



CONSULTANCY AGREEMENT

For the provision of consultancy services for

**Animal and Plant Health Agency (APHA) Weybridge Site –
Load increase feasibility study (Rev.1.)**

[Agreement Ref: 8600023725]

UK Power Networks (Operations) Limited
Newington House
237 Southwark Bridge Road
London
SE1 6NP

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	1
2.	COMMENCEMENT AND DURATION.....	4
3.	CONDITIONS PRECEDENT.....	4
4.	THE SERVICES	4
5.	PAYMENT	5
6.	VARIATION	7
7	CUSTOMER RECORDS	7
8	INTELLECTUAL PROPERTY RIGHTS	8
9	CONFIDENTIAL INFORMATION.....	8
10	CONSULTANT'S STATUS AND AUTHORITY	9
12	FORCE MAJEURE.....	9
13	LIABILITY AND INDEMNITY	10
14	TERMINATION.....	11
15	ENTIRE UNDERSTANDING.....	12
16	GOVERNING LAW	15
17	NOTICES.....	15
19	WAIVER	16
20	CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999	16
21	DISPUTES	17
	SCHEDULE 1	19
	SCHEDULE 3.....	21
	SCHEDULE 4.....	22
	PLANS	22

THIS AGREEMENT is made on 25 June 2021

BETWEEN

- (1) **Animal and Plant Health Agency (APHA)** is a public sector executive agency whose office is Estates Office, Weybourne Building (B33), Woodham Lane, New Haw, Surrey KT15 3NB ("**Customer**"); and
- (2) UK Power Networks (Operations) Limited (registered number 3870728) whose registered office is at Newington House, 237 Southwark Bridge Road, London, SE1 6NP ("**Consultant**").

WHEREAS

- (A) The Customer and the Consultant have agreed that the Consultant will provide the Services in accordance with the terms of this Agreement to **undertake a feasibility study for an increase in load at APHA Weybridge Site** Weybourne Building (B33), Woodham Lane, New Haw, Surrey KT15 3NB
- (B) This Agreement is **not** entered into pursuant to Section 16 or Section 22 of the Electricity Act 1989.
- (C) Nothing in this Agreement entitles the Customer to any electrical capacity on the Consultant's Distribution Network.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

In this Agreement:

- 1.1 unless the context indicates otherwise, the following terms shall have the following meanings:

Act means the Electricity Act 1989;

Agreement means this agreement for the provision of the Services by the Consultant to the Customer;

Authority means The Office of the Gas and Electricity Markets;

Customer's Site means the Customer's site at **APHA Weybridge Site Weybourne Building (B33), Woodham Lane, New Haw, Surrey KT15 3NB**

Business Day means any day excluding Saturdays, Sundays, public or bank holidays in England;

Change of Law means:

- (a) any change in Legislation after the Service Commencement Date;
- (b) any judgement of the Court that changes binding precedent; and/or
- (c) any Guidance, designation, direction or instruction of any competent authority with which the Consultant is requested or bound to comply;

Confidential Information means all information that is disclosed directly or indirectly from letters, papers, drawings, manuals, technical and test reports, proposals etc (whether disclosed in writing, visually or verbally) that by its nature may reasonably be regarded as confidential to each Party to this Agreement (whether commercial, financial, technical or otherwise) and extends to all knowledge and information relating to the relevant Party's business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, Intellectual Property Rights, know-how or personnel of the relevant Party;

Contract Manager means each Party's contract manager as appointed by that Party from time to time during the continuance of this Agreement and as notified to the other Party;

Costs means all expenses and costs incurred, including overhead and financing charges properly allocated thereto but excluding any monies payable by the Customer to the Consultant as Fees;

Data Protection Laws means (i) the Data Protection Act and (ii) the General Data Protection Regulation (EU) 2016/679) (GDPR);

Distribution Network means the system consisting (wholly or mainly) of Electric Lines owned or operated by the Consultant in its capacity as a licensed distribution network operator and used for the distribution of electricity between grid supply points or generation sets or other entry point to the points of delivery to customers or authorised electricity operators and includes any remote transmission assets operated by the Consultant and any Electrical Plant meters and metering equipment owned or operated by such distributor in connection with the distribution of electricity but shall not include any part of a transmission system;

Electric Line has the meaning given to that term in Section 64(1) of the Act;

Electrical Plant has the meaning given to that term in Section 64(1) of the Act;

Fees means the fees set out in Schedule 2 (Parts 1, 2 and 3) in connection with the Services and/or as otherwise payable in accordance with this Agreement;

