to effectively and accurately report progress against activity objectives;
- Ongoing: Provide analysis of results to support adaptive programme management and effective learning, ensuring that all parts of the programme work together coherently to realise the desired outcomes.

Logframe and Theory of Change

As per the requirements of all ICF programmes, a logframe has been developed for the UK PACT programme (see Annex 2 for the current logframe). Its development was built on the programme’s Theory of Change (ToC) (see Figure 1) by formalising indicators, data sources and milestones for all elements of the ToC and includes cross-HMG ICF Key Performance Indicators (KPIs). Both the ToC and the logframe are expected to be reviewed before the Contract starts. Under the Contract, the Supplier will be required to review both on an annual basis, after the end of the reporting year. The programme level ToC and logframe should build upon and reflect clearly defined objectives at the country level, which will involve developing and maintaining ‘nested’ country/fund level ToCs as part of the MEL system.

The logframe is expected to cover:

- Expected and achieved outputs, intermediate outcomes, and outcomes that of UK PACT activities, linked to the wider ToC;
- The higher-level impacts the programme is working towards (longer-term, likely to be observed beyond the end of the project);
- Indicators and data sources to monitor progress in each of these, with clear roles and responsibilities for data collection and a clear rationale for each data collection tool;

⁵ Methodology available to download from [UK Climate Finance Results - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/uk-climate-finance-results)

- Data sources are expected to include, but not be limited to, records of training/events, feedback forms, or documentation providing evidence of policy adoption/implementation.

It is the Supplier's responsibility to work in collaboration with the FCDO team to establish appropriate data collection methods for all indicators, and lead on any reviews. Sign-off of the logframe and data collection methodologies will be at the discretion of FCDO. Recommendations for data collection methods and logframe indicators should be clearly justified. For all indicators, minimising response burden will be a priority; while UK PACT is a large programme, many of the projects that form the portfolio are delivered by micro or small entities with innovative propositions that could deliver transformational change, or skill-shares and secondments involving single individuals. Accordingly, monitoring tools and processes need to be proportionate, and training of IPs may be required so that they are able to report effectively.

ICF Key Performance Indicators (KPIs)

To note – these are cross-HMG ICF KPIs used to aggregate results at a portfolio level, across all ICF programmes. These are not contractual KPIs regarding delivery partner performance, which are outlined in Section 2.5.

All ICF programmes must report against the appropriate ICF KPIs developed to allow the ICF to report results at the portfolio level. UK PACT is expected to continue to monitor and report against the following KPIs:

- KPI 15: Extent to which ICF intervention is likely to have a transformational impact

The Supplier will revisit UK PACT's KPI 15 methodology⁶ to ensure it is robust and fit for purpose, taking into account the methodological developments undertaken in this area by the wider ICF to align the methodology with other programmes where relevant. Any changes to improve KPI 15 reporting must be agreed with the FCDO.

The Supplier will also be expected to report against the following ICF technical assistance KPIs, which are in a pilot phase:

- TA KPI 1: Countries Supported
- TA KPI 2: Individuals and Organisations Supported
- TA KPI 3: Climate Policies Informed
- TA KPI 4: Improved Climate Policies Supported
- TA KPI 5: Supported Emissions Reduced or Avoided (TBC)

These KPIs are expected to be formalised into ICF results collection from 2023. Data for TA KPIs 1-3 is already included in the logframe, while the assessment for TA KPI 4 involves a qualitative assessment on achievements against an outcome indicator. It will be confirmed whether UK PACT will report against TA KPI 5. The Supplier will be required to report against any or all of these KPIs, as determined by the FCDO.

Reporting

The Supplier will be required to report quarterly on programme progress on expected vs achieved results, including at the fund level. Quarterly reporting will also include narrative reporting, which provides qualitative analysis and detail of results, challenges and impacts achieved (or not achieved for whatever reason) at a country- and programme-level, as well as details of the gender equality

⁶ The overall KPI 15 methodology is available to download from: www.gov.uk/government/publications/uk-climate-finance-results

and social inclusion (GESI) aspects of results achieved. This quarterly evidence must be compiled into an updated logframe annually, detailing achieved vs. expected results to date and disaggregated by year. The logframe must be provided at a programme-level, and disaggregated by Country Fund priority country, and the Flexible Fund as a whole. The results reporting must support:

- a. An understanding of how achieved results compare to expected results, including GESI-related results
- b. The communication of achieved results and lessons learnt (including the creation of case studies which are accessible, including in plain English and easy-to-read formats)
- c. Adaptive, flexible and inclusive programme management and delivery
- d. Programme learning processes

Learning

The Supplier is required to contribute to the learning function of the programme, actively and readily sharing information to support the learning cycle and ensure that lessons learned from activities undertaken are consistently incorporated into the UK PACT approach.

The Supplier and the independent ELP will both be responsible for learning. The Supplier is required to lead on learning internal to the programme – such as at the fund level – and ensure lesson sharing and learning takes place across the programme from a sectoral or other perspective. The independent ELP on the other hand may be able to support with external learning – such as independent research projects on a desired topic – or act as an independent reviewer in assessing the function and effectiveness of the monitoring approach and Theory of Change.

Gender Equality and Social Inclusion (GESI)

The Supplier will be required to deliver the Contract with GESI embedded at all stages of its delivery, from conception to execution. The UK Government is committed to promoting climate change mitigation and adaptation action that is fully inclusive, accessible and benefits those in the most vulnerable situations through the more equitable distribution of resources, enhanced economic and political empowerment, improved health and wellbeing, resilience to shocks and disasters and access to skills development and employment opportunities⁷. This should also display: a commitment to gender equality, racial equality, disability inclusion and social cohesion; protection of the rights of Indigenous Peoples; people with disabilities and other marginalised groups; the promotion of intergenerational equity and young people; the promotion of women and girls; the meaningful participation and empowerment of people with disabilities; marginalised persons' leadership and involvement in decision-making; and recognition of the value of their knowledge and leadership; and support for the collective climate action of diverse social groups, also acknowledging the intersection of different individual identities within marginalised groups which frequently results in their compounding discrimination and exclusion.

UK PACT adheres to the International Development (Gender Equality) Act of 2014 (ID(GE)A)⁸, which mandates that all UK ODA programmes must have regard to reducing gender inequality before providing development assistance. This means that all ODA programmes must actively consider the likely effect of their intervention in reducing gender inequality at all stages of the programme cycle.

UK PACT also recognises the UN Convention on the Rights of Persons with Disabilities and the Paris Agreement outlining that “parties should, when taking action to address climate change, respect,

⁷ COP26 Just Transition Declaration <https://ukcop26.org/supporting-the-conditions-for-a-just-transition-internationally>

⁸ Available from [International Development \(Gender Equality\) Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/12/section-1)

promote and consider their respective obligations on human rights,” including the rights of persons with disabilities. The UK FCDO has also made emerging commitments to disability inclusive climate action through its [Disability Inclusion and Rights Strategy \(2022-2030\)](#), including embedding disability considerations into the ICF portfolio.

UK PACT's Gender Equality and Social Inclusion (GESI) ambition statement⁹ sets out the commitment to be a GESI responsive programme, opposing all forms of discrimination, and striving to be an anti-racist programme. This means working to increase equality of opportunity for marginalised groups through UK PACT programming and aiming to reduce racial and other inequalities, ensuring our GESI approaches are contextualised for the countries that UK PACT operates in. The ambition is for UK PACT to go beyond minimum compliance ('do no harm'), aiming to be empowering when it comes to GESI as a minimum, and where possible supporting transformational change.

Commitments to enhancing gender equality, diversity, racial equality, and inclusion are essential to any involvement in the UK PACT programme. The Supplier must familiarise themselves with UK PACT's GESI Ambition statement. The Supplier must define their commitment to enhancing GESI throughout the life cycle of the UK PACT programme, and outline lines of reporting and accountability for ensuring that UK PACT's GESI ambition is met. The current UK PACT delivery partner runs a monthly GESI working group for interested project implementing partners and experts to discuss GESI, learn from each other and share best practice. The Supplier will continue this existing mechanism or propose other mechanisms to support GESI integration across all aspects of the programme. The FCDO will sign off any new GESI approaches before they are used.

Gender and social inclusion considerations must be mainstreamed into the design and delivery of the life cycle of the UK PACT programme. All GESI relevant activities must be clearly identifiable in the Supplier's work plan and budgeting, including the meaningful participation of marginalised groups. This must include measures to increase the diversity of the UK PACT portfolio, to encourage a greater portion of local and national Implementing Partners, as well as measures to ensure a diverse and inclusive roster of experts to provide skill-shares and secondments.

Communications and engagement

In addition to the delivery of the programme activities, this contract will cover the delivery of some external communications activities across UK PACT. This includes communications activities related to the programme's client relationship management (CRM) system and website, which the Supplier will take over, maintain and further develop. The content of communications and engagement can include information on work relating to previous phases of the programme, as well as current work across all countries and funds.

UK PACT's CRM is a database of key contacts for the programme. These contacts can be segmented by key data fields and then contacted with updates on the programme or invited to programme events. This allows us to regularly communicate with a large group of people interested in UK PACT in a targeted way. The CRM will be managed in line with GDPR requirements (see Section 5.13 and Appendix A for more information).

The UK PACT website (www.ukpact.co.uk) has been running since June 2020 and offers a one-stop shop for information on UK PACT. The website sets out key aims and information about the programme, detail on all UK PACT projects, case studies, information on upcoming events and funding

⁹ Available to download from www.ukpact.co.uk/about/resources

opportunities, new stories and more. The Supplier will take over management of this website and further develop it if required.

Key communications objectives for UK PACT are:

- To incentivise and encourage uptake of UK PACT outputs and ideas in order to achieve and increase programme impact.
- To use UK PACT's work to influence others to reduce their emissions and showcase how this can be done in various global contexts
- To increase awareness of UK PACT funding opportunities to key audiences, particularly potential IPs for projects and experts for the skill-shares roster.

Note that all communications and digital spend (please see paragraph 18 of Volume 1 for more information on digital spend) may be subject to additional approvals by the FCDO, so the Supplier will work closely with the FCDO to plan activities in this area. This includes communications and digital spend within activities delivered by IPs and experts. Additional requirements include:

- UK PACT and/or the UK Aid branding guidance¹⁰ must be followed, and a UK Aid "visibility statement" will need to be agreed between the FCDO and the Supplier to set out how branding will be used. Similar visibility statements will be required for IPs to ensure they credit the programme in the correct way.
- All external communications activity should be developed in conjunction with the FCDO to ensure the necessary approvals have been acquired and the activity is integrated into broader communication strategies.
- All digital spend is subject to separate approval by the FCDO, and activities must follow the UK Government's digital standards¹¹ and the Principles of Digital Development¹².

Communication materials may be required in languages relevant to our partner countries, so translation costs must be considered as part of plans.

2. Design of the Contract

2.1 Budget and timeframe

Budget summary

The anticipated maximum total budget for this programme, including all extension options is up to £580m. The Contract total value figure includes all Activity Costs and Supplier Costs (see below for definitions), including any non-ODA funding if used (see Section 1.2). The Contract value is inclusive of all applicable taxes (see Section 5.2 on financial arrangements and Section 5.3 on VAT).

The Contract will be initially awarded for an Initial Period only, with an optional extension if certain criteria are met. The Contract will begin in approximately October/November 2023, and the Contract length and total value for the Initial Period will be as follows:

- Initial Period: Up to 42 months (end date will be no later than 31st March 2027) and an initial value of up to £220m. This could increase to a maximum value of £280m (i.e. up to an additional £60m) over this period.

¹⁰ Please see: [UK aid - standards for using the logo - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/uk-aid-standards-for-using-the-logo)

¹¹ Please see: [Guidance on digital spend advice and controls for partners and suppliers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/guidance-on-digital-spend-advice-and-controls-for-partners-and-suppliers)

¹² Please see: <https://digitalprinciples.org>

- An optional extension of up to an additional 36 months (until around 31st March 2030) with a maximum value of £300m. Annual values and spending strategy for this period will be agreed at the point of extension (see Section 2.2 for more information).

Table 3 summarises the Contract budget, with estimated splits per financial year for the Initial Period, the potential additional funding during the Initial Period, and the optional extension (which has not been allocated to years). The funding profile in table 3 is indicative – the start date may change, affecting funding in 23/24, and annual budgets for later years may vary. Note that funding from 25/26 is outside of the current HMG Spending Review period, and so may be subject to further approvals within the FCDO.

Table 3: Indicative budget summary for this Contract

	INITIAL PERIOD				OPTIONAL EXTENSION		
	23/24 (Oct earliest start date)	24/25	25/26	26/27	27/28	28/29	29/30
Indicative annual budgets	£17.5m	£52.5m	£70m	£80m			
Optional top up	£60m						
Total initial contract value	£220m						
TOTAL maximum contract value	£280m						

Activity Costs vs Supplier Costs

The Contract total value figure, as shown in Table 3, includes all Activity Costs and Supplier Costs. These are the two major categories of costs within the programme and will be treated differently.

Activity Costs include all the direct costs of activities, which the Supplier will disburse and will directly benefit the programme's beneficiaries. This includes, but is not limited to, the following:

- Funding disbursed to Implementing Partners (IPs) for projects. This includes any overheads of IPs required for them to deliver the project.
- The direct cost of skill shares and secondments activities, including expert fees for roster skill-shares and expenses for all (including travel, accommodation, costs of workshops including venue hire and translation if required).
- The funding disbursed for activities via any new funding mechanisms used.

Supplier Costs are those met by the Supplier for managing the delivery of the programme to disburse and manage these Activity Costs. They include (this list is not exhaustive):

- Labour costs (e.g. day rates) for staff working for the Supplier (including all consortium members) to manage the programme and its activities, including the planning of activities
- Allowable expenses of these Supplier staff (e.g. travel and accommodation)
- Agreed fees for elements of programme delivery (see Section 2.3)

- Overheads (e.g. office rental, equipment, legal fees etc.)
- Subcontractor costs for any tasks related to managing the programme.

The FCDO cannot accurately predict what proportion of the overall Contract budget will be used for Activity Costs and Supplier Costs at this stage, as it will be an outcome of the demand for different activities and tasks over the life of the Contract. However, the following limit on Supplier Costs will apply: after removing the cost of the Core PMU (see Section 2.3), which will be as set out by the Supplier in the cost proforma at the point of tender, the sum total of all other Supplier Costs shall not exceed a value equivalent to 20% of the total remaining budget of the Contract. The Supplier shall report the actual and projected value of Supplier Costs and Activity Costs on a quarterly basis compared in this way, and if non-Core PMU Supplier Costs are projected to exceed the 20% cap, the Supplier shall propose a plan as to how this will be reduced to 20% or below. This cap is not a target, and the actual Supplier Costs may be a much lower proportion depending on the needs of the programme, as part of maximising value for money. See Section 2.4 for more information on how the budget for the Contract will be managed.

Note that Activity Costs related to direct delivery by the Supplier (see Section 5.19) are considered as Activity Costs, not Supplier Costs, and do not contribute to the 20% Supplier Cost cap.

Contract timeline

The Contract's timeline will include the following phases and milestones:

- Months 1-4: Mobilisation period (see section 3.1 below for a detailed breakdown)
- Month 5 onwards: Full delivery phase with development/delivery of new activities (see section 3 for a detailed breakdown of tasks)
- One year before Initial Period contract end: Decision point on whether the contract should be extended or not (see Section 2.2 for more details on the conditions of extension). If it is not extended, then the contract will end in March 2027. If it is extended, the Supplier will continue to manage activities until a later agreed end date (up until March 2030).
- At the end of the Contract (whether extended or not), the Supplier will follow their exit strategy (which will be agreed between the FCDO and the Supplier, in accordance with the standard terms and conditions).
 - If the programme is to be further extended at this point: the Supplier will hand over to the FCDO and/or another delivery partner or partners in the final month of the Contract.
 - If the programme is ending at this point: all UK PACT projects, skill-shares and secondments are closed, ideally three months before the Contract ends, and the Supplier completes all other closedown and handover tasks required.

In addition, there will be annual review points during the running of the Contract to assess Supplier performance. See 2.5 on performance management and KPIs for more information.

2.2 Flexibility within the contract

UK PACT is intended to be a long-term, transformational portfolio of interventions. While the UK PACT team in HMG has set a strategy for the use of the initial programme budget, reflected in Table 3, the FCDO anticipates that this may need to flex over the duration of the Contract in response to demands from countries and changing strategic priorities. This could result in:

- Changes in scope
- Scale up

- Scale down

The Contract structure has been developed to support this flexibility, and is described in Section 2.3. This section sets out the circumstances of when changes in scope, scale up and scale down will occur.

Changes of scope

In certain circumstances, FCDO may need to change the scope of the work delivered under this Contract, in both the Initial Period and any extension. This could mean:

- Changing the budget allocations between funds (i.e. growing and shrinking individual funds within the agreed overall programme budget), and/or changing the allocations between years.
- Adding new Country beyond those listed in Section 1.3, and/or closing funds.
- Stopping the use of specific funding mechanisms under the programme (see Section 1.4).
- Changing the strategy and objectives of a Country Fund (for example, starting work in new sectors, stopping work in a sector, or adding additional activities).
- Adding additional countries to the Flexible Fund beyond those listed in section 1.3, and/or removing countries.
- Ring-fencing a portion of the Flexible Fund for specific sectors (e.g. land use and forests) and/or specific countries or regions.
- Adding new Flexible Funds covering multiple countries, potentially focused on specific sectors. These could cover a sub-set of countries covered by the current Country Funds and the Flexible Fund, as set out in Section 1.3.
- Carrying out specific non-ODA activities within funds (see Section 1.2 for more information).
- Changing the names of the funds from those used in this TOR.
- Making changes to the way activities are delivered, as part of maintaining good value for money (see Section 5.1).
- Changing policies regarding programme delivery (for example, safeguarding, risk or due diligence approaches used).

Changes in scope could be required as the result of:

- The scoping work being carried out by the FCDO in advance of this Contract beginning, and/or additional scoping tasks that happen during the Contract period.
- Changing priorities of the FCDO and HMG.
- Changing priorities of our partner countries.
- Political economy reasons, including a change in the security situation or government stability.
- The results of work completed by the Supplier during the mobilisation phase (e.g. to agree policies for the programme), which may highlight changes that are required to follow best practice and/or maintain value for money.
- Learning gathered during programme delivery (e.g. more efficient project management processes being developed).
- Change in FCDO policy (e.g. safeguarding policy or the Programme Operating Framework).
- Recommendations of evaluations carried out by the ELP.
- Recommendations from FCDO annual reviews
- Performance of the Supplier (see Section 2.5 on performance management and KPIs).
- Non-ODA funding becoming available, that could be managed by UK PACT.

This is a non-exhaustive list and FCDO cannot foresee all circumstances that would require a change of scope.

The decision whether to change the scope of the programme will be made at the discretion of the FCDO. If a change is required, the FCDO will inform the Supplier as early as possible, and the Supplier will be consulted on how this should be managed within the programme. The change will usually be managed through the standard Contract management processes (e.g. changes to task orders – see section 2.3 for more information), but in some circumstances may require a contract variation (e.g. if safeguarding policies change) which will be carried out in line with the T&Cs.

Scale up

As set out in Table 3, the budget for UK PACT may increase from the initial Contract value during the Initial Period by up to £60m, including Activity Costs and Supplier Costs. This will allow the FCDO to expand the programme and respond to HMG priorities as they develop.

Scale up would be possible if FCDO, BEIS or another HMG Department secure additional funding for UK PACT. In the event that funding comes from another HMG Department (or another area of Senior Responsible Officer [SRO] oversight and accountability within the FCDO), the FCDO will arrange for the Department to be integrated efficiently into the programme's governance structure (see Annex 3). Whatever the source of funding, it is expected that any additional funding would transfer to the Supplier through the FCDO as the contracting authority.

The additional funding could be used for:

- adding additional budget to existing Country Funds to carry out additional projects
- adding additional Country Funds that are not included in Section 1.3, which may possibly increasing the geographical scope of the programme to new regions
- adding additional budget to the Flexible Fund, potentially expanding its geographical focus beyond the countries listed in Section 1.3. This could include ring-fencing a portion of the funding for specific sectors (e.g. land use and forests) or countries/regions.
- adding new Flexible Funds covering multiple countries, potentially focused on specific sectors. These could cover a sub-set of countries covered by the current Country Funds and the Flexible Fund, as set out in Section 1.3.
- adding additional budget to the Peer-to-Peer Fund.
- carrying out specific non-ODA activities within funds (see Section 1.2 for more information).

