



Cabinet Office

Mid-Tier Contract – Guidance for Buyers

Version 1.2 (2023)

Introduction

This guidance accompanies the Mid-Tier Contract v 1.2 (2023) which has been developed by the Cabinet Office and the Government Legal Department (GLD). This document gives context to the clauses, schedules and the important areas for consideration. It is useful to look at this guidance document alongside the Mid-tier Contract when choosing a model form of contract.

If you have any comments about this document please email the Model Services Contract team at modelservicescontract@cabinetoffice.gov.uk.

The Mid-Tier Contract was first published in December 2019 (v1.0), and it was designed to complement the ever-growing suite of government contracts available for use e.g. the Short Form Terms (now the Short Form Contract), the CCS Public Sector Contract (PSC), and the Model Services Contract. It was created to sit between the Short Form Terms and the Model Services Contract and is intended for simple to semi-complex requirements that are above public procurement thresholds and up to a total contract value of £20m. The Mid-Tier Contract is a bilateral contract (for use between two parties) for goods and/or services.

Cabinet Office will continue to encourage the public sector to use a Crown Commercial Service (CCS) commercial agreement for common goods and services requirements where appropriate.

Contract Selection Guide

This table is intended as an aid to commercial professionals in the public sector in determining the most appropriate form of standard contract for use by the public sector. Authorities should ensure the contract chosen matches the contractual requirements for their procurement. The Government Legal Department can help you decide which contract is most appropriate.

Factors to consider when choosing the right contract

Model Services Contract A set of standard terms that may act as a starting point for negotiation on complex and/or high value services	Mid-Tier Contract A set of fixed core terms with modular, optional schedules for non-complex services or high value goods	Short Form Contract A set of fixed terms for less complex, lower value goods or services	Public Sector Contract or existing Framework Contract (provided by Crown Commercial Service) A framework contract of fixed core terms with modular, optional schedules for common goods and services
<ul style="list-style-type: none"> ✓ Where the Supplier is capable of carrying out the significant obligations contained within it ✓ Acquisition of services ✓ Where contract charges exceed £20m ✓ Where contract poses a high financial risk to the Authority 	<ul style="list-style-type: none"> ✓ Where contract charges exceed the relevant procurement thresholds ✓ Use of a framework is inappropriate due to high level of financial or supply risks or where modifications to the contract could be 	<ul style="list-style-type: none"> ✓ For the provision of non-complex goods or services. ✓ Total contract value is below the relevant procurement thresholds. ✓ Where a framework does not exist for 	<ul style="list-style-type: none"> ✓ When you would prefer to use a framework contract as your route to market ✓ For the procurement of goods or services which are common across the public sector ✓ Where a suitable framework has been set up by the Crown

<ul style="list-style-type: none"> ✓ Where failed delivery of the contract poses a reputational risk to the Authority such as critical or public facing requirements ✓ Use of a framework is inappropriate due to high level of financial or supply risks or where modifications to the contract could be substantial or a framework does not exist ✓ Where what is being delivered is highly complex, bespoke or other than business as usual ✓ Where there is a significant transfer of resources (people, assets, etc) from the Authority or an incumbent Supplier to a new Supplier ✓ Where there is a significant business service or technology transformation ✓ The requirement justifies the use of professional, 	<p>substantial or a framework does not exist</p> <ul style="list-style-type: none"> ✓ Where what is being delivered is bespoke or other than business as usual ✓ Where there is a non-complex transfer of resources (people, assets, etc) from the Authority or an incumbent Supplier to a new Supplier 	<p>what you want to buy</p>	<p>Commercial Service to procure those goods or services</p> <ul style="list-style-type: none"> ✓ When the appropriate contractual provisions are already drafted for you to include ✓ Where you are an Authority listed in the framework contract notice
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commercial, legal or negotiating resources			
<ul style="list-style-type: none"> X For construction contracts X Acquisition of commodities and goods (other than where these are ancillary to a service) X Where a suitable Crown Commercial Service framework exists to facilitate the procurement. X For grants 	<ul style="list-style-type: none"> X For construction contracts X Where contract charges exceed £20m X Where a suitable CCS framework exists to facilitate the procurement. X For grants 	<ul style="list-style-type: none"> X For construction contracts X For complex contracts X When you need to transfer assets or people X Where a suitable Crown Commercial Service framework exists to facilitate the procurement X Where contract charges exceed the relevant procurement thresholds X For grants 	<ul style="list-style-type: none"> X For highly bespoke requirements X When you need to make modifications to the call-off contract that could be considered substantial. X For grants

Other considerations

Contract Tiering Tool

There is a [Contract Tiering Tool](#) which can help classify the contract (gold / silver / bronze) by assessing three criteria: value, complexity and level of risk. This tool can also help determine the criticality and level of contract management required. Most “gold-tier” contracts may require the use of the Model Services Contract.