Good Industry Practice means the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a contractor and/or operator engaged in the same type of undertaking under the same or similar circumstances;

Guidance means any guidance, direction, determination, or instruction of the Secretary of State, the Authority or Audit Commission or other competent authority with which the Consultant is bound to comply, including but not limited to any modifications to the Licence;

Indicative Routes means the routes for the Electric Lines to be laid underground proposed by the Consultant;

Intellectual Property Rights means any patent, know-how, trade mark or name, service mark, design right (in each case whether registered or unregistered), copyright, rights in passing off, database rights, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world;

Legislation means:

- (a) any Act of Parliament or subordinate legislation within the meaning of section 21(1) Interpretation Act 1978; and
- (b) any exercise of the Royal Prerogative and any enforceable community right within the meaning of the European Communities Act 1972, in each case within the United Kingdom; and
- (c) the Licence;

Licence means the Consultant's electricity distribution licence granted under section 6(1)(c) of the Act;

Normal Working Hours means the hours of 9am till 5pm on any Business Day;

Party means each legal entity for the time being and from time to time party to this Agreement and any successor(s) in title to or permitted assign(s) of such legal entity and the Consultant and the Customer shall each include any such legal entity;

Products means all documents, reports, drawings, computer software and other information prepared or developed by the Consultant for the provision of the Services;

Programme means the programme in relation to the performance of the Services set out in Schedule 3 as revised and developed from time to time by the Consultant in accordance with clause 5.11 and/or clause 6;

Route Information has the meaning given in clause 3;

Service Commencement Date means **05 January 2022**;

Services means all or any part of the services to be provided to, or activities undertaken and completed for, the Customer by the Consultant under this Agreement as described in Schedule 1 including any variations to such services and/or activities as agreed or effected in accordance with this Agreement;

VAT means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.

- 1.2 words expressed in the singular shall include the plural and vice versa and a reference to any gender includes all genders;

- 1.3 references to clauses and Schedules are to the clauses and Schedules of this Agreement;
- 1.4 where any Party is more than one person:
 - 1.4.1 that Party's obligations in this Agreement shall take effect as joint and several obligations;
 - 1.4.2 anything in this Agreement which applies to that Party shall apply to all of those persons collectively and each of them separately; and
 - 1.4.3 the benefits contained in this Agreement in favour of that Party shall take effect as if conferred in favour of all of those persons collectively and each of them separately;
- 1.5 headings are inserted for convenience only and shall not affect the construction of this Agreement; and
- 1.6 references to any provision of a statute or regulation shall be construed as a reference to that provision as amended, re-enacted or extended after the date of this Agreement.

2. COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence on the Service Commencement Date and remain in force until **30th May 2022** unless terminated earlier in accordance with clause 13.5 or 15, or extended in accordance with clause 2.2.
- 2.2 The parties may extend this Agreement for such period(s) as the parties may agree in accordance with clause 5.

3. CONDITIONS PRECEDENT

NOT USED

4. THE SERVICES

- 4.1 Subject to clause 3, the Consultant shall provide the Services to the Customer from the Service Commencement Date in accordance with this Agreement.
- 4.2 The Customer shall, without limiting its obligations under clause 3, throughout the term of this Agreement provide to the Consultant all information reasonably required and requested by the Consultant in order to perform the Services. Without prejudice to clause 3, the Customer shall provide such information as soon as reasonably practicable and at its cost following any such request by the Consultant.
- 4.3 **Programme**
 - 4.3.1 Subject to clause 5.11, the Consultant shall perform the Services in accordance with the Programme.
 - 4.3.2 The Consultant shall notify any changes to the Programme to the Customer when the same shall be required.

- 4.4 The Consultant shall provide the Services with all reasonable care and skill and in accordance with:
- 4.4.1 Good Industry Practice; and
- 4.4.2 all relevant laws and standards.
- 4.5 The Consultant shall use all reasonable skill and care to avoid causing damage to the Customer or third party property whilst providing the Services.
- 4.6 During the continuance of this Agreement but commencing one month following the date of this Agreement, the Consultant shall provide to the Customer a monthly written statement of the progress of the Services against the timetable included in the Programme, together with an estimate of its Costs incurred to the date being one week prior to the date of such statement. The Consultant shall use reasonable endeavours to ensure the accuracy of such statements but the contents of such statements shall not be used as evidence regarding the Consultant's entitlement to any payment under this Agreement. The form and content of such monthly statements shall be determined by the Consultant acting reasonably.
- 4.7 The Customer shall ensure that if any reports or information provided by the Consultant as part of the Services are passed to a third party for any purpose of cable route or Primary Substations design, the third party will be made aware that such reports and information are for guidance only and that the third party will need to verify the accuracy of all information contained in those documents.