A scale up may be approved by the FCDO under the following circumstances:

- The scale up being consistent with the Government's Green Book and/or any future superseding good practice guidance documents issued by the Cabinet Office and following appropriate internal HMG business case and procurement governance approval processes.
- If funding is provided from another HMG Department (or another area of SRO oversight and accountability within the FCDO) all governance arrangements required must be clear and agreed with FCDO.
- The scale up being in line with HMG objectives, which may change over the life of the Contract.
- The activities to be covered are in line with UK PACT's objectives, as set out in Section 1.2, and deliverable through its delivery approach, particularly its funding mechanisms (see Section 1.4).
- The scale up is shown to be deliverable within UK PACT, as determined by the FCDO. This determination will consider whether the operating environment of any additional countries is

suitable (e.g. the security situation and political economy in relation to climate change), whether the BE/BHC has sufficient resources to provide strategic guidance, and whether the additional activities would impact the delivery of the existing programme. The Supplier will be consulted as part of this deliverability assessment.

- The UK PACT programme having strong performance and the potential to yield additional results (to be determined at FCDO's discretion, based on programme reporting and evaluation evidence).

This is a non-exhaustive list and FCDO cannot foresee all circumstances that would require a scale up of UK PACT.

The decision whether to seek a scale up to the programme through this Contract will be made by the FCDO. The additional Supplier resource requirements to deliver any scale up will vary depending on the size of the uplift in budget and the nature of the change in scope. The FCDO will discuss the requirements with the Supplier, set out a request outlining the additional activities and Supplier tasks, and formally request a response from the Supplier. Any additional Supplier costs that are proposed within the increased budget will be reviewed to ensure robust value for money is maintained. The FCDO will expect for economies of scale to be factored in. A Contract Variation will be made if the additional scope of work can be agreed, on the same VfM basis as the original Contract value. This will be made in line with the T&Cs of the Contract.

Scale down

The budget outlined in Table 3 is an estimate. Under certain circumstances, the FCDO reserves the right to scale back the programme at any point. This could mean the overall programme budget could be reduced (meaning reductions in the budgets of all active funds, and/or individual funds being stopped), or the programme may end earlier than planned. For example, this scale down could happen if:

- There is a change in FCDO/BEIS or HMG priorities (e.g. a change in geographic or thematic focus that means UK PACT is less of a priority, or a change in ICF strategy that reduces the focus on technical assistance) or a reduction in funding available.
- There are political economy changes, including a change in the situation of the security, government stability, or necessary government engagement from our partner countries.
- Dissatisfaction with performance of the programme (either with IP performance or Supplier performance). This will be determined at the FCDO's discretion, based on evidence from performance management, results collection and evaluation evidence.

This is a non-exhaustive list and FCDO cannot foresee all circumstances that would require a scale down of UK PACT.

The decision whether to scale back the programme will be made at the discretion of the FCDO. If a scale down is required, the FCDO will inform the Supplier as early as possible, and the Supplier will be consulted on how this should be managed within the programme. Any reduction will be carried out in line with the Contract's T&Cs. The reduction will usually be managed through a Contract Variation and corresponding changes to Task Orders).

In the event of a scale down, the Supplier is expected to reduce their Supplier Costs in response, wherever possible in a way that is proportionate to the scale down (including stopping tasks that are no longer needed). For tasks at the fund level, this will be managed by reviewing and scrutinising task orders. No compensation or damages would be due to the Supplier if a scale down is required.

Optional extension

In addition to the Initial Period, this Contract includes an optional extension of up to 36 additional months and up to £300m. The extension will build on the work outlined in this TOR, with similar tasks for the Supplier.

The decision to extend will be made by the FCDO at their discretion one year before the end of the Initial Period. This will be granted if:

- UK PACT continues to be in line with HMG priorities and its ICF strategy, and has the necessary business case and internal funding approvals in place to cover an additional time period and budget from the FCDO, BEIS and/or other HMG Departments as required.
- The Supplier is content to continue the Contract.
- The performance of the Contract during the initial period has been satisfactory, as determined by KPIs and performance dashboard results (see section 2.5 below).
- UK PACT has achieved satisfactory results during the Initial Period, based on the results monitoring process (see Section 1.5) and any evaluations.
- The work required of the Supplier during the extension is within the scope of work set out in this TOR and the Supplier's response to the tender. Note that the extension may continue a subset of tasks rather than all.
- The Supplier being able to provide services during the Extension Period based on the same value for money proposition as the original Contract (e.g. day rates etc.).

This is a non-exhaustive list and FCDO cannot foresee all circumstances that would require an extension of UK PACT.

To make this determination, the process will be:

- The FCDO will set out the requirements for delivering the programme under the extension period (e.g. the funds that will be managed during the extension period, the funding mechanisms, and the budget for activities).
- If the Supplier is content to continue the Contract, they will provide a proposal in a template agreed by FCDO, which sets out its plan to deliver these requirements over the extension period and a budget.
- The FCDO may ask clarifying questions and some changes may be made to the proposal in response to these.
- The FCDO will make a decision whether to accept the proposal.
- A Contract variation will be made including this proposal, if agreed.

If a Contract extension is agreed, note that it will be possible for the FCDO to change the scope, scale up or scale down during the Extension Period as in the Initial Period (as set out above).

2.3 Structure of the Contract

As UK PACT aims to be a responsive programme, with the ability to grow, it is important that the Supplier is contracted in a way that supports flexibility, sets out clear roles and responsibilities, and promotes true partnership working between the FCDO and the Supplier, all while striving for value for money.

Based on the experience of managing the programme since 2018, and the results of engagement with the market, the FCDO team has designed this Contract so that it creates a flexible scheme to account for Supplier Costs, with defined fixed costs for some known tasks where this is appropriate, and the use of Task Orders using rate cards for tasks that cannot be defined in detail at the point of tender to

support flexibility. This contract structure has been designed to increase the focus on fund-level management, which will support coherent use of funding mechanisms to maximise impact. The management of individual funds will be complemented by strong management at the programme level to ensure consistency of processes and learning across UK PACT countries.

Activity Costs will be treated separately and will “flow-through” the Supplier, without the addition of any separate overhead.

Figures 3 and 4 set out how the Supplier Costs within the Contract will be split into different pillars.

Figure 3: Overarching structure for Supplier Costs within the Contract

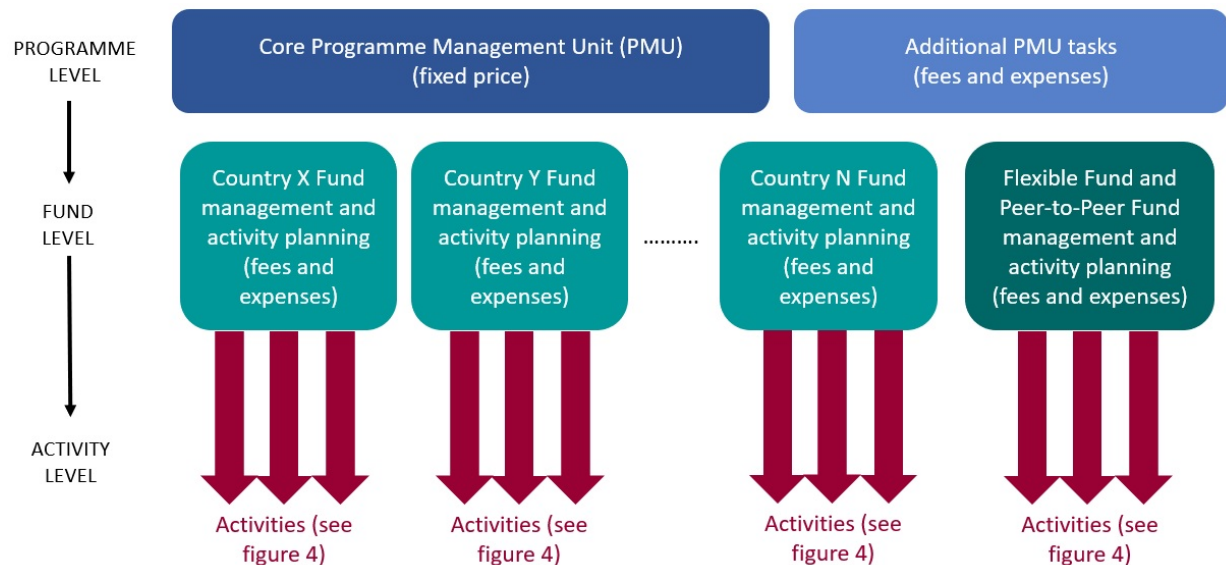
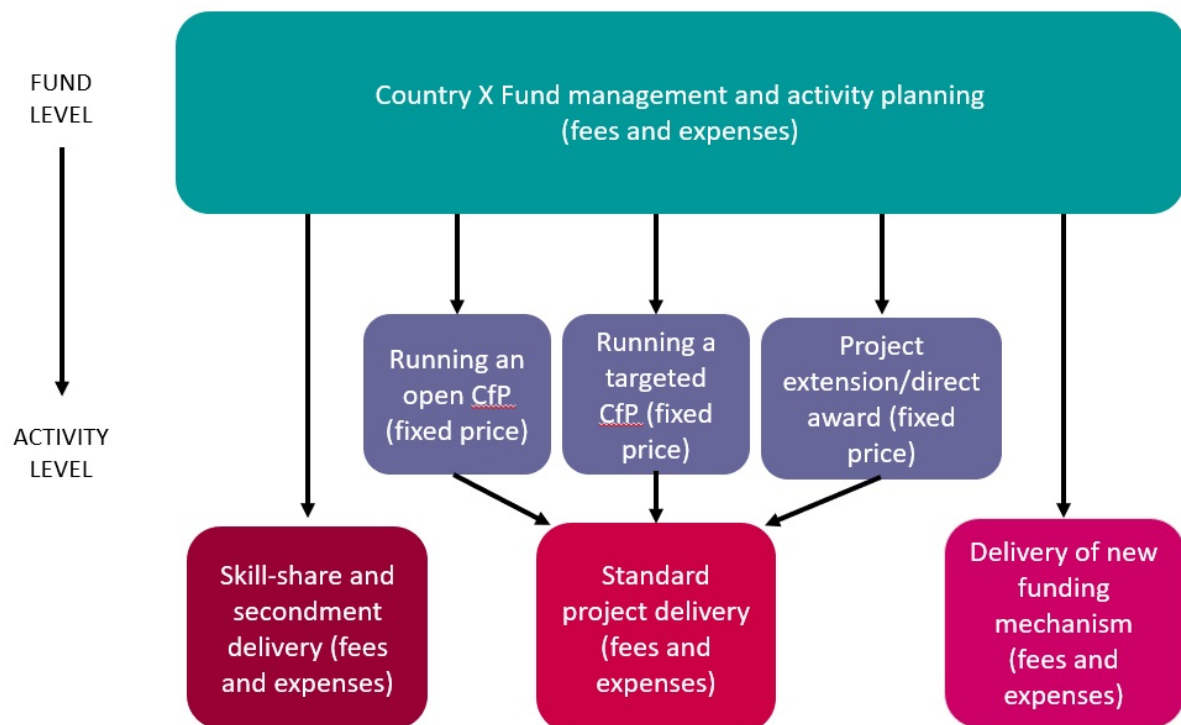


Figure 4: Detail of the fund- and activity-level structure for Supplier Costs within the Contract



This section will provide an introduction to each pillar of the contract, and information on how costs will be determined. Full details of tasks required under each pillar are detailed in Section 3.

Note that cross-cutting themes that are important for the delivery of the UK PACT programme (like monitoring and GESI) do not have standalone pillars, and are instead integrated into every pillar. See section 1.5 for more information on cross-cutting themes.

Core Programme Management Unit (PMU)

Fixed price

This pillar will carry all Supplier Costs to manage the contract and the overall programme. The Supplier's responsibilities under this pillar include developing policies for use across UK PACT and managing finances. This pillar will also contain all capital expenditure and premises and office costs (as per Volume 5 of the ITT – Eligible Cost Guidance Sept 2020) required for Country Funds (listed in Section 1.3) that are not time and expenses of staff included in the other pillars. Bidders will be expected to set out the price for this pillar over the life of the Contract in their tender response, including costs associated with the Mobilisation period. This fixed price will be reviewed each year as part of the annual review of the contract and if new Funds are added, to make sure it is adequate for the programme. In addition, the capital expenditure and premises and office costs may be revised if the number of Country Funds changes.

Additional PMU tasks

Fees and expenses managed via Task Order

This pillar will cover Supplier Costs for tasks at the programme-level that would be valuable for UK PACT but that the FCDO cannot define in detail at the point of tender. Tasks carried out by the Supplier under this pillar could include the development of learning products. Supplier Costs to support each task will be paid on a fees and expenses basis based on the staff pay rates agreed at the point of Tender for the Core PMU.

Fund management and activity planning

Fees and expenses managed via Task Order

This pillar will cover Supplier staff time and expenses to support fund-level management (for example budgeting and the development of fund implementation plans) and to support the scoping of individual activities (projects, skill-shares and secondments), up until the point that the activity is approved to proceed. Each fund will have different requirements in terms of Supplier tasks and therefore resource requirements depending on its strategy and Implementation Plan, so a fixed price is not appropriate. Capital expenditure and premises and office costs (as per Volume 5 of the ITT – Eligible Cost Guidance Sept 2020) associated with funds will be accounted for in the Core PMU. If unexpected overheads arise, they will be paid for on an actual basis and added to a task order, if agreed with the FCDO.

Skill-share and secondment delivery

Fees and expenses managed via Task Order

If a skill-share or secondment is approved, this pillar covers Supplier Costs to support the delivery of it (for example, recruiting the expert and organising logistics). Experience has shown that each skill-share and secondment is unique, so it is not possible to determine a fixed price for managing them.

Project selection pillars

Fixed price depending on type

If a standard project or projects is approved, using one of the key funding mechanisms outlined in section 1.4, then one of the project selection pillars will be used to either select the best project(s), or select the best Implementing Partner to deliver the project. Each of these pillars covers Supplier Costs from the point the funding mechanism is approved to the point that a project or projects are selected, and agreements are signed. Each funding mechanism type will have a different fixed price, which is appropriate because the process will be relatively standard across different funds and sectors. The project selection pillars are:

- Running an open CfP – fixed prices for running a call, and for negotiating an individual agreement to signature
- Running a targeted CfP – fixed prices for running a call, and for negotiating an individual agreement to signature
- Project extension/direct award – fixed price per project. These two funding mechanisms have been grouped together because there is no competitive element at this stage.

Standard project delivery

Fixed price per month per project

This pillar covers all Supplier Costs required for managing a project that has been set up through one of the project selection pillars during its delivery phase, or that was set up before the Contract period and has transferred to the Supplier during the mobilisation period. Tasks involved under this pillar include monitoring performance and results of the project. A fixed price is appropriate because experience so far has shown that a similar amount of effort is required whether the project has a relatively high or low annual budget. The fixed price will be quoted for a month, and will take into account set-up and closedown costs, and costs for managing the project during delivery, to allow for different project lengths.

Delivery of a new funding mechanism

Fees and expenses managed via Task Order

This TOR sets out our intention to support innovative new funding mechanisms during the period of this Contract (see Section 1.4). Supplier Costs to support each activity delivered under these mechanisms will be paid on a fees and expenses basis based on the rates agreed at the point of Tender under the fund management and activity planning pillar.

2.4 How costs will be managed in the Contract

Agreeing a Supplier Cost Budget

During the Mobilisation Phase, the Supplier and the FCDO will agree an overall estimated Supplier Cost Budget for each year of the Contract, based on the rates agreed in the Tender and the Country Fund Strategies that have been agreed. The remaining budget will be designated for Activity Costs – the FCDO will agree how this is split between each fund (high-level ranges are set out in Table 1), which the Supplier will use to develop Implementation Plans. During this process, the non-Core PMU Supplier Costs will be compared to the Activity Costs to make sure the 20% cap, as set out in Section 2.1, is not breached, and the budgets will be revised if required.

This Supplier Cost Budget will be actively managed by the Supplier and the FCDO to ensure that it maximises value for money for the programme, and the 20% cap is maintained. The Supplier and the FCDO will work closely to ensure any use of this budget is approved in advance by the FCDO (using Task Orders where appropriate).

The Supplier must accurately forecast Supplier Costs at the programme and fund-level to support planning. Forecasts will be discussed at quarterly Performance Review Meetings. The Supplier Cost Budget may be increased or decreased, if the FCDO agrees, to reflect the needs of the programme and any changes to the programme size or scope. Funding from the Reserve Fund (see Section 1.3) may be used to supplement the Supplier Cost Budget if the FCDO agrees and the 20% cap is maintained.

The use of Task Orders

A Task Order is a document which sets out the estimated Supplier Costs to deliver a task or set of tasks. The costs included in these Task Orders will either be fixed prices quoted at the point of tender (e.g. for the standard project delivery pillar), or will include fees within the rates agreed at the point of tender (e.g. day rates for staff), and expenses expected to be incurred. The FCDO expects the prices/rates quoted at the point of tender to be the maximum costs incurred and expects economies of scale to be reflected in reduced costs where applicable.

When requested by the FCDO, the Supplier will create a draft Task Order, which the FCDO will agree before the task goes ahead. During the delivery of the task(s) by the Supplier, the Task Order will set a maximum amount of Supplier Costs that can be incurred. Task Orders will be regularly reviewed by the FCDO and the Supplier as part of programme/fund management and can be amended with the FCDO's permission if the estimated costs included are either too low or too high to deliver the task agreed, or if the task changes.

The Supplier will then invoice monthly including all Supplier Costs incurred during that month. For pillars paid on a fee and expenses basis, invoices will use actual costs incurred rather than estimates included on a Task Order (e.g. if it was estimated three days of a staff member's time was required for an additional PMU tasks, but only two days were required in the end, the Supplier will invoice for two days only).

The exact format of the Task Order, and the approach to using them and tracking Supplier Costs across the programme, will be agreed between the FCDO and the Supplier during the Mobilisation Phase (see Section 3.1). The FCDO suggests that the following approach may be appropriate (but welcome alternative suggestions from the Supplier):

- Supplier Costs at the PMU level will be agreed by the main FCDO Contract manager. This will include the agreed cost of the Core PMU, including Country Fund overheads, and any additional PMU tasks required.
- Supplier Costs at the fund-level and activity-level will be managed at the fund level for the FCDO by the relevant country/fund lead. Each fund could have one Task Order lasting at least a year to support the Supplier's resource planning including all fund-level and activity-level Supplier Costs. This Task Order would be based on the Implementation Plan for the Fund, and regularly reviewed with the FCDO to ensure it is up to date. Alternatively, one Task Order could be agreed for the fund management and activity planning pillar for each fund, with individual Task Orders used for each activity's delivery.
- Task orders will support the flexibility requirements set out in Section 2.2. If an additional Country Fund is required because of a change of scope or a scale up, an additional Task Order will be requested from the Supplier to cover this, and any additional overheads agreed. If a change of scope or a scale down means a Country Fund will close, the relevant Task Order(s) will be amended to reflect this, taking into account the costs of close down.
- The PMU will collate all estimated Supplier Costs across the Contract and provide updated estimates to the Contract manager on a monthly basis, comparing them against the total amount budgeted for Supplier Costs.

2.5 Performance management and KPIs

The performance of the Supplier will be monitored quarterly and annually by the FCDO during the Contract and linked to payment (see KPIs and payment by results in Section below). A performance dashboard will be reviewed at a quarterly Performance Review Meeting, and the evidence it contains will be used to determine whether the programme is on track against its Key Performance Indicators (KPIs). The FCDO will also perform an annual performance review of the Contract, using evidence from the KPIs and results monitoring process.

As well as this formal performance management process, the FCDO wants to foster an honest and positive working relationship with the Supplier, in which delivery challenges and issues are raised pro-actively when they occur so that adjustments can be made and solutions can be found where possible.

Performance dashboard

The Supplier will maintain a dashboard relating to the performance of UK PACT and their work. The metrics included will be agreed during the mobilisation period, but it is expected to include:

- Whether implementation plans for each fund are on track, and activities are being delivered as planned, including evidence of this if required.
- A review of the risk register, financial information and any due diligence issues.
- Tracking whether actions are being taken to reduce the direct environmental impact of the programme (see Section 5.15)
- Any issues that require discussion

This will be reviewed in a quarterly Performance Review Meeting with the FCDO. The Supplier is required to ensure all the information provided is concise, clearly written and user friendly. The Performance Review Meetings will be the forum for the review by the Supplier and FCDO of the Performance Dashboards. The Performance Review Meetings shall (unless otherwise agreed):

- take place within one (1) week of the Performance Dashboards being issued by the Supplier;
- take place at such location and time (within normal business hours) as FCDO shall reasonably require unless otherwise agreed in advance;
- be attended by the Supplier's Contract Officer and the FCDO's Contract Manager; and
- be fully minuted by the Supplier. The prepared minutes will be circulated within 10 calendar days by the Supplier to all attendees at the relevant meeting and also to the FCDO Contract Manager and any other recipients agreed at the relevant meeting. The minutes of the preceding quarter's Performance Review Meeting will be agreed and signed by both the Supplier and the FCDO's Project Officer at each meeting.

