



Crown
Commercial
Service

CO PPA IFRS 16 Call Off Order Form for Management Consultancy Services

PART 1 – CALL OFF ORDER FORM

SECTION A

This Call Off Order Form is issued in accordance with the provisions of the Framework Agreement for the provision of **RM3745** dated 4th September 2017 Lot 2 Finance.

The Supplier agrees to supply the Services specified below on and subject to the terms of this Call Off Contract.

For the avoidance of doubt this Call Off Contract consists of the terms set out in this Call Off Order Form and the Call Off Terms.

Order Number	CO PPA IFRS 16
From	The Cabinet Office Representative: [REDACTED] ("CUSTOMER")
To	KPMG LLP Representative: [REDACTED] ("SUPPLIER")

SECTION B

CALL OFF CONTRACT PERIOD

1.1.	Commencement Date: 15/3/21
	Expiry Date: End date of Initial Period 15/6/21 End date of Extension Period 15/9/21 Minimum written notice to Supplier in respect of extension: 1 week

SERVICES

2.1	<p>Services required:</p> <p>As stated in Statement of Requirements issued to the Suppliers:</p> <p>In order to meet the needs of the Contract, the Potential Provider is required to provide written advice on the extent to which the draft documentation prepared by the Cabinet Office would enable:</p> <ul style="list-style-type: none"> the direct wire PPA to fall outside the scope of IFRIC 12 (Service Concessions) as interpreted by the FReM (JSP 472 for MOD) as otherwise it would be likely to fall automatically on balance sheet; an off balance sheet arrangement under IFRS 16 (as interpreted by HMT for adoption by central government) and what changes could be required to help ensure an off balance sheet outcome under IFRS 16 was more secure, and the impact that those changes might have on the value for money aspects; and an arrangement which was contracted for using the draft documentation was potentially off budget under ESA 2010 and what changes could be required to help ensure an off budget outcome under ESA 2010 was more secure <p>In addition the supplier is also required to advise on the potential IFRS 16 and ESA 2010 implications of the circumstances MOD, MOJ & NR expect to apply to their specific direct wire solar PPA projects. The range of such potential circumstances will be limited to enable the work to be delivered within time and budget.</p> <p>The deliverables from this contract are required to support departmental discussions with HM Treasury and finalisation of Lease and direct wire PPA contractual documentation.</p>
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PROJECT PLAN

3.1.	Project Plan: The Supplier shall provide the Customer with a draft Project Plan for Approval within 5 Working Days from the Call Off Commencement Date
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Milestone	Deliverables	Milestone Date
Initial Report	Written report	9 April 2021
Final Report	Written report	28 May 2021

CONTRACT PERFORMANCE

4.1.	Standards Nothing specific outside general standards in Clause 11 of Call Off Terms
4.2	Service Levels/Service Credits: Not applied
4.3	Critical Service Level Failure: Not applied
4.4	Performance Monitoring: Not applied
4.5	Period for providing Rectification Plan: As stated in Clause 39.2.1(a) of the Call Off Terms

PERSONNEL

5.1	Key Personnel: [REDACTED]
5.2	Relevant Convictions (Clause 28.2 of the Call Off Terms): None

PAYMENT

6.1	Call Off Contract Charges (including any applicable discount(s), but excluding VAT): Call off contract charges are compliant with the provisions of Framework Schedule 3 [REDACTED]
6.2	Payment terms/profile (including method of payment e.g. Government Procurement Card (GPC) or BACS): Invoice to be submitted on completion of final deliverable.
6.3	Reimbursable Expenses: Not permitted
6.4	Customer billing address (paragraph 7.6 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)): Newport SSCL - Cabinet Office PO Box 405 Newport NP10 8FZ
6.5	Call Off Contract Charges fixed for (paragraph 8.2 of Schedule 3 (Call Off Contract Charges, Payment and Invoicing)): 1 Call Off Contract Year from the Call Off Commencement Date

6.6	Supplier periodic assessment of Call Off Contract Charges (paragraph 9.2 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)) will be carried out on: Not applicable as contract less than 1 year
6.7	Supplier request for increase in the Call Off Contract Charges (paragraph 10 of Call Off Schedule 3 (Call Off Contract Charges, Payment and Invoicing)): Not Permitted

LIABILITY AND INSURANCE

7.1	Estimated Year 1 Call Off Contract Charges: The sum of £ 44,900
7.2	Supplier's limitation of Liability (Clause 37.2.1 of the Call Off Terms); As specified in Clause 37.2.1 of the Call Off Terms.
7.3	Insurance (Clause 38.3 of the Call Off Terms): As specified in Framework Agreement