5. PAYMENT

- 5.1 The Customer shall pay the Fees to the Consultant prior to the commencement of that part of the Services in respect of which payment of the relevant part of the Fees is sought and otherwise at the times set out at Schedule 2 or at such other times otherwise agreed in writing by the Parties.
- 5.2 If the Consultant shall become entitled to claim Costs under this Agreement the Consultant shall submit an invoice to the Customer and the Customer shall make payment of the amount stated in the invoice (the "notified sum") within 15 days of the date thereof (the "due date for payment").
- 5.3 If any amount due under this Agreement remains unpaid after its due date, such undisputed amounts shall bear interest calculated from day to day at the rate of 3% per annum above the base rate of HSBC Bank plc from the due date until the amount due and any accrued interest has been received in cleared funds by the Consultant or in the case of the Customer been paid to it.
- 5.4 For the purposes of the Housing Grants Construction and Regeneration Act 1996 (and clause 5.5 below) the final date for payment is 5 (five) Business Days following the due date for payment.
- 5.5 The Customer will give notice to the Consultant not later than 5 (five) days after the date on which a payment becomes due or would have become due if:

- 5.5.1 the Consultant had carried out its obligations under the Agreement;
and
- 5.5.2 no set off or abatement was permitted by reference to any sum
claimed to be due under any contracts with the Consultant,
- specifying the amount (if any) of the payment made or proposed to be made,
and the basis on which the amount has been calculated.
- 5.6 The Customer will give written notice to the Consultant not later than 1 (one)
Business Day prior to the final date for payment (determined in accordance
with clause 5.4) of any sums payable hereunder specifying any amount
proposed to be withheld and the ground or grounds for withholding such
amount. A notice given under clause 5.4 may constitute a notice of intention
to withhold payment (a pay less notice) if it specifies the matters referred to
and is given within the time required in this clause.
- 5.7 For the purposes of Section 112 of the Housing Grants Construction and
Regeneration Act 1996 the Consultant shall only be entitled to suspend
performance of the Services if no effective pay less notice has been given
and once it has given 10 (ten) Business Days' notice to the Customer of its
intention to suspend.
- 5.8 Without prejudice to clause 5.7, if the Customer fails to make any payment to
which the Consultant is entitled as provided in this clause 5 and no effective
pay less notice has been given the Consultant shall be entitled:
- 5.8.1 to suspend the Services until the failure has been remedied, by giving
fourteen (14) days notice to the Customer in which event the
Consultant's Costs of the resumption of the Services, shall be payable
by the Customer; and/or
- 5.8.2 to terminate the Agreement by giving 30 (thirty) Business Days notice
to the Customer whether or not the Consultant has previously
suspended the Services under clause 5.8.1 in which event the
Customer shall pay to the Consultant insofar as the same shall not
have already been included in the Fees the value of the Services
executed prior to the date of termination together with all of the
Consultant's Costs incurred or suffered in relation thereto.
- 5.9 The Parties agree that the Fees do not include any allowance for working
outside Normal Working Hours nor for any safety or security requirements
specifically applicable to the Customer's Site which the Consultant is required
to observe and any Costs incurred by the Consultant as a result of so working
will be paid by the Customer (provided that such Costs were approved by the
Customer prior to being incurred, such approval not to be withheld or delayed
unreasonably).
- 5.10 All amounts mentioned in this Agreement are exclusive of VAT (if any) and
the Consultant may add VAT to such amounts and the Customer shall
(subject to receipt of a proper VAT invoice) pay VAT or such other tax charge
or levy as may from time to time be required by virtue of any statute or
statutory instrument or equivalent statutory provision at the rate applicable
from time to time.