KPIs and payment by results (PBR)

Draft KPIs for this Contract are shown in Table 5. The final version and KPI process, including a finalised Social Value (SV) KPI based on the Supplier's tender response, and the timing of the quarterly review will be agreed during the mobilisation period. Each KPI will be given a score as defined in Table 4.

Quarterly KPIs will form the basis of a "payment by results" performance management system. Up to 35% of the Supplier costs in each quarterly period will be subject to retention, 25% related to the quarterly KPIs (as set out in table 5) and an additional 10% retained if the Supplier has a Rectification Plan because of past poor performance and has not met the agreed milestones. As Supplier Costs

are paid monthly, the retention will be made to the final invoice of a quarter, but based on the total Supplier Costs for the whole quarter.

Each quarterly KPI has been assigned a weighting of this 25% (as set out in table 5). The score for each KPI (as set out in table 4) will inform the level of payment retained in each quarter.

Note that detailed methods for measuring the KPIs and the timing of milestones will be agreed between the FCDO and the Supplier during the Mobilisation Period of the Contract and will be embedded into the performance management system of the programme. This includes the methodology to determine whether an implementation plan is rated as “good” and an activity is rated as “making effective progress” for KPI 1, and reporting methods for KPI 3. For KPIs 2 and 4, which require feedback from beneficiaries and IPs, the FCDO reserves the right to audit the engagement survey data.

KPIs may be revised during the Contract, if agreed with the FCDO and Supplier. This could be to reflect learning during programme delivery about the best way to measure progress, or to reflect improvements required if existing KPIs are not being met

Table 4: Scoring methodology applied to each quarterly KPI

Scoring Methodology	% of the KPI amount that is payable
Inadequate: The performance of the supplier is significantly below that of the KPI targets that are set out within the contract.	0%
Requires Improvement: The performance of the supplier is below that of the KPI targets that are set out within the contract	60%
Approaching Target: The supplier is close to meeting the KPI targets that are set out within the contract	75%
Good Performance: The supplier is meeting or exceeding the KPI targets that are set out within the contract	100%

Here are two examples of how the PBR system will work for each KPI:

a) In this example, the total amount invoiced in quarter 1 totals £400,000. The total amount available to be retained by the FCDO in this quarter is £100,000 (i.e. 25%).

KPI 2 has a 20% weighting relating to the quarter. KPI 2 receives an ‘inadequate’ score.

The following calculation will apply for quarter 1:

- **20% x £100,000 = £20,000 is the maximum amount that can be retained for KPI 2.**
- **£20,000 (max amount subject to retention) x 0% (% payment due for an ‘inadequate’ score) = £0 of retention amount paid in the quarter**

Total payment for quarter 1 = £380,000 (£20,000 retention)

The supplier will be required to put a rectification plan in place. If the agreed milestones are not met, a further 10% of the next quarter’s invoiced Supplier Costs will be subject to retention.

b) The total amount invoiced in quarter 2 totals £400,000. The Supplier receives a 'requires improvement' score for KPI 2 in this period and the agreed actions put in place via the rectification plan in the previous quarter have not been met. In addition to 25% quarterly KPI retention, this quarter is also subject to a further 10% retention linked to the rectification plan - the total amount available to retain is £140,000 (25% + 10%).

The following calculation will apply for quarter 2:

- **20% x £100,000 = £20,000 is the maximum amount that can be retained for KPI 2.**
- **£20,000 (max amount subject to retention) x 60% (% payment due for an 'requires improvement' score) = £12,000 paid in the quarter (i.e. a £8,000 deduction)**
- **10% x £400,000 = £40,000 deduction for failure to meet rectification plan milestones.**

Total payment for quarter 2 = £352,000 (£8,000 + £40,000 deduction)

The following actions will be taken based on the scoring of the KPIs:

Red (Inadequate) Score: If performance falls into the red (inadequate) performance category (as defined in table 4 and 5) for any KPI then the Supplier must create a Rectification Plan at their own cost (see Section 40.2 of the standard T&Cs). This Rectification Plan must detail how they will change practices to prevent another red score being awarded for this KPI. The timeline for production of this Rectification Plan is to be agreed between the Supplier and FCDO and should as a minimum contain agreed measures to prevent a red score being awarded in the future as well as mitigation measures to limit the impact of this event if it should occur again. The Rectification Plan must have agreed milestones for introducing these measures, and evidence will be required to demonstrate that the content of the Rectification Plan has been implemented for monitoring purposes.

Amber (Requires Improvement) or Yellow (Approaching Target) Score: If performance falls into the amber (requires improvement) or yellow (approaching target) performance category (as defined in table 4 and 5) for any KPI then the Supplier should examine and implement measures to prevent this KPI being scored a yellow/amber in subsequent reporting periods. Formal improvement measures will not be expected at this stage. If a single KPI is awarded yellow/amber in two consecutive quarters, or twice in four consecutive quarters then the Supplier should create a Rectification Plan at their own cost.

If a Rectification Plan has been put in place, it will be reviewed at subsequent performance meetings. If the agreed milestones in the plan have not been met, then the additional 10% of the quarterly total Supplier Costs that have been invoiced will be retained for that quarter. If a Rectification Plan cannot be agreed to the satisfaction of FCDO or is not adhered to, the contract can be terminated as per Section 44.1.4 of the standard T&Cs.

Table 5: Draft Key Performance Indicators (KPIs) and payment by results

No	Description	Time	Evidence	Target	Part of PBR	Weighting	Inadequate	Requires Improvement	Approaching Target	Good
1	Implementation plans are developed in line with country strategies and UK PACT objectives, and activities under them (for example projects, skill-shares and secondments) are managed efficiently through the UK PACT project lifecycle to deliver their outputs, with minimal disruption.	Quarterly	Country Fund strategies and implementation plans, quarterly programme reporting on activities across all funds.	A) 100% of implementation plans are rated 'good' demonstrating that they have taken country strategies and all available funding mechanisms into account B) 95% of funded activities are rated as "making effective progress" against their agreed milestones. Where projects are not meeting this standard, FCDO will determine if performance issues are within the DP control.	Yes	50% (15% for KPI1a and 35% for KPI1b)	A) < 80% B) ≤ 90%	A) 80-89% B) 91-92%	A) 90-99% B) 93-94%	A) 100% B) 95%
2	The delivery of skill-shares meets the demand and expectation of beneficiaries	Quarterly	Survey response providing feedback from the beneficiary on the competence and expertise of the expert(s) delivering the skill-share.	Beneficiary reports as satisfied or very satisfied in 85% of skill-shares delivered over the last two quarters	Yes	20%	≤ 75%	76-79%	80-84%	≥ 85%

			Undertaken after every skill-share deployment, unless agreed otherwise with FCDO.							
3	The supplier maintains high levels of financial management ensuring the programme is delivered to budget with accurate forecasting and timely invoices.	Quarterly	Invoices, Forecasts, Quarterly reporting	A) < 5% Forecasting variance B) Annual spend is within 5% of annual budget C) Timely invoices	Yes	30% (10% each for KPI 3a, b and c)	A) ≥ 10% B) ≥ 10% C) ≥ 1 day late	A) 8-9% B) 8-9% C) N/A	6-7% 6-7% N/A	A) ≤ 5% B) ≤ 5% C) On time
4	The supplier develops and maintains effective working relationships with implementing partners, experts and secondees, ensuring clarity of requirements, effective escalation channels and a high level of satisfaction with the process.	Annual	Annual engagement survey of IPs, quarterly reporting, team updates	Overall satisfaction score 85% or higher from annual engagement survey.	No	N/A	≤ 65%	66-74%	75-84%	≥ 85%
5	[Provisional KPI TBC once logframe output reporting has been confirmed] Results and lesson learned are collected efficiently and the programme is	Annual	RMS, logframe, team updates, MI Dashboard, E&L provider, quarterly programme reporting, Task order	No output logframe indicators are missed with reasonable progress towards achieving outcomes.	No	N/A	TBC	TBC	TBC	TBC

	performing against expected results as set out in the programme logframe.									
6	<p>[TBC Social Value KPI will be agreed with the selected Supplier]</p> <p>Example: Total percentage of full-time equivalent (FTE) people from groups under-represented in the workforce employed under the contract, as a proportion of the total FTE contract workforce</p>	Annual	TBC. The ITT and evaluation criteria will ask the supplier to develop an approach to theme 2 of the model award criteria of the social value model – ‘Tackling Economic Inequality’, with the policy outcome to ‘increase supply chain resilience and capacity’ and theme 4 – ‘equal opportunity’, with the policy outcome to ‘tackle workforce inequality’. A KPI to support robust consideration to social value will therefore be developed based on the selected supplier’s specific approach.	TBC	No	N/A	TBC	TBC	TBC	TBC

Annual performance review

An annual Performance Review Meeting will take place using evidence from the performance dashboard and all KPIs. Note that this is different from the ICF Annual Review process which focuses on the results of the programme (see Section 1.5). This meeting will take place following the end of a financial year, using evidence from the previous four quarters. The timing of these is set out in the Special Conditions (Section 6E of Volume 8 of the ITT). As the Contract is due to start towards the end of the financial year 23/24, the first review will be lighter touch and will review progress on the Mobilisation Phase. The first full Annual Performance Review will therefore take place in April 2025. This performance review will include a review of the Supplier Cost budget and whether the resourcing of the Core PMU requires revision.

If a performance review highlights significant performance issues, the FCDO may require the Supplier to develop a Rectification Plan at their own cost, as per Clause 40.2 of the standard T&Cs.

3. Detailed scope of work

This section sets out the scope of work the Supplier will carry out under each pillar, as well as the major responsibilities of the FCDO.

3.1 Core Programme Management Unit (PMU)

Mobilisation period

The PMU will have specific tasks and responsibilities during the mobilisation period of the Contract, which will last 4 months. This will focus on handover from existing suppliers and the FCDO team, developing key policies for the programme, resourcing the Supplier's fund-level teams so they can start new activities as soon as possible, and developing initial implementation plans for each fund. Because some on-going projects will transfer to the Supplier, some elements of UK PACT will need to be in delivery mode during this mobilisation period. The mobilisation period can therefore be thought of as a phased shift from mobilisation to delivery.

For ease, all mobilisation period tasks are considered part of the Core PMU pillar, rather than in other pillars of the Contract, and therefore Supplier Costs associated with these should be included in the budget for the Core PMU submitted by bidders.

A high-level plan for the mobilisation period is below setting out the latest dates by which a task would be expected to be complete. Earlier delivery (in full or part) would be preferable, for example with regards to recruitment in high priority countries:

- Month 1:
 - Handover from existing suppliers (including on-going projects/skill-shares and the skill-shares roster) completed by the end of the month.
 - Interim staff for each fund identified by the end of the month.
- Month 2:
 - On-going activities will be in delivery phase from the beginning of this month, managed by the Supplier.
 - Recruitment of in-person/regional staff for each fund has begun by the end of the month.
- Month 3:
 - Ways of working and all key policies and plans agreed with FCDO by end of the month.
 - Initial implementation plan and task order complete for each fund.

- Month 4: Recruitment of in-country/regional staff complete (start dates may be after this point depending on notice periods).

From Month 5, the programme will enter full delivery phase and the Supplier is expected to be able to start up and deliver new activities under the Contract.

Handover of policies, processes and contracts

In Month 1 of the Contract, the Supplier will be expected to have meetings with the previous suppliers and the FCDO and receive documentation to handover the following elements of the programme:

- Existing programme policies and strategies from all current suppliers.
- Take over the **grant management systems or the data within them**¹³ from the outgoing Country Programme and GRCF suppliers.
- Take over **data on skill-share and secondments** that have been completed under the programme (e.g. initial request for support and approval forms, Terms of Reference documentation, reporting, lessons learned documentation, outputs/deliverables, case studies, etc.)
- **Handover of monitoring and reporting** – the Supplier will receive documentation related to the monitoring and reporting of the programme from the FCDO, including the theory of change, logframe, GESI-related data/documents and results data. This will be used to develop a monitoring and reporting approach under this Contract.
- Take over **existing communications and engagement tools** from the outgoing delivery partner (client relationship management [CRM] system and website):
 - New Supplier either contracts the existing CRM provider (relevant contacts will be shared by the existing delivery partner) to be able to take on licencing of the existing CRM system and receives relevant training, or alternatively, the Supplier receives the data from the existing CRM provider and transfers it to a different CRM. In either case, the transition must be compliant with GDPR.
 - New Supplier to take over website domain and mailbox subscriptions
 - New Supplier staff training and induction on the website
- Receive **existing communications materials and case studies** (including branding templates, logos, fonts etc.) from the outgoing delivery partner

This list is not designed to be exhaustive, and additional documents and processes may be handed over.

The FCDO role relating to these Supplier tasks will be:

- Arranging handover meetings with existing suppliers and overseeing engagement between them and the Supplier.
- Handing over any relevant documents held by the FCDO.

¹³ The current Country Programmes and Green Recovery Challenge Fund grant management systems are used to administer competitive grant application processes (CfPs) and to manage and receive documentation from grantees/projects such as regular reporting and project deliverables.

Development of key policies and documents

As soon as possible, but no later than by the end of month 3, the new Supplier must create and agree the following with the FCDO (parts a and b, in particular, are based on the Supplier's tender submission and will be formalised):

- a. A detailed overarching high-level **programme delivery plan, risk appetite, risk register (see Section 5.5), delivery chain mapping (see Section 5.6) and governance plan**
- b. **Ways of working** including frequency and types of meetings between FCDO and the Supplier (for more information please see Annex 3 on governance)
- c. **A performance management dashboard** to track performance against contractual performance mechanisms on a quarterly and to-date basis (see Section 2.5).
- d. **A budget template** for tracking Supplier Costs and Activity Costs of each fund and the overall programme.
- e. **Agreeing an overall Supplier Costs budget and annual budgets for each fund** based on the FCDO's Country Fund strategies (see Section 2.4).
- f. **A task order template** and initial task order for each fund.
- g. **A robust aid diversion prevention strategy**, which includes a set of fraud prevention and error risk management controls that reduce any fiduciary risk or risk of potential misuse of ODA or public funds more generally, both within the Supplier's management of the funds under this contract and also within funds distributed to IPs, as well as escalation and reporting processes for fraud (see Section 5.2 for more information)
- h. **A clear and appropriate approach to awarding and managing onward grants/contracts** to support the delivery of activities under this programme. See Section 5.8 for more information.
- i. A robust set of controls and **measures for the prevention of sexual exploitation, abuse, and harassment**, which can apply to both the Supplier, IPs and roster experts, as well as escalation and reporting processes for safeguarding concerns
- j. **A due diligence process** and questionnaire – This will be used to robustly assess the suitability of potential IPs to receive HMG ODA funding through UK PACT.
- k. **Guidance and training for IPs** – A handbook or similar document(s) should be developed that summarises the policies and processes of the programme for IPs managing projects. Training materials may be required for some aspects, e.g. around how to meet the programmes requirements (e.g. having adequate policies on fraud, anti-corruption and bribery, modern slavery, safeguarding, SEAH, GESI etc.) as assessed during due diligence.
- l. **Policies relating to skill-shares and secondments**, including security for experts doing in-person activities, and approach to hiring/contracting secondees.
- m. **A GESI strategy** - The Supplier should develop an overarching GESI strategy, including ideas for how to build capacity of IPs and roster experts to mainstream GESI, how to encourage sharing of GESI experiences and expertise across the portfolio including demonstrating the meaningful participation and involvement of those individuals (including Organisations of Persons with Disabilities, Women's Rights Organisations, Indigenous Peoples' Organisations and so on), and how to explore synergies between activities to maximise benefits for marginalised groups. This should also include an approach to tracking the implementation of the strategy through collection of data disaggregated by gender, age and disability.
- n. **A learning strategy** – The Supplier should develop an approach to share learning between funds to share successes and challenges and maximise benefits. This should particularly consider looking at sectoral and GESI issues across funds.

Working groups or similar mechanisms may be proposed. This strategy may result in tasks for the Supplier, which can be included in task orders under the “additional PMU tasks” and “fund management and activity planning” pillars. This strategy can be updated throughout the Contract.

- o. **An emissions reduction strategy** – A substantive consideration of how emissions as a direct result of Supplier and IP activities can be minimised with a practical and proportionate plan of actions identified, with annual reporting on progress.
- p. **Results monitoring delivery plan** – The Supplier is expected to develop a results monitoring delivery plan outlining the quarterly and annual reporting cycle, and associated activities and outputs. See *Results monitoring and learning* in Section 1.5 for more detail on the requirements.
- q. **An approach to portfolio, fund and activity management** – The Supplier must develop an approach to recording and monitoring information on activities within UK PACT and their progress to support the management of the whole programme and each fund within it. This should include a record-keeping/knowledge management system for the activity data that is easy to use for Supplier staff, and provides clear reports so the FCDO can monitor progress. This must include a **Results Management System (RMS)** that is integrated into overall record-keeping processes for the programme to make the collection and processing of results easy for, IPs, Experts, the Supplier and the FCDO.
- r. **A benefits tracker** – The Supplier must record benefits that have been realised over the course of the Contract in terms of value for money (VfM) and wider market health related to the Supplier’s work. This should include, but is not limited to:
 - i. Improvements to ways of managing funds and activities that result in cost savings and efficiencies in terms of Supplier Costs.
 - ii. Information on how the Supplier is targeting and supporting SMEs and locally-owned organisations to access UK PACT funding.
 - iii. Information related to social value (e.g. the data that forms part of the social value KPI – see Section 2.5).
- s. **A communications and engagement strategy** – This should establish ways of working with HMG, including BE/BHC communications teams for fund-level communications, and formalise in a strategy. The Supplier should agree:
 - i. roles and responsibilities, including sign off processes, for all communications materials (please note HMG will sign off all external communications materials).
 - ii. frequency and nature of reporting on comms statistics and achievements, and frequency with which key comms products will be updated (i.e., website, core lines, comms strategies, workplans).
 - iii. the process for working with FCDO on developing the global and country-level communications strategies and delivery plans
 - iv. ways of working with the ELP to ensure all aspects of the programme are well-communicated.
- t. **Exit management** – Developing an exit management plan as per the terms and conditions of this Contract. This should include approaches to dealing with staff resourcing to ensure there are adequate staff to deliver the programme in the final months of the Contract period.

The FCDO may require a progress update, including drafts if available, by the end of Month 2.

The FCDO role relating to these Supplier tasks will be:

- Signing off all key policies, plans and documents listed above by the end of Month 4 or earlier.

Handover of the skill-share roster

By the end of month 4, the Supplier will take over the **existing skill-share roster of experts** – the current supplier has an existing roster of around 200 individual experts. The Supplier will be expected to agree new contracts directly with experts and/or the organisations that employ them. In the current model, each expert on the roster is contracted through their organisation or another legal entity, rather than as individuals, with the Delivery Partner signing a contract directly with each entity (currently 50). The Supplier should follow a similar model or propose an effective alternative. The FCDO would expect this process to minimise disruption to the experts on the roster or to any skill-shares already in delivery. The Supplier must develop the roster in a way that allows it to be transferred to another Supplier at the end of the Contract as part of exit management.

- The roster database should be in an accessible format, which makes it easy for the Supplier and the FCDO to search for key skills and experience to guide the development of skill-shares. It should be a secure system compliant with GDPR (see Section 5.13). It should allow the FCDO and the Supplier to engage with partners effectively on the types of expertise available and respond to questions on whether certain expertise is represented on the roster. The system should enable the Supplier to update information on the expertise of individuals or other details quickly and easily.
- In managing the roster, the Supplier should have an interactive online platform for roster members to apply for opportunities, view updates from the programme, share experiences, and keep them engaged with the programme when they are not actively working on skill-shares. This should allow the Supplier and FCDO to understand levels of engagement with the programme, and easily share updates and opportunities.
- The preferred supplier would be expected to make an assessment on their position relating to IR35¹⁴ related to the experts on the roster and to declare the outcome to FCDO Recruitment and deployment of local experts for skill-shares.

