

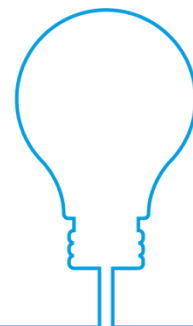


Department for
Business, Energy
& Industrial Strategy

INNOVATIVE NON-DOMESTIC DSR COMPETITION

(An SBRI Competition: TRN 1273/01/2017)

Competition Guidance Notes



January 2017

INNOVATIVE NON-DOMESTIC DEMAND SIDE RESPONSE COMPETITION

Competition Guidance Notes

TRN 1273/01/2017

Innovative Non-Domestic DSR Competition

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BEIS Innovative Non-Domestic DSR Competition (TRN 1273/01/2017) - Competition Rules and Guidance

1. Innovative Non-Domestic DSR Competition – Overview

The aim of the Smart Systems Non-Domestic DSR Competition (the Competition) is to identify, test and disseminate learning from **innovative approaches to demand side response (DSR) in operational (real-life), non-domestic applications**. By supporting innovative pilots to help communicate the benefits of DSR, this Competition seeks to address the challenges of take-up of DSR, identified for example by the National Infrastructure Commission in its 2016 ‘Smart Power’ report¹, which noted that “demand flexibility is currently underused in the UK, fuelled by an apparent and widespread failure to properly communicate the benefits it provides”.

The Competition will seek to identify and demonstrate controllable, flexible demand in real commercial, industrial, public, third sector or community non-domestic environments which can be replicated at significant scale in identical or similar applications. The focus of the Competition will be on identifying and testing **novel usage of flexible demand**, particularly in sectors and sub-sectors which do not currently participate in DSR. The proposed DSR solutions are expected to be developed largely using the application and integration of existing DSR and other IT or communication technologies - rather than on the development of new DSR products. The Competition will be technology neutral, i.e. it will not be restricted to particular DSR products or technologies.

Successful project teams for this Competition are likely to include: an organisation with the potential controllable electricity load (this could be a business or a public sector organisation); an aggregator or electricity supplier; technology supplier(s) who can implement the DSR solution; an organisation who can lead the dissemination and knowledge transfer activity (this could be an existing member of the team or a new partner dedicated to this activity).

A two-stage Small Business Research Initiative (SBRI) pre-commercial procurement process will be used to deliver this Competition:

¹ ‘Smart Power Report’, published by the National Infrastructure Commission, March 2016:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/505218/IC_Energy_Report_web.pdf

- **Phase 1, Feasibility studies** (total budget of up to £600k; up to £30k contract for each study): project teams will carry out feasibility studies which will identify the potential for DSR in a specific organisation and will set out detailed project plans for testing the proposed demand flexibility and methods for disseminating information about the DSR solution.
- **Phase 2, DSR demonstration and dissemination** (total budget of up to £7.0m; up to £1.0m contract for each demonstration project): selected project teams will be funded to enable the proposed DSR solution to be implemented and tested. A key requirement from the demonstration phase is that, once successfully implemented, the DSR solution and learning must be disseminated widely, including to organisations with similar opportunities for implementing demand flexibility, to help promote further DSR deployment.

2. Competition Context and Objectives

This Competition is funded by the BEIS energy innovation programme (2016-2021). The aim of this programme is to reduce the UK's carbon emissions and the cost of decarbonisation by accelerating the commercialisation of innovative clean energy technologies and processes into the mid-2020s.

In November 2016, BEIS published a Call for Evidence² on “A Smart Flexible Energy System”; this document noted that “enabling a smarter, more efficient energy system is a priority for Government” and “as patterns of energy supply and demand change we need a system that can cope more efficiently”. Alongside the Call for Evidence, BEIS published the results of new modelling from Imperial College and the Carbon Trust which analysed illustrative deployment of specific flexible technologies – including energy storage, demand-side response, inter-connection and flexible generation - in different demand scenarios given different technology cost trajectories. This modelling indicates that combining flexible solutions in a whole system approach could save the UK £17-40bn cumulative to 2050 through building less low carbon generation capacity, reducing peaking plant and fuel spending, and deferring investment in network reinforcement while still meeting carbon targets.

Demand flexibility or demand-side response (DSR) is expected to play a key role within the future electricity system. DSR can be used to reduce demand from the grid at peak periods and to increase demand at other times, for example when there is plentiful and cost effective low carbon generation. DSR can encompass manual intervention by consumers to adjust their levels of demand in response to a ‘demand’ signal but increasingly the focus is on more automated systems.

In its March 2016 Smart Power report³, the National Infrastructure Commission (NIC) noted that “Demand flexibility is commonplace in other countries such as Australia and the US, where it enables them to meet up to 15% of the peak demand for electricity”. There is relatively little use of DSR in the UK currently – although the UK is well-placed, for example in terms of its strong IT research capabilities and robust communications infrastructure, to deploy DSR. The NIC report noted that “demand flexibility is currently underused in the UK, fuelled by an apparent and widespread failure to properly communicate the benefits it provides”. Innovative pilots of DSR can be used to help to

² ‘An analysis of electricity flexibility for Great Britain’, published by BEIS, November 2016: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/568982/An_analysis_of_electricity_flexibility_for_Great_Britain.pdf

³ ‘Smart Power Report’, published by the National Infrastructure Commission, March 2016: www.gov.uk/government/uploads/system/uploads/attachment_data/file/505218/IC_Energy_Report_web.pdf

communicate the benefits of DSR in a clear and effective way.

A 2015 report from Frontier Economics⁴ concluded that as well as potential for significant flexible load from industrial and commercial (I&C) heating, ventilation, air-conditioning, water pumping and industrial refrigeration, in the UK there is a “large proportion of I&C load (perhaps accounting for around 10GW of peak demand) which relates to an extremely heterogeneous collection of other industrial processes”. Tapping into a proportion of this I&C load could secure significant flexibility.

There is still significant uncertainty around the speed and practical extent of the deployment of DSR in the UK. Innovation programmes which help develop and test deployment of a range of representative DSR applications can play a role in accelerating the rate and level of DSR deployment in the UK, as well as helping to secure more detailed information about the potential total level of savings for the UK to be secured from DSR in the future.

Therefore, the Innovative Non-Domestic DSR Demonstration Competition (the Competition) aims to identify and test innovative approaches to demand side response (DSR) in operational, non-domestic applications.

The specific objectives for the Competition are to:

1. To demonstrate cost-effective, flexible control of electricity demand in real (operational) commercial, industrial, public and community sector environments in the UK which can be replicated at significant scale in identical or similar applications;
2. Provide more detailed, robust data about the likely extent of and potential for DSR deployment in non-domestic environments in the UK and the savings which could be secured from non-domestic DSR in the UK;
3. Create greater awareness of the potential benefits and scope for deploying DSR among non-domestic electricity users in the UK;
4. Strengthen UK supply chains for DSR applications and deployment;

⁴ “Future potential for DSR in GB”, report prepared for the Department of Energy and Climate Change by Frontier Economics with support from LCP and Sustainability First, October 2015:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/467024/rpt-frontier-DECC_DSR_phase_2_report-rev3-PDF-021015.pdf

5. Encourage collaboration between DSR users, technology developers and academic or other supply chain partners; help to involve supply chain partners in finding innovative solutions.

3. Competition Timetable, Application and Assessment Process

The Competition funding will be awarded using the Small Business Research Initiative (SBRI) approach. SBRI is a well-established pre-commercial procurement process that enables the development of innovative products and services in response to specific challenges faced by government departments and public sector bodies. Successful business partners receive finance to develop their innovative ideas, generating new business opportunities and routes to market.

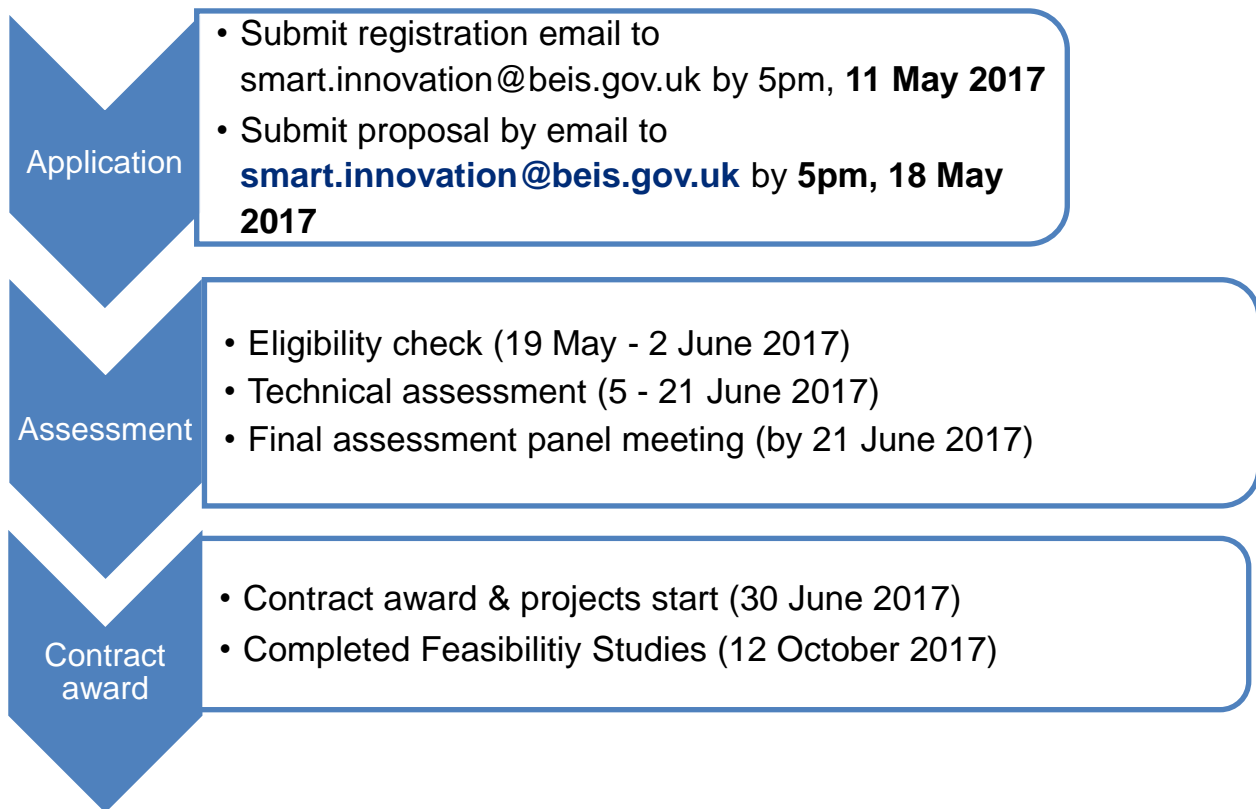
This SBRI competition will have two phases:

Phase 1 Feasibility phase; this phase will provide an opportunity for successful applicants to demonstrate the feasibility of their proposed DSR technology. The deliverable will be a feasibility study which will include: details of the proposed controllable demand; quantitative details of the potential size of the total UK demand which can be controlled in a similar way; detailed project plan setting out how and where the demand can be demonstrated and describing the proposed dissemination of the project, including to organisations with similar DSR opportunities.

Phase 2 Demonstration phase; this phase will result in the implementation and demonstration of a DSR solution in an operational environment; and dissemination events and materials (e.g. presentations; workshops; online material; conference displays) for that DSR solution. The Phase 2 demonstration projects will be selected based on the feasibility studies submitted for Phase 1 – no completely new applicants will be able to enter the Competition at Phase 2, although some variation in project partners may be permitted.