- 5.11 The Customer acknowledges that the Consultant will subcontract some or all of the Services. The Customer further acknowledges that at the date of this Agreement the Consultant has not finished its procurement of the Services and that Contracts for the procurement of aspects of the Services will be placed at a later date as the Services progress. Accordingly the Fees are provisional only. When from time to time the Consultant has received a final price for the Services it will notify the Customer in writing of the adjustment (if any) to the Fee and Programme and the Fee and Programme so adjusted shall become the Fee payable by the Customer and the installment payments thereof shall be adjusted pro-rata or otherwise as the Consultant reasonably may require. The Programme so adjusted shall be that (subject to any other express term of this Agreement) pursuant to which the Consultant shall carry out the Services. The Customer acknowledges that the Consultant may adjust the Fee and/or the Programme as often as reasonably necessary to reflect the effect of the Consultant's subcontracts.
- 5.12 The Customer shall bear any increase in Costs suffered by the Consultant in carrying out the Services resulting from a Change of Law.

6. VARIATION

- 6.1 Subject to clause 5.11 and clause 6.3, no variation or amendment to the Services or this Agreement shall be valid unless it is committed to writing and is signed on behalf of both parties.
- 6.2 The Customer shall reimburse the Consultant in respect of variations agreed in accordance with clause 6.1 or effected under clause 5.11 and/or clause 6.3 and payment of the Consultant's Costs and the Fees shall be made in accordance with clause 5 and Schedule 2. In the event of a variation under clause 6.1, the Programme shall be extended by such time as the Company considers reasonable to take account of the effect of such variation event.
- 6.3 If before or during the carrying out of the Services any part of them or their means of execution is affected by the existence of Change of Law, such event shall entitle the Consultant to require a variation under clause 6.1 to take account of same and any increase or decrease in the Consultant's Costs consequent upon such event shall be added to or deducted from the Fees and the Programme shall be extended by such time as the Company considers reasonable. The procedure in clause 6.1 shall not apply in such circumstances.

7 CUSTOMER RECORDS

- 7.1 All records in any medium (whether written, computer readable or otherwise) including accounts, documents, drawings and private notes about the Customer and provided by the Customer to the Consultant and not then being in the public domain and all copies and extracts of them made or acquired by the Consultant shall be:
- 7.1.1 the property of the Customer;
 - 7.1.2 used in relation to the Services (including, without limitation, by any of the Consultant's subcontractors) and any matter arising therefrom only;

7.1.3 returned to the Customer on the termination of the Consultant's employment.

8 INTELLECTUAL PROPERTY RIGHTS

- 8.1 The Consultant hereby grants a non-exclusive, perpetual, revocable, royalty-free and transferable licence to the Customer (including the right to grant sub-licences) to use all Intellectual Property Rights in the Products in relation to the Services.
- 8.2 The Consultant undertakes not to revoke the licence granted in clause 8.1 provided use of the Intellectual Property Rights and the Products are within the scope and terms of the licence granted.
- 8.3 The Consultant shall be responsible for and indemnify the Customer against any action, claim, demand, cost, charge and expense arising from or incurred by reason of any infringement or alleged infringement of any third party Intellectual Property Right in the course of the provision of the Services by the Consultant that arise out of the use or sub-licence by the Customer pursuant to clause 8.1 of any Intellectual Property Rights and against all direct costs and damages which the Customer may incur or are awarded against the Customer in any actual or threatened proceedings before any court or arbitration or other competent tribunal.
- 8.4 For the avoidance of doubt, the Consultant shall not indemnify the Customer where the infringement in question is attributable to the possession or use of Intellectual Property Rights other than in accordance with the scope of the licence contained herein.
- 8.5 If the Customer becomes aware of any claim relating to the circumstances described in clause 8.3, the Customer shall give written notice of such claim to the Consultant as soon as reasonably practicable thereafter.
- 8.6 On receipt of any notice served under clause 8.5, the Consultant shall be responsible for resisting claims where it is reasonable to do so and in a reasonable manner at the Consultant's own expense on behalf of the Customer provided that the Customer shall be kept fully informed of all matters pertaining to such claim.
- 8.7 The Customer shall make available to the Consultant all information as may reasonably be required and available to the Customer for the purpose of the Consultant resisting any claims to which it has been notified under clause 8.5.
- 8.8 The Consultant shall provide the Customer with copies of all materials relied upon or referred to in the creation of the Products on the same terms as set out in clauses 8.1 to 8.7.
- 8.9 The Consultant shall have no right (save where expressly permitted under this Agreement or with the Customer's prior written consent) to any Intellectual Property Rights of the Customer. For the purposes of this Agreement all Intellectual Property Rights in any information disclosed by the Customer to the Consultant shall be Intellectual Property Rights which the Consultant shall be entitled to use.