Although the Supplier is not expected to have signed agreements with all roster members until the end of Month 4, there may be a few experts that are taking part in on-going skill-share activities that should be prioritised following handover from the current supplier during Month 1, to allow delivery of these activities to take place from Month 2.

Skill-shares can be delivered with a mix of private and public sector expertise. The Supplier will also be instructed to onboard a number of public sector organisations (not individuals) onto the roster (or a similar mechanism). These are organisations that have committed to sharing their skills through UK PACT. The FCDO will have established an agreement with these organisations to that effect. These organisations will make up a separate part of the roster and will be used when there is a unique requirement for a UK public body to deliver a skill-share. The Supplier will create a test with FCDO during the mobilisation period to agree a mechanism for awarding skill-share opportunities to private sector experts or to public sector bodies. The test could be similar to a Direct Delivery form with some simple criteria. The Supplier will be open and transparent with all roster members up front about the how the two parts of the roster will work (private and public).

The FCDO role relating to these tasks:

- Approving the format of the roster and the information accessible to the FCDO
- Approving the online platform

¹⁴ See www.gov.uk/guidance/understanding-off-payroll-working-ir35 for more information.

Handover of on-going activities

By the end of month 1, the FCDO expects the Supplier to take over up to 81 on-going projects from the outgoing delivery partners in Country Fund and Flexible Fund countries (see Annex 5 for more information). These projects will form the initial portfolios for the funds under this Contract. See Section 5.8 for more information.

The FCDO expects the following tasks to take place during the mobilisation period regarding on-going projects:

- Introductory meetings with the outgoing delivery partners to review all live projects
- The secure transition of existing files and documentation relating to programme processes and all individual projects (including grants manual and process maps, applicant handbook, Implementing Partner handbook, application forms, reporting templates, grant annex templates, applications, grant documents, project plans, reporting, evidence base, outputs and content of risk registers). This transfer will be conducted in a manner which maintains all material in a secure, robust and transparent system, using a dedicated online portal with archiving using 'provenance' and 'original order' principles. This task will require:
 - Induction and explanation from outgoing delivery partners to Supplier
 - File transfer of relevant documents
- Handover of project management aspects (i.e., financial reporting, monitoring, risk)
- Transfer of all existing grant and IP management from the outgoing delivery partner to the Supplier so that they are locally owned. The Supplier may be required to take over and become the authority of some UK PACT grants, which are currently signed by HMG.
- Introductory meetings on each project with each Implementing Partner (IP)

The FCDO expects the outgoing delivery partner to complete delivery of the majority of existing skill-shares prior to handing over to the Supplier, but to avoid a pause in delivery, some skill-shares may be on-going when the Contract begins, and the FCDO requires the Supplier to work with the outgoing delivery partner to take these over and manage them to completion from month 2. The FCDO anticipates this to be a relatively small number of skill-shares (up to 10 – this will be confirmed before Contract signing). Handover meetings will need to take place about each in Month 1 of the Contract.

Existing secondments will continue to be managed in-house until completion of the initial placement and will not need to be transferred. If the secondment requires extension, the FCDO and Supplier will discuss whether it is appropriate for the management to be transferred on a case-by-case basis.

As well as on-going activities that are in delivery, there are likely to be a number of activities in the planning stages when the Contract begins, which have been developed by the existing delivery partners and/or the FCDO. These may be at Concept Note or full Terms of Reference stages, or IPs may have been selected through CfPs or direct award processes. These will be handed over to the Supplier by the existing delivery partners and the FCDO during the mobilisation period. The Supplier is required to take over and carry on with additional planning and mobilisation of these activities, if needed, and then manage their implementation. These planned activities will feed into the implementation plans for each Country Fund.

The FCDO role relating to these Supplier tasks will be:

- Arranging handover meetings with existing suppliers.
- Handing over any relevant activity-related documents held by the FCDO

- Managing existing secondments.

Setting up funds and establishing in-country/regional presence

The FCDO will have agreed strategies for each Country Fund before the beginning of this Contract, and will have begun scoping for the Flexible and Peer-to-Peer Funds. During the mobilisation period, the Core PMU therefore has an important role in making sure that each fund is up and running by the time the delivery phase begins. By the end of Month 1, the PMU should have identified staff to support this, which can be interim or permanent at this stage. These staff will focus on taking over on-going work (see above), recruiting the staff required to run each fund, and agreeing an initial implementation plan and Fund Management and Activity Planning task order for each fund.

By the end of month 2 at the latest, the Supplier should have started the recruitment process for the staff required to run the funds during the Delivery Phase of the Contract (see Section 4.2 for more information). This includes a full-time, local presence in each Country Fund country (see Section 1.3 for the list of countries), and suitable regional staffing for the Flexible Fund. They must also ensure that relevant technical experts for each Country Fund country have been proposed to support all key sectors (see Section 4.3). The recruitment of these staff should be complete by Month 4 (though start dates may be later – in that case, it would be expected that interim staff remain in place until the long-term staff have arrived). See section 4 for more information on staff requirements.

Tasks during the mobilisation phase include:

- Supplier staff should complete induction and handover discussions with both the outgoing suppliers and relevant HMG staff, including the local BE/BHC teams.
- Each fund team should agree ways of working, roles and responsibilities and meeting frequency/type. Roles and responsibilities and ways of working may vary from country to country depending on country context and level of HMG staffing for that country.
- By the end of month 3, each fund Supplier team should have developed an initial implementation plan for their country, which sets out the immediate priorities for the fund that the Supplier will support. This will include the initial list of activities that the fund will support in its first year, aligned with the builds on strategy and scoping work that will have been completed by the BE/BHC team. The implementation plans and task orders will be working documents that will be updated regularly during the delivery phase.

The FCDO role relating to these Supplier tasks will be:

- Carrying out introductory meetings with each BE/BHC, and arranging handover discussions with outgoing suppliers
- Signing off ways of working for each fund
- Signing off the initial implementation plans and task orders for each fund.

Delivery phase

The PMU will perform a key function for the programme, ensuring consistency and good governance across the funds, and promoting learning between them. Core PMU tasks for the Supplier during delivery are:

- **Compliance:** The PMU must ensure compliance with all relevant legislation (see terms and conditions).
- **Governance:** The Supplier will need to provide senior representation to sit on relevant governance boards coordinated by the FCDO if required (see Annex 3).
- **Contract management and resourcing:** The PMU will manage and draw up Task Orders for the rest of the programme, monitoring their use and ensuring there are adequate resources

to deliver the programme (both in the PMU and for the management of each fund). If UK PACT is expanded, the PMU will work with the FCDO to explore whether the addition of new funds or expansion of existing ones is deliverable, draw up or update task orders appropriately, and recruit additional staff resource if needed (recruitment should start within two months of a new Country Fund being agreed between the Supplier and the FCDO).

- **Policies and templates:** Developing, reviewing and refreshing policies and templates for the programme as needed.
- **Reporting:** The Supplier will provide programme-level quarterly narrative reporting, delivery chain risk mapping, contractual, as well as aggregated fund performance reporting. Annually they will provide reporting on their emissions reduction strategy. The Supplier will also provide updates on the benefits tracker (see Section 3.1 *mobilisation period*) and provide a compilation of reporting carried out as part of fund management (see Section 3.3).
- **Results monitoring:** Carry out central results monitoring tasks, as laid out in the results monitoring delivery plan (e.g. development of the RMS, quality assurance of quarterly reporting, annual collation of results into the logframe and KPI assessments). See Section 1.5 above for more details on requirements.
- **Support for evaluation:** Collaborating with the ELP to support their work once they are in place (for example agreeing data sharing protocols, sharing data, having regular meetings and making key staff available to take part in interviews).
- **Finances:** The Supplier should undertake the following actions to ensure robust financial management (see Section 5.2 for more information):
 - HMG operates on a resource accounting basis. The Supplier will be required to provide regular reporting on actual costs incurred and forecasts on a monthly basis for Supplier Costs and a quarterly basis for Activity Costs in a format agreed by the FCDO. This must be reported at a fund level and an aggregate programme level to aid planning, communicating potential under/overspends in a timely manner.
 - Financial reporting will need to show spend on a cash and resource basis and should include monthly actuals and forecast for each financial year of the programme. Once financial reporting has been verified and approved, the Supplier should submit invoices to FCDO for payment.
 - Payments: ensuring there are processes in place to pay IPs, contractors and suppliers for the programme, and making payments in a timely manner.
- **Performance management:** each quarter the Supplier will be required to submit an updated performance management dashboard, detailing how they have performed against contractual requirements, as detailed in Section 5.18, that quarter.
- **GESI:** The PMU should ensure the GESI strategy is carried out, with reporting where required, and adequate staff expertise (see Section 4.3 for more detail).
- **Management of the skill-share roster of experts:** The Supplier should manage the roster from which individuals can be quickly selected to take part in skill-shares. This will include:
 - Contacting experts about skill-share opportunities they can apply for
 - Carrying out tasks to keep roster members engaged in UK PACT.
 - Reviewing the roster and recruiting experts to ensure it can provide the expertise needed to meet demand in our partner countries, and the right balance of senior and junior roles to offer value for money. The membership of the roster must be reviewed regularly to identify gaps in expertise, which will then be filled by recruitment, and to identify roster members with minimal engagement that potentially could be removed. The Supplier will be expected to carry out a review early in the Contract and carry out a recruitment round to fill identified gaps. The Supplier must have the on-going ability to recruit new expertise as needed and retain the expertise once recruited, so that the roster continues to meet the needs of the programme.

- The Supplier must run recruitments to the roster in a fair and open way that is in line with our GESI ambition statement (see Section 1.5). The Supplier must have an approach that encourages competitive day rates and pro-bono participation by experts to promote value for money. The approach used should be monitorable for effectiveness. Tasks involved in recruitment will include:
 - Advertising the opportunity in a way that is likely to reach suitable candidates
 - Running the selection process in a swift and user-friendly way for applicants
 - Signing contracts and providing an on-boarding/due diligence process (which currently includes: a signed Official Secrets Act form, proof of address, right to work checks, references, a World Check [WCO], police certificates if needed [for example, if they have been outside of the UK for more than 6 months in the past 5 years], and onboarding training).
- **Communication monitoring:** The Supplier will work with the FCDO to make sure communication and engagement tasks are carried out across the programme as planned. The Supplier should agree annual budgets for communications with the FCDO. Please note that there is likely to be a maximum ceiling of £100,000 per financial year of programme operation for the delivery of communications tasks and FCDO will have to apply for internal reapproval of communications spend annually.
- **Website management:** The Supplier will keep the UK PACT website up to date with information on the programme and will ensure the website has the functionality needed to advertise standard funding opportunities. This website, along with other digital tools developed for the programme by the Supplier, may be required to transfer to new suppliers in the future, so should be developed in a way that facilitates handover.
- **Tracking programme assets:** All assets for the programme must be tracked throughout the Contract period in a way agreed with the FCDO, and correctly disposed if necessary.
- **Due diligence register:** The Supplier will maintain a record of the due diligence that has been carried out and actions taken (see Section 5.7 for more information).
- **Programme closedown and exit:** Six months before the end of the Contract, the Supplier will be informed if the FCDO intends to extend the Contract, close the programme or handover to another supplier. If the programme is closed or there is a handover, the Supplier will wrap up the programme in the final three months of the contract, or prepare to handover to another supplier, as per their exit management plan. The Supplier must be prepared to have handover meetings with any new suppliers, and prepare documents and systems to transfer. All data and digital tools/systems for the programme required in this TOR must be made ready to transfer to the FCDO or any new supplier.

The FCDO role relating to these Supplier tasks will be:

- Negotiating and agreeing task orders with the Supplier, and changes to Task Orders.
- Overall contract management, including Supplier performance management and reviewing monitoring and reporting for the programme.
- Signing off staffing changes for key personnel.
- Signing off plans for roster engagement.
- Agreeing the framework for the use of the website and other digital tools for the programme

3.2 Additional PMU tasks

This pillar will cover programme-level tasks that would be valuable for UK PACT but that the FCDO cannot define in detail at the point of tender. Tasks carried out by the Supplier under this pillar could include (but are not limited to):

- In-depth reviews of the theory of change and logframe by Supplier to make recommendations for improvements
- Research by Supplier sector experts to support the further development of the programme strategy (e.g. looking for gaps and opportunities across countries and regions that could maximise the impact of the programme).
- Development of communications and engagement products (e.g. case studies, summaries of results, lessons learned) or social media activity
- Updates to the functionality of the website (website maintenance is covered under Core PMU).
- Organisation of events or presentations on the programme (e.g. at international events)
- Tasks to promote learning between UK PACT funds (e.g. running sectoral working groups across different countries to share learning from different activities, or holding webinars)

The FCDO role relating to these Supplier tasks will be:

- Agreeing the scope of each task.
- Signing off final products or outputs for each task.

3.3 Fund management and activity planning

Tasks under this pillar can be divided into two broad categories:

Fund management

- Attending regular working-level meetings with relevant FCDO staff at BE/BHCs and in the UK to track performance of the fund, upcoming events and milestones, new opportunities that have been identified, as well as resourcing needs under the task order (which can be amended if necessary).
- Creating all fund-level reporting, including narrative reporting, finances, risks, GESI, and results monitoring, which will feed into programme-level reporting managed by the PMU. This will be required on a quarterly basis. It will be important to monitor the budget so that decisions can be made to make sure that spend targets are met (e.g. developing additional activities if an underspend is predicted, to be considered through the governance process). Issues arising between quarterly reports to be raised proactively, in an open and transparent way with FCDO.
- Maintain good knowledge management practices on activities. Store information on activities, i.e., descriptions, reporting, finances and results, in an organised manner and maintain good records of project approvals and key decisions.
- Fund-level governance, including attending quarterly fund-level strategy boards (for Country Funds) or the Funding Board for the Flexible Fund and Peer-to-Peer Fund, and preparing papers as required (e.g. summaries of current fund performance and potential activities being considered).
- Supporting the development of Country Fund strategies, if required, for example through contributions from sectoral experts (although initial strategies will be developed before the Contract starts, they may need updating). The strategy will include the objectives of the fund, showing how it will aim to create transformational change based on the UK PACT theory of

change (for example, which sectors or sub-sectors it will focus on, and what outcomes and impacts it aims to achieve).

- Leading on the further development of an implementation plan for each fund, which covers the activities that will be funded over the Contract period to achieve the aims of the strategy, and recommended funding mechanisms for them. The development of the initial implementation plans is covered under the Core PMU mobilisation period tasks, which will set out the first tasks that are required for each. However, plans may need to be updated regularly as the funds progress to take into account of new opportunities that arise, and learning from delivery (e.g. recommendations when activities end). Implementation plans should take into account the country context, country-specific risks, country-specific GESI considerations and market capacity. Each plan will be signed off by the FCDO.
- Developing a fund-level communications and engagement strategy, and delivering communications and engagement activities if required under the strategy (e.g. holding workshops for IPs or creating brochures on the fund's work). This will involve working closely with the BE/BHCs for Country Funds.
- Delivering training to IPs and potential IPs to make sure they can work effectively with the programme (e.g. on submitting high quality applications for funding, how to monitor results or how to reflect GESI in their work). The aim of this is to increase the capacity and likelihood of local organisations to apply for and receive UK PACT funding.
- Learning tasks to build networks and share experience and successes between IPs working on the fund to maximise the impact of the fund's work.
- Maintain a watching brief for new opportunities arising within the existing scope of UK PACT's work in each country.

The FCDO role relating to these Supplier tasks will be:

- Chairing the regular meetings and strategy boards, which will agree which concept notes to take forward and what recommendations to approve.
- Reviewing reporting at the fund level and agreeing any actions based on this
- Agreeing amendments to the fund task order as necessary
- Leading on the relationships with recipient and potential recipient organisations in partner countries
- Leading on the development of the Country Fund strategies, including scoping with potential recipients, and signing off any contributions from the Supplier
- Agreeing the implementation plan developed by the Supplier, and signing off any amendments.
- Agreeing the fund-level communications and engagement strategy, and any learning tasks.

It is important to note that in some UK PACT countries agreements or Memoranda of Understanding (MoUs) will need to be put in place with partner governments before projects can be implemented and/or government approvals will be required before CfPs or projects can launch. Whilst the FCDO will always lead on this, the Supplier will be kept informed of this process and will need to consider this in implementation planning.

Activity planning

- Developing initial activity **concept notes** with the FCDO, which will be considered for approval by the fund board. This will include the aims of the activity, the funding mechanism to be used, and an outline budget. For Country Funds, this must be in line with the strategy and implementation plan, and beneficiary needs. For the Flexible Fund and Peer-to-Peer Fund, the

Funding Board will consider the best value for money proposals with the aim of maximising impact in eligible countries.

- For concept notes that are approved, the Supplier will then develop a **full terms of reference** for the activity, which the FCDO (and possibly the beneficiary organisation) will be consulted on. For all key funding mechanism except open CfPs, this will include clear aims and objectives (i.e. expected outcomes) a breakdown of what the activity will involve (i.e. the outputs), and the expected budget. For an open CfP, it will include more detail on the sectors or sub-sectors that will be eligible for funding (with the aim of being as specific as possible to avoid a large number of applications). The level of detail required should be proportionate and appropriate for the funding mechanism. For skill-shares, it should include information on whether it can be delivered virtually, or if in-person visits are required.
- To develop a terms of reference, the Supplier may be required to use their sectoral technical experts to ensure the outputs under the activity are likely to have the desired outcomes and impacts. The Supplier may also need to carry out additional research like capacity assessments and market analysis.

The FCDO role relating to these Supplier tasks will be:

- Working with the Supplier to develop concept notes. The FCDO will lead on consulting potential beneficiary organisations.
- Approving concept notes as part of the fund board
- Commenting on the terms of reference developed by the Supplier

3.4 Skill-share and secondment delivery

When a full terms of reference for a skill-share or secondment is finalised, then the Supplier will develop a task order under this pillar, or add to another task order, for Supplier Costs required to implement that activity. This will need to be agreed by the FCDO before the work can proceed. Note that skill-shares can be virtual, or in-person, or a mix. In-person activity can be “outward”, with experts travelling to the country in question to visit beneficiaries, or “inward”, with individuals from beneficiary organisations travelling to visit experts.

For roster skill-shares and private sector secondments, tasks for the Supplier include:

- Selecting expert(s) from the roster. For each skill-share, the Supplier will be expected to supply a shortlist of suitable experts and provide indicative budgets for the skill-share, which will be shared with the FCDO team. The FCDO team will share the shortlist with the beneficiaries of the activity for their comment. Shortlists are expected to be created mainly through advertising the opportunity to roster members for fairness. If no suitable applicants come forward, the Supplier may contact experts directly. The Supplier will make the final decision on which expert is selected.
- The Supplier will agree clear objectives (see Section 5.18), working hours and rates with the expert, and manage the contracting required. For secondments, the FCDO would anticipate funding experts on a salary basis rather than day rates, to provide better value for money.
- Project management and logistics planning for experts or beneficiaries, including booking flights and accommodation, organising visas and vaccines, developing a schedule, organising meetings (real life or virtual), insurance, arranging translation services, processing expenses etc.

- Training: The Supplier should coordinate core training sessions for roster members before they are deployed on any skill-share. This training should be specific to the country the expert is working in, and should include:
 - Overview of international climate finance and the overall programme (with input from the FCDO).
 - Diplomacy/cultural sensitivity training (with input from the BE/BHCs).
 - GESI and safeguarding training.
 - Safety and security training.
- Security and duty of care for experts during in-person activity (including 24/7 emergency support). See Section 5.7 on *Duty of care* below for more information. Duty of care for any beneficiaries travelling as part of inward skill-shares will remain with their employer.
- Management of the experts during the delivery of the skill-share or secondment, including regular check-ins and performance management if required (see Section 5.18 for more information).
- The Supplier will be responsible for ensuring that remote virtual skill-shares are able to be delivered effectively. This will include experts' access and competence with appropriate software, stable internet connection and general ability to deliver work remotely.
- Financial management of the skill-share or secondment, including paying experts and feeding into fund-level financial reporting.
- Monitoring the activity and reporting the results.
- Writing a clear description/case study of the skill-share or secondment to support the results monitoring, knowledge management and communication of UK PACT.
- Gathering lessons learned and making a recommendation to the relevant Country Strategy Board/Funding Board as to whether follow-up activities should take place (e.g. additional skill-shares or projects) to maximise the likelihood of outcomes and impacts being realised. This recommendation will be discussed with the fund board and may become part of the fund's implementation plan.