The key dates applicable to the Innovative Non-Domestic DSR Competition are:

Phase 1 Feasibility Phase:



Phase 2 Demonstration Phase (indicative timings)



As outlined in the diagram above, in both Phase 1 and Phase 2, the competition process will be undertaken in three key stages: application, assessment and contract award.

Stage 1: Application

Bidders are asked to submit a Registration Email and to complete and submit a Competition application form with supporting information explaining their proposed DSR approach and outlining their proposed demonstration project for Phase 2. The notes below explain the details of the application process:

- **Registration Email:** Applicants must submit a registration email to smart.innovation@beis.gov.uk using the title 'Non-Domestic DSR Competition' in the email subject and containing the following information: the name of the lead project organisation (project co-ordinator); the project title; and confirmation of intention to submit an application. The deadline for submitting registration emails is:
 - **Registration deadline is 5pm, 11 May 2017.**
- **BEIS Confirmation:** Within a week of receipt of the Registration Email, BEIS will issue a confirmation email to the applicant with an individual reference number. Please use this reference number to submit any subsequent application or when submitting any questions about the Competition.
- **Questions about the Competition:** If you have read the guidance notes and any online FAQs and still have questions, please submit any queries regarding the competition process to the following email address: smart.innovation@beis.gov.uk. All questions should be submitted by the registration deadline: 11 May 2017; questions submitted after this date may not be answered. We will provide online replies (<https://www.gov.uk/guidance/funding-for-innovative-smart-energy-systems>) to any questions which arise before 11 May and which, in our judgement, are of material significance. All bidders should take these replies into consideration when preparing their own bids and we will evaluate bids on the assumption that they have done so.
- **Submission of Proposal:** The full proposal for the Competition must be submitted by the deadline:
 - **Phase 1 proposal submission deadline is 5pm, 18 May 2017.**
 - **File format and size:** Completed Phase 1 application forms, the completed finance templates and any supporting information should be submitted electronically. The completed finance form should be submitted as a spreadsheet (.xls) file; the completed application form should be submitted in pdf format.

The proposal documents must be emailed to smart.innovation@beis.gov.uk

with 'Non-Domestic DSR Competition (name of lead applicant)' in the subject line.

The maximum size email you can send is 10 MB. If your application is larger than 10MB, please break the submission down into smaller sizes and ensure the subject line of each additional email takes the following format 'Non-Domestic DSR Competition (name of lead applicant) – email x of y'.

- **Submission Content:** Each Phase 1 proposal must include the following documents:
 - Completed application form, including signed declarations, which can be viewed in Annex 3 of this Guidance document (the application form is a separate word document which can be downloaded from <https://www.gov.uk/guidance/energy-innovation> or requested from smart.innovation@beis.gov.uk) ;
 - Completed pricing schedule/finance form (this is a separate spreadsheet which can be downloaded from <https://www.gov.uk/guidance/energy-innovation> or requested from smart.innovation@beis.gov.uk);
 - Completed high level project Gantt chart or project plan for the Phase 1 Feasibility Study;
 - Optional: additional letters of support or other supporting information can also be submitted **where they add substantive information** to the proposal; however, you should not assume that any additional information will be cross-referenced or reviewed as part of the selection process – for example, it may only be used to help finalise the assessment of projects which receive very similar assessment scores. The application form should include a list of any supporting documents.

You should endeavour to answer all of the questions on the application in full. Incomplete applications and any containing incorrect information will very likely be rejected although BEIS may, at its discretion, request clarification or additional data before making a final decision.

Any applications or supporting documentation received after the application deadline will not be considered.

- **Submission Costs:** You will not be entitled to claim from the Department any costs or expenses that you may incur in preparing your bid, whether or not your proposal is successful.
- **Consortium Bids:** Bids for this Competition must come from project teams (consortia) not sole applicants. **Only one submission should be submitted for**

each separate project bid but all consortium partners are required to sign the completed application form for their project(s) (see Annex 2, Declaration 2 of the application form).

If a consortium is not proposing to form a separate corporate entity, the project partners will need to complete a Consortium Agreement and funding will not be provided by BEIS until a signed consortium agreement has been finalised between all the members of the project consortium. Please note that BEIS reserves the right to require a successful consortium to form a single legal entity in accordance with Regulation 28 of the Public Contracts Regulations 2006.

BEIS recognises that arrangements in relation to consortia and sub-contractors may (within limits) be subject to future change. Bidders should therefore respond in the light of the arrangements as currently envisaged and are reminded that any future proposed changes in relation to consortia and sub-contractors must be submitted to BEIS for approval.

- **Tender Validity:** Phase 1 proposals shall be valid for a minimum of 60 calendar days from the submission deadline (18 May 2017).
- **Phase 2 Submissions:** For Phase 2, the completed Phase 1 Feasibility Studies will be used to assess and select the projects to be funded; successful Phase 1 applicants will be given further details about the format for the Phase 1 Feasibility Study when Phase 1 contracts are awarded. **No completely new project teams can apply for funding at Phase 2.**

Stage 2: Assessment

Applications will initially be assessed against the Eligibility Criteria in Section 4.

Applications which fail the Eligibility Criteria will not be assessed further, so it is essential to ensure that your project meets these criteria before you submit your application.

The eligible projects will be assessed against the assessment criteria described in Section 7 to determine an overall ranking list which will be used to allocate the funding for the Competition. To be eligible to receive funding, a project must also be allocated a minimum total score of 60% against these assessment criteria.

After the assessment stage, all applicants will receive a short summary of key feedback regarding their applications irrespective of whether they are successful or not. BEIS aims to have provided all feedback to applicants within two months of the final funding decision. However, applicants are asked to remember that BEIS may receive a significant number of applications and the timing of the release of feedback will be at BEIS's discretion.

Phase 2: the Feasibility Studies completed for Phase 1 will be assessed to decide which projects will progress to Phase 2. In addition, as part of the assessment process for Phase 2, BEIS may request applicants to attend clarification meetings in London, currently planned for the week commencing 6 November 2017.

BEIS's decision on project funding is final.

Stage 3: Contract Award

The proposed contract award timing is:

Phase 1 contracts are expected to be awarded by 30 June 2017.

Phase 2 contracts are expected to be awarded by 15 December 2017

Contract terms: For Phase 1, the contracts will be based on the BEIS Shortform Contract (DPF33). For Phase 2, the contracts will be based on the BEIS pre-commercial procurement contract. Copies of the terms and conditions for both these contracts are set out in Annex 4 of this Guidance document.

Prior to the issue of the Phase 2 contracts, there will be an opportunity for the selected project teams to discuss the contract at a meeting with an official from BEIS who will explain the contractual terms and conditions and respond to any queries which the applicant may have at this stage. BEIS officials will also discuss and finalise the formal demonstration project milestones with the project team before issue of the contract. BEIS may involve an external technical adviser in these milestone discussions and in subsequent monitoring of the project.

Consortium bids: The projects for this Competition must be delivered by project consortia; the lead company (project co-ordinator) will be the recipient of the contract (the supplier) and will be responsible for managing payment of the other project partners. If a consortium is not proposing to form a separate corporate entity, the project partners will need to complete a Consortium Agreement and funding will not be provided by BEIS until a signed consortium agreement has been finalised between all the members of the project consortium.

4. Eligibility for Funding

4.1 Competition Eligibility Criteria

To be eligible for funding, proposed projects must meet all of the following eligibility criteria:

1) Innovation and technology readiness

This Competition will support proposals that can develop, demonstrate and trial innovative non-domestic DSR technologies/techniques within the timescales indicated. It is intended to identify replicable DSR applications in non-domestic environments – rather than to support the development of specific DSR technologies. Where possible, project teams will be expected to use or adapt existing hardware and software that is already commercially available. Therefore, BEIS would expect to fund projects which:

- will result in a DSR system which is at Technology Readiness Levels (TRLs) 7 to 9 by the end of the demonstration project. Activity at an earlier Technology Readiness may be carried out within the project in order to reach the target TRLs (7 to 9) by the project end.

Further information on TRLs can be found at Annex 1 – Technology Readiness Levels (TRLs).

2) Technology scope

The Competition is interested in a broad range of DSR services providing flexibility over a range of timescales and response times (e.g. not just frequency response). The focus of the Competition is on **projects which will demonstrate controllable, flexible demand in real commercial, industrial, public or community sector environments which can be replicated at significant scale in identical or similar applications.**

The demand flexibility in the proposed demonstration projects must be secured through ‘pure’ demand-side response – not through the use of existing or new ‘behind the meter’ generation or through use of new, dedicated energy storage facilities. Energy storage which forms part of an existing operational business process may be used as part of the DSR solution.

Exclusions: Funding will not be provided for:

- the development of smart meters or related equipment; DSR equipment or other consumer demand control products which are solely for domestic use;
- new generation capacity or DSR implemented through generation (e.g. use of back up diesel generators or installation of new renewable generation capacity);
- new energy storage facilities;
- DSR applications which are already widely used commercially.

In addition, funding is unlikely to be provided for:

- a project proposed by an organisation which is already active in DSR (e.g. one which has secured a Capacity Market contract or is involved in National Grid's 'turn down' programme) – unless the project is for a novel DSR application for which the organisation cannot already secure payment.
- a project proposing a DSR application which is already used commercially – especially where it is in wide commercial use in the same or other industry, public or community sectors (in the UK or elsewhere).

3) Project activity

Contracts will be awarded to secure pre-commercial development, demonstration and dissemination activities (predominantly TRL 6 to 9), including detailed design of solutions, prototyping, field testing, trials and demonstrations and dissemination of knowledge obtained from the demonstration activity. The specific activities expected in each phase of the Competition are outlined below:

Phase 1, Feasibility study – The activity here will be development of a detailed feasibility study which will include: details of the proposed controllable demand; quantitative details of the potential size of the total UK demand which can be controlled in a similar way; detailed project plan setting out how the demand can be demonstrated and describing the proposed dissemination of the project to organisation with similar DSR opportunities.

Phase 2, Demonstration project and dissemination – The main activities in this phase will be the development, installation and demonstration of a DSR solution which reliably, safely and cost-effectively controls electricity demand in an operational environment; and dissemination events and materials (e.g. presentations; conference displays) for that DSR solution.

SBRI is aimed at organisations working on research and development (R&D) of an innovative process, material, device, product or service prior to commercialisation. Funding is available for R&D activities only, including related dissemination activity. Projects requesting funding for commercialisation activities are not eligible.

4) Project status

BEIS is unable to fund retrospective work on projects.

5) Additionality

Projects can only be funded where evidence can be provided that innovation would not be taken forwards (or would be taken forwards at a much slower rate) without public sector funding.

6) Contract size

Contracts will be awarded in this Competition in 2 stages:

- a) SBRI Stage 1 – Feasibility study development: contracts for up to £30k per feasibility study, expected to take up to 10 weeks;
- b) SBRI Stage 2 – Demonstration phase: typically contracts for between £250k - £1m per demonstration project; including up to £50k which will be ring-fenced for dissemination and knowledge transfer to other businesses with similar demand flexibility opportunities.

7) Eligible project costs

The full list of eligible project costs is set out in Annex 2 and outlined in Section 5.

8) Project location

The activities for any feasibility study or demonstration project procured in this Competition must be conducted largely in the UK (and the majority of the eligible project costs must be incurred in the UK).

9) Project end-date

Phase 1 Feasibility Studies should be completed by 12 October 2017. Phase 2 Demonstration Projects must be completed – including all reporting requirements – by 31 March 2020 at the latest: a project-specific end date will be agreed at the outset for each funded project and confirmed in the project contract.

10) Risk-Benefit sharing

The sharing of *risks and benefits* is an important aspect to the SBRI approach. Projects receive financial support and retain any intellectual property generated, with certain rights of use retained by BEIS. Project outputs are also expected to be shared widely and publicly and project teams are not permitted to include profit in the eligible project costs (for Phase 1 or Phase 2).