9 CONFIDENTIAL INFORMATION

- 9.1 Subject to clause 9.2, each Party to this Agreement shall, both during this Agreement and after its termination (without limit in time) keep confidential and not (except as authorised or required for the purposes of this Agreement) use or disclose or attempt to use or disclose any of the Confidential Information.
- 9.2 Clause 9.1 shall not apply to:
- 9.2.1 any information which is already in the public domain at the time of its disclosure other than by breach of this clause 9;
 - 9.2.2 disclosure of any Confidential Information by each Party to its employees, directors, shareholders, representatives, contractors, agents, sub-contractors, professional advisers (including lawyers, auditors, financial advisers, accountants and technical consultants) or underwriters provided that such recipients agree to be bound by the terms of this clause;
 - 9.2.3 any information which is required to be disclosed to the extent required by any applicable law, recognised regulatory body, any taxation authorities or by an order of a court or other tribunal of competent jurisdiction.

10 CONSULTANT'S STATUS AND AUTHORITY

- 10.1 The Consultant acknowledges that it is engaged as an independent contractor to the Customer and nothing in this Agreement shall render the Consultant an employee, agent or partner of the Customer or any member of the the Customer Group and the Consultant shall not hold itself out as such.
- 10.2 Although the Consultant shall be entitled to represent itself as a consultant to the Customer when providing the Services, the Customer shall not be vicariously liable for any of the acts or omissions of the Consultant and the Consultant shall not by virtue of this Agreement be entitled to pledge the credit of the Customer nor sign any document, enter into any contract or agreement or make any promise on behalf of the Customer without the prior written consent of the Customer.

11 CORRUPT GIFTS AND PAYMENT OF COMMISSION

- 11.1 The Consultant shall not and shall ensure that its employees, agents and sub-contractors shall not pay any commission, fees or grant any rebates to any employee, officer or agent of the Customer nor favour any employee, officer or agent of the Customer with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of the Customer other than as a representative of the Customer with the Customer's prior written approval.

12 FORCE MAJEURE

- 12.1 '**Force Majeure Event**' means any event or circumstance that is beyond the control of either Party and that on or after the date of this Agreement, prevents or delays the performance by either Party of its obligations under this Agreement, including without limitation the following:

- 12.1.1 act of God;
- 12.1.2 direction of government or government agencies;
- 12.1.3 war, riot or civil commotion;
- 12.1.4 sabotage;
- 12.1.5 adverse weather conditions;
- 12.1.6 strikes or other labour disputes; or
- 12.1.7 absence of usual means of communication or transportation.

12.2 If, as a consequence of a Force Majeure Event, a Party (the “**Affected Party**”) is wholly or partially delayed in the carrying out of or unable to carry out its obligations under this Agreement, the Affected Party shall notify the other Party as soon as practicable.

12.3 The Affected Party shall:

12.3.1 if it is reasonable to do so, use all reasonable endeavours to mitigate the effects of the Force Majeure Event; and

12.3.2 if it is reasonable to do so, find a solution whereby its obligations under this Agreement may be performed despite the Force Majeure Event.

12.4 Where a Force Majeure Event is subsisting and the Consultant is delayed or prevented from performing all or part of its obligations under this Agreement, the Customer shall have no liability to pay the Consultant in respect of Services which have not been carried out but the Customer shall pay the Consultant all reasonable Costs incurred by the Consultant as a consequence of the Force Majeure Event. If a Force Majeure Event shall continue for ninety (90) days, either Party may terminate this Agreement by written notice to the other.

13 LIABILITY AND INDEMNITY

13.1 Nothing in this Agreement excludes or restricts the Consultant’s liability for

13.1.1 personal injury or death resulting from the Consultant’s negligence or any other;

13.1.2 any fraud committed by that party;

13.1.3 any other liability that cannot by law be limited or excluded.

13.2 The Consultant shall be responsible for and shall release and indemnify the Customer, its employees, agents and contractors from and against, all liability for death, personal injury and fraudulent representation, arising from the Consultant’s tortious act or omission (including negligence) and fraudulent misrepresentation.

13.3 Limitation of Liability

13.3.1 Subject to clause 14.1, clause 14.2 and clause 14.4, the Consultant and its employees shall not be liable in contract and/or in tort (including negligence) and / or breach of statutory duty or otherwise howsoever arising other than for loss directly resulting from any such breach and/or tortious (including negligent) act or omission, breach of statutory duty and the Consultant shall **not** be liable where such loss, damages, costs, charges and expenses were caused by the breach, negligence or wilful misconduct of the Customer, its employees, agents or contractors or by the breach by the Customer of its obligations under this Agreement.

