



Funded by UK Government



Supplier Terms and Conditions Gigabit Broadband Voucher Scheme

Project Gigabit Funding

14 October 2024
Version 9.0

Contents

Contents

Part A: Introduction.....	1
Part B: Core Terms.....	4
1. DEFINITIONS.....	4
2. COMPLIANCE WITH THESE TERMS AND CONDITIONS	11
3. TOP-UP FUNDING	11
4. ADDITIONAL GUIDANCE	11
5. PROVISION OF INFORMATION AND USE OF THE FUNDING PLATFORM.....	11
6. SUPPLIER STATUS AND CAPABILITY	12
7. PROJECT APPROVAL AND DELIVERY	14
8. VOUCHER VALUES	18
9. ENGAGEMENT WITH BENEFICIARIES	18
10. CONNECTIVITY REQUIREMENTS AND ELIGIBLE COSTS	21
11. VOUCHER REQUESTS AND PAYMENT CLAIMS	21
12. VOUCHER VALIDITY AND PAYMENT CLAIMS PERIOD	22
13. DATA REPORTING AND SUBMISSIONS REQUIREMENT	23
14. COMMERCIAL ASSURANCE AND AUDIT	24
15. CHANGE REQUEST PROCESS	26
16. SCHEME VARIATION AND CESSATION	28
17. INFORMATION SHARING	28
18. PERSONAL DATA	29
19. INTELLECTUAL PROPERTY	30
20. LIABILITY AND INSURANCE	31
21. ISSUE ESCALATION PROCEDURE AND REMOVAL OF SUPPLIER FROM SCHEME	31
22. ANTI-COMPETITIVE BEHAVIOUR	32

23.	WAIVER	33
24.	SEVERANCE	33
25.	DISPUTE MANAGEMENT	33
26.	GOVERNING LAW	33
	SCHEDULE 1 – BENEFICIARY ELIGIBILITY	39
	SCHEDULE 2 – CONNECTIVITY REQUIREMENTS	45
	SCHEDULE 3 - ELIGIBLE COSTS	46
	SCHEDULE 4 – SCHEME MARKETING AND PROMOTION PROTOCOL	52
	SCHEDULE 5 – ISSUE ESCALATION PROCEDURE	54
	SCHEDULE 6 - FUNDING PLATFORM ACCEPTABLE USE POLICY	58

PART A: INTRODUCTION

The Gigabit Broadband Voucher Scheme (the "**Scheme**") is managed by Building Digital UK (BDUK) and has had vouchers funded by the LFFN Programme and the RGC Programme, and now has vouchers funded by Project Gigabit.

The Scheme operates across the whole of the United Kingdom (UK).

The purpose of the Scheme is to increase the speed of deployment of Gigabit Capable Networks within the UK in the harder to reach areas by providing micro-grants to support the cost of new connectivity. Vouchers are the mechanism the Scheme uses to provide these grants. The Scheme allows suppliers to respond to local aggregated demand for Gigabit Capable Networks in areas deemed not commercially viable, and are a very effective way for Suppliers to meet local demand flexibly. A voucher is a benefit to eligible Beneficiaries who must receive the full value of the voucher.

Using their grant, Beneficiaries are able to contract with Suppliers for connections to Gigabit Capable Networks. These products are delivered via networks built as part of Projects that are Approved by the Authority under the Scheme. Payment is only made once a valid connection is made. This is the only mechanism by which a Beneficiary can take a voucher.

Payments of grants to Beneficiaries under the Scheme are made by the Authority direct to Suppliers, once they have confirmed that new connections have been delivered, although the Beneficiary is the recipient of the new connection and the beneficiary of the grant.

Following the precedent of the BDUK Super-Connected Cities Voucher Scheme, payments for vouchers Issued up to and including 31st December 2020 were made under the terms of the European Commission's "De-Minimis" Regulation (1407/2013). From 1st January 2021 the payments for vouchers Issued were made under Chapter 3, Article 3.2(4) of the Trade and Cooperation Agreement between the European Union and the United Kingdom. The UK Subsidy Control Act 2022 (SCA 2022) was fully enacted on 4 January 2023 and vouchers issued from this date are treated as "minimal financial assistance" as described in Part 3, Chapter 2, sections 36 and 37 of SCA 2022 – see <https://www.legislation.gov.uk/ukpga/2022/23/enacted>.

