

ANNEX 16A

GOVERNMENT PROCUREMENT SCHEDULES

Schedule of New Zealand

Section A Central Government Entities

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement by entities listed in this Section, subject to the following thresholds:

Thresholds:

Goods	SDR 130,000
Services	SDR 130,000
Construction Services	SDR 5,000,000

List of entities:

1. Ministry for Primary Industries;
2. Department of Conservation;
3. Department of Corrections;
4. Crown Law Office;
5. Ministry of Business, Innovation and Employment;
6. Ministry for Culture and Heritage;
7. Ministry of Defence;
8. Ministry of Education;
9. Education Review Office;
10. Ministry for the Environment;
11. Ministry of Foreign Affairs and Trade;
12. Government Communications Security Bureau;
13. Ministry of Health;
14. Inland Revenue Department;
15. Department of Internal Affairs;
16. Ministry of Justice;
17. Land Information New Zealand;
18. Te Puni Kōkiri Ministry of Māori Development;
19. New Zealand Customs Service;
20. Ministry for Pacific Peoples;
21. Department of the Prime Minister and Cabinet;
22. Serious Fraud Office;
23. Ministry of Social Development;
24. Public Service Commission;
25. Statistics New Zealand;

26. Ministry of Transport;
27. The Treasury;
28. Oranga Tamariki – Ministry for Children;
29. Ministry for Women;
30. New Zealand Defence Force;
31. New Zealand Police;
32. Ministry of Housing and Urban Development;
33. Pike River Recovery Agency.

Note to Section A:

1. All agencies subordinate to the above listed central government entities are covered.

Section B Sub-Central Government Entities

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement by entities listed in this Section, subject to the following thresholds:

Thresholds:

Goods	SDR 200,000
Services	SDR 200,000
Construction Services	SDR 5,000,000

List of entities:

1. Auckland District Health Board (Note 1);
2. Canterbury District Health Board (Note 1);
3. Capital and Coast District Health Board (Note 1);
4. Counties Manukau District Health Board (Note 1);
5. Hutt District Health Board (Note 1);
6. MidCentral District Health Board (Note 1);
7. South Canterbury District Health Board (Note 1);
8. Waikato District Health Board (Note 1);
9. Waitemata District Health Board (Note 1);
10. Bay of Plenty District Health Board (Note 1);
11. Southern District Health Board (Note 1);
12. Auckland Council (Note 2);
13. Wellington City Council (Note 2);
14. Christchurch City Council (Note 2);
15. Waikato Regional Council (Note 2);
16. Bay of Plenty Regional Council (Note 2);
17. Greater Wellington Regional Council (Note 2);

18. Canterbury Regional Council (Note 2);
19. Nelson Marlborough District Health Board (Note 1);
20. Northland District Health Board (Note 1);
21. Hawkes Bay District Health Board (Note 1);
22. Lakes District Health Board (Note 1);
23. Tairāwhiti District Health Board (Note 1);
24. Taranaki District Health Board (Note 1);
25. Wairarapa District Health Board (Note 1);
26. West Coast District Health Board (Note 1);
27. Whanganui District Health Board (Note 1).

Notes to Section B:

1. For greater certainty, procurement undertaken by the listed District Health Boards through their agent healthAlliance Limited is covered.
2. Coverage of these entities is limited to the procurement of goods, services, and construction services relating to transport projects funded, in whole or in part, by the New Zealand Transport Agency for which the value of the procurement equals or exceeds the applicable threshold specified above. For greater certainty, this Chapter shall not apply to any other procurement by these entities.

Section C Other Entities

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement by entities listed in this Section, subject to the following thresholds:

Thresholds:

Goods	SDR 400,000
Services	SDR 400,000
Construction Services	SDR 5,000,000

List of entities:

1. Accident Compensation Corporation (Note 1);
2. Civil Aviation Authority of New Zealand;
3. Energy Efficiency and Conservation Authority;
4. Kāinga Ora – Homes and Communities;
5. Maritime New Zealand;
6. New Zealand Antarctic Institute;
7. Fire and Emergency New Zealand (Note 5);
8. New Zealand Qualifications Authority;

9. New Zealand Tourism Board;
10. New Zealand Trade and Enterprise;
11. New Zealand Transport Agency;
12. Ōtākaro Limited (Note 4);
13. Sport and Recreation New Zealand (Note 2);
14. Tertiary Education Commission;
15. Education New Zealand;
16. Callaghan Innovation;
17. Earthquake Commission (Note 6);
18. Environmental Protection Authority; (Note 6)
19. Health Promotion Agency;
20. Health Quality and Safety Commission;
21. Health Research Council of New Zealand;
22. New Zealand Blood Service (Note 7);
23. New Zealand Walking Access Commission;
24. Real Estate Authority (Note 8);
25. Social Workers Registration Board;
26. WorkSafe New Zealand;
27. Guardians of New Zealand Superannuation (Note 9);
28. New Zealand Infrastructure Commission;
29. New Zealand Lotteries Commission;
30. Climate Change Commission;
31. Electoral Commission (Note 10);
32. Financial Markets Authority;
33. Education Payroll Limited (Note 11);
34. Research and Education Advanced Network New Zealand Limited;
35. Tāmaki Redevelopment Company Limited (Note 12);
36. Airways Corporation of New Zealand Limited;
37. Meteorological Service of New Zealand Limited;
38. KiwiRail Holdings Limited;
39. Transpower New Zealand Limited (Note 3);
40. Government Superannuation Fund Authority;
41. New Zealand Artificial Limb Service;
42. Public Trust;
43. Commerce Commission;
44. External Reporting Board;
45. Health and Disability Commissioner;
46. Human Rights Commission;
47. New Zealand Productivity Commission;
48. Takeovers Panel;
49. Crown Irrigation Investments Limited;
50. New Zealand Growth Capital Partners Limited;
51. Television New Zealand Limited;
52. City Rail Link Limited;
53. Crown Infrastructure Partners Limited;
54. New Zealand Green Investment Finance Limited.