Resolution
Planning

A consideration to be made when using any form of contract is whether the preferred Supplier is heavily dependent upon the public sector or the contract is specified as being a Critical Service Contract. If so, please consider measures that will be required for Resolution Planning. For more, please refer to the 'Resolution Planning Guidance Note' and any other Resolution Planning guidance published with the [Sourcing Playbook](#) on GOV.UK.

How to use

Prior to advertising the opportunity to the market, as a Buyer you will need to 'build' the Mid-Tier contract.

The Mid-Tier is modular, meaning it is made up of the Core Terms, the Award Form, several mandatory schedules, and several optional schedules that you can choose to include, or not, depending on the requirement. You will need to do the following:

- 1) Read the Core Terms - these will underpin the contract;
- 2) Review the Award Form, reading the guidance notes and completing it where necessary e.g. including any Special Terms, or references to any internal policies etc;
- 3) Read the Mid-tier Schedule Summary (below) and decide which schedules to include, deleting those you don't want to include from the 'Incorporated Terms' section of the Award Form; and
- 4) Ensure you've been through the guidance notes embedded in the Award Form and schedules themselves, and have amended or inserted information according to their requirements e.g. Specification, Charges etc.

Extra notes/considerations:

- **General Liability Cap** - The Award Form allows you to amend the general liability level in Clause 15.1 of the Core Terms. Note that you are advised to undertake an appropriate risk assessment and seek necessary management approvals. Unlimited liability is not permitted for this general cap, although there are exceptions to this for specified indemnities throughout this Contract (see below). There is a separate liability cap for data protection (see below).
- **Unlimited Indemnities** – Certain indemnities from the Supplier are deliberately unlimited – those related to IPR, claims brought by any person employed or engaged by the Supplier, TUPE employee claims, claims relating to non-payment by the Supplier of any tax or National Insurance, including any Income Tax, social security contributions, and any other liability, deduction, contribution, assessment or claim, death or personal injury caused by negligence, Supplier fraud, bribery or corruption, and any other liability which can't be limited by Law. The Buyer also takes on unlimited liability in relation to claims against the Supplier brought by any person employed or engaged by the Buyer, caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors, and other TUPE employee claims. This is a deliberate cross-government policy position, and an exception to the general policy within the [Sourcing Playbook](#) that suppliers should not be expected to take on unlimited liabilities.
- **Data Processing** - The wording in Clause 18 of the Core Terms and Schedule 20 (Processing Data) relates to the situation where one Party is a Controller and the other Party is a Processor. This aligns with [PPN 03/22 - Updated guidance on data protection legislation](#), although some of the language has been changed to account for any transfers of data from the EU under the EU GDPR, as well as the potential involvement of overseas equivalents to the UK ICO, where data covered by the EU GDPR is processed under this Contract.

- The wording also covers the situation where the Parties are Independent Controllers. Schedule 20 includes a Joint Controllers Agreement, if the Parties are Joint Controllers. This drafting in the Contract goes beyond the example drafting in [PPN 03/22 - Updated guidance on data protection legislation](#), which assumes the Buyer is the Controller and the Supplier is the Processor. The additional options continue to be included so that this Contract can be used for a wider range of procurements without drafting needing to be created from scratch. However, in the vast majority of cases the Buyer will be the Controller, and the Supplier the Processor. If you have any questions about data protection, or believe another data processing scenario applies, such as the Parties being Joint or Independent Controllers, you must speak to your data protection team or DPO. Making the Supplier a Controller over Buyer information can create risks for Buyer data and information.
- The question of whether the Supplier will be a Processor or Controller will affect their responsibilities and potentially the cost of providing the Deliverables. You should provide this information to the Supplier as early as possible.
- The UK GDPR contains restrictions on transfers of personal data outside the UK. One way to comply with UK GDPR rules on these restricted transfers is to put in place an Article 46 transfer mechanism. These are the “appropriate safeguards” listed in Article 46 such as the ICO’s International Data Transfer Agreement (IDTA), and the Addendum to the EU SCCs (the Addendum). These are referred to in this Contract, along with the EU equivalent, for transfers outside the EEA - the EU SCCs. However, where a Party is relying on one of these Article 46 transfer mechanisms they must carry out a [Transfer Risk Assessment](#) (‘TRA’), to make sure the personal data is still protected while overseas. TRAs help ensure that, in the specific circumstances of a restricted transfer, the Article 46 transfer mechanism will provide appropriate safeguards, and effective and enforceable rights for people - looking at risks

to people's rights arising in the destination country from third parties accessing the information that are not bound by the Article 46 transfer mechanism, in particular government and public bodies and risks to people's rights arising from difficulties enforcing the Article 46 transfer mechanism. If you are a Controller, and your Processor is making the restricted transfer, only the Processor must complete the TRA.

- **Data Protection Liability Cap** - The Award Form allows you to set the liability level of the supplier for breaches of the data protection clauses and legislation in Clause 18.8.5 of the Core Terms. A suggested range and some guidance is provided in the Award Form. Note that you are advised to undertake an appropriate risk assessment and seek necessary management approvals. Unlimited liability is not permitted.