The FCDO role relating to roster skill-shares and private sector secondments will be:

- Agreeing the final budgets of skill-shares, as part of the fund's governance structure, and advising on the experts taking part
- Providing security information on the country for in-person activities, and information for training
- Signing off case studies

For non-roster skill-shares and public sector secondments, tasks for the Supplier include:

- Project management and logistics planning, including booking flights and accommodation, organising visas and vaccines and insurance if required, developing a schedule, organising meetings (real life or virtual), arranging translation services, processing expenses etc.
- Training: As with roster skill-shares, the Supplier should coordinate core training sessions experts before they are deployed. This training should be specific to the country the expert is working in, and should include:
 - Overview of international climate finance and the overall programme (with input from the FCDO).
 - Diplomacy/cultural sensitivity training (with input from the BE/BHCs).
 - GESI and safeguarding training.
 - Safety and security training.

- The Supplier will be responsible for ensuring that remote virtual skill-shares are able to be delivered effectively. This will include experts' access and competence with appropriate software, stable internet connection and general ability to deliver work remotely.
- Financial management of the skill-share or secondment, including tracking spend and feeding into fund-level financial reporting.
- Monitoring the activity and reporting the results.
- Writing a clear description/case study of the skill-share or secondment to support the results monitoring, knowledge management and communication of UK PACT.
- Gathering lessons learned and making a recommendation as to whether follow-up activities should take place (e.g. additional skill-shares or projects) to maximise the likelihood of outcomes and impacts being realised. This recommendation will be discussed with the fund board and may become part of the fund's implementation plan. Consideration should also be given as to whether there is useful follow up in other UK PACT countries.

The FCDO role relating to non-roster skill-shares and public sector secondments will be:

- Selecting experts and agreeing budgets with them, contracting them or agreeing other arrangements if required, and paying them if required.
- Security and duty of care for experts during in-person activity (duty of care for any beneficiaries travelling as part of inward skill-shares will remain with their employer).
- Management of the experts, including regular check-ins and performance management if required.
- Signing off case studies

3.5 Running an open CfP

When a full terms of reference for an open CfP is finalised, then the Supplier will be required to carry out the open CfP process. An open CfP may result in a wide variety of project ideas to choose from. In our experience, CfPs can receive a large number of applications. The Supplier is therefore required to provide clear guidance to applicants on what sort of projects are in scope (based on the agreed terms of reference) and how to apply, to avoid lots of applications that are outside scope or low quality.

The Supplier will develop an approach to running a CfP, which must be approved by the FCDO. The CfP process should ensure value for money for UK PACT, reduce the administrative burden on applicants where possible, and be time efficient. The CfP should be published in the language(s) most appropriate for the specific country, including the documentation, advert, and the application itself, as agreed with the FCDO in advance.

Based on experience of the programme so far, the following stages and tasks are likely to be required when running an open CfP:

- Creating competition documents based on the terms of reference.
- Advertising the competition and receiving responses on a suitable platform (currently the UK PACT website).
- Engagement for the call, including launch events and market engagement sessions for the call. Care should be taken to advertise the opportunity in a way that encourages a wide range of applicants (e.g. locally-owned organisations and SMEs).
- Logging and answering questions from potential applicants and providing clarifications in a fair and transparent way.

- Evaluation of responses, including evaluation by sectoral experts (see Section 4 below). Drawing up a short-list and recommendations.
- Running a panel to agree which projects/IPs to take forward from the short-list. Usually the panel will be the relevant Country Fund strategy board or the Funding Board, as set out in Annex 3, which includes representatives of the Supplier and the FCDO.
- Providing feedback to successful and unsuccessful applicants.
- Asking for feedback on the experience of all applicants to help improve processes in the future.
- Signing agreements with the IP(s) that were successful. For each project, the process will involve:
 - Agreeing final project information (workplans, budgets and expected results) based on feedback of panel (e.g. improving GESI).
 - Due diligence of preferred applicant(s) (see Section 5.7)
 - Confirming terms and conditions with IP and signing agreement(s).

In the current phase of UK PACT, a two-stage open CfP has shown to be effective, with the aim of filtering out IPs and/or project ideas that are outside scope or less likely to be impactful at the first stage. To date the first stage of the CfP process has consisted of either:

- a. An expression of interest stage – where the applicant outlines in broad detail what their project would involve and how it would be delivered, with a high-level budget. Further detail is then given in the second stage and applicants may also be given feedback from the first stage to incorporate into the second stage. This option is preferable where many applications or lots of applications for different projects are anticipated.
- b. A pre-qualification stage – where the applicant fills out a brief form outlining the capability and experience their organisation has to deliver projects in the area(s) required. Applicants are then shortlisted based on capacity. This option is preferable where a specific skill set is required and there is a desire to ensure only the best qualified applicants submit a full proposal.

Both stages may result in a deselection of some applicants and request to proceed to a second stage of evaluation for others. The evaluation methods of both of these stages are required to be made transparent at the point of the opening call for submissions and the Supplier will be expected to define this process to the satisfaction of the UK PACT team prior to the launch of the CfP.

The FCDO role relating to these Supplier tasks will be:

- Reviewing competition documents and providing comments if required
- Attending and taking part in launch events and market engagement events as required
- Taking part in the panel to agree which suppliers to take forward, and providing feedback where needed

3.6 Running a targeted CfP

When a full terms of reference for a targeted CfP is finalised, the Supplier will be required to carry out the targeted CfP process. The Supplier will develop an approach to running a CfP, including clear selection criteria for applicants, which must be approved by the FCDO. The CfP process should ensure value for money for UK PACT, reduce the administrative burden on applicants where possible, and be time efficient. The CfP should be published in the language(s) most appropriate for the specific country, including the documentation, advert, and the application itself, as agreed with

the FCDO in advance. In the current phase of UK PACT, a one-stage targeted CfP has worked well, but a pre-qualification stage could be used (see Section 3.5 above).

Based on experience of the programme so far, the following stages and tasks are likely to be required when running a targeted CfP:

- Creating competition documents based on the terms of reference.
- Advertise the competition and receive responses on a suitable platform (currently the UK PACT website).
- Engagement for the call, including launch events and market engagement sessions for the call. Care should be taken to advertise the opportunity in a way that encourages a wide range of applicants (e.g. locally owned organisations and SMEs and relevant language(s)).
- Answering questions from potential applicants and providing clarifications.
- Evaluation of responses, including evaluation by sectoral experts (see Section 4 below). Drawing up a short-list and recommendations.
- Running a panel to approve which projects/IPs to take forward from the short-list. Usually this will be the relevant Country Fund strategy board or the Funding Board, as set out in Annex 3, which includes representatives of the Supplier and the FCDO.
- Providing feedback to successful and unsuccessful applicants.
- Signing agreements with the IP(s) that were successful. For each project, the process will involve:
 - Agreeing final project information (workplans, budgets and expected results) based on feedback of panel (e.g. improving GESI).
 - Due diligence of preferred applicant(s) (see Section 5.7)
 - Confirming terms and conditions with IP and signing agreement(s).

The FCDO role relating to these Supplier tasks will be:

- Reviewing competition documents and providing comments if required
- Attending and taking part in launch events and market engagement events as required
- Taking part in the panel to agree which projects or suppliers to take forward, and providing feedback where needed

3.7 Project extension/direct award

If it is agreed by the relevant board that a project should be extended, or terms of reference is finalised for a project and it is agreed with the FCDO that a direct award is appropriate (see Section 5.9), then no competition is required. The Supplier will carry out the following tasks:

- For extensions, requesting a suitable project extension outline from the IP in question, showing what activities will be covered by the extension and a budget. For direct awards, requesting a suitable response to the terms of reference showing how the IP will carry out the work and a budget.
- Negotiating final budget and scope of projects based on feedback from the Supplier and FCDO.
 - Due diligence of the IP, if required (see Section 5.7)
 - Confirming terms and conditions with successful applicant, negotiating and signing agreement.

The FCDO role relating to these Supplier tasks will be:

- Agreeing that no competition is required (see Section 5.9)
- Providing feedback on the project outline, and agreeing the final budget.

3.8 Standard project delivery

Once a project or IP has been selected through one of the project selection pillars above, the project enters delivery phase. The Supplier will carry out the following tasks as part of managing the IP:

- Onboarding of IPs for new projects, including training on processes and monitoring (including agreeing expected results). It is useful for FCDO staff from the relevant BE/BHC to join kick-off meetings.
- Ensuring any requirements following due diligence are completed by the IP.
- Financial management of each project (monitoring forecasts and actuals, making payments, managing financial risk and flagging to FCDO overspend/underspend and deploying mitigating actions, ensuring IPs audits meet required financial management standards)
- Holding regular meetings with each IP (monthly) to manage their performance (see Section 5.18).
- Formally gathering results (quarterly) so that they can be integrated into fund-level and programme level results monitoring (see Section 3.3).
- Providing a mechanism for IPs to provide feedback in person or anonymously, which is reviewed and shared with FCDO
- Conduct random spot checks/audits of projects, and use technical experts to quality assure outputs, as appropriate.
- Working with IPs to write a clear description of the project, and case study as results are realised, to support results monitoring, record keeping and communications for the programme.
- Arranging modifications to projects during their delivery to respond to new opportunities and changing country context, escalating to the FCDO where necessary (working arrangements and thresholds for escalation to be determined once Contract begins).
- Project closure with IP – ensuring project completion reports are received, final results and spending verified, final audit reports are received, any assets are processed as agreed with HMG and final payments made.
- Gathering lessons learned and making a recommendation as to whether the project should be extended, or follow-up activities should take place (e.g. skill-shares) to maximise the likelihood of outcomes and impacts being realised. This recommendation will be discussed with the fund board and may become part of the fund's implementation plan, creating a circular process within the management of the portfolio.

The FCDO role relating to these Supplier tasks will be:

- Joining kick-off meetings, and periodically attending monthly meetings between the Supplier and IP once the project is up and running
- Taking part in decisions regarding changes to project budget, scope etc. (based on agreed thresholds). Usually this will be through the relevant fund board.

3.9 Delivery of a new funding mechanism

The Supplier is able to propose innovative, tailored funding mechanisms that fall outside UK PACT's existing funding mechanisms (see Section 1.4). If the use of a new funding mechanism proposed by the Supplier is approved, the Supplier will carry out appropriate tasks to deliver that activity, as agreed with the FCDO. Tasks will be based on the Supplier's approach to delivering these

mechanisms, as set out in their tender response. The Supplier is also invited to propose improvements or changes to funding mechanisms, processes, and templates at any point during the Contract and should actively consider whether adaptations are required for each situation/country context throughout. These improvements, including any savings that result, should be recorded in the benefits tracker (see Section 3.1).

The FCDO role related to these funding mechanisms will be agreed with the Supplier.

4. Resourcing – skills, expertise, and staffing

4.1 Introduction

This section sets out the resource requirements for the Supplier to deliver the programme, as described in this Terms of Reference. Due to the demand-led nature of UK PACT, as well as the potential growth of the programme, the FCDO expects the Supplier to have a well-resourced, high-quality team that works closely and collaboratively with the FCDO in the UK and BE/BHC teams and can quickly respond to changing priorities.

The Supplier should develop a resourcing approach focused on supporting UK PACT to advance its Theory of Change while ensuring value for money for UK Taxpayers. The FCDO aspires to be non-prescriptive about how the Supplier arranges staff in practice across the pillars of the Contract, to leave the Supplier the latitude and space to use their expertise to best deliver value and results for UK PACT. However, there are some specific requirements (e.g. key roles and technical skills) due to ODA requirements and lessons learned from delivery so far, and the following sections set these out.

As set out in Section 3.1 (mobilisation period), the Supplier is expected to have staff in place to manage on-going activities from existing delivery partners from Month 2, and to deliver the new activities from Month 5 of the Contract.

The Supplier must have the skills and experience within their organisation to meet the requirements set out in this Terms of Reference, or a credible plan for securing them during the Contract period. The Supplier may choose to form a consortium or sub-contract certain services, and should set out their approach to this in their bid. All sub-contractors and consortium partners must adhere to the Supplier's policies to ensure consistency across the delivery chain. The Supplier must keep an up-to-date delivery chain map (see Section 5.6).

Whatever the Supplier's approach to staffing the programme, it is crucial that the necessary level of accountability is built in to deliver an ODA programme with adequate assurance for the FCDO. Clear reporting lines within teams, and responsibilities for each role, will be required, supporting the governance and smooth delivery of the programme.

The next two sections consider two different types of staffing requirements:

- Programme resource – those needed for day-to-day running of the programme's PMU and funds, and the delivery of tasks as set out in section 3 above.
- Technical expertise that is needed to supplement this resource, for example consulting on the terms of reference of individual activities or reviewing potential projects during calls for proposals.

While these have been described separately to ease understanding, the Supplier may combine roles (i.e. have programme managers that are also technical experts) or integrate the two types of staffing within team structures.

4.2 Programme resource

PMU staffing and Key Staff

The PMU will be the central hub of the programme for the Supplier, and as such, will include Key Staff for this Contract with appropriate and relevant experience and knowledge. It will need staff with strong portfolio and project management skills to support the tasks set out in Section 3.1 (Core PMU), and the ability to flex when additional PMU tasks (section 3.2) are required.

For the purposes of this Contract, the following roles are defined as Key Staff:

- Programme Director – a senior member of staff responsible for delivery of the Contract. It is not expected that they spend all of their time working on UK PACT, but they have accountability for delivery.
- PMU Team Leader – the lead for the programme, who manages the PMU and the broader programme on a day-to-day basis.
- PMU Deputy Team Leader – someone who can deputise for the team leader when they are away and provide additional support.
- GESI, Monitoring and Learning Lead – a person who will lead on these cross-cutting issues to ensure that they are embedded throughout the programme and that best practice is used. If the monitoring and learning lead does not have a GESI background, a separate GESI lead is expected to be part of the team.
- Contract manager for the skill-share roster – a person in charge of managing the roster, and the contracts with each of the experts or organisations on it.

A named member of staff should be provided at the point of tender for each of these roles. Should any Key Staff leave the team before the Contract is signed, or during the Contract period, the FCDO must be notified and must approve their successor (based on their CV) to ensure a similar level of skill and value for money.

Fund-level resourcing and activity delivery

As set out in section 3.3 (Fund management and activity planning), the locus of much activity within this Contract is at the fund level. Each Country Fund will require staff with the knowledge and skills to develop the implementation plan, plan activities in line with it, and monitor the progress of funded activities. The Flexible Fund and the Peer-to-Peer Fund will be managed together and will require staff with the knowledge and skills to work with a wide variety of countries and create targeted, impactful activities.

Although there are no Key Staff at the fund level, once the Contract is in its delivery phase, a Fund Manager role must be defined by the Supplier for each Country Fund, and one to manage both the Flexible Fund and Peer-to-Peer Fund, to ensure clear accountability and reporting lines back to the PMU.

As part of the management of each Country Fund, the FCDO expects the Supplier to have (or have credible plans to establish) a staffing presence located in the country itself. This is because of the importance of local knowledge in managing an effective fund and being able to visit IPs and the BE/BHC team. The in-country team should have relevant language skills for their country, as well as strong written and spoken English for communication with the FCDO team.

For the Flexible Fund and Peer-to-Peer Fund, staff will need to cover a broad range of countries across different regions (as specified in section 1.4), and be able to flex as required to changes in portfolio size, depending on the development of the fund. The FCDO welcomes different approaches to providing the staffing required.

The Supplier has flexibility in how it arranges its staff at the fund level and around the delivery of activities to deliver the tasks as set out in Sections 3.3–9). Based on the running of the programme so far, it is beneficial to have continuity of staff working on each fund and the delivery of activities under it (for example, having the same people involved in developing a project’s terms of reference, choosing a suitable IP, and managing the project through delivery), rather than considering the staffing of each pillar separately. However, there are likely to be peaks and troughs in the Supplier’s work on each fund, meaning that having a static team that carries out all tasks at the fund-level is unlikely to be effective, and it may make sense to centralise some functions across all funds. The Supplier should have an approach to dealing with these challenges in a way that promotes effective delivery of each fund and efficiency of resourcing across the whole programme.

In-country/regional staffing

The in-country presence required for the Country Funds, and any in-country presence the Supplier proposes for the Flexible and Peer-to-Peer Fund, could be either from a local organisation in that country, working in consortium with the Supplier, or staff locally recruited within that country by the Supplier. In either case, the in-country presence will be expected to have extensive knowledge and understanding of the country context, political economy, and key stakeholders working on climate mitigation in that country.

There are two ways in which to select in-country partners or staff for each Country Fund country (or regional resource for the Flexible Fund and Peer-to-Peer Fund). In brief these are (i) propose an in-country partner as part of the tender, or (ii) propose a method for selecting an in-country partner during the implementation phase (note that adding sub-contractors is likely to require a Contract variation).

If option (ii) is chosen then interim staff for each fund must be appointed by the end of Month 1, and then permanent in-country staff or partners will be recruited by the end of the mobilisation phase (though may start afterwards depending on notice periods – see Section 3.1). Appropriate due diligence will need to be conducted on the in-country partners, which is likely to include fraud and corruption, governance, financial management, ability to deliver, preventing modern slavery, and safeguarding.

Skills and experience

Staff fulfilling these programme resource roles must have the skills and experience required to deliver the scope of tasks under the Contract, as set out in Section 3. These can be summarised as:

- International development:
 - Ability to manage HMG funds, including ODA
 - Experience of running international development programming, particularly similar programmes (e.g. capacity building/technical assistance, peer-to-peer/partnership working and/or climate change-related work).
 - Experience and ability to manage programming in an adaptive way, including pivoting planned tasks or locations to emerging opportunities.
- In-depth understanding of the local context and political economy of all Country Fund countries under the programme, and ability to access regional-level knowledge for the Flexible Fund and Peer-to-Peer Fund. The ability to expand to other countries and access local knowledge if the programme expands.
- Programme and project management:
 - Ability to set up and manage grants and contracts
 - Risk management – monitoring and mitigating risk at the project and portfolio level, especially fraud, modern slavery and safeguarding risks

- Ability to conduct due diligence effectively of IPs and experts
- Ability to design effective activities with clear outputs and outcomes (e.g. projects or skill-shares).
- Financial skills – having the experience and capacity within the PMU and at the fund level to deliver the finance and budget-focused tasks required.
- Strong knowledge and record management systems to ensure continuity of programme management in face of staff changes.
- Effective staff performance management and training processes to ensure staff have skills and support they need to manage the programme effectively.
- Skill-shares and secondments:
 - Ability to recruit, on-board and contract experts based in the UK and Country Fund countries, and potentially those based in a broader range of countries as well (e.g. those in the Flexible Fund).
 - Ability to deploy and manage staff overseas, including all logistical and travel arrangements, insurance, performance management, security, and duty of care.
- Stakeholder management – primarily with FCDO staff in the UK and in BE/BHCs, IPs and experts (BE/BHC staff will lead on relationships with government counterparts and other beneficiaries of projects, but some engagement with beneficiaries, including Government, will be expected).
- Portfolio management and learning: supporting coordination, synergies and learning across each fund, and between funds
- Communications and digital expertise, including the management of websites, including an ability to communicate technical issues in simple and engaging ways to a variety of audiences.
- The ability to monitor the results of a complex multi-country programme, including collecting and reporting results.
- Ability to mainstream gender equality and social inclusion considerations into international development programming, ideally in the areas of climate change mitigation prioritised by the UK PACT programme.

4.3 Technical expertise

The Supplier must provide staff resource with technical expertise in a number of areas. These individuals may be involved in:

- Designing or reviewing policies and processes for the whole programme.
- Contributing to the development of Country Fund strategies and implementation plans
- Designing or reviewing concept notes or terms of references for individual activities
- Reviewing proposals submitted to CfPs and making recommendations for which to take forward
- Supporting IPs or experts to improve their project design (e.g. mainstreaming GESI)
- Quality reviewing project outputs
- Supporting the monitoring of results, for example developing case studies on activities once completed
- Support the development of communications materials in their areas of expertise – i.e., helping to explain technical concepts in an easy way.
- Support thematic work at a portfolio level – i.e., analysis of synergies and complementarities across the portfolio and delivery of thematic workshops across the portfolio to share experiences and expertise in key technical areas.