Notes to Section C:

1. Accident Compensation Corporation: This Chapter does not cover procurement of pension fund management, public insurance and fund placements, investments and financial services related to securities, or trading on an exchange.
2. Sport and Recreation New Zealand: This Chapter shall not apply to the procurement of goods and services containing confidential information related to enhancing competitive sport performance.
3. Transpower New Zealand Limited: The following procurements are excluded from cover:
 - (a) electrical stringing services (part of the total range of activities covered by CPC Prov. 5134);
 - (b) tower painting services (part of the total range of activities covered by CPC Prov. 5173); and
 - (c) for greater certainty, projects funded directly by private sector customers where those projects would not be undertaken except for the funding provided by those customers.
4. Ōtākaro Limited: All procurement is covered (including procurement that was undertaken by the Christchurch Earthquake Recovery Authority and transferred to Ōtākaro Limited upon its disestablishment) and all obligations in the Chapter specifically relating to Section A, central government entities shall apply. For greater certainty, the thresholds are SDR 130,000 for Goods and Services and SDR 5,000,000 for Construction Services, and any agencies subordinate to Ōtākaro Limited are covered.
5. Fire and Emergency New Zealand: This Chapter shall only cover procurement that was undertaken by the New Zealand Fire Service Commission. For the avoidance of doubt, the following procurements are excluded from cover: any procurement by Fire and Emergency New Zealand that was previously conducted by Rural Fire Authorities, Rural Fire Committees, or Territorial Authorities (for the purposes of their functions under the *Forest and Rural Fires Act 1977*).
6. Earthquake Commission: This Agreement does not cover procurement of pension fund management, public insurance and fund placements, and investments and financial services.
7. Except for the procurement of plasma fractionation services.
8. Except for legal services and arbitration and conciliation services.

9. Guardians of New Zealand Superannuation: This Chapter does not cover procurement of pension fund management, fund placements, and investments and financial services.
10. Electoral Commission: This Chapter does not cover procurement of services to administer the general election.
11. Education Payroll Limited: This Chapter does not cover procurement for maintenance of schools' payrolls.
12. Tāmaki Redevelopment Company Limited: This Agreement does not cover procurement relating to the production, transport, or distribution of drinking water.
13. For entities listed in this Section, Chapter 16 (Government Procurement) shall cover only those entities listed and does not extend to subordinate or subsidiary agencies, unless otherwise specified.

Section D Goods

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement of all goods by the entities listed in Sections A, B, and C.

Section E Services

1. Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement of all services by the entities listed in Sections A, B, and C.
2. Chapter 16 (Government Procurement) does not cover any of the following services as identified in accordance with the Provisional Central Product Classification (CPC Prov.) as set out in document MTN.GNS/W/120:
 - (a) procurement of research and development services (CPC Prov. 851-853);
 - (b) procurement of public health services (CPC Prov. 931, including 9311, 9312, and 9319);
 - (c) procurement of education services (CPC Prov. 921, 922, 923, 924, and 929);
 - (d) procurement of welfare services (CPC Prov. 933 and 913); and
 - (e) procurements listed in Section G.

Section F Construction Services

List of construction services (Division 51, CPC Prov.):

Unless otherwise specified, Chapter 16 (Government Procurement) covers procurement of all construction services in Division 51 of the Provisional Central Product Classification (CPC Prov.) as set out in document MTN.GNS/W/120.

Section G General Notes

1. The following General Notes apply without exception to Chapter 16 (Government Procurement), including to Sections A to F.
2. Chapter 16 (Government Procurement) does not cover:
 - (a) for greater certainty, governmental provision of goods and services to persons or governmental authorities not specifically covered under this Schedule for New Zealand;
 - (b) procurement of goods or services in respect of contracts for construction, refurbishment, or furnishing of chanceries abroad;
 - (c) procurement of goods or services outside the territory of New Zealand for consumption outside the territory of New Zealand;
 - (d) for greater certainty under subparagraph 3(b) of Article 16.2 (Scope), commercial sponsorship arrangements;
 - (e) any procurement made by an entity covered under Sections A, B, or C of this Schedule for New Zealand on behalf of an organisation that is not an entity covered under Sections A, B, or C of this Schedule for New Zealand;
 - (f) procurement by an entity covered under Sections A, B, or C of this Schedule for New Zealand from another entity covered under Sections A, B, or C of this Schedule for New Zealand, except where tenders are called, in which case, Chapter 16 (Government Procurement) shall apply; and
 - (g) any procurement for the purposes of developing, protecting, or preserving national treasures of artistic, historic, or archaeological value or of cultural heritage.