Application of these Terms and Conditions (version 9.0) and previous versions

This version 9.0 of these Terms and Conditions apply, and the previous versions 6.0, 7.0 and 8.0 of the Terms and Conditions continue to apply, only as follows:

Project Type	Applicable Terms and Conditions
UKGV Projects (submitted for Approval before 5 December 2022)	Version 7.0 of these Terms and Conditions, except that the following provisions set out in version 9.0 relating to data reporting and submission requirements shall apply in addition to (or, where applicable, in place of) the relevant provisions set out in version 7.0:

Project Type	Applicable Terms and Conditions
	Clause 13 (in full)
UKGV Projects (submitted for Approval on or after 5 December 2022)	<p>Version 8.0 of these Terms and Conditions (or such later version as may be in place at the time of submission), except that the following provisions set out in version 9.0 relating to data reporting and submission requirements shall apply in addition to (or, where applicable, in place of) the relevant provisions set out in version 8.0:</p> <p>Clauses 8 and 13 (in full) superseding clauses 9 and 14 in version 8.0</p>
UKGV Projects (submitted for Approval on or after 14 October 2024)	Version 9.0 of these Terms and Conditions
Transferred RGC Projects (published before 31 March 2021)	<p>Version 6.0 of these Terms and Conditions (as may be updated by the Authority from time to time with specific reference to version 6.0), except that the following provisions from version 7.0 of these Terms and Conditions relating to vouchers shall apply in place of the relevant terms in version 6.0:</p> <ul style="list-style-type: none"> ● Part B – clauses 6.11 to 6.16 inclusive, 8.6, 9.2.1, 9.2.2, 10.2, 11.4, 11.6, 13.4, 13.6, 13.7, 14.1 to 14.5 inclusive, 15.1 and 15.2 only ● Schedule 2 (in full) ● Schedule 3 (in full) ● Schedule 4 – paragraphs 1.5 and 1.8 to 1.12 inclusive only ● Schedule 6 (in full) <p>In addition, if a Transferred RGC Project is changed in accordance with clause 14 of version 7.0 of these Terms and Conditions then the relevant latest Terms and Conditions shall apply where applicable as notified by the Authority at the time the change is processed</p>

Project Type	Applicable Terms and Conditions
Transferred RGC Projects (not published before 31 March 2021)	Version 7.0 of these Terms and Conditions
LFFN and RGC Projects existing at 31 March 2021 that are not Transferred RGC Projects (with the RGC Projects having this status as determined, where applicable, by the Authority)	Version 6.0 of these Terms and Conditions (including any temporary Covid 19 changes notified by the Authority that may be in effect, and otherwise as may be updated by the Authority from time to time with specific reference to version 6.0)

PART B: CORE TERMS

1. Definitions

Unless otherwise provided or the context otherwise requires, in these Terms and Conditions the following expressions have the meanings set out below.

Access Line Speed	the maximum speed a consumer will be able to experience with the expectation that a customer would experience close to this speed for most of the times outside the Busiest Hours and will take into account any network contention
Additional Guidance	any applicable guidance set out in the Supplier Guidance Document and/or in any Supplier Bulletin
Approved	subject to these Terms and Conditions (including clause 7.11), a Project proposed by a Supplier that is approved by the Authority in writing as being eligible for the Scheme (and " Approve " and " Approval " shall have corresponding meanings)
Attributable Opex Costs	has the meaning given in paragraph 1.1.2 of Schedule 3 – Eligible Costs
Authority	the Department for Science, Innovation and Technology
Authority Contact Data	has the meaning given in clause 18.2.2
BDUK	Building Digital UK, being an executive agency of the Authority that is responsible for the management of the Scheme
Beneficiaries	SME Beneficiaries and Residential Beneficiaries (and Beneficiary refers to any individual one of them)
Beneficiary Contract	each contract entered into between a Supplier and Beneficiary for one or more Connections which is supported by one or more vouchers under the Scheme
Beneficiary Services	services, products and/or equipment Suppliers provide to Beneficiaries for the purpose of establishing and maintaining Connections (including under Beneficiary Contracts)
Beneficiary Terms and Conditions	the latest published version of the Scheme terms and conditions for Beneficiaries
Busiest Hours	the hours of the day (not more than four (4) out of every twenty-four (24)) with the highest measured total data use in aggregate for a service. All measurement periods shall exceed one (1) hour and shall consist of at least four (4)

	measurements taken at not more than fifteen (15) minute intervals
CERT	Commercial Evaluation Review Template, in such form as the Authority shall make available from time to time
Change Request	a change request submitted by a Supplier under the Change Request Process
Change Request Process	the process set out on the Funding Platform that Suppliers are required to use with respect to the changes to Projects described in clause 15
Claim	a claim for payment of a voucher as described in clause 11.1.3 and " Claimed " has a corresponding meaning
Commercial Evaluation Review Process	the commercial evaluation review process from time to time that the Authority uses to assess the value for money of Projects (including proposed changes to Projects) and compliance with these Terms and Conditions
Connection	when a Beneficiary's address has been connected to a Gigabit Capable Network which meets the speeds and Connectivity Requirements set out in Schedule 2 – Connectivity Requirements
Connectivity Requirements	the connectivity requirements set out in Schedule 2 – Connectivity Requirements
Contact Data	the Supplier Contact Data or the Authority Contact Data as applicable
Controller	has the meaning given in the Data Protection Laws
Customer Premises Equipment (CPE)	the network equipment located on the customer's premise which does not require engineering time to upgrade, replace or modify
Data Protection Laws	(a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding pronouncement, including findings, orders, decisions and judgements of a competent court or regulator with jurisdiction as updated and amended from time to time which relates to the protection of individuals with regards to the processing of Personal Data to which a relevant party is subject, including in relation to the UK the Data Protection Act 2018, the Privacy and Electronic Communications Regulations 2003 (amended by SI 2011 no. 6) and the General Data Protection