As part of the assessment process for Phase 2, project teams will be asked to clearly state, within the Feasibility Studies, where cost savings are being provided compared to exclusive development contracts⁵. These cost savings form part of the eligibility conditions for the Competition, i.e. projects which do not offer justified cost savings will not be eligible for Phase 2 funding.

⁵ Exclusive development means that the public purchaser reserves all the results and benefits of the development (including Intellectual Property Rights or IPRs) exclusively for its own use.

11) Applicants and project team make-up

Both phases of the Competition are expected to be delivered by a project team or consortium not by sole organisations; however, a single project application must be submitted by the lead project member – the project co-ordinator.

Successful project teams for this Competition are likely to include:

- an organisation in the UK with the potential controllable electricity load (this could be a business, academic, public, third sector or community organisation);
- an aggregator or electricity supplier who can advise on potential market routes (current or future);
- technology supplier(s) who can implement the DSR solution; and
- an organisation who can lead the dissemination and knowledge transfer activity (this could be an existing member of the team or a new partner dedicated to this activity).

Members of the project team can be:

- UK-registered private sector companies: both SMEs and large enterprises can apply as part of a consortium with other private sector companies or in a consortium with academic, research or public sector organisations.
- Academic, research, public, third sector or community organisations must work as part of a project consortium with private sector organisations – they cannot be sole applicants to this competition.

The project team co-ordinator can be a private sector company, academic, research, public, third sector or community organisation as long as they have the necessary skills and capacity to effectively lead the proposed demonstration project.

The applicant or the project team member hosting the demonstration project is expected to be a moderate electricity user with a meter type/profile class of 5-8. The Competition is unlikely to support demonstrations based in organisations with very low electricity use (i.e. consumers with meter type/profile class of 1 – 4 meters).

The assessment process will prioritise DSR applications where there is the largest potential for controllable demand (in response to external signals in order to reduce peak power demands or to increase demand) and the greatest potential for replicating that controllable demand. The scope for replication could be where the supported applicant is one of many identical or similar organisations or because the demonstrated flexible demand can be replicated in other industry or commercial sectors.

Exclusions:

- Businesses which already have demand response contracts in place for the same or a similar DSR application or are already working directly with, the DNOs, TSO (National Grid) or an aggregator on commercial demand response programmes for the same or a similar DSR application.

4.2 General BEIS procurement conditions

There are four declaration forms which must be completed by each applicant, covering issues such as: conflict of interest; non-collusion; bribery, corruption and fraud; and overall agreement to the terms of this pre-commercial procurement process.

These declarations are included within the Competition Application Form and must be signed by the applicant. They are also attached at Annex 3 of this document for reference.

Conflicts of interest: The DECC standard terms and conditions of contract include reference to conflict of interest and require contractors to declare any potential conflict of interest to the Secretary of State.

For research and analysis, conflict of interest is defined as the presence of an interest or involvement of the contractor, subcontractor (or consortium member) which could affect the actual or perceived impartiality of the research or analysis.

Where there may be a potential conflict of interest, it is suggested that the consortium or organisation designs working arrangements such that the findings 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 research or analysis, and how these can be structured to ensure an impartial approach to the project is maintained.

The process by which this is managed in the procurement process is as follows:

- During the bidding process, organisations may contact BEIS to discuss whether or not their proposed arrangement is likely to yield a conflict of interest.
- **Contractors are asked to sign and return Declaration 3** (this is contained in the Competition Application Form and is attached for reference in Annex 3) to indicate whether or not any conflict of interest may be, or be perceived to be, an issue. If this is the case, the contractor or consortium should give a full account of the actions or processes that it will use to ensure that conflict of interest is avoided. In any statement of mitigating actions, contractors are expected to outline how they propose to achieve a robust, impartial and credible approach to the research.
- When tenders are scored, this declaration will be subject to a pass/fail score, according to whether, on the basis of the information in the proposal and declaration, there remains a conflict of interest which may affect the impartiality of the research.

Failure to declare or avoid conflict of interest at this or a later stage may result in exclusion from the procurement competition, or in BEIS exercising its right to terminate any contract awarded.

5. Contract Size and Restrictions on Funding

5.1 Competition Budget and Availability

The total budget available for the Innovative Non-Domestic DSR Demonstration Competition is up to £7.6m, although BEIS may allocate less than the total budget depending on the quality of the applications.

A maximum of £0.6m will be available for Phase 1 feasibility studies, with a maximum expected value of £30k per project. The number of phase 1 projects funded depends on the range of solutions proposed and the quality of the proposals.

A maximum of £7.0m will be available for Phase 2 demonstration projects and related dissemination activities. Phase 2 project costs are expected to be in the region of £250k to £1.0m for each project (including up to £50k which must be ring-fenced for dissemination and knowledge transfer activities), although project costs outside this range will be considered on a case by case basis.

Funding under this Competition is only **available until 31 March 2020**. All project activities, including dissemination and reporting and payments need to be completed by this date. All costs should include VAT, where applicable.

Note: Nothing in this funding call requires BEIS to award any applicant a contract of any particular amount or on any particular terms. BEIS reserves the right not to award any contracts, in particular if BEIS is not satisfied by the proposals received or if the funding assigned to the scheme is required for other, unforeseen, purposes. BEIS will not, under any circumstances, make any contribution to the costs of preparing proposals and applicants accept the risk that they may not be awarded a contract.

5.2 Eligible Costs

Applicants are instructed that the project costs quoted must reflect actual costs at a 'fair market value' and for this Competition, **profit for the project team members must not be included**. Assessors are required to judge each application in terms of value for money, i.e. does the proposed cost for effort and deliverables reflect a fair market price.

In Phase 1, eligible costs are those directly associated with preparation of the feasibility study will be considered. (However, an indication of the potential costs involved in participating in Phase 2 is also required when bidding for Phase 1.)

In Phase 2, eligible costs are those directly associated with the development, implementation, monitoring, decommissioning (if necessary – see separate note below) and dissemination of the DSR demonstration projects will be considered.

Further details of eligible and ineligible costs are provided in Annex 2. Applicants must complete the Competition Finance Form (separate spreadsheet) to provide the necessary cost information for the assessment process; further itemisation of costs and methods of calculation may be requested to support the application.

For the selection of Phase 2 projects, proposals will also be assessed to determine whether the applicants have provided reasonable price reductions to reflect the risk-benefit sharing IPR conditions of the pre-commercial procurement contract for this competition. The sharing of risks and benefits is key to the pre-commercial procurement/SBRI approach and at Phase 2 applicants will be expected to offer a price reduction compared to the price applicable in the case of exclusive development⁶.

5.3 Decommissioning Costs

Chosen suppliers will have responsibility for decommissioning demonstration equipment when the project has been completed if it is not feasible to continue to operate the DSR application. When bidding, suppliers need to include any decommissioning costs, at fair market value, in the total estimated costs for the Phase 2 Demonstration Project.

⁶ Exclusive development means that the purchaser reserves all the results and benefits of the development (including Intellectual Property Rights) exclusively for its own use.

6. Deliverables

It should be noted that SBRI contracts require that project outputs are shared publicly – therefore a key part of the projects supported in this Competition will be the dissemination and knowledge sharing activities.

Phase 1

Phase 1 projects will be expected to deliver a feasibility study containing a detailed description of: the proposed controllable demand; quantitative details of the potential size of the total UK demand which can be controlled in a similar way; a detailed and costed project plan setting out how and where the demand will be demonstrated if selected for funding; and proposals for dissemination of the project learning to organisations with similar DSR opportunities.

BEIS will supply guidance for writing the feasibility study prior to projects commencing. The Phase 1 feasibility study will be used to assess which projects will go forward to Phase 2. As such, the report should contain sufficient information to enable assessment and we reserve the right to request any further details beyond those provided to aid us in our assessment.

Alongside the report, suppliers will need to deliver fully accessible copies of any models used, with appropriate explanations of the analysis undertaken and the raw data used.

The project teams will also be required to provide a version of the Phase 1 feasibility study which can be published (if there are aspects of the main report which are commercially confidential).

Phase 2

Phase 2 projects will be expected to develop, install and operate an on-site demonstration of the controllable electricity demand at the agreed site. The final outputs from this Demonstration Project will be:

- an evidence-based final project report for BEIS (and other government departments) detailing the design and development of the system, demonstration and trials results, key successes, lessons learned, and next steps. BEIS will supply guidance for this project report;
- a version of the Phase 2 project report which can be published;
- a programme of dissemination focused on other organisations with similar controllable demand.

7. Assessment Process and Criteria

7.1 Assessment Process

All applications will be considered initially against all the competition eligibility criteria (described in section 4) and then against the assessment areas outlined below which are based on the Competition's objectives and the likelihood of effective project delivery.

The eligible projects will be assessed against the assessment criteria below to determine an overall ranking list which will be used to allocate the funding for the Competition. To be eligible to receive funding, a project must also be allocated a minimum total score of 60% against these assessment criteria.

The application form and guidance notes are designed to inform you about the types of information you should provide to BEIS in order for your proposal to be assessed.

The individual questions listed under the headings below do not constitute assessment sub-criteria, but are an indication of the kinds of factors that will be taken into account in assessing each aspect of a proposal.

7.2 Assessment Criteria

Criterion 1	Innovative, cost-effective DSR approach
Weighting	20%
Guidance	<p>This criterion will be used to assess the approach to be used to control electricity in the proposed demonstration project and the cost of implementing the demand control solution.</p> <p>The criterion will look at the operational impact and total lifetime costs associated with implementing the proposed demand-control solution.</p> <p>The level of innovation in the proposed solution will also be considered – applicants will be asked to identify any similar existing DSR solutions and to explain the innovation in their approach.</p>
Scoring	Highest marks will be awarded to the most cost-effective, innovative DSR applications.

Criterion 2	Scale of potential cost-effective, controllable demand
Weighting	20%
Guidance	This criterion will be used to assess the likely scale and scope of the market for the proposed DSR solution – i.e. how repeatable the proposed

	<p>demand control approach is across the same or other industry sectors. Applicant teams will be required to provide an evidence-based, quantitative analysis of the total level of similar, controllable demand across the UK.</p> <p>Applicants will also be required to set out plans for the further development, commercialisation and exploitation of the innovation.</p>
Scoring	Highest marks will be awarded to applicants with DSR solutions which offer the greatest opportunity for replication across the UK and with the most robust plans for further exploitation of the proposed DSR solution.

Criterion 3	Contribution to DSR awareness and uptake
Weighting	15%
Guidance	<p>This criterion will be used to assess the impact that the project will have on the wider awareness and uptake of non-domestic DSR in the UK.</p> <p>To assess this criterion, we will consider the project team's proposed dissemination and knowledge transfer activities – both the proposed scope and scale of knowledge transfer.</p>
Scoring	Highest marks will be awarded to those project teams with the most robust and credible plans for dissemination and knowledge transfer.