TERMINATION AND EXIT

8.1	Termination on material Default As specified in Clause 42.2.1(c) of the Call Off Terms
8.2	Termination without cause notice period (Clause 42.7.1 of the Call Off Terms): As specified in Clause 42.7.1 of the Call Off Terms
8.3	Undisputed Sums Limit: As specified in Clause 43.1.1 of the Call Off Terms
8.4	Exit Management: Not applied

SUPPLIER INFORMATION

9.1	Supplier's inspection of Sites, Customer Property and Customer Assets: Not applicable
9.2	Commercially Sensitive Information: Not applicable

OTHER CALL OFF REQUIREMENTS

10.1	Recitals (in preamble to the Call Off Terms): Recitals B to E Recital C - date of issue of the Statement of Requirements: 15/2/21 Recital D - date of receipt of Call Off Tender: 1/3/21
10.2	Call Off Guarantee (Clause 4 of the Call Off Terms): Not required
10.3	Security: Select short form security requirements
10.4	ICT Policy: Not applied
10.5	Testing: Not applied
10.6	Business Continuity & Disaster Recovery: Not applied
10.7	NOT USED
10.8	Protection of Customer Data (Clause 35.2.3 of the Call Off Terms): Not applicable
10.9	Notices (Clause 56.6 of the Call Off Terms): Customer's postal address and email address: Postal address: 1 Horse Guards Road Westminster, London SW1A 2HQ Email address of customer representative: [REDACTED] Supplier's postal address and email address: KPMG, 15 Canada Square, Canary Wharf, London E14 5GL
10.10	Transparency Reports Not required, given short duration of contract
10.11	Alternative and/or additional provisions (including any Alternative and/or Additional Clauses under Call Off Schedule 14 and if required, any Customer alternative pricing mechanism): 1. Impact of Covid-19 The timing of the Services and its performance will be dependent on all relevant information and documentation and access to personnel being made available to the Supplier promptly as and when required by the project timetable. If any stakeholder or member of either team is unavailable for an extended period of time due to sickness or measures taken to control the spread of illness, there may be a delay [or temporary

	<p>cessation] in the delivery of the Services and the Supplier will work with the Customer to mitigate any impact.</p> <p>2. Draft papers and Deliverables</p> <p>a) The parties agree that the Supplier will retain copies of its drafts and working papers prepared or generated by it during the course of providing the Services to the extent required by Applicable Law and in order to comply with its regulatory guidance and professional retention policies.</p> <p>b) Notwithstanding any other provision of this Call Off Contract, except where required by Applicable Law, the Customer shall not:</p> <p>i) disclose or transfer any Supplier branded Deliverable to any third party; or</p> <p>ii) alter any Supplier branded Deliverable; or</p> <p>iii) attribute any non-Supplier branded Deliverable to the Supplier; or</p> <p>iv) make reference to the Supplier's role in the provision of any non-Supplier branded Deliverable;</p> <p>in each case without the Supplier's prior written consent.</p>
10.12	<p>Call Off Tender:</p> <p>Call off is subject to agreed clarifications as set out in Appendix 1.</p>
10.13	<p>Publicity and Branding (Clause 36.3.2 of the Call Off Terms)</p> <p>As stated in clause 36.3.1</p>
10.14	<p>Staff Transfer</p> <p>Annex to Call Off Schedule 10, List of Notified Sub-Contractors (Call Off Tender).</p> <p>Not applicable</p>
10.15	<p>Processing Data</p> <p>Call Off Schedule 17</p>
	<p>1. The contact details of the Customer Data Protection Officer is:</p> <p>[REDACTED]</p> <p>2. The contact details of the Suppliers Data Protection Officer is:</p> <p>[REDACTED]</p>

The Processor shall comply with any further written instructions with respect to processing by the Controller.