3. For greater certainty, a procuring entity may apply limited tendering procedures under subparagraphs 1(b)(ii) and 1(b)(iii) of Article 16.14 (Limited Tendering) in relation to unsolicited unique proposals.¹

Section H Publication of Information

The information to be published under Article 16.5 (Information on the Procurement System) will be published as follows:

Laws and regulations: www.legislation.govt.nz

Judicial decisions: www.justice.govt.nz (online); New Zealand Law Reports (print)

Standard contract clauses, *Government Procurement Rules*, and procedures regarding government procurement: www.procurement.govt.nz

New procurement opportunities: www.gets.govt.nz

Statistical reporting: <https://www.mbie.govt.nz/cross-government-functions/new-zealand-government-procurement-and-property/open-data/>

¹ As defined and handled according to the New Zealand Government guidance document, “*Unsolicited Unique Proposals – How to deal with uninvited bids*” (May 2013), updated from time to time.

Schedule of the United Kingdom

Section A Central Government Entities

Thresholds:

Unless otherwise specified, Chapter 16 (Government Procurement) shall apply to central government entities listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods	SDR 130,000
Services	SDR 130,000
Construction Services	SDR 5,000,000

List of entities:

The following central government contracting authorities of the United Kingdom:

(Note: this list is exhaustive)

1. Attorney General's Office:
 - 1.1. Government Legal Department.
2. Cabinet Office:
 - 2.1. Office of the Parliamentary Counsel;
 - 2.2. Boundary Commission for England;
 - 2.3. Crown Commercial Service.
3. Charity Commission;
4. Crown Estate – Vote Expenditure Only;
5. Crown Prosecution Service;
6. Department for Business, Energy and Industrial Strategy:
 - 6.1. Competition Appeal Tribunal;
 - 6.2. Competition and Markets Authority;
 - 6.3. Competition Service;
 - 6.4. Intellectual Property Office;
 - 6.5. Nuclear Decommissioning Authority;
 - 6.6. Meteorological Office (known as "Met Office");
 - 6.7. Office of Manpower Economics;
 - 6.8. Oil and Gas Authority;
 - 6.9. UK Research and Innovation.
7. Department for Education:
 - 7.1. Office for Students.
8. Ministry of Housing, Communities and Local Government;
9. Department for Digital, Culture, Media and Sport:
 - 9.1. Arts Council England;
 - 9.2. British Library;

- 9.3. British Museum;
- 9.4. The Gambling Commission;
- 9.5. Historic Buildings and Monuments Commission for England (known as "Historic England");
- 9.6. Imperial War Museum;
- 9.7. National Gallery;
- 9.8. National Maritime Museum;
- 9.9. National Portrait Gallery;
- 9.10. Natural History Museum;
- 9.11. Board of Trustees of the Science Museum (known as "Science Museum Group");
- 9.12. Tate Gallery;
- 9.13. Victoria and Albert Museum;
- 9.14. Wallace Collection.
- 10. Department for Environment, Food and Rural Affairs:
 - 10.1. Natural England;
 - 10.2. Plant Variety Rights Office;
 - 10.3. Royal Botanic Gardens, Kew.
- 11. Department of Health and Social Care:
 - 11.1. NHS Business Services Authority;
 - 11.2. NHS Commissioning Board (known as "NHS England");
 - 11.3. NHS Trusts;
 - 11.4. NHS Foundation Trusts.
- 12. Department for International Trade;
- 13. Department for Transport:
 - 13.1. Maritime and Coastguard Agency;
 - 13.2. Highways England Company Ltd (known as "Highways England").
- 14. Department for Work and Pensions:
 - 14.1. Office for Nuclear Regulation;
 - 14.2. Pensions Regulator;
 - 14.3. Social Security Advisory Committee.
- 15. Export Credits Guarantee Department (known as "UK Export Finance");
- 16. Foreign, Commonwealth and Development Office:
 - 16.1. Wilton Park.
- 17. Government Actuary's Department;
- 18. Government Communications Headquarters;
- 19. Home Office:
 - 19.1. HM Inspectorate of Constabulary and Fire & Rescue Services.
- 20. Corporate Officer of the House of Commons;
- 21. Corporate Officer of the House of Lords;
- 22. Ministry of Defence:
 - 22.1. Defence Equipment & Support.
- 23. Ministry of Justice:
 - 23.1. Court of Appeal (England and Wales);
 - 23.2. Employment Appeals Tribunal;
 - 23.3. Employment Tribunals;
 - 23.4. First-tier Tribunal;
 - 23.5. Her Majesty's Courts and Tribunals Service;