	<p>Regulation (as incorporated into UK law under the UK European Union (Withdrawal) Act 2018) as the same are amended in accordance with the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by SI 2020 no. 1586); and</p> <p>(b) any code of practice or guidance published by the UK Information Commissioner's Office from time to time</p>
Dispute	has the meaning given in clause 25.1
Eligible Capex Costs	has the meaning given in paragraph 1.1.1 of Schedule 3 – Eligible Costs
Eligible Costs	Eligible Capex Costs and Attributable Opex Costs
Funding Platform	BDUK's platform that BDUK uses to manage certain funding and other aspects of the Scheme and which BDUK makes available to Suppliers subject to their compliance with the Acceptable Use Policy in Schedule 6 – Funding Platform Acceptable Use Policy
Gigabit Capable Network	<p>a broadband network able to provide a service to end users with a download Access Line Speed capability of at least 1Gbps, with:</p> <p>(a) a Minimum Download Speed of at least thirty three percent (33%) of this download speed; and</p> <p>(b) an upload speed of at least twenty percent (20%) of Minimum Download Speed</p>
Good Industry Practice	standards, practices, methods and process conforming to the law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances
Insolvency Event	<p>in respect of a person:</p> <p>(a) if the person is insolvent;</p> <p>(b) where the person is a company, LLP or a partnership, if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction);</p>

	<p>(c) if an administrator or administrative receiver is appointed in respect of the whole or any part of the person's assets or business;</p> <p>(d) if the person makes any composition with its creditors; or</p> <p>(e) if the person takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction</p>
Intellectual Property Rights	all patents, rights to inventions, copyright and related rights, database rights, rights in designs, trademarks, service marks, trade names, and other similar or equivalent rights or forms of protection (whether registered or unregistered) and all applications (or rights to apply) for, and for renewals and extensions of, such rights as may now or in the future exist anywhere in the world
Issue Escalation Procedure	the procedure described in Schedule 5 – Issue Escalation Procedure
Issue	the issue of a voucher as described in clause 11.1.2 and " Issued " has a corresponding meaning
LFFN Programme	the Local Full Fibre Networks programme, being the Authority's programme to stimulate commercial investment in Gigabit Capable Network infrastructure within the UK
Maximum Voucher Funding	the maximum total amount of voucher funding that can be paid by the Authority for a Project under the Scheme, as determined by the Authority
Minimum Download Speed	the minimum download speed measured with standard tools, which should be achieved for ninety-five per cent (95%) of measurements in the Busiest Hours in accordance with standard industry practice which is normal operating procedure
Minimal financial assistance (MFA)	a subsidy given as described in Part 3, Chapter 2, sections 36 and 37 of the UK Subsidy Control Act 2022 – see https://www.legislation.gov.uk/ukpga/2022/23/enacted and where the total amount of minimal financial assistance given to the enterprise within the applicable period does not exceed £315,000
Multiple Dwelling Unit(s) (MDUs)	a building with more than one Premises

Network Terminating Equipment (NTE)	a device that connects the customer's data or telephone equipment to a Supplier's network
Ofcom's Wholesale Fixed Telecoms Market Review 2021-26 (WFMTR)	the consultation and related results reported by Ofcom as part of their consultation to promote investment and competition in fibre networks
Other Supplier Data	has the meaning given in clause 18.2.3
Personal Data	has the meaning given in the Data Protection Laws
Premises	a building in the UK which attracts either council tax or business rates
Premises Passed	Premises where the Gigabit Capable Network build has been completed and a service can be ordered immediately
Process	has the meaning given in the Data Protection Laws
Processed	has the meaning given in the Data Protection Laws
Prohibited Act	<p>to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:</p> <p>(a) induce that person to perform improperly a relevant function or activity;</p> <p>(b) reward that person for improper performance of a relevant function or activity; and/or</p> <p>(c) commit any offence:</p> <p>(i) under the Bribery Act 2010;</p> <p>(ii) under legislation creating offences concerning fraud;</p> <p>(iii) at common law concerning fraud; and/or</p> <p>(iv) committing or attempting or conspiring to commit fraud</p>
Project	each UKGV Project and Transferred RGC Project
Project Gigabit	the government's programme to deliver next generation, gigabit-capable broadband to the harder to reach areas of the UK