13.3.2 The total aggregate amount payable by the Consultant to the Customer for all claims made by the Customer under this clause 13.3 and otherwise under this Agreement shall in no circumstances exceed the aggregate of the Fees paid to the Consultant under this Agreement.

13.3.3 The Consultant shall have no liability for special, indirect or consequential loss or damage.

13.4 The Customer's total liability under or in connection with this Agreement, whether for any breach of contract, breach of statutory duty or delay, tort (including negligence) or any other reason whatsoever shall in no circumstances exceed £100,000. The Customer shall not be liable for any of the following losses, and clauses 13.3.4.1 – 13.3.4.4 shall apply whether such losses are direct, indirect, consequential or otherwise:

13.4.1 loss of actual or anticipated profits

13.4.2 loss of contracts

13.4.3 loss of anticipated savings; or

13.4.4 loss of revenue.

14 TERMINATION

14.1 The Customer may for any reason and at its sole discretion terminate this Agreement by providing twenty (20) Business Days' written notice to the Consultant.

14.2 Either Party may terminate this Agreement with immediate effect on written notice to the other upon the occurrence of any of the following events or circumstances:

14.2.1 the other Party fails to comply with any of its payment obligations hereunder relating to any sum (other than any sum which is being disputed in good faith) and fails to remedy such breach within ten (10) Business Days after receipt of written notice demanding payment and expressing intention to exercise this right of termination should the other Party not comply;

14.2.2 either Party has a winding-up order made against it, or has a provisional liquidator appointed in respect of it, or is the subject of an administration order or, under the Insolvency Act 1986, has an

administrator, or an administrative receiver appointed in respect of it or makes a proposal for a voluntary arrangement of a composition of debts; or

14.2.3 the other Party commits a persistent or material breach of this Agreement and, where such breach is capable of remedy, fails to remedy the same within twenty eight (28) Business Days after receipt of written notice giving full details of the breach and requiring it to be remedied.

14.3 The rights to terminate this Agreement shall be without prejudice to any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach or other cause of action accrued at the date of termination.

14.4 The Customer shall pay the Consultant upon termination of this Agreement all Fees due and payable for Services performed up to the date of termination.

14.5 If the Customer terminates this Agreement pursuant to clause 14.1, the Customer shall pay the Consultant, in addition to the amount specified in clause 14.4, those Costs reasonably incurred by the Consultant in expectation of completing the whole of the Services and to which the Consultant is committed.

15 DATA PROTECTION

15.1 In this clause, the following terms shall have the following meanings:

15.1.1 **Agreed Purposes:** Contact between the Consultant and the Customer in connection with the Services

15.1.2 **Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures:** as set out in the Data Protection Laws in force at the time.

15.1.3 **Permitted Recipients:** The parties to this agreement, the employees of each party, any third parties engaged to perform obligations in connection with this agreement.

15.1.4 **Shared Personal Data:** the personal data to be shared between the parties under clause 16.2 of this agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject:

15.1.4.1 Business contact details for employees and contractors of each party as required for the provision of the Services.

15.2 **Shared Personal Data.** This clause sets out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the Data Discloser) will regularly disclose to the other party (the Data Recipient) Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

15.3 Effect of non-compliance with Data Protection Laws. Each party shall comply with all the obligations imposed on a controller under the Data Protection Laws, and any material breach of the Data Protection Laws by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this agreement with immediate effect.

15.4 Particular obligations relating to data sharing. Each party shall:

15.4.1 ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;

15.4.2 give full information to any data subject whose personal data may be processed under this agreement of the nature such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

15.4.3 process the Shared Personal Data only for the Agreed Purposes;

15.4.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;

15.4.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this agreement;

15.4.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

15.4.7 not transfer any personal data received from the Data Discloser outside the EEA unless the transferor:

15.4.7.1 complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and

15.4.7.2 ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

15.5 Mutual assistance. Each party shall assist the other in complying with all applicable requirements of the Data Protection Laws. In particular, each party shall:

- 15.5.1 consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
 - 15.5.2 promptly inform the other party about the receipt of any data subject access request;
 - 15.5.3 provide the other party with reasonable assistance in complying with any data subject access request;
 - 15.5.4 not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;
 - 15.5.5 assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 15.5.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Laws;
 - 15.5.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the personal data;
 - 15.5.8 use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
 - 15.5.9 maintain complete and accurate records and information to demonstrate its compliance with this clause 16 and allow for audits by the other party or the other party's designated auditor; and
 - 15.5.10 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Laws, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Laws.
- 15.6 **Indemnity.** Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Laws by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend

and/or settle it. The liability of the indemnifying party under this clause shall be subject to the limits set out in clause 13.