- 23.6. Law Commission;
- 23.7. Legal Aid Agency – England and Wales;
- 23.8. Office of the Official Solicitor to the Senior Courts and the Public Trustee;
- 23.9. Office of the Public Guardian;
- 23.10. Parole Board;
- 23.11. UK Supreme Court;
- 23.12. Upper Tribunal.
- 24. The National Archives;
- 25. National Audit Office;
- 26. National Savings and Investments;
- 27. Northern Ireland Assembly Commission;
- 28. Northern Ireland Ministers:
 - 28.1. Agricultural Wages Board for Northern Ireland;
 - 28.2. Attorney General for Northern Ireland;
 - 28.3. Department of Agriculture, Environment and Rural Affairs;
 - 28.4. Department for Communities;
 - 28.4.1. National Museums Northern Ireland;
 - 28.4.2. Northern Ireland Housing Executive;
 - 28.5. Department for the Economy:
 - 28.5.1. Belfast Metropolitan College;
 - 28.5.2. Consumer Council Northern Ireland (with respect only to the functions transferred from the National Consumer Council which were themselves transferred from the Gas and Electricity Consumer Council);
 - 28.5.3. Health and Safety Executive for Northern Ireland;
 - 28.5.4. Northern Regional College;
 - 28.5.5. North West Regional College;
 - 28.5.6. South Eastern Regional College;
 - 28.5.7. Southern Regional College;
 - 28.5.8. South West College;
 - 28.5.9. Stranmillis University College;
 - 28.6. Department of Education;
 - 28.6.1. Council for Catholic Maintained Schools;
 - 28.7. Department of Finance;
 - 28.8. Department of Health:
 - 28.8.1. Northern Ireland Fire and Rescue Service;
 - 28.9. Department for Infrastructure;
 - 28.10. Department of Justice:
 - 28.10.1. Coroners Service;
 - 28.10.2. County Courts;
 - 28.10.3. Court of Appeal and High Court of Justice in Northern Ireland;
 - 28.10.4. Crown Court;
 - 28.10.5. Enforcement of Judgements Office;
 - 28.10.6. Forensic Science Northern Ireland;
 - 28.10.7. Legal Service Agency Northern Ireland;
 - 28.10.8. Magistrates' Courts;

- 28.10.9. Pensions Appeals Tribunals (Northern Ireland);
- 28.10.10. Police Ombudsman Northern Ireland;
- 28.10.11. Police Retraining and Rehabilitation Trust;
- 28.10.12. Police Service of Northern Ireland;
- 28.10.13. Probation Board for Northern Ireland;
- 28.10.14. Office of the Social Security Commissioners and Child Support Commissioners (Northern Ireland);
- 28.10.15. State Pathologist's Department;
- 28.11. Executive Office:
 - 28.11.1. Maze Long Kesh Development Corporation.
- 29. Northern Ireland Office:
 - 29.1. Office of the Chief Electoral Officer for Northern Ireland;
 - 29.2. Public Prosecution Service for Northern Ireland.
- 30. Office for National Statistics:
 - 30.1. National Health Service Central Register.
- 31. Parliamentary Works Sponsor Body;
- 32. Parliamentary and Health Service Ombudsman;
- 33. Postal business of the Post Office;
- 34. Privy Council Office;
- 35. Restoration and Renewal Delivery Authority Ltd;
- 36. HM Revenue and Customs;
- 37. Royal Hospital, Chelsea;
- 38. Royal Mint;
- 39. Rural Payments Agency;
- 40. Scotland, Auditor-General;
- 41. Scotland, Crown Office and Procurator Fiscal Service;
- 42. Scotland, National Records of Scotland;
- 43. Scotland, Queen's and Lord Treasurer's Remembrancer;
- 44. Scotland, Registers of Scotland;
- 45. The Scotland Office;
- 46. The Scottish Ministers:
 - 46.1. Architecture and Design Scotland;
 - 46.2. Crofting Commission;
 - 46.3. Lands Tribunal for Scotland;
 - 46.4. National Galleries of Scotland;
 - 46.5. National Library of Scotland;
 - 46.6. National Museums of Scotland;
 - 46.7. Royal Botanic Garden, Edinburgh;
 - 46.8. Scottish Courts and Tribunals Service;
 - 46.9. Scottish Further and Higher Education Funding Council;
 - 46.10. Scottish Law Commission;
 - 46.11. Special Health Boards;
 - 46.12. Health Boards;
 - 46.13. The Office of the Accountant of Court;
 - 46.14. High Court of Justiciary;
 - 46.15. Court of Session:
 - 46.16. HM Inspectorate of Constabulary;
 - 46.17. Parole Board for Scotland;

- 46.18. Pensions Appeal Tribunals (Scotland);
- 46.19. Scottish Land Court;
- 46.20. Sheriff Courts;
- 46.21. Scottish Natural Heritage;
- 46.22. Scottish Police Authority;
- 46.23. First-tier Tribunal for Scotland;
- 46.24. Upper Tribunal for Scotland;
- 46.25. Historic Environment Scotland.
- 47. The Scottish Parliamentary Corporate Body;
- 48. HM Treasury:
 - 48.1. United Kingdom Debt Management Office.
- 49. The Wales Office - Office of the Secretary of State for Wales;
- 50. The Welsh Ministers:
 - 50.1. Agricultural Dwelling House Advisory Committees (Wales);
 - 50.2. Agricultural Land Tribunal for Wales;
 - 50.3. Higher Education Funding Council for Wales;
 - 50.4. Local Democracy and Boundary Commission for Wales;
 - 50.5. Rent Assessment Committee (Wales);
 - 50.6. The Royal Commission on the Ancient and Historical Monuments of Wales;
 - 50.7. Valuation Tribunal for Wales; and
 - 50.8. Welsh National Health Service Trusts and Local Health Boards.

Notes to Section A:

1. Procurement by any subordinated entity of any central government contracting authority listed in Section A is covered provided it does not have separate legal personality.
2. As far as procurement by entities in the field of defence and security is concerned, only non-sensitive and non-warlike materials contained in the list in Section D are covered.