PRP	Pre-Registered Package
Public Review	a period of time in which written comments, or other feedback is provided on a group of Premises which may form part of another government broadband subsidy programme
RGC Programme	the Rural Gigabit Connectivity programme, being the Authority's programme to stimulate commercial investment in Gigabit Capable Network infrastructure within rural areas of the UK
RGC Projects	existing project PRPs benefiting from vouchers under the RGC Programme funded part of the Scheme which contain Rural Premises and that were approved by the Authority as being eligible for the RGC Programme
Regulated Asset Base (RAB)	areas where Ofcom proposals support continued retail competition while maintaining the incentives for Openreach to invest in full fibre by allowing Openreach to spread the costs of investment in fibre across a wider group of consumers
Residential Beneficiary	a resident in the UK that meets the Residential Beneficiary requirements set out in Schedule 1 – Beneficiary Eligibility and is eligible to benefit from vouchers under the Scheme
Request	a voucher request as described in clause 11.1.1 and " Requested " and " Requesting " have corresponding meanings
Scheme	has the meaning given in Part A of these Terms and Conditions
SME	the small and medium-sized enterprises described in paragraph 2.1.1 of Schedule 1 – Beneficiary Eligibility
SME Beneficiary	a SME trading in the UK that meets the SME Beneficiary requirements set out in Schedule 1 – Beneficiary Eligibility and is eligible to benefit from vouchers under the Scheme
Supplier	each supplier that the Authority has confirmed in writing is registered to the Scheme following the Authority's review of the relevant supplier's registration application
Supplier Bulletin	each bulletin issued by the Authority to the Suppliers relating to the Scheme
Supplier Code of Conduct	the document titled "Supplier Code of Conduct v2: Delivering better public services together" published by the UK

	Government as may be updated or replaced by the UK Government from time to time
Supplier Contact	the individual (with associated email address) notified by the Supplier from time to time (using Bduksuppliers@bduk.gov.uk) who shall be the main Supplier point of contact for the Authority for all matters relating to the Scheme and have the additional responsibilities set out in clause 5.1.5
Supplier Contact Data	has the meaning given in clause 18.2.1
Supplier Guidance Document	the Scheme document titled "Supplier Guidance" made available to Suppliers as may be updated and notified by the Authority from time to time
Terms and Conditions	these terms and conditions (including the Schedules) and the Top-Up Funding Terms as may be updated by the Authority in writing from time to time
Top-Up Funding	additional "top-up" funding provided by other entities (such as local authorities or devolved administrations) as described in the Top-Up Funding Terms
Top-Up Funding Terms	the additional terms applicable to Top-Up Funding that the Authority shall (where Top-Up Funding is available) make available to Suppliers from time to time, and that form part of these Terms and Conditions
Transferred RGC Project	a RGC Project that the Authority has authorised in writing for transfer from the previous RGC Programme funded element the Scheme
UKGV Project	each UKGV project (comprising network construction, connection costs and packages of products) proposed by a Supplier that is Approved by the Authority
UPRN	Unique Property Reference Number, being the unique alphanumeric identifier for every spatial address in the UK
VAT	value added tax
VPA	Voucher Priority Area, being a set of UPRNs where a voucher project has been identified and approved as being the preferred method of delivering gigabit broadband
Working Day	any day other than a Saturday, Sunday or public holiday in the jurisdiction of the party affected by the relevant Working Day provision.

2. Compliance with these Terms and Conditions

- 2.1 Suppliers agree to comply with these Terms and Conditions as a condition, and for the duration, of their participation in the Scheme.
- 2.2 The Authority may, at any time, contact any referee named by Suppliers in connection with their applications for registration to the Scheme.
- 2.3 It is the responsibility of Suppliers to ensure all third parties involved with Projects comply with these Terms and Conditions. Any use by a Supplier of any third party sales or delivery agent on their behalf in no way alters the responsibility of the Supplier to comply with these Terms and Conditions.
- 2.4 Unless otherwise provided or the context otherwise requires:
- 2.4.1 in these Terms and Conditions references to clauses are references to clauses of these Terms and Conditions in this Part B and references to paragraphs are references to paragraphs in the relevant Schedules to these Terms and Conditions; and
- 2.4.2 capitalised terms used in these Terms and Conditions have the meanings set out in clause 1 above.

3. Top-Up Funding

Certain additional Top-Up Funding may be made available by other entities (such as local authorities or devolved administrations). In such cases certain additional, amended or replacement terms will apply. These are set out in Top-Up Funding Terms that the Authority shall make available to Suppliers separately where Top-Up Funding is available. The provision of Top-Up Funding is at the absolute discretion of the Authority.