Criterion 4	Project financing
Weighting	15%
Guidance	<p>This criterion will be used to assess the:</p> <ul style="list-style-type: none"> - Phase 1 feasibility study project costs – to ensure that costs represent a fair market value and do not include profit for the project team members; - the robustness of the Phase 1 feasibility study project costs – i.e. whether the proposed eligible project costs are realistic and justified in terms of the proposed project plans <u>and</u> sufficient to deliver the deliverables sought; <p>This criterion will also be used to secure initial outline information about the estimated costs of the proposed demonstration project.</p>
Scoring	<p>Highest marks will be awarded to projects that can demonstrate that the proposed public sector contribution to the eligible project costs:</p> <ul style="list-style-type: none"> • will represent good use of public funding by supporting projects whose costs are realistic and justified and are likely to secure the expected project aims and deliverables;

	<ul style="list-style-type: none"> • will represent good value for money and a fair balance of risk and benefits for BEIS, including no element of profit in the project costs.
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Criterion 5	Likelihood of successful project delivery
Weighting	20%
Guidance	<p>This criterion will be used to assess the expected effectiveness and efficiency of delivery of the feasibility study and will also consider the project team's potential capacity and capability to deliver a DSR demonstration project and associated dissemination activity. This will be assessed by looking at a range of factors, including:</p> <ul style="list-style-type: none"> • the capacity, experience and capability of the project team; • the completeness and quality of the proposed project delivery plans both for the feasibility study and for the proposed DSR demonstration project; • the appropriateness and realism of the project milestones and deliverables; • the project's access to the necessary skills and facilities; • the quality of risk assessment and contingency planning, including consideration of health and safety and other regulatory requirements.
Scoring	<p>Highest marks will be awarded to applicants that have taken all reasonable steps to maximise the likelihood of successfully delivering the projects aims (whilst recognising the innate technical risk in any innovation project). High scoring applications will, for example:</p> <ul style="list-style-type: none"> • present well thought-out, robust, credible, project plans; • show a realistic and robust approach to risk management; • have a strong delivery team with proven experience of successfully delivering comparable projects; • guarantee access to any necessary specialist facilities, operational knowledge and skills, or other resources required to execute the project; • show the strong commitment of all participating organisations; • not be heavily dependent for success on external factors beyond the project's direct control.

Criterion 6	Contribution to sector capacity building
Weighting	10%

Guidance	<p>This criterion will be used to assess the impact that the project will have on the wider DSR industry and DSR-related supply chains in the UK. To assess this criterion, we will consider a number of factors, including, but not limited to:</p> <ul style="list-style-type: none"> • breadth of the project team; • the effective application of expertise from related industries to the DSR solutions; • innovative approach to solutions.
Scoring	Highest marks will be awarded to those projects that are likely to result in a strengthening of DSR supply chains in the UK.

7.3 Scoring Guidance

We will select projects that offer the best value for money overall based on their assessment against the criteria outlined in section 7.2. The projects will be scored against these six assessment criteria using the following scoring guidance set out in Table 2. Projects must score a minimum of 60% (based on total score) in order to be eligible for funding.

Table 2: Scoring Guidance

Score	Description
1	There is no evidence that the question has been answered.
2-3	There is very little evidence that the question has been satisfactorily answered and major omissions are evident.
4-5	There is little evidence that the question has been satisfactorily answered and some omissions are evident. Much more clarification is needed.
6-7	There is reasonable evidence that the question has been satisfactorily addressed but some omissions are still evident and further clarification is needed
8-9	The question has been well addressed with a good evidence base, with only minor omissions or lack of clarity.
10	There is clear evidence that the question has been completely addressed in all aspects, with question answered clearly, concisely with a strong evidence base.

8. Financial Information

Applicants are requested to provide a fixed price quotation for the work. A detailed cost breakdown is required to enable assessment of value for money.

Financial information should include costs for both phases of the project, detailing labour (including manpower rates), material and capital equipment costs, and any travel and subsistence requirements. Applicants are required to complete a detailed financial summary template (the finance form) as part of the application process.

Financial viability checks

BEIS will undertake financial viability checks on all successful applicants. These will include looking at the latest independently audited accounts filed on the Companies House database.

Where a business is not required to file accounts with Companies House, other financial information may be requested to enable an appropriate financial viability review to be undertaken. We will be looking for evidence of your ability to resource the cashflow for the project appropriately, so the information we request will be focused on understanding how your business operates in this respect.

Before your project starts, BEIS will ask for evidence that you have the funding mechanisms in place to manage your cash flow across the life of your project. This could include letters of credit or other such mechanisms.

BEIS will not make payments in advance of need and typically makes contract payments in arrears on satisfactory completion of agreed milestones and deliverables. BEIS understands, however, the difficulties which small businesses may face when financing this type of project. BEIS will explore cash flow issues with the applicant as part of developing the financial and milestone profile during the Contract Award process. BEIS will offer flexibility in terms of profiles and payments, within the confines of the requirements for use of public money within which it operates.

9. Notification & Publication of Results

Notification

Applicants will be informed by email whether their application has been successful, subject to compliance with the terms and conditions of the Conditional Grant Offer.

BEIS may wish to publicise the results of the scheme which may involve engagement with the media. At the end of the application and assessment process, BEIS may issue a press release or publish a notice on its website. These public documents may, for example, outline the overall results of competitions and describe some of the projects to be funded.

Some organisations may want their activities to remain confidential and you will be given a chance to opt out of any involvement in media relations activity and further case study coverage of projects, should you see this as being absolutely necessary. However, the public description of the project you provide in your application will be made available in the public domain if your application is successful, and you are not able to opt out of the project description being published. In addition, all funded projects must include reporting and dissemination milestones – agreed with BEIS - as part of their project deliverables.

Any organisation that wishes to publicise its project, at any stage, must contact the Competition Project Manager or their Project Monitoring Officer at BEIS before doing so.

Publication of results

SBRI involves a high degree of risk–benefit sharing. In return for provision of funding and non-financial support during demonstration activities, BEIS expects to be able to use and share the results and outputs of the demonstration activities with other Government Departments, industry and other stakeholders to further understanding and progress technology development and deployment.

BEIS also wishes to publicise details of the award recipients. Therefore, on or after issuing a SBRI contract, BEIS will publish the following information:

- Identity of the participant and its partners;
- Project summary information including aims and expected outcomes of the project and technology area;
- Total award value.

Following completion of the funded projects, BEIS will publish on its website a summary of the funded activities and the outcomes achieved. This will include a final summary report from each project detailing technical approach, key achievements and recommendations.

BEIS may also revisit projects at a later date and publish an evaluation report for the scheme as a whole.

BEIS however recognise the need to maintain confidentiality of commercially sensitive information. BEIS will consult applicants regarding the nature of information to be published, in order to protect commercially sensitive information.

10. Reporting, Knowledge Sharing, Evaluation and Intellectual Property Requirements

Reporting, Knowledge Sharing & Evaluation Requirements

There will be a number of requirements on contractors during the course of the project, including after the final payment milestone:

- Reporting: to track project progress and ensure payments are made according to a schedule of milestones to be agreed with selected projects. This reporting will be in confidence to BEIS and its technical advisers and will not be published. Any changes to schedules or project plans will need to be discussed with BEIS and applicants should expect significant interaction with the team during the project;
- Evaluation of the scheme: Successful applicants will be expected to participate in an evaluation of the scheme during and after final contract payments, to assess the impact of the scheme including value for money;
- Knowledge sharing: effective dissemination and knowledge sharing are key requirements in this Competition – and applicants will be assessed on the scope and scale of their proposed knowledge sharing activities.

Intellectual Property

Suppliers will retain the intellectual property generated from the project, and will be expected to identify and protect patentable knowledge within 3 years of its creation. Costs associated with securing intellectual property arising from or associated with this project are not eligible for reimbursement and cannot be included within the contract price.

BEIS requires a UK wide, irrevocable, royalty-free, non-exclusive licence, together with the right to grant sub-licences, to use or publish information, data, results, outcomes or conclusions which are created in performing the project, for its internal non-commercial purposes.

For those projects selected to go through to Phase 2, project teams will be asked to identify the price reduction offered by the bidder compared to the price of the project if BEIS was retaining exclusive rights to IPR and other project results

The proposed arrangements for intellectual property rights and exploitation of IPR are set out in the example contract terms and conditions for this Competition in Annex 4 of these Guidance Notes.

Ownership of Demonstration Devices

Chosen suppliers will retain responsibility and ownership for the technologies and related equipment developed and used during the delivery of the contracts.

11. Feedback, Re-application and Right of Appeal

A short summary of key feedback regarding the applications will be provided to all applicants, this feedback will be based on the comments of technical assessors and the Investment Advisory Panel. No additional feedback will be provided and there will be no further discussion on the application.

The feedback from the assessors is intended to be constructive. Comments are not a check list of points which must be answered or argued in a resubmitted application as the assessors may be different and it is your decision as to whether you act on the suggestions made.

12. Confidentiality and Freedom of Information

Where any request is made to BEIS under the Freedom of Information Act 2000 (“FOIA”) for the release of information relating to any project or applicant, which would otherwise be reasonably regarded as confidential information, then BEIS will notify you of the request as soon as we become aware of it. An applicant must acknowledge that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that BEIS may nevertheless be obliged to disclose information which the applicant considers confidential.

As part of the application process all applicants are asked to submit a public description of the project. This should be a public facing form of words that adequately describes the project but that does not disclose any information that may impact on Intellectual Property (IP), is confidential or commercially sensitive. The titles of successful projects, names of organisations, amounts awarded and the description of the project may be published once the award is confirmed as final.

All assessors used during the assessment of applications will be subject to a confidentiality agreement.

13. Further Instructions to Bidders

The Department reserves the right to amend the enclosed Competition documents at any time prior to the deadline for receipt of proposals. Any such amendment will be numbered, dated and issued on the website (<https://www.gov.uk/guidance/funding-for-innovative-smart-energy-systems>). Where amendments are significant, the Department may at its discretion extend the deadline for receipt of tenders.

The Department reserves the right to withdraw this contract opportunity without notice and will not be liable for any costs incurred by contractors during any stage of the process. Contractors should also note that, in the event a proposal is considered to be fundamentally unacceptable on a key issue, regardless of its other merits, that proposal may be rejected. By issuing this Competition document, the Department is not bound in any way and does not have to accept the lowest or any proposal and reserves the right to accept a portion of any proposal unless the tenderer expressly stipulates otherwise in their proposal.

Annex 1 – Technology Readiness Levels (TRLs)

Technology readiness levels are an indication of the maturity stage of development of particular technology on its way to being developed for a particular application or product. The table below provides a definition of Technology Readiness Levels 1 to 9.

TRL 1 – Basic Research	Scientific research begins to be translated into applied research and development.
TRL 2 – Applied Research	Basic physical principles are observed, practical applications of those characteristics can be 'invented' or identified. At this level, the application is still speculative: there is not experimental proof or detailed analysis to support the conjecture
Applied research and development	
TRL 3 – Critical Function or Proof of Concept Established	Active research and development is initiated. This includes analytical studies and laboratory studies to physically validate analytical predictions of separate elements of the technology. Examples include components that are not yet integrated or representative.
TRL 4 – Laboratory Testing/Validation of Component(s)/Process(es)	Basic technological components are integrated - Basic technological components are integrated to establish that the pieces will work together.
TRL 5 – Laboratory Testing of Integrated/Semi-Integrated System	The basic technological components are integrated with reasonably realistic supporting elements so it can be tested in a simulated environment.
Demonstration	
TRL 6 – Prototype System Verified	Representative model or prototype system, is tested in a relevant environment.
TRL 7 – Integrated Pilot System Demonstrated	Prototype near or at planned operational system, requiring demonstration of an actual system prototype in an operational environment.
Pre-commercial deployment	
TRL 8 – System Incorporated in Commercial Design	Technology is proven to work - Actual technology completed and qualified through test and demonstration.
TRL 9 – System Proven and Ready for Full Commercial Deployment	Actual application of technology is in its final form - Technology proven through successful

	operations.
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Annex 2 - Eligible and Ineligible Costs

1. Eligible Costs

Directly incurred costs:

These are costs that are specific to the project that will be charged to the project as the amount actually spent, fully supported by an audit record justification of a claim. They comprise:

- Labour costs for all those contributing to the project broken down by individual
- Material costs (including consumables specific to the project)
- Capital equipment costs
- Sub-contract costs
- Travel and subsistence

Indirect costs:

Indirect costs should be charged in proportion to the amount of effort deployed on the project. Applicants should calculate them, using their own cost rates. They may include:

- General office and basic laboratory consumables
- Library services / learning resources
- Typing / secretarial
- Finance, personnel, public relations and departmental services
- Central and distributed computing
- Overheads

2. Ineligible Costs

Under no circumstances can costs for the following items be claimed:

- Commercialisation activities
- Profit (i.e. applicants should not include profit for themselves or the other project team members within indirect costs or include it as a separate project cost)

- Protection of IPR
- For activities of a political or exclusively religious nature;
- In respect of costs reimbursed or to be reimbursed by funding from other public authorities or from the private sector;
- In connection with the receipt of contributions in kind (a contribution in goods or services as opposed to money);
- To cover interest payments (including service charge payments for finance leases);
- For the giving of gifts to individuals, other than promotional items with a value no more than £10 a year to any one individual;
- For entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations);
- To pay statutory fines, criminal fines or penalties; or
- In respect of VAT that you are able to claim from HM Revenue and Customs.