Section B
Sub-Central Government Entities

Thresholds:

Unless otherwise specified, Chapter 16 (Government Procurement) shall apply to sub-central government entities listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods	SDR 200,000
Services	SDR 200,000
Construction Services	SDR 5,000,000

List of entities:

1. All contracting authorities which are bodies governed by public law, for England, Wales and Northern Ireland, as defined by the *Public Contracts Regulations 2015* and, for Scotland, the *Public Contracts (Scotland) Regulations 2015*.
 - (a) “Bodies governed by public law” as defined by the *Public Contracts Regulations 2015* means any bodies that have all of the following characteristics:
 - (i) they are established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;
 - (ii) they have legal personality; and
 - (iii) they have any of the following characteristics:
 - (A) they are financed, for the most part, by the State, regional or local authorities, or by other bodies governed by public law;
 - (B) they are subject to management supervision by those authorities or bodies; or
 - (C) they have an administrative, managerial, or supervisory board; more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.
 - (b) “Body governed by public law” as defined by the *Public Contracts (Scotland) Regulations 2015* means a body that has legal personality, is established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character and which:
 - (i) is financed for the most part by the State, regional or local authorities, or by any other body governed by public law;
 - (ii) is subject to management supervision by any such authority or body; or
 - (iii) has an administrative, managerial, or supervisory board more than half the members of which were appointed by any body referred to in subparagraph (i).

- (c) An indicative list of contracting authorities which are bodies governed by public law follows.

Indicative list of contracting authorities which are bodies governed by public law:

Bodies:

1. Health and Safety Executive;
2. Advisory, Conciliation and Arbitration Service;
3. Homes England;
4. NHS Blood and Transplant Service;
5. Environment Agency;
6. Scottish Enterprise;
7. Ordnance Survey Limited;
8. Financial Conduct Authority.

Categories:

1. Maintained schools;
2. Universities and colleges financed for the most part by other contracting authorities;
3. National Museums and Galleries;
4. Fire and Rescue Authorities;
5. Clinical Commissioning Groups;
6. Police Authorities;
7. Police and Crime Commissioners;
8. New Town Development Corporations;
9. Urban Development Corporations;
10. National Park Authorities;
11. Registered providers of social housing.

Note to Section B:

1. For greater certainty, procurement by regional and local contracting authorities of the local government administrative units falling under International Territorial Level 1, 2, and 3 and smaller administrative units are not covered in this Section.

**Section C
Other Entities**

Thresholds:

Unless otherwise specified, Chapter 16 (Government Procurement) shall apply to other government entities listed in this Section where the value of the procurement is estimated to equal or exceed the following thresholds:

Goods	SDR 400,000
Services	SDR 400,000
Construction Services	SDR 5,000,000

List of entities:

1. All utilities whose procurement is covered by the *Utilities Contracts Regulations 2016* and the *Utilities Contracts (Scotland) Regulations 2016* which:
 - (a) are one of the following entities:
 - (i) a central government contracting authority covered in Section A;
 - (ii) a body governed by public law covered in Section B; or
 - (iii) a public undertaking;² and
 - (b) have as one of their activities any of those referred to below or any combination thereof:
 - (i) the provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport, or distribution of electricity or the supply of electricity to such networks;

² According to the *Utilities Contracts Regulations 2016*, a “public undertaking” means any undertaking over which contracting authorities may exercise directly or indirectly a dominant influence by virtue of:

- (a) their ownership of that undertaking;
- (b) their financial participation in that undertaking; or
- (c) the rules which govern that undertaking.

According to the *Utilities Contracts (Scotland) Regulations 2016*, a “public undertaking” means a person over which one or more contracting authorities are able to exercise, directly or indirectly, a dominant influence by virtue of one or more of the following:

- (a) their ownership of that person;
- (b) their financial participation in that person; or
- (c) the rights accorded to them by the rules which govern that person.

According to both the *Utilities Contracts Regulations 2016* and the *Utilities Contracts (Scotland) Regulations 2016*, a dominant influence on the part of contracting authorities is presumed in any of the following cases in which those authorities, directly or indirectly:

- (a) hold the majority of the undertaking's subscribed capital;
- (b) control the majority of the votes attaching to shares issued by the undertaking; or
- (c) can appoint more than half of the undertaking's administrative, management, or supervisory body.

- (ii) the provision or operation of networks³ providing a service to the public in the field of transport by urban railway, automated systems, tramway, trolley bus, bus, or cable; or
 - (iii) the provision or operation of networks providing a service to the public in the field of transport by railways.⁴
- 2. All utilities whose procurement is covered by the *Utilities Contracts Regulations 2016* and the *Utilities Contracts (Scotland) Regulations 2016* which:
 - (a) are regional contracting authorities of the local government administrative units falling under International Territorial Level 1 or 2; and
 - (b) have as one of their activities operating in the field of transport by urban railway, automatic systems, tramway, trolley bus, bus, and cable.
- 3. Indicative lists of contracting authorities and public undertakings fulfilling the criteria set out above follow.

Indicative lists of contracting authorities and public undertakings fulfilling the criteria laid down in Section C:

Production, transport, or distribution of electricity

1. A person licensed under section 6 of the *Electricity Act 1989*;
2. A person licensed under Article 10(1) of the *Electricity (Northern Ireland) Order 1992*.