4. Additional Guidance

The Authority may provide Suppliers with Additional Guidance regarding the operation of the Scheme which, if so provided, Suppliers shall comply with. In the event of any conflict between the Additional Guidance (or any other Authority guidance or information including as set out on the Funding Platform) and these Terms and Conditions, these Terms and Conditions shall take precedence.

5. Provision of Information and use of the Funding Platform

- 5.1 Each Supplier:
- 5.1.1 shall provide the Authority with information that is correct, accurate and reliable (if the Authority has reason to believe that any of the information is

- in whole or in part incorrect then the Authority may follow the Issue Escalation Procedure);
- 5.1.2 shall not knowingly or recklessly conceal or falsify information or provide false or misleading information to the Authority (either by inclusion or omission);
- 5.1.3 acknowledges that providing or omitting information in connection with the Scheme in breach of clauses 5.1.1 and 5.1.2 may give rise to criminal or other legal consequence and the application of the Issue Escalation Procedure including de-registration from the Scheme and cancellation of projects already approved;
- 5.1.4 shall provide the Authority with additional information and assistance, as requested by the Authority, within 10 Working Days of the request unless another timeframe is specified within these Terms and Conditions or by the Authority in writing (failure to provide the information by the date requested and in the format required may lead to, where applicable, the Supplier not being registered to the Scheme, the relevant Project not being Approved or suspension from the Scheme until resolution of the issue); and
- 5.1.5 shall provide the Authority with details of the Supplier Contact (who shall have overall responsibility for the Supplier's operational involvement in the Scheme and oversight of any other third parties involved in the sales, delivery, reporting and management of Connections delivered by the Supplier with support from the Scheme).
- 5.2 Where directed by the Authority, Suppliers shall use the Funding Platform in connection with the Scheme. Such use shall be subject to Supplier compliance with the Acceptable Use Policy set out in Schedule 6 – Funding Platform Acceptable Use Policy and such other instructions or guidance that the Authority may provide from time to time.

6. **Supplier Status and Capability**

- 6.1 Subject to clauses 6.2 and 6.4, each Supplier:
- 6.1.1 confirms that, prior to participation in the Scheme, they have delivered viable connections on a commercial basis to the Authority's satisfaction to the type of Beneficiaries the Supplier wishes to submit voucher Projects for (being residential and/or SME customers) which meet the Connectivity Requirements set out in Schedule 2 – Connectivity Requirements;
- 6.1.2 confirms that for the duration of their participation in the Scheme they:
- (a) are capable of entering into Beneficiary Contracts for the delivery of Connections which meet the Connectivity Requirements;
 - (b) shall ensure that Beneficiary Services are performed by appropriately qualified, trained, skilled and experienced personnel;

- (c) shall ensure the execution, delivery and performance of Beneficiary Services is within the Supplier's or their subcontractors' corporate capacity and powers;
 - (d) shall ensure that there is no law binding on the Supplier and no provision in any document binding on the Supplier that prevents or would prevent the Supplier from observing any of the Supplier's obligations contained in the Terms and Conditions;
 - (e) have the necessary expertise, skill and experience to provide the Beneficiary Services;
 - (f) shall ensure all personnel used in the performance of the Beneficiary Services are entitled to work in the United Kingdom either by right or by virtue of possessing the necessary visa or permits;
 - (g) shall not act in any manner which in the reasonable opinion of the Authority is prejudicial to the image or reputation of the Authority;
 - (h) shall not make any representation or give any warranty on behalf of the Authority nor create any expense chargeable to the Authority or otherwise pledge the credit of the Authority;
 - (i) are registered for VAT;
 - (j) are not sole traders;
 - (k) hold insurances as set out in clause 20.3
 - (l) are a member of a relevant trade body;
 - (m) are a member of an Ofcom approved Alternative Dispute Resolution (ADR) service or if they are a wholesaler, that all Internet Service Providers (ISPs) using their network are members of an Ofcom approved ADR service; and
 - (n) shall adhere to the Supplier Code of Conduct.
- 6.1.3 acknowledges that the Authority does not offer any opinion on the capability of Suppliers and Suppliers shall not make any representations to that effect;
- 6.1.4 must inform the Authority immediately of any change in circumstances which may affect their registration to, or participation in, the Scheme; and
- 6.1.5 acknowledges that any failure to notify the Authority of any change in their status, their applicable product costs and/or their performance capability in accordance with clause 15 shall constitute a material breach of these Terms and Conditions and will be subject to the Issue Escalation Procedure which may result in the suspension or removal of the Supplier from the Scheme.