When determining where within the range of £10-20 million the Data Protection Liability Cap should be set, Buyers should consider all of the circumstances of the particular contract which may, among other things, include:

- The volume of data to be processed under the contract;
- The sensitivity of the data to be processed;
- Any additional protective measures which are required to be put in place;
- Any risks that have been identified in relation to the processing;
- Will the processing have a material impact on the individual if something goes wrong?
- Where is the personal data held?
- Are single or multiple data sets held by the processor?
- Are multiple processors involved in the processing?
- What is the impact if the personal data becomes inaccurate, is not kept up to date or is disclosed to an unauthorised person?
- What is the impact if the processor breaches the contract or data protection law, or fails to comply with your instructions?
- Is the processor reliable?

- What reputation does the Supplier have in the market?
- Where is the Supplier based?
- What is the Supplier's proximity to individuals?
- What financial resources does the Supplier have and are they financially solvent?

The relationship between the Parties should also be considered, for example, are there Joint Controllers, or Independent Controllers, or is one party the Controller and the other the Processor? If the parties are Joint Controllers, then Paragraph 7 of the Joint Controller Agreement sets out how liability for fines will be apportioned. This may be taken into account in setting the Data Protection Liability Cap.

- **Intellectual Property Rights ('IPR')** – All IPR related clauses are in the Award Form, Clause 10 of the Core Terms, and Schedule 36 (IPR). The ICT-specific IPR clauses, which make a distinction between Commercial Off The Shelf ('COTS') software and other IPR, are now included in Part B of Schedule 36 (IPR), rather than in Schedule 28 (ICT Services).
- Within Schedule 36 (IPR), there are 2 parts – Part A is the 'generic' IPR provisions, for use if you are not buying any ICT Services. Part B are the ICT-specific IPR provisions, for use if you are buying ICT Services (and using optional Schedule 28 (ICT Services)). You will need to choose Part A or Part B, which are standalone sets of clauses.
- Once you have chosen Part A or Part B clauses, In line with the Intellectual Property Rights Guidance Note, there are 5 different options for ownership and licensing of all New/Foreground IPR within these. This IPR Guidance Note sets out the importance of taking an IPR approach tailored to your procurement.
- These options are:

Option 1: Buyer owns all New IPR with limited Supplier rights to all New IPR in order to deliver this Contract.

Option 2: Buyer ownership of all New IPR with non-exclusive Supplier rights;

Option 3: Supplier ownership of all New IPR with Buyer rights for the current contract only;

Option 4: Supplier ownership of New IPR with Buyer rights for the current contract and broader public sector functions; and

Option 5: Options 2, 3, or 4, plus Buyer rights to royalties.

- As the Crown is indivisible, Buyers which are Crown Bodies should be aware that, firstly, they can only contract as part of the Crown, and secondly, that any IPR which they take ownership of or is licensed to them can be capable of use by any part of the Crown. See [PPN 01/14 – Sharing Information Within Government](#) for further background. Buyers which are Crown Bodies should consider this fact when deciding which model of ownership and licensing of IPR to use.
- Option 1 should be considered for use where you want to retain the New IPR, but you also want to limit the Supplier's use of that New IPR, e.g. for national security reasons. This is more restrictive for Suppliers, and where you are a Crown body, you should consider that this will be owned by and therefore can be used by any emanation of the Crown. It also cannot be used by the Supplier for other customers. This may make this option unsuitable for use in circumstances where it could lead to uneconomic pricing by Suppliers. You are only able to publish the New IPR under Open Licence under this option, so as to avoid undermining the commercial exploitation rights of the Supplier. Reasons why you may want to retain the New IPR include: if the New IPR is likely to be high risk or business critical, or if you want to retain the New IPR for use across multiple contracts or for some wider benefit, or where the Crown provides a lot of the IPR which will be further developed by the Supplier (leading to mixed-ownership), or if controlling the New IPR is in the

public interest, for example, where you are best placed to manage or commercialise an asset).

- Option 2 is suitable for use in situations where you want to retain ownership of any New IPR, for the reasons set out above, but where you are also happy for the Supplier to use/commercially exploit that New IPR outside the contract. This ought to generally result in some benefit for the Buyer, such as lower costs, or incentivising innovation in Supplier solutions. Where you are a Crown body, you should consider that this New IPR will be owned by and therefore can be used by any emanation of the Crown. This will mean that the Supplier will likely not be able to commercially benefit under this option simply by sub-licensing this IPR to Crown entities (as it is already owned by the Crown), however, the Buyer will be able to commercially exploit this IPR elsewhere.
- Option 3 should be considered for use where (a) there is no clear benefit in you owning the New IPR, or (b) where any New IPR created cannot easily be separated from the Supplier's Existing IPR (e.g. Software As A Service ("**SAAS**")). You should only consider this option where you are confident you will only need to use the New IPR for the current contract (or, where you are a Crown body, where you are confident that no other Crown body will need to use the New IPR outside of the scope of the contract and/or where leaving the option open for other public bodies to use the New IPR outside of the scope of the contract (as in Option 4) is likely to lead to uneconomic pricing by Suppliers).
- Option 4 should be considered where there is no there is no clear benefit in you owning the New IPR, or where any New IPR created cannot easily be separated from the Supplier's Existing IPR – as with Option 3 - but where a licence is needed for the current contracted service (and future replacement of that service), as well as contracts and services not yet awarded, and broader public sector functions. Again, given that the Supplier will own the New IPR