The main areas of technical expertise required are:

- **Sectoral expertise:** The Supplier must provide expertise in the core sectors of the programme related to climate mitigation (climate policy, energy transition, sustainable mobility, nature-based solutions including forests, green finance, and just transition issues). This expertise may be provided directly by the supplier, by a member of the consortium or be sub-contracted. It must be relevant to the local context of each Country Fund, and the regional context of the Flexible Fund, and ideally based locally. There may also be specific sub-sectors (as listed in Section 1.3) that are areas of focus of individual Country Funds, where specific knowledge may be required. In addition, the Supplier must be able to access expertise on adaptation, specifically how to mainstream good practice into mitigation programming.
- **GESI:** As part of its core team, the Supplier should maintain GESI expertise that can be flexibly deployed to support implementation of UK PACT's GESI ambition statement and ensure that GESI is integrated throughout the programme in a contextually appropriate manner. The Supplier must provide specialist GESI support to projects and skill-shares, input into country-specific GESI analysis, support GESI-focused reviews of applications and provide portfolio-level analysis and learning. This should be complemented by in-country GESI expertise for each Country Fund that are able to advise on the local context. It is important that, as well as gender mainstreaming, wider social inclusion impacts (including around race, disability and other protected characteristics and marginalised groups) are equally prioritised. Experts with lived experience of these identities should be prioritised because of the unique knowledge they provide.
- **Results monitoring and learning:** The Supplier must have the skills and experience to monitor the results of the programme effectively, and support learning. This should include the ability to design and deliver primary and secondary qualitative and quantitative data collection and analysis, the knowledge of how to assess the impact of technical assistance, and the ability to integrate GESI considerations into monitoring and results collection.

Because of the flexible nature of UK PACT, the Supplier should suggest an approach to providing technical expertise that is able to scale up and down (e.g. if additional Country Funds are developed, or additional sub-sectors are prioritised). This could include using the skill-share roster of experts to provide some services to the programme (e.g. reviewing CfP bids), as well as supporting skill-share activities directly.

4.4 Supporting diversity in resourcing

The Supplier is expected to promote diversity amongst its workforce in terms of age, ethnicity, nationality, gender/gender identity, sexuality, disability and experience and the Supplier will include support for this when advertising roles. The Supplier is also expected to demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce and supply chain, addressing systemic barriers to progression for minority and marginalised groups. This will be tracked through a Social Value KPI (see Section 2.5) and the benefits tracker (see Section 3.1).

In addition, the FCDO values local knowledge and experience amongst the Supplier team, and will expect to see the Supplier deploying resourcing approaches that will result in locally owned organisations and SMEs becoming part of a consortium, and/or local people being employed with knowledge and expertise grown and retained locally. This will be recorded in the benefits tracker.

4.5 Flexibility

As set out in these Terms of Reference, UK PACT aims to be a flexible programme, so Supplier resourcing will need to be flexible (for example, Country Fund teams being able to respond to changing

demand on an ad hoc basis). The PMU will need to work closely with the FCDO UK team to monitor resource requirements, including through the task order process, to make sure staffing is adequate throughout the life of the Contract. This includes managing staff turnover and recruiting replacements in good time when people leave.

Also, UK PACT may grow during the Contract period and any extension, as set out in Section 2.2. The Supplier must therefore have a suitable approach to flexing their staff resource, potentially growing teams, to allow for this. If additional funding is provided for the programme, staff requirements will be negotiated as part of the task order process (as set out in Section 2.4).

Bidders should provide their approach to staffing in their tender response, including day rates of staff. However, the FCDO acknowledges that changes to staffing arrangements may be necessary during the Contract period based on lessons learned during delivery. The Supplier will be able to make changes to team structures (in line with contract T&Cs), as long as services are provided and value for money is maintained for the FCDO, in line with the Supplier's tender proposal.

5. Delivery requirements

5.1 Value for money

This project is funded by the UK's Official Development Assistance budget and will operate in middle-income countries; there is therefore an extremely strong focus on value for money (VfM), which the FCDO expects the Supplier to integrate throughout the programme.

UK PACT defines value for money in the following terms:

- i. Economy: Being a good steward of programme resources, buying the right inputs, of the appropriate quality, at the right time, right price, and leveraging networks.
- ii. Efficiency: UK PACT produces the intended mix, quality, and quantity of deliverables, aligned with needs of partner countries, working adaptively and within the available resources.
- iii. Effectiveness: UK PACT contributes to enhanced and sustained action on emission reductions, through implementation and use of: i) enhanced skills; ii) recommendations proposed; iii) knowledge and communication products; and iv) network links established.
- iv. Cost-effectiveness: UK PACT creates more value than it consumes and/or meets expectations commensurate with the resources invested in the programme, through systemic, sustainable capacity building of governance and policy frameworks for emissions reduction in target countries.
- v. Equity: UK PACT contributes to reducing constraints, improving opportunities and influence in climate change matters for women, other marginalised groups, and future generations.

The delivery partner will be expected to not only apply VfM considerations to their work and contract but to also emphasise the importance of VfM down the delivery chain, effectively assessing and scrutinising consortium members'/sub-contractors', applicants', grantees', and skill-share roster members' costs, budgets and approaches to VfM prior to and throughout delivery, and incorporating appropriate VfM metrics to measure VfM where feasible.

Note that the Evaluation and Learning partner (ELP) may be asked to carry out programme-level VfM evaluations and the successful bidder would be required to contribute information, analysis, and views towards any such assessment.

5.2 Financial arrangements

The Supplier will be required to provide the FCDO with monthly (for Supplier Costs) and quarterly (for Activity Costs) expenditure figures and forecasts at the fund and programme level, as set out in Section 3. Forecasts should be realistic and free of optimism bias, with Supplier informing FCDO of potential slippage or overspend as soon as they are identified. Forecasts must be made on a resource and cash basis.

The Supplier will invoice separately for Activity Costs and Supplier Costs, as defined in Section 2.1. If non-ODA activities are carried out (see Section 1.2), both Activity Costs and Supplier Costs will need to be reported separately by the Supplier in the programme's accounts and invoiced separately, if required. The Supplier must set up a separate bank account to receive funds for Activity Costs to ensure transparency. This bank account must be available for open book accounting, to provide the FCDO with transparency on costs.

All Supplier Costs will be invoiced in GBP and reimbursed by the FCDO monthly in arrears based on actual costs incurred. This may be subject to retention based on payment by results (see Section 2.5). Monthly forecast updates will be required as evidence to make the monthly payments.

It is expected that the Supplier will pay Activity Costs to IPs and experts in GBP. These payments must be made in arrears by default, based on the achievement of milestones. Any advance payments to IPs must be approved by the FCDO prior to the payment. The Supplier must have appropriate due diligence processes in place regarding the checking of invoices from IPs before payment as part of their aid diversion prevention strategy (see Section 3.1) and is required to properly manage all funds to be paid to IPs and experts at all times. The Supplier will be accountable for appropriate use of all funds paid to IPs and experts, and for the ultimate delivery of project outcomes.

The Supplier will use reasonable endeavours to promptly recover any funds which are used for any purposes outside those specified in the IP grant or contract agreement, or in the event of Aid Diversion taking place. Aid Diversion is any event, including fraud, corruption, bribery, theft, terrorist financing, money laundering and other misuse of funds that prevents funds being directed to the aid outcomes or recipients intended. Any funds used in the ways set out in this paragraph will be referred to as “**Misapplied Funds**”.

Where the Supplier cannot practically recover the Misapplied Funds despite using its reasonable endeavours to do so, the Supplier will fully document this, and will notify FCDO as soon as is reasonably practicable. This notification will include an explanation of the amount and nature of Misapplied Funds, the reasons why the Supplier cannot recover the Misapplied Funds, the efforts the Supplier has made to recover the Misapplied Funds, and an explanation of how the Supplier will prevent a reoccurrence of the misapplication of funds.

Misapplied Funds which are recovered by the Supplier must be used for future Activity Costs and will be offset on the next quarterly in arrears invoices for Activity Costs. Any recovered Misapplied Funds which have not been disbursed at the end of the contract term will be offset from final payment of invoice or credited by the Supplier to FCDO where these exceed the amount of the final invoice payment.

Without prejudice to any other rights and remedies FCDO has under the Contract, FCDO may in its sole discretion, **acting reasonably**, determine that any Misapplied Funds which are not recovered could be considered a Default by the Supplier under the terms of this Contract and be offset from

any final payment invoice or credited by the Supplier to FCDO where these exceed the amount of the final invoice payment.

The Supplier will invoice the FCDO for total Activity Costs on a quarterly basis. The Supplier and the FCDO will agree an approach to invoicing based on accurate estimates of actual Activity Costs in the quarter to ensure that the Supplier has funding available to pay IPs and experts in a timely manner.

Open book contract management will be required to ensure full transparency of Supplier finances, including any profit margins and Non-Project Attributable Costs associated with the programme (Supplier and Activity Costs). The Supplier will be required to provide annual audited accounts that separately identify FCDO funds, associated disbursements and any unspent funds.

5.3 VAT and other taxes

The Contract value is inclusive of all applicable taxes. The FCDO considers this Contract, including all grant funding and the Supplier's costs for delivering the programme, to be Outside Scope of UK Value Added Tax (VAT) due to the place of supply rules – as such, any UK VAT suffered by the Supplier in the course of delivering the programme can be recovered as input tax, subject to the normal rules of recovery. However, it is the Supplier's responsibility to establish its taxation position in the UK and any countries UK PACT operates in and ensure it meets its obligations. Local taxes may be applicable in other countries.

5.4 Following local laws and regulations

The Supplier should always give due regard to any domestic legislation or guidelines in partner countries that could affect the implementation of this programme, e.g. the recently amended Foreign Contribution Regulation Act (FCRA) 2020 in India. The Supplier will have knowledge of the working conditions when working within our priority countries and understand any restrictions or legislation relevant to operating there. The Supplier will also have access to legal advice to help them successfully navigate local restrictions or legislation as required from time to time.

In-country staff, the Supplier or Subcontractors must have the required licences or registrations to operate in the UK PACT Country Fund countries.

5.5 Risk

Recognising UK PACT is testing new approaches and seeking to deliver transformational change, it is necessary to take managed risks. The Supplier will, in partnership with FCDO, manage the programme within FCDO Risk Appetite and Risk Management Policies in the FCDO Programme Operating Framework (ProF)¹⁵ and the HMT Orange Book¹⁶. The FCDO are committed to reducing risks of fraud and sexual exploitation, abuse and harassment, showing zero tolerance for inaction or mishandling of reported cases.

The FCDO programme team will agree a risk appetite for the programme with the Supplier during the Mobilisation Period, which will be embedded into the delivery of the programme and its risk management processes. This will be reviewed annually during the delivery of the Contract. The Supplier must develop and agree a comprehensive risk register with FCDO during the Mobilisation Period. The risk register must be maintained regularly and cover all current and pipeline activity.

¹⁵ Available at: [FCDO Programme Operating Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674441/FCDO-Programme-Operating-Framework-2021.pdf)

¹⁶ HMT Orange Book available at: [Orange Book - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/674441/Orange-Book-2021.pdf)

5.6 Delivery chain mapping

Delivery chain mapping¹⁷ is a process that identifies and captures, usually in visual form, the names of all partners involved in delivering a specific good or, service, ideally down to the end beneficiary.

FCDO's competitive tendering processes are designed to test supplier's capability and capacity to ensure risks are managed and mitigated, and to provide assurances on the successful delivery of the programme. This will include a requirement to provide visibility of the flow of FCDO monies via a delivery chain map.

In advance of any release of funds, the Supplier will be required to produce a delivery chain map, and a delivery chain risk map which will, identify all partners (funding and non-funding e.g. legal/contributions in kind) involved in the delivery of a programme. The delivery chain map, and delivery chain risk map should be reviewed and updated regularly, in line with agreed programme monitoring processes and procedures. As a minimum, it should include details of: the name of all downstream delivery partners and their functions; funding flows (e.g. amount, type) to each delivery partner; high level risks involved in programme delivery (including around modern slavery and safeguarding), mitigating measures and management controls.

5.7 Due diligence

The Delivery partner is required to perform appropriate due diligence on all downstream suppliers, and successful IPs receiving UK PACT funding. All due diligence assessments should be stored securely. Due diligence assessments are not a one-off process and should be revisited and linked to other risk assessment and management tools. The Supplier will maintain a register of IPs, sub-contractors and consultants showing the due diligence that has been performed, any risks identified and the mitigations that have been taken. Any significant risks, including those that may pose a potential reputational risk for UK PACT, or may result in the misapplication of funds (as outlined in Section 5.2), must be escalated to the FCDO.

Due diligence will include verification of the strength of the IP's internal financial and fiduciary risk mitigation systems and procedures, track record of operational effectiveness, anti-modern slavery and safeguarding measures, ownership structures, links to Politically Exposed People, links to terrorist or criminal organisations or illicit financing. Due diligence should be conducted in line with the FCDO due diligence guide¹⁸. After the due diligence assessment has been conducted, a meeting between the FCDO and the Supplier should take place to discuss and record any risks that sit outside programme's agreed risk appetite and mitigating actions to bring it in line with this (see Risk section above). For the avoidance of doubt, and as stated in Section 5.2 above, the Supplier will be accountable for appropriate use of all funds paid to IPs and experts, and delivery of project outcomes.

The skill-share and secondment experts must go through appropriate background checks, as part of the on-boarding process (see Section 3.2 for more details).

5.8 Agreement types and ownership

The Supplier will agree an approach to awarding and managing projects to IPs as part of the mobilisation phase, which the FCDO must approve (as set out in Section 3.1). This will include:

¹⁷ Guidance on delivery chain mapping available at: www.gov.uk/government/publications/fcdo-programme-operating-framework

¹⁸ [Due-Diligence-Guide-External-partners3.odt \(live.com\)](#)

- Which agreement types to use under different circumstances
- How to ensure the agreement does not represent a subsidy under the UK's international subsidy control commitments¹⁹
- The templates for the agreement types
- Standard criteria for awarding projects to IPs through project selection pillars (open CfPs, targeted CfPs and project extensions/direct awards)
- Guidance on which costs are eligible for funding through UK PACT
- Governance around decision making, including what constitutes a quorum, the role of the FCDO in awarding projects (including veto rights as set out in Annex 3) and timescales for decision making.

All new projects created under this Contract will be governed by an arrangement between the Supplier and the IP directly. For projects beginning under this Contract, the Supplier would be expected to sign legally (under English law) binding agreements directly with project implementing partners (IPs) following due diligence but prior to any project work commencing. These could be grants or contracts based on the Supplier's internal regulations and the approach agreed with the FCDO. The Supplier may propose other forms of legal agreements where appropriate for the FCDO UK PACT team to consider. The Supplier will be expected to develop agreement templates that cascade the terms and conditions in their contract with FCDO down the delivery chain and then to sign agreements directly with the IPs.

For grants, the Supplier will develop their own template aligned to the principles set out in the FCDO's standard accountable grant template²⁰ (including associated guidance on eligible costs²¹), and the Government Functional Standards for grants.²²

Under the previous phase of UK PACT, most projects have been governed by grant agreements between the FCDO and the IP with a Delivery Partner acting as managing agent. In a few cases, projects have been governed by a contract directly between the IP and the FCDO. The Supplier will take on management and oversight of up to 81 on-going projects that began in this way. Annex 5 provides a summary of these, and full details will be provided during mobilisation. The FCDO will work with the Supplier to novate or otherwise move these agreements over to the Supplier, subject to the Supplier and the IPs' agreement. The FCDO expects that the Supplier will take on all these existing agreements and only under exceptional circumstances would it be acceptable for the Supplier to refuse – in such circumstances the FCDO will maintain ownership of the grant agreement with the Supplier acting as managing agent. See *Handover of on-going activities* in Section 3.1 for more information.

The Supplier will also manage the skill-share roster and be expected to do this in a way that offers best value for money for the FCDO (for example, signing contracts directly with experts and/or the organisation the expert is an employee of). There may be a small number of skill-share activities

¹⁹ See [Guidance on the UK's international subsidy control commitments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/guidance-on-the-uk-s-international-subsidy-control-commitments)

²⁰ The accountable grant agreement template is available from:
https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiM3r75_pT9AhUpQkEAHSP7BjUQFnoECAsQAQ&url=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F5fa1329a8fa8f57f3e0e9307%2Ftemplate-accountable-grant.odt&usg=AOvVaw1kd4fLwEc59nDA54Te8ceL

²¹ Available from: [Accountable Grant Arrangement: budget template and guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/accountable-grant-arrangement-budget-template-and-guidance)

²² Available from: [Government Functional Standard - GovS 0015: Grants \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/60015/government-functional-standard-govs-0015-grants.pdf)

ongoing when the Contract begins, that the Supplier is expected to take these over from Month 2 (see Section 3.1).

For private sector secondments, the Supplier will employ or contract the secondee for the duration of the secondment, and an MOU or other agreement is usually signed between the Supplier and the host beneficiary organisation. The Supplier will not be responsible for contracts or any employment arrangements for non-roster skill-shares and public sector secondments.

All agreement templates used by the Supplier must cascade the terms of the Supplier's contract with FCDO down the delivery chain, particularly in key areas of risk like aid diversion and safeguarding. Additionally, all agreement templates must contain appropriate provisions to allow the Supplier to promptly recover Misapplied Funds (see Section 5.2).

5.9 Competition and fairness

As part of maintaining and promoting VfM, the Supplier is expected to select and run activities in a fair and transparent way to ensure that the best-placed IPs, contractors or experts receive UK PACT funding. This should include using competition by default:

- For projects, this means advertising opportunities through CfPs with clear selection criteria (see Sections 3.5 and 3.6). These should be advertised on the UK PACT website managed by the Supplier, Contracts Finder (when thresholds are met, as per Clause 8 of the standard T&Cs) and, if requested by the FCDO, the FCDO Funding Finder²³ page (the FCDO team can facilitate this).
- For skill-shares, this means advertising opportunities through the roster and fairly evaluating the experts who respond (see Section 3.4).
- For recruitments to the skill-shares roster and secondment opportunities, this means advertising the opportunity in a way that is likely reach a wide range of suitable candidates, and assessing them fairly (see Section 3.4).

In these processes, all experts, companies and potential IPs should be treated equally and fairly. Application processes must be proportionate, placing reasonable requirements on applicants.

The FCDO must approve any cases where competition is not used (for example, a direct award of a project), and these must be clearly documented and saved as part of the programme management process. The Supplier will agree criteria for this with the FCDO. Criteria envisaged include:

- That the proposed activity is urgent and could not have been foreseen.
- That the proposed activity is in line with UK PACT objectives and the relevant fund strategy.
- That the proposed activity has support from beneficiaries.
- That no other organisation would be able to carry out the activity as well as the proposed IP/Expert (based on evidence from market research).
- The proposal demonstrates value for money (for example by comparing costs with other organisations or projects operating in similar fields).
- That the proposed IP/Expert has the capacity to deliver the work and has passed all the usual due diligence checks.
- That running a competitive process would not represent value for the taxpayer.

²³ Funding Finder is available at www.gov.uk/international-development-funding

5.10 Conflicts of interest

A conflict of interest is defined the presence of an interest or involvement of the Supplier subcontractor (or consortium member) which could affect the actual or perceived impartiality of the delivery of this Contract, or to indicate a professional or personal interest in the outcomes from the delivery of this Contract.

The Supplier will maintain a conflict of interest register for all staff employed on the programme and ensure comprehensive systems are in place to avoid conflicts of interest between staff and organisations supported by UK PACT.

Where there may be a potential conflict of interest, it is suggested that the consortium or organisation designs working arrangements such that activities and tasks cannot be influenced (or perceived to be influenced) by the organisation which is the owner of a potential conflict of interest. For example, consideration should be given to the different roles which organisations play in the delivery of the Contract, and how these can be structured to ensure an impartial approach to the programme is maintained.

5.11 Safeguarding

FCDO maintains a zero-tolerance approach to sexual exploitation and abuse by the Supplier, which includes their downstream partners. In this programme, this means suppliers, members of the consortium and any partner organisations. The FCDO expects its partners to follow our lead and robustly consider social safeguards through their own processes. The capacity of our partners to do this and their effective performance will be a key risk assessment factor in programme design, delivery and monitoring and evaluation.

5.11 Duty of care

The Supplier will be expected to meet the appropriate UK and overseas duty of care in relation to its employees and other personnel it retains (including skill-share and secondment experts), and logistical arrangements. If deemed necessary, FCDO may need to be convinced that systems and procedures that the Supplier has in place are adequate, if there is travelling to high security risk or conflicted affected countries.

All Supplier personnel (including its employees, sub-contractors or agents, and skill-share/secondment experts) engaged under this Contract will come under the duty of care of the lead Supplier, as set out in Clause 10 of the Terms & Conditions. The Supplier is responsible for the safety and well-being of its personnel and any third parties affected by its work, including appropriate security arrangements. The Supplier will also be responsible for the provision of suitable security arrangements for its domestic and business property. FCDO will share available information with the Supplier on security status and developments in-country where appropriate. Travel advice is also available on the Foreign & Commonwealth Office website (www.gov.uk/foreign-travel-advice) and the Supplier must ensure it (and its personnel) are up to date with the latest position. The BE/BHC security team must be made aware of any skill-share/secondment deployments.