- 6.2 The Authority reserves the right to amend or substitute the requirements set out in clause 6.1 if the Supplier is a community-based, or similar non-commercial, organisation.
- 6.3 The Authority reserves the right to suspend the account of Suppliers that are not active for a period of 12 months or more. For the purpose of this clause 6.3, "not active" means the Supplier has not submitted any Projects to the Authority for Approval, or Requested or Claimed any vouchers under the Scheme. In the event that a Supplier is not active for 24 months or more the Authority reserves the right to remove the Supplier from the Scheme without following the Issue Escalation Procedure.
- 6.4 The Authority reserves the right, in its absolute discretion, to refuse Supplier status for any person, entity or body seeking to register with the Scheme as a Supplier if at any time the Authority has concerns as to the financial status, probity or conduct of the person, entity or body or any of its officers or shareholders or has any concerns as to the person, entity or body's, or any of its officers or shareholders, suitability to receive public money.
- 6.5 The Authority may require the Supplier to attend meetings to review their status and capability, performance, and involvement in the Scheme in general, against the requirements of these Terms and Conditions. Meetings will take place on reasonable notice at the Supplier's cost, and during any meetings the Supplier will discuss with and present to the Authority's representative any information which has been reasonably requested. If it is decided during a meeting that the Supplier is not meeting the requirements of these Terms and Conditions, and that issue cannot be remedied within 14 Working Days, the Authority has the right to initiate the Issue Escalation Procedure, including suspending the Supplier from the Scheme whilst that is in process.
- 6.6 The Supplier shall not (and shall ensure that its personnel and subcontractors and their personnel shall not) commit any Prohibited Act or fraud.

7. Project Approval and Delivery

- 7.1 In order to access voucher funding via the Scheme, Beneficiaries must contract with Suppliers following Projects being Approved for voucher funding under this Scheme. Suppliers must be able to evidence that these contracts were entered into after the date of the Project being Approved. This is the only mechanism by which a Beneficiary can receive the benefit of a voucher.
- 7.2 Suppliers are required to provide details of their proposed Projects for Approval using the Project application form and procedure provided by the Authority. Any proposed Project must be fully compliant with these Terms and Conditions and any costs claimed in respect of each Project that is Approved must genuinely be incurred, be Eligible Costs only, within the Maximum Voucher Funding for that Project, and directly attributable to a cost that would otherwise have been paid by a Beneficiary.
- 7.3 Each Project application must demonstrate how the value of the voucher grant will be realised in full by the Beneficiaries. Suppliers must demonstrate how the voucher grants will contribute to the proposed Project alongside their contribution and any

other contributions, such as community or other grant funding. Vouchers must only be used to fund (or part-fund) the cost associated with building the network and the cost of the Connection (non-recurring charge) associated with a commercially available product that would otherwise be paid by customers (either individually or collectively). Suppliers must not use voucher funding to discount their standard(recurring) charges to Beneficiaries. Any documents provided (along with any subsequent amendments or clarifications sought by the Authority) will form part of the relevant application and may be incorporated within any subsequent Approval documents provided by the Authority.

- 7.4 A fundamental principle of the Scheme is that the Beneficiaries are the financial beneficiaries of the Scheme and must receive the full value of their respective voucher grants. All proposed Projects are therefore subject to commercial assessment by the Authority to ensure that Suppliers are not benefiting from voucher-funded deployments in a greater way than from non-voucher projects. For all Suppliers this will involve an assessment of proposed Projects to ensure that the voucher contribution is not a substitute for investment which the Supplier would normally make, and represents a contribution that would otherwise be provided by Beneficiaries.
- 7.5 Projects can be submitted for geographically contiguous areas only where the Project area is a continuous build project. Other than at the Authority's discretion, this requirement will not be varied. The Authority reserves the right to limit the size of any proposed Project.
- 7.6 Suppliers must complete all information required as part of proposed Projects submitted for Approval as detailed in these Terms and Conditions and (where applicable) on the Funding Platform.
- 7.7 Suppliers shall provide a response to any requests by the Authority related to a proposed Project as soon as is practicable and in any event within 10 Working Days. The Authority reserves the right to reject a proposed Project if Suppliers do not provide accurate information for the proposed Project within this timeframe.
- 7.8 Suppliers shall be notified by the Authority in writing (including via the Funding Platform or email) when any proposed Project has been Approved and upon such Approval the proposed Project shall be deemed to be a Project for the purpose of the Scheme. This notification will include confirmation of the maximum value of the voucher grant applicable for each Beneficiary and the Maximum Voucher Funding for the Project. Suppliers may engage with potential Beneficiaries to understand demand for Gigabit Capable Networks prior to the Approval of proposed Projects but must not offer Projects to potential Beneficiaries until the relevant Projects have been Approved.
- 7.9 The Authority reserves the right to limit the number of Projects that it Approves for any Supplier at its absolute discretion. Non-exhaustive examples of the factors that the Authority may take into account in exercising this right include the relevant Supplier's ability to deliver the Projects, financial risks and considerations and other market considerations.