under this option, this ought to generally result in some benefit for the Buyer, such as lower costs, or incentivising innovation in Supplier solutions. Where you are a Crown body, you should consider that the licence to the New IPR will be granted to the Crown as a whole and therefore can be used by any emanation of the Crown. This will mean that the Supplier will likely not be able to commercially benefit under this option simply by licensing this IPR to Crown entities (as it is already licensed to the Crown). However, as owner, the Supplier will be able to commercially exploit and otherwise use this IPR elsewhere.

- Option 5 is a 'bolt on' to Options 2, 3, or 4, and Buyers may wish to consider this option where they have invested significant resource or funding in the development of the project and intend to seek a return on that investment, or where they want to maximise innovation or exploitation potential.
- The IPR clauses include a prohibition on Suppliers using IPRs owned by a third party (except COTS Third Party IPRs, discussed in the next paragraph) for provision of the Deliverables, unless the Buyer has had the opportunity to approve their use. The Supplier is expected to get an equivalent licence for the Buyer as it gives for its own Supplier Existing IPR. If the Supplier is unable to do this, the Buyer can accept a licence on alternative terms, or otherwise approve use. Licences on standard commercial terms which permit the performance of the contract would be approved in the vast majority of cases. You should take legal advice if you are considering approving use without acceptable licence terms.
- COTS software (both Supplier and third party-owned) is dealt with differently to non-COTS IPR in the IPR provisions, in line with the [DDaT Playbook](#), which states that expectation is that the standard OEM licence terms for COTS product/ services will apply. This is reflected in the deemed Buyer approval process, the licence the Buyer gets for COTS IPR, and the unlimited indemnity given by the Supplier to the Buyer. It the OEM licence terms or

standard EULA is not acceptable to you, you may like to consider negotiating different terms or using bespoke software.

- **Due Diligence and Allowable Assumptions** – Clauses 2.3-2.7 of the Core Terms deal with due diligence and allowable assumptions, and paragraph 9 of mandatory Schedule 3 (Charges) also deals with allowable assumptions. Any agreed actions, timetable and costs required to remedy any unsuitable aspect of your operating processes and working methods that is not suitable for the provision of the Deliverables, as set out in Clause 2.4 of the Core Terms, will need to be carefully considered because it may affect the legitimacy of the procurement process and any contract modification will need to be lawful under the Public Contracts Regulations 2015. You may consider using allowable assumptions if the Supplier has any concerns about the information provided or the operating environment. The allowable assumptions provisions allow the Supplier to set out any identifiable risks and ensures that the contract price changes only if those risks materialise. Similarly, any change will need to be carefully considered by the Buyer because it may affect the legitimacy of the procurement process and any contract modification will need to be lawful under the Public Contracts Regulations 2015. If bidders have not had the opportunity to complete their due diligence process it may take longer to negotiate the contract, or produce cost escalation and lead to commercial disputes post contract signing. You should always try to provide the required information before using the allowable assumptions mechanisms. The allowable assumptions should only be used in exceptional circumstances, for example, when the information is not available at the requisite time.
- **Collaborative Working Principles** – The Award Form allows you to select whether you would like the Collaborative Working Principles in Clause 3.1.3 of the Core Terms to apply to the Supplier. This requires the Supplier to cooperate and work with other suppliers that you notify the supplier of throughout the contract. This can be used where different suppliers are providing disaggregated services and you need them to work together. Note

that where you notify the supplier of more suppliers it needs to cooperate with, which it did not price into its bid, this could result in additional costs for the supplier, which may be passed on to you. If you have detailed requirements for cooperation and alignment, you should include this in mandatory Schedule 2 (Specification).

- **Step-in rights** – Step-in rights are at Clause 13 of the Core Terms. If a Step-in Trigger Event occurs (defined in mandatory Schedule 1 (Definitions)), you can take action to step in or have a third party step-in to ensure the continuity of the Deliverables.
- **Subcontracting** – Clauses dealing with the supplier’s ability to subcontract are included in this Contract. Along with the optional Key Subcontractors Schedule (Schedule 27), clause 8 (Supply Chain) and clause 27 (Transferring Responsibilities) of the Core Terms deal with subcontracting. The Supplier has the obligation to ensure that appropriate companies and individuals are responsible for delivery of the Deliverables procured, and remains responsible for its subcontractors’ performance. The Authority also needs the right to veto the appointment of those that the Authority reasonably believes are inappropriate for the delivery of the Deliverables. Additionally, those whom the supplier subcontracts to execute or deliver elements of the goods or services must have similar obligations to the ones imposed upon the supplier (see also the mandatory Sustainability Schedule (Schedule 26)), including prompt payment obligations. Suppliers are also required to formally advertise subcontracting opportunities above a certain threshold and report on those sub-contracted to SMEs and VCSEs (see also the optional Supply Chain Visibility Schedule (Schedule 18)).
- **Service Levels and KPIs, including Social Value KPIs**– Optional Schedule 10 (Service Levels) is effectively the ‘KPIs’ Schedule. In line with [PPN 06/20 - Taking Account of Social Value in the Award of Central Government Contracts](#), where this Schedule is used, you should also include Social Value

KPIs. If this Schedule is not used, there is a space for Social Value KPIs in Part C of Schedule 26 (Sustainability) instead. There are reporting requirements for KPIs for the Government's top contracts.