16 ENTIRE UNDERSTANDING

16.1 This Agreement embodies the entire understanding of the parties in respect of the matters contained or referred to in it and supersedes and extinguishes any prior drafts, agreements, undertakings, feasibility studies, representations, warranties and arrangements and there are no promises, terms, conditions or obligations oral or written, express or implied other than those contained in this Agreement.

17 GOVERNING LAW

17.1 This Agreement shall be governed by and construed in accordance with English law and the parties consent to the exclusive jurisdiction of the English courts in all matters.

18 NOTICES

18.1 Save to the extent otherwise provided in this Agreement, any notices to be given under this Agreement shall be in writing in the English language and shall be deemed to have been duly given if delivered by hand or any registered post or by facsimile to a Party at the addresses set out below for such Party or such other address as that Party may from time to time designate by written notice to the other.

18.1.1 In the case of the Customer:

The DEFRA contract manager is _____, Programme Manager, whose contact details are:

Email: ■

Mobile: ■■■■■■■■■■

Address: SCAH Programme Office, Woodham Lane, New Haw, Surrey KT15 3NB

18.1.2 In the case of the Consultant:

[]

Tel:

Fax:

Email:

Attention:

18.1.3 and:

UK Power Networks Legal Dept

Energy House

Hazelwick Avenue, Carrier Business Park,
Three Bridges, Crawley,
West Sussex RH10 1EX

Tel: [REDACTED]

Email: [REDACTED]

Attention: [REDACTED]

Any such notices or other documents shall be deemed to have been received by the addressee two (2) Business Days following the date of despatch if the notice or other document is sent by registered post, or on the next Business Day after delivery if sent by hand and in the case of facsimile messages sent before 2.30pm, Monday to Friday, on the date of transmission. All facsimile messages sent thereafter will be deemed to have been received on the next Business Day.

19 ASSIGNMENT & SUBCONTRACTING

- 19.1 The rights powers duties and obligations of the Parties under this Agreement are personal to them and neither Party may assign or transfer the benefit of this Agreement without the written consent of the other Party, such consent not to be unreasonably withheld or delayed.
- 19.2 The Consultant may subcontract all or part of the provision of the Services on such terms and/or to such parties as the Consultant thinks fit, without requiring any consent of the Customer to do so.
- 19.3 The sub-contracting or delegation by a Party of the performance of any obligations or duties under this Agreement shall not relieve that Party from liability for performance of such obligation or duty. Without limitation to the generality of the foregoing, the Party so subcontracting shall procure that any such subcontract contains confidentiality obligations on the part of the subcontractor which are equivalent to those contained in this Agreement.

20 WAIVER

- 20.1 Any failure or delay by any Party to exercise any right, power or privilege under this Agreement or otherwise shall not constitute a waiver of that or any other right, power or privilege.

21 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 21.1 For the purpose of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to, and does not, give any person who is not a

Party other than UK Power Networks (Operations) Ltd Company Number 3870728) to it any right to enforce any of its provisions.

22 DISPUTES

- 22.1 All disputes or differences which shall at any time hereafter arise between the Customer and the Consultant under this Agreement relating to the rights, duties and liabilities of the Parties hereunder or any matter or event connected with or arising out of the Agreement (a "**Relevant Event**") shall be referred in the first instance to the Contract Managers as soon as such Relevant Event becomes apparent. Failure to resolve the Relevant Event shall mean escalation to a director (or his nominee) of each of the Parties within 10 (ten) Business Days of the Relevant Event arising and they shall endeavour to reach and implement a mutually acceptable solution.
- 22.2 Should any dispute or difference arise between the Parties under the Agreement, including any dispute as to giving or failure to give any decision, opinion, instruction, direction of the Customer whether during the progress of the Services or after their completion and whether before or after the determination, abandonment or breach of the Agreement then either Party shall have the right to refer that dispute or difference for adjudication in accordance with the following conditions. For the avoidance of doubt, the following conditions are intended to comply with Section 108 of the Housing Grants, Construction and Regeneration Act 1996 and any doubts or ambiguities shall be construed accordingly.
- 22.3 If any such dispute or difference arises then one Party ("the Applicant") may serve upon the other ("the Respondent") a notice in writing ("the Notice") which shall state in sufficient detail the nature of the dispute, the remedy sought together with a request to refer the dispute for adjudication.
- 22.4 The Notice under clause 21.3 shall also be served forthwith by the Applicant on the adjudicator whether named in the Agreement or subsequently agreed or appointed under clause 21.5 below.
- 22.5 The Parties shall within 3 (three) Business Days of the Notice being issued agree upon a suitable adjudicator. Failing agreement, either Party shall apply for an appointment to the President of the Institution of Electrical Engineers (whilst at the same time serving a copy of the application on the other Party) whose written notification of an appointment of an adjudicator shall be served on both Parties and shall be binding on both Parties.
- 22.6 The adjudicator shall reach a decision within 28 (twenty-eight) days from the date the dispute is referred to him or such longer period as may be agreed between the Parties after the dispute is referred. Without prejudice to the foregoing, the adjudicator may extend the 28 days by up to 14 (fourteen) days with the consent of the Applicant.
- 22.7 The adjudicator is under a duty to act impartially and may use all reasonable endeavours and initiative to ascertain the facts of the dispute and applicable law. The adjudicator, his employees or agents shall not be liable for anything done or omitted in the discharge or purported discharge of adjudication functions unless the act or omission is in bad faith. The adjudicator may