Annex 3 – Declarations

Declaration 1: Statement of non-collusion

To: The Department for Business, Energy and Industrial Strategy

1. We recognise that the essence of competitive tendering is that the Department will receive a bona fide competitive tender from all persons tendering. We therefore certify that this is a bona fide tender and that we have not fixed or adjusted the amount of the tender or our rates and prices included therein by or in accordance with any agreement or arrangement with any other person.

2. We also certify that we have not done and undertake not to do at any time before the hour and date specified for the return of this tender any of the following acts:

- (a) communicate to any person other than the Department the amount or approximate amount of our proposed tender, except where the disclosure, in confidence, of the approximate amount is necessary to obtain any insurance premium quotation required for the preparation of the tender;
- (b) enter into any agreement or arrangement with any other person that he shall refrain for submitting a tender or as to the amount included in the tender;
- (c) offer or pay or give or agree to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person doing or having done or causing or having caused to be done, in relation to any other actual or proposed tender for the contract any act, omission or thing of the kind described above.

3. In this certificate, the word “person” shall include any person, body or association, corporate or unincorporated; and “any agreement or arrangement” includes any such information, formal or informal, whether legally binding or not.

.....
Signature (duly authorised on behalf of the tenderer)

.....
Print name

.....
On behalf of (organisation name)

.....
Date

Declaration 2: Form of Tender

To: The Department for Business, Energy and Industrial Strategy

1. Having considered the invitation to tender and all accompanying documents (including without limitation, the terms and conditions of contract and the Specification) we confirm that we are fully satisfied as to our experience and ability to deliver the goods/services in all respects in accordance with the requirements of this invitation to tender.
2. We hereby tender and undertake to provide and complete all the services required to be performed in accordance with the terms and conditions of contract and the Specification for the amount set out in the Pricing Schedule.
3. We agree that any insertion by us of any conditions qualifying this tender or any unauthorised alteration to any of the terms and conditions of contract made by us may result in the rejection of this tender.
4. We agree that this tender shall remain open to be accepted by the Department for 8 weeks from the date below.
5. We understand that if we are a subsidiary (within the meaning of section 1159 of (and schedule 6 to) the Companies Act 2006) if requested by the Department we may be required to secure a Deed of Guarantee in favour of the Department from our holding company or ultimate holding company, as determined by the Department in their discretion.
6. We understand that the Department is not bound to accept the lowest or any tender it may receive.
7. We certify that this is a bona fide tender.

.....
Signature (duly authorised on behalf of the tenderer)

.....
Print name

.....
On behalf of (organisation name)

.....
Date

Declaration 3: Conflict of Interest

I have nothing to declare with respect to any current or potential interest or conflict in relation to this research (or any potential providers who may be subcontracted to deliver this work, their advisers or other related parties). By conflict of interest, I mean, anything which could be reasonably perceived to affect the impartiality of this research, or to indicate a professional or personal interest in the outcomes from this research.

Signed

Name

Position

OR

I wish to declare the following with respect to personal or professional interests related to relevant organisations*;

- X
- X

Where a potential conflict of interest has been declared for an individual or organisation within a consortium, please clearly outline the role which this individual or organisation will play in the proposed project and how any conflict of interest has or will be mitigated.

- X
- X

Signed

Name

Position

Please complete this form and return this with your ITT documentation - Nil returns **are** required.

* These may include (but are not restricted to);

- A professional or personal interest in the outcome of this research

- For evaluation projects, a close working, governance, or commercial involvement in the project under evaluation
- Current or past employment with relevant organisations
- Payment (cash or other) received or likely to be received from relevant organisations for goods or services provided (Including consulting or advisory fees)
- Gifts or entertainment received from relevant organisations
- Shareholdings (excluding those within unit trusts, pension funds etc.) in relevant organisations
- Close personal relationship or friendships with individuals employed by or otherwise closely associated with relevant organisations

All of the above apply both to the individual signing this form and their close family / friends / partners etc.

If your situation changes during the project in terms of interests or conflicts, you must notify BEIS straight away.

A DECLARATION OF INTEREST WILL NOT NECESSARILY MEAN THE INDIVIDUAL OR ORGANISATION CANNOT WORK ON THE PROJECT; BUT IT IS VITAL THAT ANY INTEREST OR CONFLICT IS DECLARED SO IT CAN BE CONSIDERED OPENLY.

Declaration 4: Questions for tenderers

In some circumstances the Department is required by law to exclude you from participating further in a procurement. If you cannot answer 'no' to every question in this section it is very unlikely that your application will be accepted, and you should contact us for advice before completing this form.

Please state 'Yes' or 'No' to each question.

Has your organisation or any directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?	Answer
(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;	
(b) corruption within the meaning of section 1 (2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906; where the offence relates to active corruption;	
(c) the offence of bribery, where the offence relates to active corruption;	
(d) bribery within the meaning of section 1 or 6 of the Bribery Act 2010;	
(e) fraud, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities, within the meaning of:	
(i) the offence of cheating the Revenue;	
(ii) the offence of conspiracy to defraud;	
(iii) fraud or theft within the meaning of the Theft Act 1968 , the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;	
(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;	
(v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994 ;	

(vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;	
(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;	
(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or	
(ix) making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Fraud Act 2006;	
(f) money laundering within the meaning of section 340(11) of the Proceeds of Crime Act 2002;	
(g) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996; or	
(h) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or	
(i) any other offence within the meaning of Article 45(1) of Directive 2004/18/EC as defined by the national law of any relevant State.	

Annex 4 – Example Contract Terms and Conditions

Phase 1 Feasibility Study

BEIS proposes to use its Short Form Contract as the basis of the contract for the Phase 1 Feasibility Studies for this Competition; the current Terms and Conditions for the Short Form contract are attached below for information.

BEIS Short Form Contract: Terms and Conditions of Contract for Services

1 Interpretation

1.1 In these terms and conditions:

“Agreement” means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter;

“Award Letter” means the letter from the Customer to the Supplier printed above these terms and conditions;

“Central Government Body” means 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;

“Charges” means the charges for the Services as specified in the Award Letter;

“Confidential Information” means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;

“Customer” means the person named as Customer in the Award Letter;

“DPA” means the Data Protection Act 1998;

“Expiry Date” means the date for expiry of the Agreement as set out in the Award Letter;

“FOIA” means the Freedom of Information Act 2000;

“Information” has the meaning given under section 84 of the FOIA;

“Key Personnel” means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;

“Party” means the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;

“Personal Data” means personal data (as defined in the DPA) which is processed by the Supplier or any Staff on behalf of the Customer pursuant to or in connection with this Agreement;

“Purchase Order Number” means the Customer’s unique number relating to the supply of the Services;

“Request for Information” has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);

“Services” means the services to be supplied by the Supplier to the Customer under the Agreement;

“Specification” means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;

“Staff” means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;

“Staff Vetting Procedures” means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time;

“Supplier” means the person named as Supplier in the Award Letter;

“Term” means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;

“VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;

1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;

1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2 Basis of Agreement

2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.

2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within [7] days of the date of the Award Letter.

3 Supply of Services

3.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.

3.2 In supplying the Services, the Supplier shall:

3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;

3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;

3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;

3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;

3.2.5 comply with all applicable laws; and

3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.

3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.

4 Term

4.1 The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.

4.2 The Customer may extend the Agreement for a period of up to 6 months by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

5 Charges, Payment and Recovery of Sums Due

5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

5.2 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.

5.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.

5.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.

5.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.

5.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

5.7 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier

shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

6 Premises and equipment

6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.

6.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.

6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.

6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.

6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.

6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.

6.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

7 Staff and Key Personnel

7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:

7.1.1 refuse admission to the relevant person(s) to the Customer's premises;

7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or

7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,

and the Supplier shall comply with any such notice.

7.2 The Supplier shall:

7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;

7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and

7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.

7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

8 Assignment and sub-contracting

8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.

8.2 Where the Supplier enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

8.3 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.

8.4 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9 Intellectual Property Rights

9.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.

9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).

9.3 The Supplier hereby grants the Customer:

9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and

9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

(a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and

(b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

9.4 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or

paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10 Governance and Records

10.1 The Supplier shall:

10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and

10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

11.1 Subject to clause 11.2, each Party shall:

11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to its auditors or for the purposes of regulatory requirements;

11.2.3 on a confidential basis, to its professional advisers;

11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant

to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and

11.2.6 where the receiving Party is the Customer:

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (d) in accordance with clause 12.

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 the Customer under this clause 11.

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

12 Freedom of Information

12.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;

12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form

that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and

12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.

12.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13 Protection of Personal Data and Security of Data

13.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.

13.2 Notwithstanding the general obligation in clause 13.1, where the Supplier is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Supplier shall:

13.2.1 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;

13.2.2 provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;

13.2.3 promptly notify the Customer of:

(a) any breach of the security requirements of the Customer as referred to in clause 13.3; and

(b) any request for personal data; and

13.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.

13.3 When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

14 Liability

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses 14.3 and 14.4:

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or

14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clause 9.4 and 18.3 shall be unlimited.

15 Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 Termination

16.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.

16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:

16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;

16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;

16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;

16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;

16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17; or

16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction.

16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.

16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.

16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.

16.6 Upon termination or expiry of the Agreement, the Supplier shall:

16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and

16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

17 Compliance

17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.

17.2 The Supplier shall:

17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and

17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 The Supplier shall:

17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and

17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.

17.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.

17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

17.5.1 the Official Secrets Acts 1911 to 1989; and

17.5.2 section 182 of the Finance Act 1989.

18 Prevention of Fraud and Corruption

18.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3 If the Supplier or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:

18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

18.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

19 Dispute Resolution

19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “Mediator”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 General

20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.

20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.

20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.

20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.

20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

21 Notices

21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:

21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.

21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

22 Governing Law and Jurisdiction

The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

Phase 2 Demonstration Project

BEIS proposes to use its Pre-Commercial Procurement Contract as the basis of the contract for the Phase 2 Demonstration Projects for this Competition; the current Terms and Conditions for the Short Form contract are attached below for information.