- **Critical Service Level Failures** - This relates to provisions within optional Schedule 10 (Service Levels). Should you decide to include this schedule then you will need to define what will count as a Critical Service Level Failure for the requirement. A space has been added into the Award Form for this to be done. Below is an example format of how this could look:

“A Critical Service Level Failure is: In relation to [specify the relevant Service Level] a Critical Service Level Failure shall include a delay in producing [specify the relevant Deliverable] ordered by the Buyer in excess of [specify the relevant time period] more than once in any [specify the relevant period] or more than [specify the relevant time period].

And/or

In relation to [specify the relevant Service Level] a Critical Service Level Failure shall include a loss of [specify the relevant availability] during core hours [specify the relevant core hours] to the [specify the relevant Service] for more than [specify the relevant time period], or [specify the relevant time period].

- **Management Information/Reporting Requirements** - The Mid-Tier facilitates the requirements for Transparency Reports (mandatory Schedule 6). However, should you require additional reporting or management information from a supplier, then this can be outlined within an additional schedule if needed.
- **Amending the Core Terms** - There is no need to amend the Core Terms document itself. Amendments can be made to the Core Terms via the Award Form by use of Special Terms, or by including Buyer-specific terms in the optional Buyer Specific Terms Schedule (Schedule 31). Note that you should seek legal advice to help you to do so if required.

- **Preservation of rights** - If the Buyer thinks that there has been a Default, legal advice should be sought to ensure that the Buyer preserves all of its contractual rights.
- **Termination** – Most of the rights for both the Buyer and the Supplier to terminate this Contract are set out in Clause 14 of the Core Terms. There are however some termination rights which are set out in other clauses (see for example, Clauses 12.3 (Termination for defaults in relation to Rectification Plans) 24.3 (Termination on Force Majeure), 31.1 (Termination for fraud, bribery or corruption) 36.3 (Termination for Conflicts of Interest)). Each termination right is clear on which consequences of termination in Clause 14 apply where that termination right is enforced.
- **Other Guidance** – Please see the Award Form and specific Schedules for further guidance.

Mid-Tier Schedule Summary

Document	Current version to use	What it's for and what to do	When to use
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Mid-Tier Core Terms	1.2 (2023)	This document contains the main legal terms for the contract. You don't need to change the text of the Core Terms. You can change their legal effect by using Special Terms within the Award Form, or using Schedule 31 (Buyer Specific Terms). Seek legal advice when doing this.	ALWAYS
Mid-Tier Award Form	1.2 (2023)	This document contains important information about the contract. The signed form is the basis of the contract between you and the supplier and incorporates the Core Terms and any applicable schedules. You must prepare this form prior to tender. It is important that the contract data and the list of mandatory and optional schedules are accurate and correct. You must send this completed form to the successful bidder at the award stage. Ensure that your form is signed by the supplier and returned to you.	ALWAYS
Mid-Tier Schedule 1 (Definitions)	1.2 (2023)	This schedule contains the shared legal definitions in the contract and explains what they mean and how to interpret the contract. This document contains defined terms that appear <u>multiple times</u> across different schedules. Definitions unique to <u>one schedule only</u>	ALWAYS

		should be defined within the schedule in which they appear.	
Mid-Tier Schedule 2 (Specification)	1.2 (2023)	This schedule is a template that requires you to include the full range of requirements in ways that can be immediately and easily understood by the market. You do not need to include anything that is already explicit in the Core Terms or other schedules. Be clear about the differences between input, output and outcome specifications. If you focus on outcomes (rather than inputs or outputs) innovation is more likely and risk transfers to the supplier. You will need to add some social value priorities into your specification. Read policy guidance on social value, including PPN 06/20 'taking account of social value in the award of central government contracts' to understand how to do this.	ALWAYS
Mid-Tier Schedule 3 (Charges)	1.2 (2023)	Contains pricing information additional to that contained in the Award Form. Contains detail about optional allowable assumptions, which may be used by the parties where the supplier does not have sufficient information to make a properly costed bid. Also covers optional indexation.	ALWAYS