The Supplier may be required to operate in insecure or conflict-affected areas, and the security situation may be volatile and subject to change at short notice. The Supplier should be comfortable working in such environments and should be capable of deploying to any areas required within any country in scope in order to deliver the contract. It is not expected that the Supplier would put staff at risk or send them to the most insecure areas, but the Supplier must have the ability to monitor programmes in a wide range of districts/sub-districts across all countries in scope.

The Supplier is responsible for ensuring that appropriate arrangements, processes and procedures are in place for its personnel, taking into account the environment they will be working in and the level of risk involved in delivery of the contract. The Supplier must ensure its personnel receive the required level of training prior to deployment (where applicable).

The Supplier must comply with the general responsibilities and duties under relevant health and safety law including appropriate risk assessments, adequate information, instruction, training and supervision, and appropriate emergency procedures.

5.13 GDPR

Please refer to the details of the GDPR relationship status and personal data (where applicable) for this project as detailed in Appendix A below and the standard clause 33 in section 2 (FCDO Standard Terms and Conditions) of the contract.

5.14 Intellectual property rights (IPR) and publication

IPR arrangements between the FCDO and the Supplier will be governed by Section 25 of the standard T&Cs of the Contract. This includes intellectual property created by IPs or Experts in the course of delivering activities funded by UK PACT (e.g. policy recommendation reports and digital tools), unless otherwise agreed by the FCDO.

The FCDO is committed to openness and transparency. Activity outputs must be made open source, accessible and suitable for publication and further use unless otherwise agreed with the FCDO. The Supplier must include suitable T&Cs in their arrangements with IPs and Experts to support this approach.

5.15 Emissions tracking and reducing the environmental impact of delivery

The Supplier (including consortium members if a consortium) must be publicly committed to achieving Net Zero by 2050. For large companies, the FCDO recommends having a commitment to Science Based Targets²⁴ and/or joining Race to Zero²⁵, and for SMEs joining Race to Zero via the SME Climate Hub²⁶.

As a climate-focused programme, it is important that the Supplier considers the direct emissions produced by its work to deliver UK PACT, and takes steps to reduce them. The Supplier will produce a plan for reducing these emissions and report against it, with proportionate monitoring, as part of programme management.

As well as greenhouse gas emissions, the FCDO is committed to avoiding other negative environmental impacts of UK PACT and maximising co-benefits. This includes pollution, waste management, water, biodiversity and land degradation. The Supplier is required to include this as part of activity planning and risk assessment process.

5.16 Transparency and record keeping

FCDO requires all Suppliers receiving and managing funds, to release open data on how this money is spent, in a common, standard, re-usable format and to require this level of information from immediate sub-contractors, sub-agencies and partners.

²⁴ See <https://sciencebasedtargets.org>

²⁵ See <https://unfccc.int/climate-action/race-to-zero-campaign>

²⁶ See <https://businessclimatehub.org/uk> (the UK hub website is <https://businessclimatehub.org/uk>)

It is a contractual requirement for the Supplier to comply with this, and to ensure they have the appropriate tools to enable routine financial reporting, publishing of accurate data and providing evidence of this FCDO – further information is available from: www.aidtransparency.net.

The Supplier will need to keep records of all work and expenditure, as per clause 15.1 of the standard T&Cs, in a form which can be transferred to FCDO and available upon request, for example for FCDO internal audit, National Audit Office (NAO), the Independent Commission for Aid Impact (ICAI), and so on.

5.17 Consortium/Subcontractor management

While not a requirement, it is possible for the Supplier to be a consortium rather than a single organisation. In this case, there will be a named lead organisation (known as the “Primary Supplier”), that will manage the consortium members (known as “Subcontractors”). The Lead organisation is referred to interchangeably as the “Supplier” in this Terms of Reference.

The Primary Supplier will be responsible for ensuring the effective management and implementation of UK PACT, delegating responsibilities to consortium members/subcontractors as necessary to achieve the programme’s objectives. The Primary Supplier will be solely accountable to FCDO for the delivery of the Terms of Reference. It is essential that all suppliers work together in an inclusive, transparent, and coordinated manner. The Primary Supplier and all consortium members/subcontractors are required to work as one team and not in silos. The Lead organisation will be responsible for developing and maintaining a cohesive team spirit, based on transparency, equal partnership, and a shared vision and objectives. These requirements also apply to the Primary Supplier’s and consortium members/Subcontractors’ working relationships with the FCDO in the UK and BE/BHCs, BEIS, IPs, experts and beneficiaries.

5.18 Managing Implementing Partners’ and Experts’ performance

It is the Supplier’s responsibility to manage performance of IPs and Experts to ensure activities are delivered in a way that maximises value for money for the FCDO.

Projects

For projects, the Supplier must hold a kick-off meeting before the project starts to review the delivery plan for the project, and agree:

- Reporting requirements for the project, interfacing with the programme’s record-keeping system (see Section 3.1). This including clear milestones and results monitoring targets (i.e. which indicators in the logframe the project will report against and what results are expected).
- A risk matrix for the project and appropriate mitigation steps
- Annual audit requirements for the project.

During project delivery, the Supplier is required to have at least quarterly meetings with each IP to monitor progress and identify and manage risks. These meeting must include whether milestones and activities are being delivered as planned, and the IP should produce reporting to support this discussion. The Supplier should also visit project locations where appropriate, and should also be available and responsive to IPs in between the regular meetings.

The Supplier must report progress and all identified risks, as well as feedback from IPs, into the fund management process so they can be reviewed by FCDO.

If reporting shows that the project is off track to meet its milestones, the Supplier must agree a plan with the IP within a month to improve performance and meet milestones. If this plan is not followed, the relevant Country Fund Board or Funding Board will agree whether the project should end. The Supplier will then work with the IP to close the project.

Skill-shares and Secondments

For roster skill-shares and private sector secondments, the Supplier is required to agree clear objectives with the Expert(s) before the activity starts, based on the agreed terms of reference and expected outputs and outcomes under the results monitoring framework. For in-person activities in Country Fund countries, the FCDO would expect an in-country welcome from Supplier staff at the beginning of the activity.

During the activity, the Supplier is required to have regular meetings with the Expert to make sure progress is being made against the objectives, check-in with their wellbeing as part of their duty of care, and deal with any issues if they arise. If there are performance issues, the Supplier must raise these with the Expert and agree an improvement plan. A meeting should be held at the end of the activity to review progress and get feedback from the Expert(s) on their experience to guide future improvements to the programme and its processes.

In extremis (such as violation of contract, change of personal circumstances for expert etc.), skill-shares and secondments may be terminated early, or the experts may need to change – in this case, the Supplier and the FCDO must work together to manage this while maintaining a strong relationship with the beneficiary organisation.

For non-roster skill-shares and public sector secondments, the FCDO has responsibility for the performance management of Experts.

5.19 Direct delivery

Under certain circumstances, the Supplier may be able to directly deliver UK PACT projects or skill-shares.

There are two categories of direct delivery that are possible. The first is where the Supplier may bid into competitive funding rounds, but an ethical wall, subject to the satisfaction of the HMG UK PACT team, must be put in place between the team managing UK PACT under this Contract, and the team bidding for skill-shares or grant funding for technical implementation work. Where individuals delivering this Contract are proposed in submissions, their role in delivery of this contract must take priority. At the point of evaluating submissions from the Supplier, HMG UK PACT team will solely evaluate submissions without evaluation members from the Supplier. Justification and evidence to the satisfaction of the HMG UK PACT team will be required that the Supplier is not gaining a competitive advantage when submitting a response, where if any doubt were to remain the HMG UK PACT team will take a cautionary attitude to decision making.

Any resulting project would require a standalone internal agreement which the Supplier would require to develop which makes it clear that this project's costs are separate to this Contract delivery and that conditions other IPs would be required to follow are also applied. As such, this would also require the same level of management tasks by the Supplier UK PACT team, as projects with separate IPs.

Similarly, the Supplier may put forward staff members for the skill-share roster of experts, but all applicants must be recruited to the roster and selected from the roster for assignments using the

same fair, open and auditable selection process that is used for any other applicant, and any direct delivery under skill-shares will have to be agreed with FCDO in advance.

The second category of direct delivery that may be allowed relates to situations where the FCDO considers the Supplier or a consortium member organisation (if applicable) is best placed to deliver an identified activity, in which case a direct award may be made. Any direct delivery under this category must be agreed with FCDO in advance. Any proposals for direct delivery will have to be assessed and cleared by FCDO prior to implementation.

In order to initiate an activity under the second category of direct delivery, the Supplier or consortium member would need to demonstrate to HMG UK PACT team that the requirements for a direct award (as set out in Section 5.9) have been met, and that the proposed direct delivery will not impinge on effective management of the programme by the Supplier.

Direct delivery costs are considered as Activity Costs within the contract. Direct delivery costs under both categories may not exceed a cumulative value of 10% of Activity Costs across this Contract and may be 0%. The Supplier shall report on an annual basis the value of any direct delivery and if this has exceeded 10% of the Activity Costs across the Contract, the Supplier shall propose a plan to be agreed by FCDO as to how this will be reduced to 10% or below, which may mean that no further direct delivery is permissible under the contract. The FCDO reserves the right to review these arrangements on a regular basis during the lifetime of the contract, and to strengthen the safeguards set out above if it deems appropriate.

Annex 1: Key challenges

This annex sets out key challenges the FCDO has experienced across UK PACT during its initial phases, which the FCDO expects the Supplier to mitigate during the delivery of this Contract. They are provided to help potential bidders understand the programme and complete their responses, but also to guide delivery of the programme by the successful Supplier.

The major challenge for UK PACT as a whole are:

- Matching demand and supply appropriately so that the most pressing priority issues are tackled effectively.
- Balancing being flexible, demand driven and open to new opportunities with being focused on agreed strategic priorities over multiple years to support transformational change and working in areas of clear UK strength and leadership.
- Ensuring that activities under each fund, and UK PACT as a whole, follows a coherent strategy and adds up to more than the sum of its parts, including ensuring complementarity between different activities.
- Tracking project and portfolio outcomes and communicating them effectively, particularly when the most significant outcomes that the project has influence arise after the project has closed.
- Ensuring complementarity between the full portfolio of UK PACT activities and other relevant HMG programmes, as well as avoiding overlaps and ensuring complementarity with other donor programming Ensuring project outputs inform wider group of actors in the finance and policy space.
- Building in flexibility to alter the design and implementation of UK PACT activities over time, in response to lessons learnt.
- Proactively sharing learning and incorporating feedback into the delivery of the programme to ensure effective programme communications and that the programme continues to adapt and maximise effectiveness over time. Proactively sharing learning across HMG and externally to ensure UK PACT contributes to global thought leadership and can maximise the impact of the programme at the global level.
- Mainstreaming and monitoring impact on GESI into UK PACT in line with the programme's GESI ambition statement. This involves mainstreaming GESI across diverse sectors and diverse country contexts, including on thematic areas where the relevance of GESI may not immediately obvious (such as green finance or energy efficiency), with implementing partners who may lack GESI expertise, and reaching, involving and empowering groups often considered harder to reach (e.g. indigenous peoples and people with disabilities). The approach to mainstreaming and effectively monitoring GESI impacts needs to be appropriately tailored to the diverse operating contexts of the programme and take into account implementing partners' capacity.
- Managing each fund's budget so that all funding is used, particularly balancing this with need to remain flexible. Experience has shown that activities can easily become delayed, so it is important to avoid optimism bias and build realistic timelines. In the previous phase of the programme, the FCDO has "overprogrammed" each fund by around 20% to account for these delays, and had review points throughout the year where any unallocated spend is programmed, which has helped manage this.

The key challenges for Country Funds include the following:

- Remaining demand-led, whilst also effectively scaling UK PACT in each priority country in a way that delivers effective, coherent, outcome-led programming.
- Ensuring all activity is delivered flexibly, using the right blend of activities to deliver the desired outcomes.
- Ensuring that activities in any given country contribute meaningfully to achieving the Country Strategy
- Effectively deciding on the most appropriate funding mechanism, including skill-shares, to respond to each type of demand to drive programme impact and value for money.
- Different countries will present different operational, logistical, political, socio-economic, and other challenges and will require different approaches. The Supplier must be agile in responding to these challenges, working closely with BE/BHC and key stakeholders to understand the specific country context and agree on the most effective, impactful, and inclusive approach. Our country teams have also highlighted the following country specific contextual considerations the Supplier will need to be able to manage:
- Communicating effectively impact at a project and country level and the link to wider outcomes
- Creating the networks across the country portfolio to strengthen local knowledge, support project innovation and increase impacts.

The key challenges in delivering the Flexible Fund include the following:

- BE/BHC capacity to support engagement, scoping and applications for Flexible Fund funding interventions can vary depending on the country and staffing structures. The need for Supplier support to BE/BHC teams to develop project or skill-share concept notes or ToRs, conduct market engagement etc. may be greater in some countries than others.
- Ensuring that the Flexible Fund is efficiently and fully utilised. For example, weighing up decisions between extending or expanding successful projects and supporting new projects or skill shares, across a global portfolio, and balancing the need to build a predictable pipeline of interventions with the requirements of responding flexibly to demands when they arise.
- Establishing links across interventions, regions, and sectoral themes to ensure collaboration and info-sharing, to improve project delivery and share lessons learnt across the portfolio. This includes linking up with Country Fund teams, learning from regional challenges across the portfolio through the rest of UK PACT as well as other cross-governmental work in-country.
- Ensuring that projects and skill-shares in Flexible Fund countries are demand-driven, appropriate for the specific country context and technically sufficient, with the absence of on-the ground staffing. This also includes projects having sufficient assurance and due diligence.

The key challenges for the skill-shares and secondment funding mechanisms include the following:

- Ensuring that skill-share activities align with and are fully integrated into all programme strategy, planning and delivery, particularly in Country Fund and Flexible Fund countries, to make the programme as a whole more than the sum of its parts. BE/BHC involvement is key in identifying and prioritising opportunities and aligning them to strategic priorities in country. More Supplier support may be required in FF countries where there is less dedicated resource and capacity.

- Ensuring skill-shares and secondments form an integral part of initial and ongoing UK PACT scoping, with access to Supplier technical expertise which is key in taking a skill-share from an idea to agreeing the deliverables and a programme of work, particularly for larger more complex skill-shares.
- Establishing and maintaining substantial interest in the skill-share and secondment opportunities among experts, to ensure that a range of quality experts apply and remain on the roster and that their skills and experience are relevant.
- Overcoming administrative, financial, and judicial challenges of contracting experts for the roster and providing sufficient duty of care and safeguarding arrangements, particularly as UK PACT operates in a range of different countries and markets.
- Ensuring a good supply of skill-shares to match the demand generated by the FCDO in the UK and in-country. Reactive recruitment of experts is required to align to HMG priorities and enable quick responses to demand
- Forecasting skill-share and secondment delivery levels accurately. This can be difficult due to the responsive nature of the funding mechanism.
- Ensuring the right balance between virtual and in-person delivery, deploying experts in the most effective way to support the specific context and deliver maximum impact and value for money. The skill-share model was designed for in-person delivery, but virtual delivery has also proven effective, allowing for longer-term partnerships. This has ensured skill-shares can be impactful over a longer time period, leading to outcomes that would not have been possible in an in-person only model.
- The demand-led nature of skill-shares and secondments means the development of them can be dependent on there being sufficient capacity in counterpart governments/institutions – which can be a significant challenge for resource constrained organisations UK PACT is supporting.
- Ensuring effective and straightforward project management processes are in place for managing a portfolio of live skill-share projects as efficiently as possible across the full range of UK PACT partner countries, with the Supplier needing to play a role in coordinating with partner governments, deployed experts, and the UK PACT team.
- Ensuring the programme can meet the demand for both local and UK expertise from partner governments, including for longer term secondments. The Supplier will need the capacity to recruit local experts.
- Exploring ways of getting value for money from skill-shares where there are topics that are of interest to many countries/states/cities (e.g. transport planning). This could mean creating "core modules" that can be delivered in many places, or holding workshops with representatives from different places attending together.

Key challenges of results monitoring and learning workstreams within UK PACT:

- A time-lag in observing outcomes and impacts at all levels of UK PACT
- The need to reflect different funding mechanisms into reporting, including skill-shares and secondments
- Difficulties in attributing technical assistance to observed outcomes and impacts
- Using qualitative evidence to assess impact
- Multiple, varied and simultaneous activities and deliverables across a wide range of sectors and countries
- Managing results, data, information, and knowledge
- The length of the programme.

- The need to avoid an overly burdensome approach to results monitoring, particularly for IPs and experts, while balancing the need for meaningful results data to track progress and guide future programming.
- The barriers to integrate GESI considerations within results monitoring.
- Supporting learning within a fund (e.g. between IPs or cities within a country), as well as between countries/funds. The FCDO has identified the need to do more to build learning at the sectoral level between our partner countries (e.g. between projects working on transport planning or the development of green finance standards), and welcome innovative approaches from the Supplier to support this.

Annex 2: Current logframe

This is the current logframe for the programme, based on the Theory of Change (Figure 1 above). It is expected that this will be reviewed before the beginning of the Contract (see Section 1.5 for more information). It is provided to help potential bidders understand the results monitoring component of the programme.