Contracting entities in the field of urban railway, tramway, trolleybus, or bus services

1. London Bus Services Limited;
2. London Underground Limited;
3. Transport for London;
4. A subsidiary of Transport for London within the meaning of section 424(1) of the *Greater London Authority Act 1999*;
5. Strathclyde Partnership for Transport;
6. Transport for Greater Manchester;
7. Tyne and Wear Passenger Transport (trading as ‘Nexus’);

³ As regards transport services, a network shall be considered to exist where the service is provided under operating conditions laid down by a competent authority of the United Kingdom such as conditions on the routes to be served, the capacity to be made available, or the frequency of the service.

⁴ E.g. the provision or operation of networks (within the meaning of footnote 2) providing a service to the public in the field of transport by high-speed or conventional trains.

8. Brighton and Hove City Council;
9. South Yorkshire Passenger Transport Executive;
10. Blackpool Transport Services Limited;
11. Conwy County Borough Council;
12. A person who provides a London local service as defined in section 179(1) of the *Greater London Authority Act 1999* (a bus service) in pursuance of an agreement entered into by Transport for London under section 156(2) of that Act or in pursuance of a transport subsidiary's agreement as defined in section 169 of that Act;
13. Northern Ireland Transport Holding Company;
14. A person who holds a bus operator's licence under section 4(1) of the *Transport Act (Northern Ireland) 1967* which authorises him to provide a regular service within the meaning of that licence.

Contracting entities in the field of rail services

1. Network Rail plc;
2. Northern Ireland Transport Holding Company;
3. Northern Ireland Railways Company Limited;
4. Providers of rail services which operate on the basis of special or exclusive rights granted by the Department of Transport or any other competent authority.

Notes to Section C:

1. Procurement for the pursuit of an activity listed above when exposed to competitive forces in the market concerned are not covered by Chapter 16 (Government Procurement).
2. Chapter 16 (Government Procurement) does not cover procurement by procuring entities included in this Section:
 - (a) for the purchase of water and for the supply of energy or of fuels for the production of energy;
 - (b) for purposes other than the pursuit of their activities as listed in this Section or for the pursuit of those activities outside of the United Kingdom;
 - (c) for purposes of resale or hire to third parties, provided that the procuring entity enjoys no special or exclusive right to sell or hire the subject of such contracts and other entities are free to sell or hire it under the same conditions as the procuring entity.
3. Chapter 16 (Government Procurement) does not cover procurement:

- (a) by a procuring entity to an affiliated undertaking;⁵ or
- (b) by a joint venture, formed exclusively by a number of procuring entities for the purpose of carrying out activities within the meaning of subparagraphs 1(b)(i) to 1(b)(iii), or 2(b) of this Section, to an undertaking which is affiliated with one of these procuring entities,

for services or supplies contracts provided that at least 80 per cent of the average turnover of the affiliated undertaking with respect to services or supplies for the preceding three years derives respectively from the provision of those services or supplies to undertakings with which it is affiliated.⁶

- 4. Chapter 16 (Government Procurement) does not cover procurement:
 - (a) by a joint venture, formed exclusively by a number of procuring entities for the purposes of carrying out activities within the meaning of subparagraphs 1(b)(i) to 1(b)(iii), or 2(b) of this Section, to one of these procuring entities; or
 - (b) by a procuring entity to such a joint venture of which it forms part, provided that the joint venture has been set up to carry out the activity concerned over a period of at least three years, and the instrument setting up the joint venture stipulates that the procuring entities, which form it, will be part thereof for at least the same period.

Section D Goods

- 1. Chapter 16 (Government Procurement) covers the procurement of all goods procured by the entities listed in Sections A to C, unless otherwise specified in this Agreement.
- 2. Chapter 16 (Government Procurement) covers only the goods that are described in the Chapters of the 2017 Harmonized Commodity Description and Coding Systems (HS) specified below and that are procured by the Ministry of Defence and Agencies for defence or security activities in the United Kingdom:

⁵ “affiliated undertaking” means any undertaking over which the procuring entity may exercise, directly or indirectly, a dominant influence, or which may exercise a dominant influence over the procuring entity, or which, in common with the procuring entity, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

⁶ When, because of the date on which an affiliated undertaking was created or commenced activities, the turnover is not available for the preceding three years, it will be sufficient for that undertaking to show that the turnover referred to in this paragraph is credible, in particular by means of business projections.

HS Chapter	Description
Chapter 25:	Salt, sulphur, earths and stone, plastering materials, lime and cement
Chapter 26:	Metallic ores, slag and ash
Chapter 27:	Mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes except: ex 27.10: special engine fuels
Chapter 28:	Inorganic chemicals, organic and inorganic compounds of precious metals, of rare-earth metals, of radio-active elements and isotopes except: ex 28.09: explosives ex 28.13: explosives ex 28.14: tear gas ex 28.28: explosives ex 28.32: explosives ex 28.39: explosives ex 28.50: toxic products ex 28.51: toxic products ex 28.54: explosives
Chapter 29:	Organic chemicals except: ex 29.03: explosives ex 29.04: explosives ex 29.07: explosives ex 29.08: explosives ex 29.11: explosives ex 29.12: explosives ex 29.13: toxic products ex 29.14: toxic products ex 29.15: toxic products ex 29.21: toxic products ex 29.22: toxic products ex 29.23: toxic products ex 29.26: explosives ex 29.27: toxic products ex 29.29: explosives
Chapter 30:	Pharmaceutical products