Mid-Tier Schedule 4 (Tender)	1.2 (2023)	This schedule should incorporate the tender and describes how the supplier proposes to meet the requirements in the Specification. You should make sure this includes how the supplier will deliver its social value priorities.	ALWAYS
Mid-Tier Schedule 5 (Commercially Sensitive Information)	1.2 (2023)	This schedule is used to capture information about the supplier that should not be disclosed or reported to the public, subject to Clause 19 of the Core Terms.	ALWAYS
Mid-Tier Schedule 6 (Transparency Reports)	1.2 (2023)	This schedule describes the information about the contract that the buyer needs from the supplier, so that it can meet its public accountability and transparency requirements set out in <u>PPN 01/17</u> 'Update to Transparency Principles'. You will need to list the required reports in the Annex.	ALWAYS
Mid-Tier Schedule 7 (Staff Transfer)	1.2 (2023)	How you and the supplier protect employees' rights when the organisation or service they work for transfers to a new employer. This is a significant schedule around which there is considerable regulation. It is essential to ensure the correct staff transfer and pension provisions are in place at the outset. You will need to select whether Part A, B, C and/or D applies. Part E is required for every contract	ALWAYS Part E of Schedule 7 (Staff Transfer) is required for every contract for services, irrespective of whether TUPE or New Fair Deal applies at the start of the contract. Whilst Parts A, B,C and D of Schedule 7 are optional, Part E is always required to give employment

		for services, irrespective of whether TUPE or New Fair Deal applies at the start of the contract. Part E is required to give employment protection on termination and/or expiry of the contract.	protection on termination and/or expiry of the contract.
Mid-Tier Schedule 8 (Implementation Plan and Testing)	1.2 (2023)	This schedule contains the agreed plan for when the Deliverables will be delivered and tested to ensure they meet the requirements.	Optional. Use if you need to monitor implementation progress and/or you want to define a testing process for the Deliverables.
Mid-Tier Schedule 9 (Installation Works)	1.2 (2023)	This schedule is designed to provide additional provisions to facilitate the provision of Deliverables requiring installation by the supplier.	Optional. Use this schedule for extra provisions for deliverables needing installation, including an acceptance process.
Mid-Tier Schedule 10 (Service Levels)	1.2 (2023)	The standards of service required by you and what happens if these are not met. You will need to add appropriate detail for service levels (KPIs) and service credits in Annex A. You will also need to complete the relevant part of the Award Form. Where this schedule is used, you will also need to include agreed Social Value KPIs and decide what service	Optional. Use if you are likely to use service levels or service credits and/or performance monitoring provisions.

		level credits (if any) to apply.	
Mid-Tier Schedule 11 (Continuous Improvement)	1.2 (2023)	This contains the requirement that the supplier always improves how it delivers the contract. This schedule provides for continuous improvement in value through the life of the contract. It depends on the supplier's Continuous Improvement Plan and joint review of the value being delivered.	Optional. Use if the contract is long enough that the price or quality offered at the start of the contract could become outdated.
Mid-Tier Schedule 12 (Benchmarking)	1.2 (2023)	This schedule is used when you want to benchmark and compare the value of the supplier against other providers in the market.	Optional. Use if you want to benchmark and compare the value of the supplier against other providers in the market.
Mid-Tier Schedule 13 (Contract Management)	1.2 (2023)	This schedule describes how you and the supplier will work together on the contract. You will need to enter the details and representatives of the Operational Board in the Annex.	Optional. Use if the you will need to collaborate with the supplier in monitoring and managing the contract.

Mid-Tier Schedule 14 (Business Continuity and Disaster Recovery)	1.2 (2023)	This schedule explains what the supplier must do to make sure the contract can still be delivered even if there's an unexpected event. The schedule is used to set up the business continuity and disaster recovery regime, with a BCDR plan and testing.	Optional. Use if your contract will be critical for your organisation and/or it would be difficult to replace the supplier if things go wrong
Mid-Tier Schedule 15 (Minimum Standards of Reliability)	1.2 (2023)	For contracts valued £20m and above. This schedule places a restriction on you entering into a contract if the supplier does not meet the standards required as set out in the Find a Tender Notice.	Optional. Use if you need to implement PPN 04/15 'Taking Account of Suppliers' Past Performance'. For contracts valued £20m and above.
Mid-Tier Schedule 16 (Security)	1.2 (2023)	This schedule explains what the supplier must do to ensure that your data and Deliverables are kept secure. The schedule provides options for two levels of security, both requiring an appropriate security management plan which supports your security policy.	Optional. Use if the supplier will handle any personal information about the general public or public sector employees (e.g. home addresses, bank details, payment or payroll data, travel bookings or expenses) and/or provide ICT systems or services that will store or process data with a security marking of 'Official' or above. If the Supplier system is holding any Personal Data and/or sensitive Government Data including back-up data, you should require the Supplier