Level of Change	Indicators
IMPACT	Impact Indicator 1
Accelerated emissions reductions in target countries	Reduced emissions supported by the programme (corresponds with TA KPI 5) <i>Volume of emissions reductions avoid / supported by UK PACT</i>
	Impact Indicator 2
	Transformational change in countries supported by the programme (ICF KPI 15)
	Impact Indicator 3
	Gender equality and social inclusion empowered and enhanced, with reduced impacts of climate change on the vulnerable
OUTCOME	Outcome Indicator 1
Enhanced action on emissions reductions	Increased capacity for relevant organisations (ICF KPI 14) <i>'Relevant organisations' are those working on carbon emissions reduction and who particularly have participated in UK PACT contributions to capacity building activities identified under Indicator 1.1.</i> <i>'Increased capacity' is assessed by the head/responsible for the relevant organisations/departments confirming that the training received has contributed to increasing organisational capacity.</i>
	Outcome Indicator 2
	Recommendations implemented for reduced carbon emissions (corresponds with TA KPI 4) <i>Recommendations adopted in Intermediate Outcome 2 and Intermediate Outcome 3 being implemented, where 'implemented' is defined as a set of activities related to a specific policy or action noted as being underway, used, and locally resourced.</i>

Level of Change	Indicators
	Outcome Indicator 3
	GESI-enabling outputs implemented <i>Cumulative number of implemented outputs (outcome indicators 2-3) that feature GESI-empowering or transformational features (rated through 'some' or 'significant or robust consideration of or contribution to gender or social inclusion dimensions')</i>
	Outcome Indicator 4
	Finances invested in support of reduced carbon emission <i>'Invested' is defined as non-programme (i.e. externally sourced) funding or monies disbursed, spent, or reoriented / shaped to address climate-related impacts as a result of programme support.</i>
INTERMEDIATE OUTCOME	Intermediate Outcome Indicator 1
Stakeholders adopt programme outputs, improving the political economy for accelerated climate transitions	Enhanced action directly related to the skills and capabilities developed through training <i>'Enhanced action' is any mechanism, practice, or procedure that has been improved as a result of the programme's support through the trainings undertaken, and considering the individual response given in a follow-up training questionnaire.</i>
	Intermediate Outcome Indicator 2
	Adoption of public policies recommendations for climate change mitigation <i>'Public policies recommendations' are those recommendations reported under Indicators 2.1 and that have been adopted by the government in response to programme support.</i> <i>'Adopted' is defined as the final acceptance (signing, ratifying) of an output by a key decision maker or authority figure in a policy approval process.</i>
	Intermediate Outcome Indicator 3

Level of Change	Indicators
	<p>Adoption of recommendations on relevant actions to reduce GHG emissions <i>Adoption is an intermediary step between outputs developed and their implementation. Therefore, 'recommendations adopted' are those recommendations reported under Indicator 2.2 and that have been adopted by the stakeholders supported by the programme. 'Adopted' is defined as the final acceptance (signing, ratifying) of an output by a key decision maker.</i></p>
	Intermediate Outcome Indicator 4
	<p>Total finance accessed or leveraged for reducing carbon emissions <i>Total finance accessed or leveraged is the amount granted of non-programme (i.e. externally sourced) funds to a proposal/tool developed with the programme's support and that has been reported under Indicator 2.3. The ICF KPI 11 and 12 will be a subset of this indicator.</i></p>
	Intermediate Outcome Indicator 5
	<p>Knowledge and communication products adopted <i>Knowledge and communication productions developed under the Output Indicators 3.1 and 3.2 that have been adopted, accepted, or taken into consideration by stakeholders.</i></p>
	Intermediate Outcome Indicator 6
	<p>Climate-related networks adopt specific projects and/or activities related to emissions reductions to undertake together <i>Networks are those partnerships considered under Output indicator 4.1</i></p>
	Intermediate Outcome Indicator 7
	<p>GESI-enabling outputs adopted <i>Cumulative number of adopted outputs (intermediate outcome indicators 2-6) that feature GESI-empowering or transformational features (rated through 'some' or 'significant or robust consideration of or contribution to gender or social inclusion dimensions')</i></p>
OUTPUT 1	Output Indicator 1.1

Level of Change	Indicators
Skills and capabilities enhanced	Key individuals trained (disaggregated by gender) <i>'Key individuals' are considered to be decision makers, senior managers, or those who are otherwise influential in their organisations; 'people trained' counts the total number of 'unique' individuals who attend programme-supported training activities (one person is counted once even if they are trained in multiple training sessions).</i>
	Output Indicator 1.2
	Person days of training (disaggregated by gender) <i>'Person days' counts the total number of days of training provided with programme support multiplied by the number of people present attending the trainings.</i>
	Output Indicator 1.3
	Useful training <i>'Useful training' assesses individuals' own perceptions of the relevance and degree of potential application and use of the training material within their organisational affiliations. It is measured through the use of a scorecard included in the tool created to collect participants' feedback.</i>
OUTPUT 2	Output Indicator 2.1
Recommendations proposed	Recommendations proposed for relevant policies, legislation, and regulation on climate change mitigation (corresponds with TA KPI 3) <i>Policies are defined as any law, rule, or regulation created to reduce, or that can contribute to reducing, carbon emissions in the public sector. National plans, strategies, and road maps developed by the government are examples of public policies that might receive inputs from the programme. Includes GESI levelling (none / some / robust considerations)</i>
	Output Indicator 2.2

Level of Change	Indicators
	<p>Recommendations proposed for other relevant actions to reduce GHG emissions (corresponds with TA KPI 3) <i>'Recommendations' includes improvements to the usual practices of the stakeholders supported by the programme in order to reduce GHG emissions in the private sector, such as supporting the use of low-carbon technologies, and creating guidelines and incentives, standards, voluntary programmes and pledges to the private sector to reduce emissions, and others. Includes GESI levelling (none / some / robust considerations)</i></p> <p>Output Indicator 2.3</p> <p>Project applications or tools developed to support the access of (existing or new) funds for reducing carbon emissions <i>'Project applications' are defined as green-informed projects which aim to reduce GHG emissions.</i> <i>'Tools' comprise other instruments that enable access to existing non-programme (i.e. externally sourced) funds, but that have not yet been accessed or that their access would have been harder to gain otherwise. Carbon emissions and that have been developed by the programme or through the programme support. Extra funds proposed for the implementation of recommendations contained in Indicators 2.1 and 2.2 are also included. Includes GESI levelling (none / some / robust considerations)</i></p>
OUTPUT 3	Output Indicator 3.1
Knowledge generated and disseminated	<p>Knowledge products developed <i>'Knowledge products' include research papers, reports, and training course material (if applicable beyond a single use). They are counted by reference to the final version of the document that encapsulates the new knowledge produced with the programme's support. Includes GESI levelling (none / some / robust considerations)</i></p> <p>Output Indicator 3.2</p>

Level of Change	Indicators
	<p>Communication products disseminated <i>'Communication products' include presentations, press releases, and leaflets designed to communicate critical climate-related content to particular audiences for specific programme needs. These products do not generate new knowledge, but are used to share, spread, or disseminate existing knowledge (they may be reformatted versions of original knowledge products under Indicator 3.1), but are used specifically to reach specific audiences or raise awareness. Includes GESI levelling (none / some / robust considerations)</i></p>
OUTPUT 4	Output Indicator 4.1
Partnerships established or strengthened	<p>Climate-related networks between two or more individuals and/or organisations are strengthened <i>Networks are partnerships established with the support of the programme through its networking initiatives; 'strengthened' refers to partnerships that are in existence but are reinvigorated around specific activities, actions, or plans to support reduced emissions. Includes GESI levelling (none / some / robust considerations)</i></p>

Annex 3: HMG role and governance of UK PACT

Roles – general principles

UK PACT is a joint FCDO and BEIS programme, with funding provided by both Departments. It is managed by the FCDO, with strategic input from BEIS.

UK PACT will be delivered through a partially outsourced model with FCDO and BE/BHCs, working closely with the Supplier and partner governments, to ensure maximum impact. This hybrid delivery model, with the programme being selectively outsourced, is the result of lessons learned from the previous UK PACT contracts, other similar HMG programmes, and market engagement in 2018 and 2021. This ensures the delivery model strikes the right balance between HMG providing strategic guidance, including in-country expertise from the BE/BHCs, whilst allowing Supplier the space to deliver for maximum impact, all while safeguarding value for money.

It is possible that additional funding may be provided by other HMG Departments in the future – if this is the case, the FCDO will manage the integration of those Departments into the programme's governance structure, as required.

Role of HMG

UK PACT will retain the model of a centrally contracted programme with activities that are delivered by a Supplier, with HMG retaining responsibility for the overall programme strategy. This will be done by maintaining the current global HMG team delivering UK PACT, which is currently made up of UK-based FCDO staff and BE/BHC staff based in-country, and working closely with relevant departments (e.g. BEIS) as appropriate. This will ensure that there is flexibility, responsiveness, and partnership at the heart of the delivery model.

HMG's role includes (in each case, working closely with the Supplier):

- i. Coordinating overall delivery of UK PACT;
- ii. Accountability for effective spend of Official Development Assistance (or non-ODA funding if used);
- iii. Owning and managing relationships with partner governments and other key institutions in our partner countries;
- iv. Steering the strategic direction of UK PACT both overall and at a country level, making sure it maximises impacts and builds synergies with other ODA programming and diplomatic work. This includes developing and owning individual Country Fund strategies; and
- v. Approving overall programme budgets (for example the budget for each Country Fund), and budget changes at programme level.
- vi. Due to points iii and iv, the FCDO will be part of activity-level decisions (e.g. which projects are selected from a call for proposals, or which experts are selected for a skill-share) with the Supplier through the governance structure of the programme. The FCDO will retain the right to veto any project or choice of downstream supplier/Implementing Partner/expert, for example if the proposed IP or expert constitutes a security threat.

To facilitate this, each Country Fund will have dedicated staff members in the BE/BHC in the country, and a designated lead in the UK-based FCDO team. The Flexible Fund and Peer-to-Peer Fund will have designated UK-based leads only, who will co-ordinate with climate-focused staff at the BE/BHCs. The team based in the UK will also have staff focused on overall UK PACT programme governance and strategy, and the management of the Supplier contract.

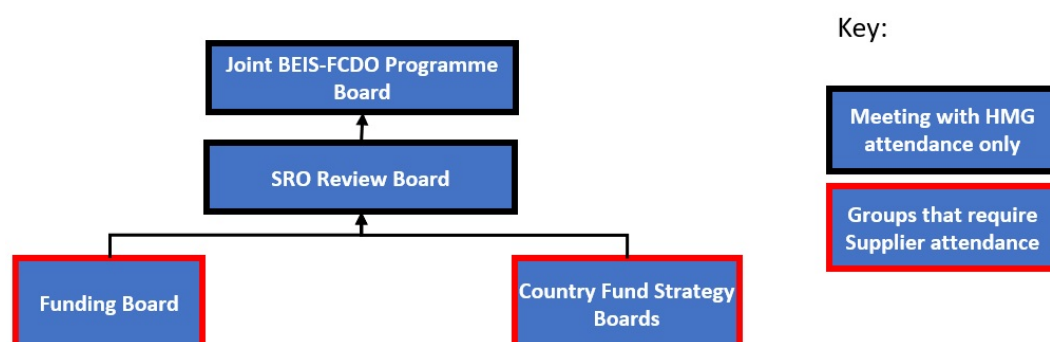
Globally, BEs and BHCs hold relationships with partner governments, engaging routinely with those governments at both national, but also regional, state, and local levels. In some Country Fund countries, such as Colombia, Kenya and Mexico, the British government has formal partnership arrangements with the governments, which can be a useful forum through which to engage with that government and scope their priorities and demands for support. In other cases, formal dialogues with government, such as the energy transition dialogue in Kenya or the Friends of Indonesia Renewable Energy (FIRE) dialogues²⁷ in 2021, can provide this forum. These engagements give BE and BHC staff insight into opportunities where UK PACT can best support their respective partner countries, whether this means responding directly to demand or co-creating projects or skill-shares or secondments with partner governments.

Governance arrangements

Figure 5 below sets out an indicative governance structure that will provide a decision-making mechanism to support the strategic aims of the programme (a final structure will be provided during Mobilisation). Table 6 outlines the purpose, attendance, frequency, and an outline of the decisions that will be made by each board/group within the governance framework.

The FCDO anticipates that the governance structure will evolve throughout the lifetime of the programme, and will ensure appropriate oversight and inclusion of additional attendees at the SRO Review Board, Funding Board and Country Fund Strategy Boards in the event that additional funding for UK PACT is provided by FCDO, BEIS or another HMG Department as specified in Section 2.2.

Figure 5: Structure of the indicative UK PACT governance groups



²⁷ www.gov.uk/government/publications/indonesia-united-kingdom-partnership-forum-2021-joint-statement/indonesia-united-kingdom-partnership-forum-2021-joint-statement

Table 6: Outline of indicative UK PACT governance groups

Board	Purpose	Attendees	Frequency	What type of decisions are taken at this meeting
Joint FCDO-BEIS Programme Board	<p>The Programme Board is the forum where FCDO and BEIS will jointly agree decisions on portfolio level strategic decisions and sign off critical programme decisions.</p> <p>Reports to: HMG Ministers Reportees: Quarterly UK PACT SRO Review Board</p>	HMG only – FCDO & BEIS Directors, Deputy Directors, and team leaders	Bi-annual at minimum and by writing as needed	Portfolio level strategic decisions and critical programme decisions.
SRO Review Board	<p>To assess whether UK PACT strategy is being delivered at the programme/global level and to provide a forum for SRO-level decisions to be made. This will include a review of a dashboard summarising progress and risks.</p> <p>Reports to: Joint FCDO-BEIS Governance Board Reportees: Fund boards</p>	HMG only – FCDO and BEIS Deputy Directors, team leaders and finance lead	Every 6 weeks	Programme-level risk mitigations; country strategies; funding allocations; delegated portfolio level strategic decisions;
Funding Board	<p>To allocate funding within the Flexible Fund, Peer-to-Peer Fund and Reserve Fund, approve projects, assess portfolio performance, manage risks and external issues.</p> <p>Reports to: SRO Review Board</p>	HMG and Supplier – FCDO team leaders, regional/Flexible Fund leads and regional Supplier representatives	Quarterly (with additional meetings when needed)	Approval of Flexible Fund and Peer-to-Peer Fund activities. Allocation of the Reserve Fund to components.
Country Fund Strategy Boards	<p>Regular sessions for each Country Fund team to approve projects, agree results of CfPs, review delivery against the UK PACT country strategy, assess portfolio performance, manage risks and external issues.</p> <p>Reports to: SRO Review Board</p>	HMG and Supplier - Regional and Country Leads from FCDO UK team, BE/BHC teams, Country Supplier representatives.	Quarterly (with additional meetings when needed)	Country strategy, delivery, and risk. Approval of Country Fund activities. Country programming issues not resolved outside of meetings.

Annex 4: Charter of values

This is the UK PACT charter of values the FCDO will require the Supplier to sign:

This charter aims to set out the behaviours and values expected by all who work on UK PACT and has been agreed between representatives from the Foreign, Commonwealth and Development Office (FCDO) and [Supplier name].

UK PACT's mission is threefold:

1. UK PACT supports partner countries to increase their ambition to tackle climate change;
2. Through providing the relevant skills, activities and funds, UK PACT aims to increase the capacity and capability of partner countries to meet those raised ambitions and reduce their emissions;
3. In doing this, the programme will support poverty reduction through reducing emissions and tackling climate change.

To effectively meet the mission of UK PACT we will, as partners, uphold the following commitments:

1. Commitment to reducing emissions and poverty

- A commitment to reducing poverty by maximising emissions reductions in developing countries in order to avoid dangerous climate change which will hit the poorest hardest.
- A commitment to working with honesty & integrity, putting the mission of UK PACT and our Official Development Assistance (ODA) obligations above personal and individual party interests.
- A commitment to focusing in areas where we can collectively add the most value, through delivering high quality activities that have the highest potential for transformational outcomes and ensure value for money for the UK taxpayer.

2. Commitment to combatting discrimination and promoting diversity and inclusion

- A commitment to pro-actively eliminate racism and all forms of discrimination in our programming and in our teams' day-to-day activities.
- A commitment to actively promoting diversity and inclusion.

3. Commitment to collaboration and partnership

- A commitment to collaboration and partnership between all parties, including our teams in BE/BHCs, and delivery partner teams overseas, where all parties work together towards a common goal, under a common identity and are treated fairly and with respect.
- A commitment to transparent and clear communication and feedback, ensuring it is open, honest, and early between all parties to enable effective decision making to meet the mission of UK PACT.
- A commitment to knowledge sharing, enabling UK PACT to capitalise on the various strengths and experiences of each party to provide more than just the sum of our parts.
- A commitment to joint responsibility for the achievements, impacts and challenges of UK PACT between all parties as one single UK PACT team and brand.

4. Commitment to deliver effectively and to a high standard to ensure the greatest potential transformational change

- A commitment to understand and respect local values and tailor our approach to the local context in our partner countries and the regions where UK PACT operates.
- A commitment to measuring and sharing successes, results, and lessons so we are all connected to what we are delivering under UK PACT, and build a strong programme identity.
- A commitment to being flexible, adaptive, and open to both feedback and challenge, allowing the programme to continuously improve, reflect partner country priorities, seize opportunities, and deliver the most effective projects.

Annex 5: Existing portfolio of activities

Table 7 summarises the number of projects that are estimated to be live in each fund when the Contract starts, which the Supplier is expected to manage (see Sections 3.1 and 5.8 for more information) and add to as the UK PACT portfolio develops. The total across all funds is estimated to be 83 projects. This is subject to change based on development of the UK PACT's portfolio, but the FCDO is providing this as background information to support bidders. Full details of each project will be provided to the successful bidder during the mobilisation period.

Table 7: Summary of on-going projects expected in each fund when the Contract begins

Fund	Estimated number of projects	Notes
Brazil Country Fund	13	Includes projects focused on land use and forestry.
South Africa Country Fund	9	Includes projects focused on energy reform and just transition issues.
Indonesia Country Fund	10	Includes projects focused on low-carbon transport, energy efficiency and carbon pricing.
India Country Fund	5	Includes projects focused on the power sector, nature-based solutions, green finance and low-carbon transport.
Colombia Country Fund	16	Includes projects focused on nature-based solutions, energy, green finance, climate policy and low-carbon transport.
Mexico Country Fund	11	Includes projects focused on green finance, climate policy, and nature-based solutions.
Nigeria Country Fund	2	Projects focusing on nature-based solutions
Kenya Country Fund	8	Projects focusing on energy access and nature-based solutions
Thailand Country Fund	1	Project focusing on green finance
Vietnam Country Fund	1	Project focusing on green finance
Flexible Fund	7	Up to 5 in the Amazon region, and 1 in South East Asia.

Annex 6: Additional information documents

The FCDO have provided the following documents as background information to support bidders. They are available in the attachment area of the ITT (in a folder called “Additional Information Documents”).

Current skill-share and secondments manual

This manual covers the delivery of skill-share and secondments in the current programme. This is provided to BE/BHCs that are interested in having skill-shares and secondments to explain how the process works. This represents how this component currently works, not exactly how it will work in the future. Note that:

- Under the new Contract covered by this tender, skill-shares and secondments are being integrated with the other funding mechanisms of the programme, and are no longer a separate component (as set out in Sections 1.3 and 1.4).
- During the current phase of the programme, secondments are managed by BE/BHC teams rather than any of the delivery partners. Under this new Contract, this will change, and the Supplier will deliver secondments as well. The document therefore describes secondments in a different way.

During the current phase of the programme, the delivery partner for skill-shares and secondments has no role in scoping and designing the skill-share and secondment activities. Under this new Contract, this will change, and the Supplier will work on concept notes and terms of references for these funding mechanisms.

Current Country Programmes applicant handbook

This manual was prepared for applicants applying for project funding under the Country Programmes component during the first phase of the UK PACT programme, which managed projects sourced through open CfPs, targeted CfPs and direct awards. This represents how the current component works, not exactly how projects will be managed within this Contract.

Past Call for Proposals (Indonesia)

This is the terms of reference for a targeted CfP under the Country Programmes component of UK PACT phase 1. This was for energy efficiency projects in Indonesia.

Current Green Recovery Challenge Fund guidance

This manual was prepared for applicants applying for project funding under the Green Recovery Challenge Fund component during the first phase of the UK PACT programme, which managed projects sourced through open CfPs. This represents how the current component works, not exactly how projects will be managed within this Contract.

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

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

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

Schedule [X] Processing, Personal Data and Data Subjects

This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the FCDO at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are:
Data.Protection@fcdo.gov.uk
2. The contact details of the Processor's Data Protection Officer are: **[Insert Contact details of the Supplier]**
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the FCDO is the Controller, and the Supplier is the Processor in accordance with Section 33.2 of [the standard T&Cs] .
Subject matter of the processing	<p>The processing is needed in order to ensure that the Supplier can effectively deliver the contract to deliver the UK PACT programme, including project management, stakeholder management, Communications, market engagement and recruitment activities.</p> <p>The processing of names and business contact details of staff of both the FCDO and the Supplier will be necessary to deliver the services exchanged during the course of the Contract, and to undertake contract and performance management.</p> <p>The Contract itself will include the names and business contact details of staff of both the Authority and the Contractor involved in managing the Contract.</p>
Duration of the processing	Processing will take place from [start date of the Contract] for the duration of the Contract. The Contract will end [on 31st March 2027] , but may be extended until [31st March 2030] .
Nature and purposes of the processing	<p>The nature of the processing will include collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available of data.</p> <p>Processing takes place for the purposes of project management, stakeholder management, Communications, and recruitment.</p> <p>The nature of processing will include the storage and use of names and business contact details of staff of both the</p>

	<p>FCDO and the Supplier as necessary to deliver the services and to undertake contract and performance management. The Contract itself will include the names and business contact details of staff of both the FCDO and the Supplier involved in managing the Contract.</p>
Type of Personal Data	<p>Names, business telephone numbers and email addresses, office location and position of staff of both the FCDO and the Supplier as necessary to deliver the services and to undertake contract and performance management. The Contract itself will include the names and business contact details of staff of both the FCDO and the Supplier involved in managing the Contract.</p> <p>Names, business telephone numbers, email addresses, office location, position, and in some circumstances CVs and information on pay/fee rates, of UK PACT stakeholders, including:</p> <ul style="list-style-type: none"> • organisations involved in applying for and delivering projects • experts applying to join the skill-share roster and those delivering skill-shares and secondments. • those participating in and benefiting from UK PACT activities in recipient countries <p>Opinions of all stakeholders listed above on project and programme performance, for monitoring, evaluation and learning purposes.</p>
Categories of Data Subject	<ul style="list-style-type: none"> • UK or host country government employees • Individuals within the low carbon development sector who are listed on UK PACT's stakeholder database • Past, current or future applicants for/recipients of UK PACT funding or UK PACT skill-shares • Staff of the FCDO and the Supplier, including where those employees are named within the Contract itself or involved within contract management.
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under European Union or European member state law to preserve that type of data</p>	<p>The Supplier will transfer all the data that is requested to the FCDO, or another Processor appointed by the FCDO, at the end of the Contract. After this has been completed they will delete the Personal Data and erase the Personal Data from any computers, storage devices and storage media that are to be retained by the Supplier after the expiry of the Contract. The Supplier will certify to the FCDO that it has completed such deletion.</p> <p>Where Personal Data is contained within the Contract documentation, this will be retained in line with the Department's privacy notice found within the Invitation to Tender.</p>