correct his decision so as to remove a clerical or typographical error arising by accident or omission.

22.8 Following referral of a dispute for adjudication under clause 21.2 it shall be a condition precedent to the commencement of arbitration or litigation proceedings in respect of the same dispute or difference, that the adjudication be fully implemented and any decision of the adjudicator relative thereto be fully carried out as an obligatory first stage dispute resolution procedure.

22.9 Nothing in this clause 21 shall preclude either Party from seeking injunctive relief against the other in connection with:

22.9.1 the unauthorised disclosure of Confidential Information;

22.9.2 the infringement of any Intellectual Property Rights; or

22.9.3 the non-payment of any agreed money.

23 INVALIDITY AND SEVERABILITY

23.1 If any provision of the Agreement is or becomes or is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject, or by order of the Commission of the European Union, or by order of the Secretary of State, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

EXECUTED AS AN AGREEMENT ON

this day 2022

SIGNED by _____)
for and on behalf of
Animal and Plant Health Agency (APHA) Weybridge Site
)

SIGNED by _____)
for and on behalf of _____)
UK POWER NETWORKS (OPERATIONS) LIMITED)

SCHEDULE 1

THE SERVICES

Animal and Plant Health Agency (APHA) secured a grid connection c. 2005 that has a capacity of 7.5MW (contracted). As part of their long term planning APHA would like to understand the cost and practicalities of various levels of demand capacity and desired connection resilience.

The assessment will be conducted in two phases consisting of the following:

Phase 1:

1. Start up meeting to review and discuss feasibility study and customer requirements.
2. Assessment of the existing connection arrangement to identify the maximum capacity that can be provided under this arrangement with further only 11kV network extension.
3. Assessment of the existing connection arrangement to identify the maximum capacity that can be provided under this arrangement with further 11kV network extension and upstream reinforcement. Consideration will be given to network resilience and identification of single point failure.
4. Identification and assessment of connection solution required to meet the customer's capacity above the limits identified under points 1 and 2 up to maximum of 37MVA. Notable break points in connections solutions will be identified, if any.
5. Consideration of network resilience and single point failure for connection solutions identified under points 3-4.
6. Production of Single Line Diagrams for connection solutions identified under points 2-4.
7. Production of high-level desk top cable routes for connection solutions identified under points 2-4 including consent review.
8. Production of budget costs for connection solutions identified under points 2-4.
9. Produce report covering outcomes of points 1-8.
10. Meeting to present findings of report to customer and select option to move to phase two.

Phase 2:

1. Production of formal provisional offer for the selected solution including:
 - a. Further desk top route proving to identify the route to confirm pinch points and proposed trail hole locations.

What is not included:

No allowance for undertaking trail holes or starting consent works.

SCHEDULE 2 FEES

Total Fees (indicative only and
subject to increase in accordance with
the terms of the Agreement)

£ **60,445.81 (Ex VAT)**

SCHEDULE 3

PROGRAMME

It is anticipated that Phase 1 as described in Schedule 1 of this Consultancy Agreement will be completed in 6-8 weeks from the Service Commencement date.

Phase 2 as Described in Schedule 1 will be completed in 4-6 weeks from the date of you informing us of the selected option.

SCHEDULE 4

PLANS

Not applicable