Chapter 31:	Fertilisers
Chapter 32:	Tanning and dyeing extracts, tannings and their derivatives, dyes, colours, paints and varnishes, putty, fillers and stoppings, inks
Chapter 33:	Essential oils and resinoids, perfumery, cosmetic or toilet preparations
Chapter 34:	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing and scouring preparations, candles and similar articles, modelling pastes and "dental waxes"
Chapter 35:	Albuminoidal substances, glues, enzymes
Chapter 37:	Photographic and cinematographic goods
Chapter 38:	Miscellaneous chemical products except: ex 38.19: toxic products
Chapter 39:	Artificial resins and plastic materials, cellulose esters and ethers, articles thereof except: ex 39.03: explosives
Chapter 40:	Rubber, synthetic rubber, factice, and articles thereof except: ex 40.11: bullet-proof tyres
Chapter 41:	Raw hides and skins (other than fur skins) and leather
Chapter 42:	Articles of leather, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silkworm gut)
Chapter 43:	Furskins and artificial fur, manufactures thereof
Chapter 44:	Wood and articles of wood, wood charcoal
Chapter 45:	Cork and articles of cork

Chapter 46:	Manufactures of straw of esparto and of other plaiting materials, basket ware and wickerwork
Chapter 47:	Paper-making material
Chapter 48:	Paper and paperboard, articles of paper pulp, of paper or of paperboard
Chapter 49:	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans
Chapter 65:	Headgear and parts thereof
Chapter 66:	Umbrellas, sunshades, walking-sticks, whips, riding-crops and parts thereof
Chapter 67:	Prepared feathers and down and articles made of feathers or of down, artificial flowers, articles of human hair
Chapter 68:	Articles of stone, of plaster, of cement, of asbestos, of mica and of similar materials
Chapter 69:	Ceramic products
Chapter 70:	Glass and glassware
Chapter 71:	Pearls, precious and semi-precious stones, precious metals, rolled precious metals, and articles thereof; imitation jewellery
Chapter 73:	Iron and steel and articles thereof
Chapter 74:	Copper and articles thereof
Chapter 75:	Nickel and articles thereof
Chapter 76:	Aluminium and articles thereof
Chapter 77:	Magnesium and beryllium and articles thereof
Chapter 78:	Lead and articles thereof
Chapter 79:	Zinc and articles thereof
Chapter 80:	Tin and articles thereof

- Chapter 81: Other base metals employed in metallurgy and articles thereof
- Chapter 82: Tools, implements, cutlery, spoons and forks, of base metal, parts thereof
- except:
ex 82.05: tools
ex 82.07: tools, parts
- Chapter 83: Miscellaneous articles of base metal
- Chapter 84: Boilers, machinery and mechanical appliances, parts thereof
- except:
ex 84.06: engines
ex 84.08: other engines
ex 84.45: machinery
ex 84.53: automatic data-processing machines
ex 84.55: parts of machines under heading No 84.53
ex 84.59: nuclear reactors
- Chapter 85: Electrical machinery and equipment, parts thereof
- except:
ex 85.13: telecommunication equipment
ex 85.15: transmission apparatus
- Chapter 86: Railway and tramway locomotives, rolling-stock and parts thereof; railway and tramway tracks fixtures and fittings, traffic signalling equipment of all kinds (not electrically powered)
- except:
ex 86.02: armoured locomotives, electric
ex 86.03: other armoured locomotives
ex 86.05: armoured wagons
ex 86.06: repair wagons
ex 86.07: wagons
- Chapter 87: Vehicles, other than railway or tramway rolling-stock, and parts thereof
- except:
ex 87.08: tanks and other armoured vehicles
ex 87.01: tractors
ex 87.02: military vehicles

- ex 87.03: breakdown lorries
 - ex 87.09: motorcycles
 - ex 87.14: trailers
- Chapter 89: Ships, boats and floating structures
- except:
ex 89.01 A: warships
- Chapter 90: Optical, photographic, cinematographic, measuring,
checking, precision, medical and surgical instruments
and apparatus, parts and accessories thereof
- except:
ex 90.05: binoculars
ex 90.13: miscellaneous instruments, lasers
ex 90.14: telemeters
ex 90.28: electrical and electronic measuring
instruments
ex 90.11: microscopes
ex 90.17: medical instruments
ex 90.18: mechano-therapy appliances
ex 90.19: orthopaedic appliances
ex 90.20: X-ray apparatus
- Chapter 91: Manufacture of watches and clocks
- Chapter 92: Musical instruments, sound recorders or reproducers,
television image and sound recorders or reproducers,
parts and accessories of such articles
- Chapter 94: Furniture and parts thereof, bedding, mattresses,
mattress supports, cushions and similar stuffed
furnishings
- except:
ex 94.01 A: aircraft seats
- Chapter 95: Articles and manufactures of carving or moulding
material
- Chapter 96: Brooms, brushes, powder-puffs and sieves
- Chapter 98: Miscellaneous manufactured articles

Section E Services

Chapter 16 (Government Procurement) covers the following services, which are identified in accordance with the United Nations Provisional Central Product Classification (CPC Prov.) as contained in document MTN.GNS/W/120.⁷

Description	CPC Prov.
1. Maintenance and repair services	6112, 6122, 633, 886
2. Hotel and other lodging services (see note 1)	641
3. Land transport services and courier services, except transport of mail	712 (except 71235), 7512
4. Air transport services of passengers and freight	73 (except 7321)
5. Telecommunications and related services	752, 754
6. Financial services	ex 81
a. Insurance services	812, 814
b. Banking and investment services ⁸	
7. Computer and related services	84
8. Legal services (see notes 1 and 2)	861
9. Accounting, auditing and bookkeeping services	862
10. Taxation services	863
11. Market research and public opinion polling services	864
12. Management consulting services and related services	865, 866 ⁹
13. Architectural services; engineering services and other technical services	867
14. Advertising services	871
15. Investigation and security services (see note 1)	873
16. Building-cleaning services	874, 82201-82206

⁷ Except for services which entities have to procure from another entity pursuant to an exclusive right established by a published law, regulation, or administrative provision.