Illustrative Terms and Conditions for Phase 2 Demonstration Phase contracts:

1. Definitions and Interpretation

(1) In these terms and conditions of contract for services (“Conditions”):

“Arising Intellectual Property” means the Intellectual Property Rights which are created as a result of the Contractor’s performance of the Services;

“Authority” means the Secretary of State for Energy and Climate Change;

“Authority’s Premises” means land or buildings owned or occupied by the Authority;

“Background Intellectual Property” means Intellectual Property Rights owned, controlled or used by either of the Parties at the date of this Contract or which shall at any time thereafter become so owned, controlled or used otherwise than as a result of the performance of the Services under this Contract;

“the Charges” means the price agreed in respect of the Services, excluding Value Added Tax;

“Confidential Information”:

- a) means all information obtained by the Contractor from the Authority or any other department or office of Her Majesty’s Government relating to and connected with the Contract and the Services; but
- b) does not include the Contract itself and the provisions of the Contract where, or to the extent that, the Authority publishes them by virtue of Condition 40;

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

the “Contractor” means the person who agrees to supply the Services and includes any person to whom all or part of the Contractor’s obligations are assigned pursuant to Condition 4;

“Data” means information collected or used for the purposes of performing the Services, which can be processed manually, electronically or by other means;

“DECC” means the Department of Energy and Climate Change;

“Full Contract Price” means the price quoted by the Contractor for all phases within the Proposal;

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

"Intellectual Property Rights" means patents, trade marks, service marks, design rights (whether registrable or not), applications for any of those rights, copyright, database rights, trade or business names and other similar rights or obligations, whether registrable or not, in any country, including but not limited to, the United Kingdom;

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

"Proposal" means the response to the Authority's invitation to tender for the provision of a Heat Network Demonstrator Small Business Research Initiative (SBRI), submitted by the Contractor on 28th November 2014 explaining how it would provide the services required, a copy of which is set out in Schedule 2;

"Reports" means reports provided to the Authority by the Contractor in performing the Services and in accordance with the Specification;

the "Services" means the services to be supplied under the Contract, namely delivery of the Phase 1 activities described in the Specification and the Proposal.

the "Specification" means the guidance notes attached at Annex 1, and any further guidance published by the Authority in accordance with that document.

(2) The interpretation and construction of the Contract shall be subject to the following provisions:

- (a) a reference to any statute, enactment, order, regulation or similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
- (b) the headings in these Conditions are for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (c) references to "person", where the context allows, includes a corporation or an unincorporated association.

2. Acts by the Authority

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

3. Service of Notices and Communications

Any notice or other communication that either party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery, facsimile transmission or via e-mail to megan.cooper@decc.gsi.gov.uk. Notice given by hand shall be effective immediately, notice given by recorded postal delivery shall be effective two working days after the date of posting, notice given by facsimile transmission shall be effective the working day after receipt by

the notifying party of a transmission slip showing that the transmission has succeeded and notice given by email shall be effective on the day of receipt (or the next working day if received on a day that is not a working day) unless a delivery error notice is received.

4. Assignment and Sub-contracting

- (1) The Contractor shall not give, bargain, sell, assign, sub-contract or otherwise dispose of the Contract or any part thereof without the previous agreement in writing of the Authority
- (2) The Contractor shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the Authority.
- (3) If the Contractor uses a sub-contractor for the purpose of performing the Services or any part of it, the Contractor shall include in the relevant contract a provision which requires the Contractor to pay for those goods or services within 30 days of the Contractor receiving a correct invoice from the sub-contractor.
- (4) The Contractor shall be responsible for the acts and omissions of his sub-contractors as though they were his own.
- (5) The Authority shall be entitled to assign any or all of its rights under the Contract to any contracting authority as defined in Regulation 2(1) of the Public Services Contracts Regulations 2006, provided that such assignment shall not materially increase the burden of the Contractor's obligations under the Contract.

5. Entire Agreement

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

6. Waiver

- (1) The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.
- (2) No waiver shall be effective unless it is communicated to the other party in writing.
- (3) A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

7. Severability

If any Condition or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the parties shall immediately commence negotiations in good faith to remedy the invalidity.

8. Confidentiality

- (1) The Contractor agrees not to disclose any Confidential Information to any third party

without the prior written consent of the Authority. To the extent that it is necessary for the Contractor to disclose Confidential Information to its staff, agents and sub-contractors, the Contractor shall ensure that such staff, agents and sub-contractors are subject to the same obligations as the Contractor in respect of all Confidential Information.

- (2) Condition 8(1) shall not apply to information which:
 - (a) is or becomes public knowledge (otherwise than by breach of these Standard Terms or a breach of an obligation of confidentiality);
 - (b) is in the possession of the Contractor, without restriction as to its disclosure, before receiving it from the Authority or any other department or office of Her Majesty's Government;
 - (c) is required by law to be disclosed;
 - (d) was independently developed by the Contractor without access to the Confidential Information.
- (3) The obligations contained in this Condition shall continue to apply after the expiry or termination of the Contract.
- (4) The Contractor shall not handle or examine any document or thing bearing a Government security classification of "Confidential", "Secret" or "Top Secret" other than in a Government establishment and the Contractor shall not remove any such document or thing from such Government establishment without the prior written consent of the Authority.
- (5) The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the Authority.
- (6) Except with the prior consent in writing of the Authority, the Contractor shall not make use of the Contract or any Confidential Information otherwise than for the purposes of carrying out the Services.

9. Freedom of Information

- (1) The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations SI 2004 No. 3391 ("EIR") and shall assist and cooperate with the Authority, at the Contractor's expense, to enable the Authority to comply with these information disclosure requirements.
- (2) In this Condition:-

"Information" has the meaning ascribed to it in section 84 of the FOIA;

"Request for Information" has the meaning ascribed to it in section 8 of the FOIA, or any apparent request for information under the FOIA or EIR.
- (3) The Contractor shall (and shall procure that its subcontractors shall):-
 - (a) Transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within two working days;

(b) Provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five working days (or such other period as the Authority may specify) of the Authority requesting that Information;

(c) Provide all necessary assistance as reasonably requested by the Authority to enable it to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.

(4) The Authority shall be responsible for determining, at its absolute discretion, whether any Information:-

(a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;

(b) is to be disclosed in response to a Request for Information.

In no event shall the Contractor respond directly to a Request of Information unless expressly authorised to do so in writing by the Authority.

(5) The Contractor acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of the FOIA (issued under section 45 of the FOIA in November 2004), be obliged under the FOIA or the EIR to disclose Information unless an exemption applies. The Authority may at its discretion consult the Contractor with regard to whether the FOIA applies to the Information and whether an exemption applies.

(6) The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

(7) The Contractor acknowledges that any lists or schedules provided by it outlining information it deems confidential or commercially sensitive are of indicative value only and that the Authority may nevertheless be obliged to disclose information which the Contractor considers confidential in accordance with Conditions 9(4) and (5).

10. Amendments and Variations

Subject to Condition 18(7) no amendment or variation to the terms of the Contract shall be valid unless previously agreed in writing between the Authority and the Contractor.

11. Invoices and Payment

(1) The Contractor shall submit invoices at times or intervals agreed by the Authority in the Contract or otherwise. The Contractor shall ensure that any invoice it submits sets out the Authority's Purchase Order or contract number, the Charges and, where not all of the Services have been completed, the relevant part of the Charges with an appropriate breakdown of time worked, the part of the Services (if all the Services have not been completed) and period to which the invoice relates, and its confirmation that the Services (or relevant part of the Services referred to on the invoice) have been fully performed.

(2) In consideration of the provision of the Services by the Contractor, the Authority shall pay the Charges plus VAT after receiving a correctly submitted invoice as set out in Condition 11(1).

Such payment shall normally be made within 30 days of receipt of the correctly submitted invoice.

(3) The Contractor shall not be entitled to charge for the provision of any services that are not part of the Services agreed within the Contract, unless the Contract has been properly varied in advance in accordance with Condition 10.

(4) The Authority may reduce payment in respect of any Services that the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Authority.

(5) If the Contractor believes that payment for a correctly submitted invoice is overdue, he should, in the first instance, speak to the named contact on the face of the Contract. In the event that the problem is not resolved to his satisfaction, he should write to the Head of Procurement at the Department of Energy and Climate Change setting out his case. The Head of Procurement shall ensure that the complaint is dealt with by an official who is independent of the main contact and that the Contractor is not treated adversely in future for having made a complaint.

(6) For the purpose of calculating any statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998, the relevant date for the payment of the debt shall be deemed to be the last day of a period of 30 days commencing on the day when the Authority received the invoice, or, if the Contractor had not completed the Services (or the part of the Services to which the invoice relates) before submitting the invoice, the last day of a period of 30 days commencing on the day when the Contractor completed the Services, (or the part of the Services to which the invoice relates).

12. Accounts

(1) The Contractor shall keep full and proper accounts, records and vouchers relating to all expenditure reimbursed by the Authority and all payments made by the Authority in respect of the Services.

(2) The Contractor shall permit the Authority acting by its officers, servants and agents or independent auditor on request and at all reasonable times to examine all accounts, records and vouchers at the offices of the Contractor or at such other places as the Authority shall direct, and to take copies of such accounts, records and vouchers and the Contractor shall provide the Authority or its independent auditor with such explanations relating to that expenditure as the Authority may request.

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

13. Recovery of Sums Due

(1) Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, such sum may be deducted from any amount then due, or which at any time thereafter may become due, to the Contractor under this Contract or any other agreement or arrangement with the Authority or with any other department or office of Her Majesty's Government.

(2) Any over-payment by the Authority to the Contractor whether in respect of the Charges or Value Added Tax shall be a sum of money recoverable from the Contractor pursuant to Condition

13(1) above or otherwise.

14. Value Added Tax

- (1) Value Added Tax is included in the value of the Services provided in accordance with the Contract.
- (2) Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Value Added Tax Act 1994.
- (3) The Contractor shall, if so requested by the Authority, furnish such information as may reasonably be required by the Authority relating to the amount of Value Added Tax chargeable on the Services.

15. Provision of Services

- (1) The Contractor shall provide the Services in accordance with and as specified in the Contract to the satisfaction of the Authority whose decision shall be final and conclusive. The Authority shall have the power to inspect and examine the performance of the Services at the Authority's Premises at any reasonable time or, provided that the Authority gives reasonable notice to the Contractor, at any other premises where any part of the Services is being performed.
- (2) If the Authority informs the Contractor that the Authority considers any part of the Services to be inadequate or in any way differing from the Contract, and this is other than as a result of default or negligence on the part of the Authority, the Contractor shall at his own expense re-schedule and perform the work correctly within such reasonable time as may be specified by the Authority.
- (3) The Authority may at any time demand that the Contractor suspend the provision of the Services. If the Authority exercises such right to suspend the provision of the Services or any part of them, or if the Contractor is delayed in proceeding with the provision of the Services by the Authority (otherwise than as a consequence of a breach of the Contract, or a breach of duty or fault or negligence on the part of the Contractor), the Authority shall be responsible for loss incurred by the Contractor as a result of such suspension or delay. Subject to the Contractor taking reasonable steps to mitigate its loss, the Contractor will be able to recover from the Authority under this Condition only for those losses which:
 - (a) were reasonably foreseeable by the Authority as arising as a direct result of the suspension or delay; and
 - (b) relate to the cost of any commitments entered into by the Contractor which cannot be met as a result of the suspension or delay and in respect of which the Contractor cannot obtain a refund (where the Contractor has already paid in relation to the commitment) or is obliged to pay (where the Contractor has not already paid in relation to the commitment).

The provisions of this Condition shall not apply where the reason for the suspension of the Services arises from circumstances beyond the control of the Authority.

- (4) If the performance of the Contract by the Contractor is delayed by reason of any act on the

part of the Authority or by industrial dispute (other than by an industrial dispute occurring within the Contractor's or its sub-contractor's organisation) or any other cause which the Contractor could not have prevented then the Contractor shall be allowed a reasonable extension of time for completion. For the purposes of this Condition, the Contractor shall be deemed to have been able to prevent causes of delay that are within the reasonable control of the Contractor's staff, agents and sub-contractors.