- 7.10 Once a Project has been Approved by the Authority, the relevant Supplier may (subject to these Terms and Conditions) market the Project to Beneficiaries in the area specified within the Project.
- 7.11 Approval by the Authority of a Project is for the purpose of Scheme eligibility only and does not (i) constitute any approval or endorsement of the Project's delivery, capability or operation (which is at the Supplier's risk); (ii) guarantee funding will be made available to support any Connections within that Project; and (iii) prevent another Supplier from proposing a Project in that area under the Scheme and for it to be Approved. Payment will only be made for vouchers Issued by the Authority as part of Projects where these Terms and Conditions are met and compliant Connections are delivered to Beneficiaries who (i) agree to redeem the grant made available through the offer of a voucher; and (ii) have agreed to the Beneficiary Terms and Conditions; (iii) have verified their Connections, and where the total Maximum Voucher Funding for that Project has not been paid.
- 7.12 Approval by the Authority of a Project does not guarantee eligibility of UPRNs submitted as part of a Project. UPRNs will be checked at the point of which a voucher is Requested.
- 7.13 Changes to Projects that are Approved shall be subject to the Authority's approval in accordance with clause 15.

Provision of Beneficiary Services

- 7.14 The Supplier shall participate in the Scheme, deliver the Projects and provide the Beneficiary Services in accordance with:
- 7.14.1 these Terms and Conditions;
- 7.14.2 the requirements, dates and periods set out in the approved Project documentation;
- 7.14.3 Good Industry Practice; and
- 7.14.4 all applicable law.
- 7.15 The Supplier is required to ensure that each affected Premises is operational and available for use by the relevant Beneficiary at all times and must carry out Beneficiary Services in a manner that limits, any restrictions to the operation and use of the Premises, or impediments to the ability of a Beneficiary to carry out their normal functions as usual, that which is absolutely necessary to ensure the safe and efficient completion of the Project. Consideration of the Beneficiary must be maintained in relation to access and works being undertaken.
- 7.16 The Authority takes Beneficiary service and satisfaction very seriously and Suppliers are expected to adopt the same approach. Suppliers are therefore required to act in

the best interests of Beneficiaries at all times. By way of example this will include, but is not limited to, making it as easy as possible for Beneficiaries to deal with the Supplier, taking Beneficiary views about Projects and works into account and ensuring that they remain central to all decision making. Suppliers are also required to avoid doing or saying anything whilst working on Projects which could be damaging or detrimental to the reputation of the Authority in the eyes of Beneficiaries.

- 7.17 The Supplier is required to keep the Beneficiary updated on the progress of the delivery to their Premises.
- 7.18 Supplier personnel must be considerate at all times of Beneficiaries and other residents on matters which may cause disruption or offence including, but not limited to, noise (e.g. radio, shouting), offensive language and parking.
- 7.19 The Supplier shall take reasonable measures not to damage any Beneficiary property and shall indemnify on demand and keep indemnifying the Authority against any losses or claims in connection with any damaged property.
- 7.20 The Supplier shall immediately notify the Authority if they decide not to progress with a published Project. Failure by the Supplier to notify the Authority within 10 Working Days of a decision not to progress will be regarded as a breach of these Terms and Conditions and will lead to the initiation of the Issue Escalation Procedure.
- 7.21 In the performance of the Beneficiary Services the Supplier shall at all times comply with the requirements of the Health and Safety at Work, etc, Act 1974, all approved codes of practice issued thereunder and all applicable laws relating to health and safety in respect of its own personnel and others who may be affected by the provision of the Beneficiary Services.
- 7.22 Where a Supplier is providing Beneficiary Services at Premises, the Supplier shall:
- 7.22.1 make sure that a safe system of work is in place for the duration of their provision of the Beneficiary Services;
 - 7.22.2 have first aid arrangements in place prior to commencing any Beneficiary Services;
 - 7.22.3 upon completion of works at a Premises, ensure that the Premises is safe and secure before leaving;
 - 7.22.4 immediately report to the Authority any health and safety incidents and/or accidents that could negatively impact upon the Authority and/or its reputation; and
 - 7.22.5 ensure that restoration of the ground is to the previous or higher standard.

Monitoring and suspension

- 7.23 The Authority may require the Supplier to attend meetings to review their performance against any individual Project. Meetings will take place on reasonable

notice at the Supplier's cost, and during any meetings the Supplier will discuss with and present to the Authority's representative any information which has been reasonably requested. If it is decided during a meeting that the Supplier is not meeting the requirements of that Project, and that issue cannot be remedied within 14 Working Days, the Authority has the right to initiate the Issue Escalation Procedure, including suspending or closing the Project in the interim.