			to comply with Part B.
Mid-Tier Schedule 17 (Service Recipients)	1.2 (2023)	This schedule aggregates the demand from multiple buyers (e.g. a Department and ALBs) together to procure Deliverables more efficiently. This schedule enables named 'service recipient members to contract collectively, with you as the main contract holder. It defines the rights of you as the buyer and the service recipients. You will need to agree and enter the service recipients into Annex A prior to issuing the contract notice. Service recipients may also be added by mutual agreement with the supplier during the course of the contract, subject to compliance with Reg 72 of the Public Contracts Regulations 2015.	Optional. Use if you want to aggregate demand across your departmental family.
Mid-Tier Schedule 18 (Supply Chain visibility)	1.2 (2023)	For contracts in excess of £5m per annum. This schedule requires suppliers to advertise subcontract opportunities of £25k+ on Contracts Finder that arise after contract award, report on how much they spend on subcontracting, and report on how much they spend directly with SME or VCSE organisations in the delivery of a contract. This schedule also requires Suppliers to pay <i>unconnected</i> subcontractors within 60 days.	Optional. Use when you need to implement <u>PPN 01/18</u> 'Supply Chain Visibility' and/or <u>PPN 08/21</u> 'Taking account of a bidder's approach to payment in the procurement of major government contracts'. For contracts in excess of £5m per annum.

Mid-Tier Schedule 19 (Cyber Essentials Scheme)	1.2 (2023)	This schedule places obligations on the supplier to maintain cyber security accreditation and relates to the NCSC Cyber Essentials Scheme.	Optional. Use if the supplier will handle any personal information about the general public or public sector employees (e.g. home addresses, bank details, payment or payroll data, travel bookings or expenses) and/or provide ICT systems or services that will store or process data with a security marking of 'Official' or above. See the Cyber Essentials PPN, as updated from time to time, for more details.
Mid-Tier Schedule 20 (Processing Data)	1.2 (2023)	Details about the personal data processing the supplier is allowed to do under the contract. This schedule addresses UK (and EU) GDPR requirements, in line with <u>PPN 03/22 'Updated guidance on data protection legislation'</u> (See above guidance for further details). You will need to determine who is the Controller and Processor. It might be that you are both Joint or Independent Controllers. Make sure the supplier identifies their Data Protection Officer in the Award Form and Annex 1 to this Schedule at contract award.	ALWAYS

Mid-Tier Schedule 21 (Variation Form)	1.2 (2023)	This schedule is a template that is used to change the contract in accordance with Clause 28 of the Core Terms. The template only needs to be completed post award by you and the supplier if a contract variation is required. The variation must be agreed, signed and dated by both Parties and will only become effective from the date it has been signed. Be mindful of Regulation 72 of the Public Contracts Regulations 2015 when undertaking a contract variation. Understand what does and doesn't constitute a substantial change or modification from the original advertised contract (see Reg 72(8) Public Contracts Regulations 2015)	ALWAYS
Mid-Tier Schedule 22 (Insurance Requirements)	1.2 (2023)	The insurance a supplier needs in case it breaches a contract or is negligent. It is important that you determine the type and amount of insurance needed in your market. It is important to understand any gaps in insurance cover - for example if subcontracting or in consortia. This requires a working knowledge of what cover particular insurance provides and how it works in your market.	ALWAYS

Mid-Tier Schedule 23 (Guarantee)	1.2 (2023)	This schedule contains a template that is used where a guarantee is required from a supplier who has had to rely on a guarantor to pass the selection criteria for financial and economic standing in the procurement. The Deed of Guarantee will need to be amended and signed by the guarantor as a deed to provide additional assurance that the supplier will meet their obligations under the contract.	Optional. Use if a supplier has relied upon a Guarantor to pass the selection criteria.
Mid-Tier Schedule 24 (Financial Difficulties)	1.2 (2023)	This schedule sets out what suppliers must do if they are in financial trouble or there are early warning signs of financial trouble. You will need to understand the level of financial risk your procurement attracts and customise this schedule for your needs e.g. selecting which financial indicators are upon (credit scores, credit ratings, or other financial indicators), and setting appropriate thresholds. These should align with the financial standing criteria used during the selection stage of the procurement.	Optional. Use if your contract will be critical for your organisation and you need to monitor the financial health of your supplier.

Mid-Tier Schedule 25 (Rectification Plan)	1.2 (2023)	This schedule is a template that will be used to set out the process to follow if a supplier defaults on a contract. It will only be completed post-award if a supplier commits a notifiable default under the contract and you require them to produce a rectification plan as a result.	ALWAYS
Mid-Tier Schedule 26 (Sustainability)	1.2 (2023)	This Schedule contains sustainability requirements for the supplier to meet, including compliance with environmental, modern slavery, and employment laws. This Schedule contains three parts. Part A should always be included, as it incorporates legislative requirements and Government policy on procurement. Part B is optional and you should consider whether you wish to include any of the options. Part C covers Social Value KPIs, and should be used if Schedule 10 (Service Levels) is <i>not</i> used. You need to be alert to the significance for your procurement of the issues raised in each paragraph. If an issue is significant, and needs more than what is included at Part A or B of this schedule you will need to include the <u>full detail</u> on each significant issue in Schedule 2 (Specification), e.g. as part of your Social Value requirements.	ALWAYS