(5) Timely provision of the Services shall be of the essence of the Contract, including in relation to commencing the provision of the Services within the time agreed or on a specified date.

(6) The Contractor warrants that it shall provide the Services with all due skill, care and diligence, and in accordance with good industry practice and legal requirements.

(7) Without prejudice to the provision of Condition 13(1), the Contractor shall reimburse the Authority for all reasonable costs incurred by the Authority which have arisen as a direct consequence of the Contractor's delay in the performance of the Contract which the Contractor had failed to remedy after being given reasonable notice by the Authority.

16. Progress Report

(1) Where formal progress reports are required by the Contract, the Contractor shall render such reports at such time and in such form as may be specified by the Authority, or as otherwise agreed between the Contractor and the Authority.

(2) The submission and acceptance of progress reports shall not prejudice any rights of the Authority under the Contract.

(3) Any Reports to which this clause relates shall be owned by the Authority.

(4) To the extent that any Reports to which this clause relates contain Arising Intellectual Property or Background Intellectual Property, the Authority shall consult the Contractor as to the version of the relevant report it decides to publish on its website.

17. Contractor's Personnel

(1) The Authority reserves the right to refuse to admit to the Authority's Premises any person employed by the Contractor or its sub-contractors, whose admission would be undesirable in the opinion of the Authority.

(2) If and when requested by the Authority, the Contractor shall provide a list of the names and addresses of all persons who may at any time require admission in connection with the performance of the Services to the Authority's Premises, specifying the role in which each such person is concerned with the Contractor and giving such other particulars as the Authority may require.

(3) If and when requested by the Authority, the Contractor shall procure from each person identified by the request, a signed statement that he understands that the Official Secrets Acts 1911 to 1989 applies to him both during the carrying out and after expiry or termination of the Contract and that he will comply with the provisions of those Acts in so far as they apply to the work he is performing under the Contract.

(4) If and when requested by the Authority the Contractor agrees that it will submit any person

employed by the Contractor or its sub contractors to the Authority's security vetting procedure. The Contractor further agrees that any individual who refuses to submit to such vetting procedure or does not attain the clearance it affords will not carry out any work on the Contract which the Authority certifies as suitable only for people who have passed its security vetting procedure.

(5) If the Contractor fails to comply with paragraph (2) (3) or (4) of this Condition and the Authority decides that such failure is prejudicial to its interests, the Authority may immediately terminate the Contract by notice in writing to the Contractor, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to, the Authority.

18. Indemnities and Insurance

- (1) The Contractor shall hold harmless and indemnify the Authority on demand from and against all claims, demands, proceedings, actions, damages, costs (including legal costs), expenses and any other liabilities arising from claims made by the Authority's staff or agents, or by third parties, in respect of any death or personal injury, or loss or destruction of or damage to property, or any other loss, destruction or damage, including but not limited to financial losses which are caused by the breach of contract or breach of duty (whether in negligence, tort, statute or otherwise) of the Contractor, its employees, agents or sub-contractors.
- (2) The Contractor shall be liable to the Authority for any loss, damage, destruction, injury or expense (and including but not limited to loss or destruction of or damage to the Authority's property, which includes data) arising from the Contractor's breach of contract or duty (whether arising in negligence, tort, statute or otherwise).
- (3) The Contractor shall effect with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor in respect of the indemnities provided under the Contract, which in any event shall not be less than £1,000,000, and shall at the request of the Authority produce the relevant policy or policies together with receipt or other evidence of payment of the latest premium due there under.
- (4) Nothing in these Conditions nor in any part of the Contract shall impose any liability on any member of the staff of the Authority or its representatives in their personal capacity.
- (5) The Contractor shall indemnify the Authority against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party's Intellectual Property Rights used by or on behalf of the Contractor for the purpose of the Contract, providing that any such infringement or alleged infringement is not knowingly caused by, or contributed to, by any act of the Authority.
- (6) The Authority shall indemnify the Contractor against all proceedings, actions, claims, demands, costs (including legal costs), charges, expenses and any other liabilities arising from or incurred by reason of any infringement or alleged infringement of any third party's Intellectual Property Rights used at the request of the Authority by the Contractor in the course of providing the Services, providing that any such infringement or alleged

infringement is not knowingly caused by, or contributed to by, any act of the Contractor.

- (7) Except in relation to death or personal injury as referred to in Condition 18(1), and subject to Conditions 18(5) and 30(6) the amount of the Contractor's liability to the Authority arising out of or in connection with this Contract shall be limited to a sum of £1,000,000 or twice the contract value, whichever is the greater, or such other sum as may be agreed in writing between the Head of Procurement on behalf of the Authority and the Contractor.

19. Termination for Insolvency or Change of Control

- (1) The Contractor shall notify the Authority in writing immediately upon the occurrence of any of the following events:

- a) where the Contractor is an individual, if a petition is presented for his bankruptcy, or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his affairs; or
- b) where the Contractor is not an individual but is a firm or a number of persons acting together, if any event in Condition 19(1)(a) or (c) occurs in respect of any partner in the firm or any of those persons, or if a petition is presented for the Contractor to be wound up as an unregistered company; or
- c) where the Contractor is a company or limited liability partnership, if the company or limited liability partnership enters administration or passes a resolution to wind up or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge; or
- d) the Contractor undergoes a change of control, where "control" has the meaning given in Section 416 of the Income and Corporation Taxes Act 1988.

- (2) After receipt of the notice under paragraph (1) above or earlier discovery by the Authority of the occurrence of any of the events described in that paragraph, the Authority may, by notice in writing to the Contractor, terminate the Contract with immediate effect without compensation to the Contractor and without prejudice to any right or action or remedy which may accrue to the Authority thereafter. The Authority's right to terminate the Contract under Condition 19(1)(d) will exist until the end of a period of three months starting from receipt of the notice provided by the Contractor pursuant to Condition 19(1), or such other period as is agreed by the parties.

20. Termination for Breach of Contract

If either party commits a material breach of the Contract which is either not capable of remedy, or, if it is capable of remedy, he fails to remedy such breach within 28 days of being notified by the other party in writing to do so, that other party shall be entitled to terminate the Contract with immediate effect by notice in writing to the party that committed the material breach and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any

other breach of the Contract.

21. Cancellation

(1) The Authority shall be entitled to terminate the Contract, or to terminate the provision of any part of the Services, by giving to the Contractor not less than 28 days' notice in writing to that effect. Once it has given such notice, the Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Contractor during the period of extension.

(2) On termination in accordance with conditions 19, 20 or 21, the Authority shall pay to the Contractor a reasonable amount in respect of the Services properly carried out by the Contractor prior to the date of termination where payment has not already been made by the Authority including, without limitation, amounts properly due and owing to the Sub-Contractor under its Sub-Contract and/or any other parties engaged by the Contractor in respect of which the Contractor has, prior to the date of termination properly and irrevocably entered into a commitment to make payment for goods or services relating to the Contract (whether or not such amounts have already been paid by the Contractor).

22. Dispute Resolution

(1) The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.

(2) If the parties cannot resolve the dispute pursuant to paragraph (1) of this Condition, the dispute may, by agreement between the parties, be referred to mediation pursuant to paragraph (4) of this Condition.

(3) The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to paragraph (2) of this Condition.

(4) If the parties agree to refer the dispute to mediation:

(a) in order to determine the person who shall mediate the dispute (the "Mediator") the parties shall by agreement choose a neutral adviser or mediator from one of the dispute resolution providers listed by the Office of Government Commerce on its website or in its printed guidance on dispute resolution within 30 days after agreeing to refer the dispute to mediation;

(b) the parties shall within 14 days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from the Office of Government Commerce to provide guidance on a suitable procedure;

(c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;

(d) if the parties reach agreement on the resolution of the dispute within 60 days of the

Mediator being appointed, or such longer period as may be agreed between the parties, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both the Authority and the Contractor;

(e) failing agreement within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties.

(5) If the parties do not agree to refer the dispute to mediation, or if the parties fail to reach agreement as to who shall mediate the dispute pursuant to Condition 22(4)(a) or if they fail to reach agreement in the structured negotiations within 60 days of the Mediator being appointed or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.

23. Corrupt Gifts and Payments of Commission

(1) The Contractor shall not:

a) offer or give, or agree to give, to any person employed by or on behalf of the Authority any gift or consideration of any kind as an inducement or reward for doing, or having done, or not doing, any act in relation to the obtaining or execution of this Contract or any other contract with the Authority, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority;

b) enter into the Contract or any other contract with the Authority or any other department or office of Her Majesty's Government in connection with which commission has been paid, or agreed to be paid by him or on his behalf, or to his knowledge, unless, before the Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to any person duly authorised by the Authority to act as its representative for the purpose of this Condition.

Nothing contained in this Condition shall prevent the Contractor paying such commission or bonuses to his own staff in accordance with their agreed contracts of employment.

(2) Any breach of this Condition by the Contractor, or by anyone employed by him or acting on his behalf (whether with or without his knowledge), or the commission of any offence by the Contractor or by anyone employed by him or acting on his behalf under the Prevention of Corruption Acts 1889-1916, in relation to this Contract or any other contract with the Authority, shall entitle the Authority to terminate the Contract with immediate effect and recover from the Contractor the amount of any loss resulting from such termination and the amount of the value of any such gift, consideration or commission as the Authority shall think fit.

(3) Where the Contract has been terminated under paragraph (2) of this Condition there shall be deemed to be a failure to commence the provision of the Services, enabling the Authority to terminate the Contract with immediate effect and the Authority will not be obliged to pay the Charges.

(4) In any dispute, difference or question arising in respect of:

- a) the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under paragraph (2) of this Condition in respect of any loss resulting from such determination of the Contract); or
- b) the right of the Authority to determine the Contract; or
- c) the amount or value of any gift, consideration or commission,

the decision of the Authority shall be final and conclusive.

24. Official Secrets

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

25. Special Provisions

In the case of any conflict or inconsistency between these Standard Terms and any specific terms of the Contract, the latter shall prevail.

26. Conflict of Interest

(1) The Contractor shall ensure that there is no conflict of interest as to be likely to prejudice his independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) he shall immediately notify the Authority in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Authority may reasonably require.

(2) Where the Authority is of the opinion that the conflict of interest notified to it under paragraph (1) above is capable of being avoided or removed, the Authority may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:

- a) if the Contractor fails to comply with the Authority's requirements in this respect; or
- b) if, in the opinion of the Authority, it is not possible to remove the conflict,

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

(3) Notwithstanding Condition 26(2), where the Authority is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Authority may terminate the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such termination.

27. Intellectual Property Rights

- (1) Subject to Condition 27(4), all Background Intellectual Property used or supplied under this Contract in connection with the Services shall remain the property of the Party introducing the same and nothing contained in this Contract or any licence agreement pertaining or pursuant to the Contractor's performance of the Services shall affect the rights of either Party in its Background Intellectual Property.
- (2) Subject to Conditions 27(3) and 28(5), any Arising Intellectual Property shall belong to the Contractor.
- (3) The Contractor hereby grants to the Authority a worldwide, irrevocable, royalty-free, non-exclusive licence at no cost to the Authority, together with the right to grant sub-licences, to use or publish any Arising Intellectual Property, Data, results, outcomes or conclusions which are created in performing the Services, for such purposes as the Authority in its absolute discretion deem fit.
- (4) The Contractor hereby grants to the Authority a worldwide, irrevocable, royalty-free, non-exclusive licence at no cost to the Authority, to use any Background Intellectual Property used in the performance of the Services, that is essential to the functioning and use of the Arising Intellectual Property.
- (5) The Contractor shall procure for the Authority any worldwide, irrevocable, royalty-free licence, at no cost to the Authority, from any third party, to use any Intellectual Property Rights that are essential to the functioning and use of the Arising Intellectual Property, as is reasonable in the circumstances, taking into account the Full Contract Price.
- (6) Under clauses 27(3), 27(4) and 27(5) the Authority shall only grant sub-licences to third parties if, after three years from the date of this Contract, the Arising Intellectual Property has not been commercially exploited by the Contractor.