⁸ Except for the procurement or acquisition of fiscal agency or depository services, liquidation, and management services for regulated financial institutions or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities.

⁹ Except arbitration and conciliation services.

Description	CPC Prov.
17. Publishing and printing services on a fee or contractual basis	88442
18. Sewage and refuse disposal; sanitation and similar services	94

Notes to Section E:

1. Hotel and other lodging services (CPC Prov. 641), legal services (CPC Prov. 861), and investigation and security services (CPC Prov. 873, except 87304) contracts are included under the national treatment regime for suppliers and services providers of New Zealand, provided their value equals or exceeds GBP 663,540 when they are awarded by procuring entities covered under Sections A and B, and their value equals or exceeds GBP 884,720 when they are awarded by procuring entities covered under Section C.¹⁰
2. The following legal services (CPC Prov. 861) are not covered:
 - (a) legal representation of a client by a lawyer in:
 - (i) an arbitration or conciliation held in the United Kingdom, another country, or before an international arbitration or conciliation instance; or
 - (ii) judicial proceedings before the courts, tribunals, or public authorities of the United Kingdom, another country, or before international courts, tribunals, or institutions;
 - (b) legal advice given:
 - (i) in preparation of any of the proceedings referred to in subparagraph (a); or
 - (ii) where there is a tangible indication and high probability that the matter to which the advice relates will become the subject of those proceedings,

provided that the advice is given by a lawyer;
 - (c) document certification and authentication services which must be provided by notaries;
 - (d) legal services provided by trustees or appointed guardians or other legal services, the providers of which are designated by a court or tribunal in the United Kingdom or are designated by law to carry out

¹⁰ The United Kingdom may adjust the thresholds of these services to account for changes to these values in its domestic law as a result of inflation. The United Kingdom shall notify New Zealand of the current thresholds in its currency immediately after this Agreement enters into force, and the adjusted thresholds in its currency thereafter in a timely manner.

specific tasks under the supervision of those tribunals or courts; and

- (e) other legal services which in the United Kingdom are connected, even occasionally, with the exercise of official authority,

where “lawyer” means a person practising as an advocate, barrister, or solicitor in any part of the United Kingdom or Gibraltar.

3. For greater certainty, Section E does not cover procurement of the following services:
 - (a) Human health services (CPC Prov. 931);
 - (b) Administrative healthcare services (CPC Prov. 91122); and
 - (c) Supply services of nursing personnel and supply services of medical personnel (CPC Prov. 87206 and 87209).

Section F Construction Services

Construction services:

All services listed in Division 51 (CPC Prov.), as contained in document MTN/GNS/W/120.

Section G General Notes

1. Chapter 16 (Government Procurement) does not cover:
 - (a) procurement of agricultural products made in furtherance of agricultural support programmes and human feeding programmes (e.g. food aid including urgent relief aid); and
 - (b) procurement for the acquisition, development, production, or co-production of programme material by broadcasters and contracts for broadcasting time.
2. Procurement by procuring entities covered under Sections A and B in connection with activities in the fields of drinking water, energy, transport, and the postal sector are not covered by Chapter 16 (Government Procurement), unless covered under Section C.

3. For greater certainty, concessions contracts as defined under the *Concession Contracts Regulations 2016* and *Concessions Contracts (Scotland) Regulations 2016* are not covered by Chapter 16 (Government Procurement).

Section H Publication of Information

Electronic or paper media utilised for the publication of laws, regulations, judicial decisions, administrative rulings of general application, standard contract clauses, and procedures regarding government procurement covered by this Agreement pursuant to Article 16.5 (Information on the Procurement System):

1. Legislation - www.legislation.gov.uk; and
2. Jurisprudence - law reports, including those published on www.judiciary.gov.uk (for England, Wales, and Northern Ireland) and www.scotcourts.gov.uk (for Scotland).

Electronic media utilised for the publication of notices required by Article 16.6 (Notices), paragraph 8 of Article 16.8 (Qualification of Suppliers), and paragraph 2 of Article 16.17 (Transparency of Procurement Information), pursuant to Article 16.5 (Information on the Procurement System):

1. The UK Find a Tender service, being a single web-based portal which is provided by or on behalf of the Cabinet Office at www.find-tender.service.gov.uk.

Electronic media utilised for the publication of its procurement data required under paragraph 4 of Article 16.17 (Transparency of Procurement Information), pursuant to Article 16.5 (Information on the Procurement System):

1. The UK Find a Tender service, being a single web-based portal which is provided by or on behalf of the Cabinet Office at www.find-tender.service.gov.uk.