Mid-Tier Schedule 27 (Key subcontractors)	1.2 (2023)	This schedule places restrictions on a supplier switching certain key subcontractors working on the contract. This schedule gives you rights over the management of Key Subcontractors. Key Subcontractors will need to be listed in the Award Form.	Optional. Use if the supplier plans to deliver a significant part of the contract through its supply chain and you would like to retain some control over Key Subcontractors. It is important to consider if you need to retain control over parties in the supply chain which are sub-processors of personal data, especially in cases where the main Supplier is not the party handling personal data for which the Buyer is Data Controller.
Mid-Tier Schedule 28 (ICT Services)	1.2 (2023)	This schedule contains additional terms for the delivery of ICT Services. This schedule adds provisions relating specifically to ICT Services, e.g. clauses relating to Malicious Software. The ICT-specific IPR provisions are now found in Mid-Tier Schedule 36 (IPR).	Optional. Use where ICT Services form any part of the Deliverables.
Mid-Tier Schedule 28A (Agile Development)	1.2 (2023)	This Schedule contains additional terms covering the Agile development process. It is suitable for use where delivery by Agile development is only a small part of the Deliverables, and where this development will be undertaken by the Supplier largely independently of the Buyer.	Optional. Use if you want to use Agile development for delivery of part of the Deliverables, and it is suitable for your use of Agile. See the Contracting for Agile Guidance Note for more detail on Agile.

		You will need to consider the interaction of this Schedule with various other schedules as well as its impact on charging structure and your procurement risk profile. You may need to align the Schedule with your particular use of Agile, or if it is not appropriate, consider a different contract.	
Mid-Tier Schedule 29 (Key Supplier Staff)	1.2 (2023)	Restrictions on when a supplier changes staff that are crucial to the delivery of the contract. This schedule enables you to identify key roles and the names of key staff who are to fill those roles during the contract.	Optional. Use if you know the services can only be delivered in full with named staff/particular roles.
Mid-Tier Schedule 30 (Exit Management)	1.2 (2023)	This schedule describes what the supplier needs to do at the end of the contract to help you continue to deliver public services. This schedule ensures that the supplier is always prepared for contract exit, including keeping an appropriate virtual library and providing an exit plan. It provides for the supplier assisting re-competition and termination of the contract, along with termination assistance activities. Check if you need to adapt any provisions, as it can be a big problem if the right provisions are not in place from the outset.	Optional. Use after very careful review of potential exit scenarios, e.g. transition to a replacement supplier or bringing services in-house.

Mid-Tier Schedule 31 (Buyer Specific Terms)	1.2 (2023)	This schedule should incorporate any Departmental-specific terms that you want to include in your procurement. You will need to insert these terms. These will take precedence over the Core Terms in case of any conflict. MOD and HMRC terms are included as examples - for these departments' use only.	Optional. Use if you would like to insert any Department-specific terms.
Mid-Tier Schedule 32 (Background Checks)	1.2 (2023)	This schedule is used when supplier staff must be Disclosure and Barring Services vetted before working on contract. You need to decide what the relevant convictions are and list these in the Annex.	Optional. Use when supplier staff must be vetted before working on contract.
Mid-Tier Schedule 33 (Scottish Law)	1.2 (2023)	This schedule switches the interpretation of the contract from the laws of England and Wales to Scottish law.	Optional. Use if you are buying in Scotland.
Mid-Tier Schedule 34 (Northern Ireland Law)	1.2 (2023)	This schedule switches the interpretation of the contract from the laws of England and Wales to the laws of Northern Ireland.	Optional. Use if you are buying in Northern Ireland.
Mid-Tier Schedule 35 (Lease Terms)	1.2 (2023)	This schedule is for buyers who want to lease equipment rather than buy it. This is a generic Operating Lease schedule and a starting point for a contract with a leasing requirement. You will need to amend it for the specific market is looking to serve. It contains clauses at the beginning of the schedule that modify the Core Terms to provide for leasing. It has	Optional. Use if you want to lease goods rather than buy them.

		its own Equipment Order Form template that aims to enable the lease of individual pieces of equipment under the contract.	
Mid-Tier Schedule 36 (Intellectual Property Rights)	1.2 (2023)	This schedule sets out the core intellectual property rights provisions which apply to the contract. It now covers IPR provisions to be used when no ICT services are being purchased (Part A), and IPR provisions to be used when ICT services being purchased (Part B). If you are using the optional Mid-Tier ICT Schedule, you should select Part B here. Within both Part A and Part B there are different drafting options provided for the ownership and licensing of new IPR developed under the contract. You should read the guidance and the Intellectual Property Rights Guidance Note carefully and select which option best suits your procurement, and adapt as required.	ALWAYS
Mid-Tier Schedule 37 (Corporate Resolution Planning)	1.2 (2023)	This Schedule requires Suppliers to provide CRP information, in line with the Playbook Guidance Note about Resolution Planning .	Optional. Use if your contract is a Critical Service Contract, it is a service contract for over £10m per annum, or the Supplier is a Public Sector Dependent Supplier.