28. Exploitation of Intellectual Property

- (1) The Contractor shall inform the Authority of any Arising Intellectual Property, Data, results, outcomes or conclusions which are created in performing the Services and which are capable of exploitation whether patentable or not.
- (2) The Contractor shall, as appropriate, devise, publish, implement and maintain procedures for the management of Arising Intellectual Property and in particular, but without limitation, shall use its best endeavours to ensure that:
 - a) the Data which constitutes Arising Intellectual Property is identified, recorded and carefully distinguished from the outputs of other research;
 - b) prior to any publication of materials created in the course of performing the Services, patentable inventions comprised within the Arising Intellectual Property are identified, duly considered for patentability and, where it is reasonable so to do, patent applications in respect thereof are filed at the British or European Patent Office; and
 - c) all such patent applications are diligently executed having regard to all relevant circumstances.
- (3) The Contractor shall permit the Authority to monitor the operation and effectiveness of the Contractor's procedures for the management of Intellectual Property Rights in such a way as the

Authority considers reasonably necessary.

- (4) Consistent with the good management of Intellectual Property Rights and the continued agreement of the Authority, the Contractor shall use its best endeavours to:
 - a. promote the dissemination of the Arising Intellectual Property; and
 - b. once the Contractor has performed the Services to the satisfaction of the Authority, Commercially Exploit any Arising Intellectual Property to generate either capital or revenue or both.
- (5) If, within three years of its creation, any Arising Intellectual Property has not been commercially exploited by the Contractor the Contractor shall if requested by the Authority assign the Arising Intellectual Property to the Authority.
- (6) The Contractor shall not transfer ownership of the Arising Intellectual Property without the consent of the Authority.
- (7) The Authority may, at its absolute discretion, require the Contractor to licence the Arising Intellectual Property to third parties nominated by the Authority. Should the Authority choose to exercise its discretion under this clause, it will notify the Contractor in accordance with clause 3.

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

30. Government Property

- (1) All Government Property shall remain the property of the Authority and shall be used in the execution of the Contract and for no other purpose whatsoever except with the prior agreement in writing of the Authority.
- (2) All Government Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the Authority to the contrary within 14 days or such other time as is specified in the Contract.
- (3) The Contractor undertakes to return any and all Government Property on completion of the Contract or on any earlier request by the Authority.
- (4) The Contractor shall, except as otherwise provided for in the Contract, repair or replace or, at the option of the Authority, pay compensation for all loss, destruction or damage occurring to any Government Property caused or sustained by the Contractor, or by his servants, agents or sub-contractors, whether or not arising from his or their performance of the Contract and wherever occurring, provided that if the loss, destruction or damage occurs at the Authority's Premises or any other Government premises, this Condition shall not apply to the extent that the Contractor is able to show that any such loss, destruction or damage was not caused or contributed to by his negligence or default or the neglect or default of his servants, agents, or sub-contractors.
- (5) Where the Government Property comprises data issued in electronic form to the Contractor (including personal data as defined in Condition 31(1) below) the Contractor shall not store, copy, disclose or use such electronic data except as necessary for the performance by the Contractor of its obligations under the Contract (including its obligation to back up electronic data as provided in

Condition 30(6) below) or as otherwise expressly authorised in writing by the Authority.

(6) The Contractor shall perform secure back ups of all such electronic data in its possession and shall ensure that an up to date back up copy is securely stored at a site other than that where any original copies of such electronic data are being stored.

(7) The Contractor shall, and shall procure that its sub-contractors, agents and personnel, shall observe best practice when handling or in possession of any such electronic data. By way of example if the Contractor removes any such data or information from a Government establishment, or is sent such data or information by the Authority it shall ensure that the data and any equipment on which it is stored or is otherwise being processed is kept secure at all times. The Contractor shall impress on any of its sub-contractors, agents and personnel who are required to handle or have possession of such electronic data that they must safeguard it all times, and shall not place it in jeopardy for example by leaving it unattended in a vehicle or on public transport or by transmitting or posting it by insecure means.

(8) If at any time the Contractor suspects or has reason to believe that such electronic data has or may become corrupted, lost, destroyed, altered (other than to the extent that the Contractor alters it by lawful processing in accordance with its obligations under this contract) or so degraded as a result of the Contractor's default so as to be unusable then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

(9) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith arising from the corruption, loss, destruction, alteration (other than by lawful processing permitted by this Contract) or degradation of electronic data which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or sub-contractors, agents and personnel and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in such corruption, loss or degradation.

31. Data Protection

(1) In this Condition references to "personal data", "data subjects" and "data processor" are to be interpreted as defined in the Data Protection Act 1998 ("the Act"). The Contractor shall comply with all relevant provisions of the Act and do nothing which causes, or may cause, the Authority to be in breach of its obligations under the Act. In particular, to the extent that the Contractor acts as a data processor in respect of any personal data pursuant to the Contract, the Contractor shall only process such personal data as is necessary to enable it to fulfil its obligations under this Contract.

(2) The Contractor warrants that it has appropriate technical and organisational measures in place to protect any personal data it is processing on the Authority's behalf against any unauthorised or unlawful processing and against any accidental loss, destruction or damage and undertakes to maintain such measures during the course of this Contract. The Contractor shall also take all reasonable steps to ensure the reliability of its staff having access to any such personal data.

(3) Upon reasonable notice the Contractor shall allow the Authority access to any relevant

premises owned or controlled by it to enable the Authority to inspect its procedures described at Condition 31(2) above and will upon the Authority's request from time to time prepare a report for it on the technical and organisational measures it has in place to protect the personal data it is processing on the Authority's behalf.

(4) The Contractor shall at its own cost, at the Authority's request, assist the Authority to comply with any requests for access to personal data under Section 7 of the Act and in particular shall respond to any such request promptly to enable the Authority to comply with its obligations under the Act. When requested by the Authority the Contractor shall at its own cost promptly provide it with any personal data relating to this Contract.

(5) If the Contractor fails to comply with any provision of this Condition, the Authority may terminate the Contract immediately in which event the provisions of Condition 20 shall apply.

(6) The Contractor shall indemnify the Authority against all claims and proceedings, and all costs and expenses incurred in connection therewith, made or brought against the Authority by any person in respect of the Act or equivalent applicable legislation in any other country which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or its sub-contractors and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in the Authority being in breach of its obligations under the Act or equivalent applicable legislation in any other country.

(7) The Contractor warrants that it has submitted, pursuant to Section 18(1) of the Act, a notification to the Information Commissioner and shall keep that notification up to date.

(8) The Contractor shall not transfer any personal data outside the European Economic Area unless authorised in writing to do so by the Authority.

(9) Upon the termination of this Contract for whatever reason the Contractor shall, unless notified otherwise by the Authority or required by law, immediately cease any processing of the personal data on the Authority's behalf and as requested by the Authority destroy or provide the Authority with a copy on suitable media.

(10) The Contractor shall promptly carry out any request from the Authority requiring it to amend, transfer or delete the personal data or any part of the personal data.

(11) Where the Contractor is required to collect any personal data on behalf of the Authority, it shall ensure that it provides the data subjects from whom the personal data are collected with a data protection notice in a form to be agreed with the Authority.

32. Non-discrimination

The Contractor shall not unlawfully discriminate within the meaning and scope of the anti-discrimination legislation within the UK in relation to the provision of the Services or otherwise and shall take all reasonable steps to ensure that all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Contract do not unlawfully discriminate.

33. Disability Equality Scheme

The Authority is subject to the Disability Discrimination Act 1995 as amended by the Disability

Discrimination Act 2005. The Authority has published a Disability Equality Scheme, which is set out on the Authority's website. The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with both the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005 and the Authority's Disability Equality Scheme. Upon the Contractor breaching either the applicable law or the Authority's Disability Equality Scheme the Authority shall be entitled to terminate the Contract with immediate effect by notice in writing to the Contractor and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

34. Race Equality Scheme

The Authority is subject to the Race Relations (Amendment) Act 2000. The Authority has published a Race Equality Scheme, which is set out on the Authority's website. The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with both the Race Relations (Amendment) Act 2000 and the Authority's Race Equality Scheme. Upon the Contractor breaching either the applicable law or the Authority's Race Equality Scheme the Authority shall be entitled to terminate the Contract with immediate effect by notice in writing to the party Contractor and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

35. Sustainable Procurement

- (1) The Contractor shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Contractor shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Authority.
- (2) The Contractor shall meet all reasonable requests by the Authority for information evidencing compliance with the provisions of this clause by the Contractor.
- (3) All written outputs, including reports, produced in connection with the Contract shall (unless otherwise specified) be produced on recycled paper containing at least 80% post consumer waste and used on both sides where appropriate.

36. Other Legislation

The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with all other applicable law.

37. Contractor Status

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the Authority and the Contractor.

38. Transfer of Services

- (1) Where the Authority intends to continue with services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement contractor, the Contractor shall use all reasonable endeavours to

ensure that the transition is undertaken with the minimum of disruption to the Authority.

(2) The contractor shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic or written form, which the Authority considers necessary.

39. Law and Jurisdiction

The Contract shall be governed by and construed in accordance with English Law and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

40. Transparency

(1) The title and description of the project will be published on the Authority's website.

(2) Where the Authority considers that any such exemption applies, the Authority will redact the relevant documents to the extent that the Authority considers the redaction is necessary to remove or obscure the relevant material, and those documents will be published on the designated web site subject to those redactions.

(3) Where the Parties later agree changes to the contract, the Authority will publish those changes, and will consider any redaction, on the same basis.

41. Monitoring and Management Information

(1) Where requested by the Authority, the Contractor shall supply to the Authority and to the Office of Government Commerce (OGC) such information and advice relating to the management of the Contract as the Authority or OGC may require.

(2) The information and advice referred to in Condition 41(1) may include, but is not limited to, the following: Line Item Amount, Invoice Line Description, Invoice Line Number, Currency Code, Order Date, VAT Inclusion Flag, VAT Rate, List Price, Number of Items, Unit of Purchase Quantity, Price per Unit, Supplier Service Code, Service description and/or name, UNSPSC Code, Taxonomy Code and/or Name, Geographical, Project Code, Project description, Project Start Date, Project Delivery Date (Estimate and Actual), Total project cost and Project Stage.

(3) The information referred to in Condition 41(1) shall be supplied in such form and within such timescales as the Authority or OGC may reasonably require.

(4) The Contractor agrees that the Authority may provide OGC with information relating to the Services procured and any payments made under the Contract.

(5) Upon receipt of the information supplied by the Contractor in response to a request under Condition 41(1) or receipt of information provided by the Authority to OGC under Condition 41(4) the Authority and the Contractor hereby consent to OGC:

(a) storing and analysing the information and producing statistics; and

b) sharing the information or any statistics produced using the information, with any other Contracting Authority.

(6) In the event that OGC shares the information provided under Condition 41(1) or 41(3) in accordance with Condition 41(5) b), any Contracting Authority (as defined in regulation 3 of the Public Contracts Regulations 2006) receiving the information shall be informed of the confidential

nature of that information and shall be requested not to disclose it to anybody which is not a Contracting Authority (unless required by law).

(7) The Authority may make changes to the type of information which the Contractor is required to supply and shall give the Contractor at least one calendar month's written notice of any such changes.