3. Any such further instructions shall be incorporated into this Schedule.

Contract Reference:	CO PPA IFRS 16
Date:	10/3/21
Description Of Authorised Processing	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation the Parties are independent controllers of Personal Data under this Framework Agreement.
Use of Personal Data	Managing the obligations under the Call Off Contract Agreement, including exit management, and other associated activities.
Duration of the processing	For the duration of the Framework Award plus 7 years.
Nature and purposes of the processing	
Type of Personal Data	Full name Workplace address Workplace Phone Number Workplace email address

		Names Job Title Compensation Tenure Information Qualifications or certifications Nationality Education & training history Previous work history Personal Interests References and referee details Driving license details National insurance number Bank statements Utility bills Job title or role Job application details Start date End date & reason for termination Contract type Compensation data Photographic facial Image Biometric data Birth certificates IP address Details of physical and psychological health or medical condition Next of kin & emergency contact details
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		Record of absence, time tracking & annual leave
	Categories of Data Subject	
10.16	MOD DEFCONs and DEFFORM Call Off Schedule 15 Not applicable	

FORMATION OF CALL OFF CONTRACT

BY SIGNING AND RETURNING THIS CALL OFF ORDER FORM (which may be done by electronic means) the Supplier agrees to enter a Call Off Contract with the Customer to provide the Services in accordance with the terms Call Off Order Form and the Call Off Terms.

The Parties hereby acknowledge and agree that they have read the Call Off Order Form and the Call Off Terms and by signing below agree to be bound by this Call Off Contract.

In accordance with paragraph 7 of Framework Schedule 5 (Call Off Procedure), the Parties hereby acknowledge and agree that this Call Off Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of the Call Off Order Form from the Supplier within two (2) Working Days from such receipt.

For and on behalf of the Supplier:

Name and Title	[REDACTED]
Signature	
Date	10/3/21

For and on behalf of the Customer:

Name and Title	[REDACTED]
Signature	
Date	11/3/21

Appendix 1: Agreed Clarifications of Terms and Conditions

From KPMG tender

Clarification	Reason for Proposed Clarification
<p>1. <u>Open Source Publication</u></p> <p>We request that pursuant to clause 34.1.4 of the Call Off Terms, the Project Specific IPR, Deliverables and all materials provided by the Supplier are excluded from Open Source publication (excluded items). As such, clauses 34.10.1 – 34.10.3 would not apply to <u>such excluded items</u>.</p>	<p>This is not a change to the contract terms. It simply reflects that we do not believe that it is appropriate for the deliverables to be shared on an open source basis.</p>
<p>2. <u>KPMG Branded Reports</u></p> <p>We wish to retain ownership over our own drafts and working papers, and we would like to clarify the manner in which our deliverables may be used/disclosed.</p>	<p>For regulatory and professional compliance purposes, we need to retain our working papers and drafts.</p>
<p>3. <u>Personal Data</u></p> <p>It is noted that for this opportunity and engagement if successful that Personal Data will <u>not</u> be sent to KPMG by the Contracting Authority.</p>	<p>Clarification of the contract terms.</p>
<p>4. <u>Breach of Security</u></p> <p>KPMG will contact the agreed contact person(s) within two working days of a confirmed security breach that directly affects the services that we provide to you and/or your data.</p>	<p>Clarification of the contract terms.</p>

As further clarified in Email from Kevin Murphy 8/3/21

As discussed, it is KPMG's clear intent that the Cabinet Office can use the deliverables created under the engagement in the manner intended by the Cabinet Office, namely to:

1. Inform and update the suite of standard contractual documentation which can be made available on a widely accessible basis to government departments and other public bodies looking to engage in direct wire PPAs; and
2. Inform discussions between the Cabinet Office and HMT.

It is against this context that the intent and purpose of our proposed clarifications should be read and understood as follows:

Clarification	Intent

1 – Open Source Publication	<ul style="list-style-type: none"> • This clarification is simply seeking to manage the wider publication (to a potentially wide audience) of KPMG's deliverable(s) as stand-alone documents. • It is not our intent or purpose to constrain either the Cabinet Office's use of those documents in the context of its own suite of standard contractual documentation, nor to constrain the Cabinet Office in how it makes that 'pack' of standard documentation available. • Neither is it our intent to prevent or constrain the Cabinet Office in sharing our final deliverable(s) with HMT.
2 – KPMG Branded Reports	<ul style="list-style-type: none"> • This clarification is to permit KPMG to share the deliverables (and if required the underlying working papers) created for the Cabinet Office under the engagement with KPMG's regulators should a Regulator request to review them. • This clarification is necessary to make clear that whilst the Cabinet Office 'owns' the deliverables, the Cabinet Office cannot use that ownership to prevent KPMG complying with requests (if any) made of it by a Regulator.

I trust these explanations make clear that our proposed clarifications are consistent with the Cabinet Office's requirements of the work and in particular do not constrain how the outputs of our work are used by the Cabinet Office in the production and subsequent dissemination of its suite of standard contractual documentation.