- 7.24 The Authority reserves the right to suspend or close any Project if:
- 7.24.1 the Maximum Voucher Funding for that Project has been paid;
 - 7.24.2 the Project has been inactive for a period of 365 or more continuous days;
 - 7.24.3 following a non-compliance investigation, the Project is deemed non compliant or; and/or
 - 7.24.4 a formal notice of closure of the Scheme has been given in accordance with clause 16.
- 7.25 Should a Supplier wish for a Project to be unsuspended or reopened, then the Supplier shall provide the Authority with its rationale. Any unsuspension or reopening of a Project will be at the Authority's sole discretion.
- 7.26 Suppliers shall notify the Authority once they consider a Project is complete. A Project is considered complete when the Supplier expects to make no voucher Claims under the Scheme in relation to that Project and/or if an amount equal to the Maximum Voucher Funding is paid. The ability to Request vouchers will be removed once a Project is complete, meaning there will be no more funding available even if there is funding remaining within the Maximum Voucher Funding.

8. Voucher Values

- 8.1 The maximum voucher value is £4,500 for both Residential and SME Beneficiaries.
- 8.2 Where a beneficiary requires less than £500 of funding for the cost of a Gigabit Capable Connection (as determined by the Authority), no voucher funding will be made available.
- 8.3 Any tax implications as a result of receiving a subsidy from BDUK for the supply of services will be the responsibility of the Supplier. Suppliers should seek further advice from HMRC if applicable.
- 8.4 The Authority reserves the right to cap the Maximum Voucher Funding for a single Project.
- 8.5 The minimum and maximum values of vouchers for SME Beneficiaries and Residential Beneficiaries shall be adjusted where Top-Up Funding applies in accordance with the Top-Up Funding Terms.

9. Engagement with Beneficiaries

- 9.1 Suppliers shall not market or discuss specific Projects with potential or actual Beneficiaries until the relevant Project has been Approved by the Authority.
- 9.2 Prior to Requesting vouchers, Suppliers shall establish the eligibility of Beneficiaries using the criteria set out in Schedule 1 – Beneficiary Eligibility. BDUK may provide data and tools to assist Suppliers with this, however eligibility is not confirmed until a voucher is Issued for a Beneficiary.
- 9.3 It is the Supplier's responsibility to ensure all relevant Beneficiaries understand the requirements placed on them by the Beneficiary Terms and Conditions. Suppliers must provide a contact email address for which the Authority can direct related Beneficiary queries should the Authority receive any.
- 9.4 Where Beneficiaries give consent to use their details to Request a voucher, then this consent must be in writing.
- 9.5 Suppliers may not enter into Beneficiary Contracts until the applicable Project has been Approved by the Authority.
- 9.6 Each Beneficiary Contract must be in writing, have a minimum contract period of 12 months and feature the following terms as a minimum:
- Beneficiary name
 - Beneficiary address
 - Supplier name
 - Supplier address
 - Contract start date
 - Contract end date
 - Date of installation / Connection date
 - Technology deployed
 - Minimum upload speed
 - Minimum download speed
- 9.7 The financial benefit of vouchers must demonstrably be passed on in full to the relevant Beneficiaries. Where Suppliers are permitted to make use of Top-Up Funding in accordance with the Top-Up Funding Terms, they must be able to demonstrate to the satisfaction of the Authority that the relevant Beneficiaries are receiving the full value of the increased voucher grant (being the standard voucher amount plus any additional Top-Up Funding). This will be determined as part of the Authority's Commercial Evaluation Review Process.

- 9.8 The Authority gives no undertaking nor accepts any liability for the ability or willingness of individual Beneficiaries to enter into Beneficiary Contracts, or for the authority of individual Beneficiaries to authorise Connections at specific Premises. Suppliers are advised to exercise usual due diligence and best practice before entering into Beneficiary Contracts.
- 9.9 Suppliers acknowledge that they participate in the Scheme (including offers and performance of Beneficiary Contracts) at their own cost and risk and that the Authority cannot bind Beneficiaries to Beneficiary Contracts.
- 9.10 Projects (and associated Eligible Costs) must be sold to Beneficiaries solely on the basis of the relevant Beneficiary's need in accordance with standard market practice.
- 9.11 Vouchers will only be Issued for Premises that are eligible according to the Authority's eligibility dataset as defined in accordance with Schedule 1 – Beneficiary Eligibility. This dataset will be updated throughout the operation of the Scheme and the Authority shall provide regular updates to Suppliers. The Authority accepts no liability for any change in eligibility between the dates on which Projects are submitted or approved and vouchers are Requested and Issued or rejected.
- 9.12 When promoting Projects to potential or actual Beneficiaries, Suppliers must do so in a way which makes clear the source and nature of the financial support offered to the Beneficiaries and in compliance with Schedule 4 – Scheme Marketing and Promotion Protocol. Suppliers shall provide each of their Beneficiaries with a clear statement of facts about the Scheme, taking account of any guidance that the Authority may provide in this regard.
- 9.13 Additional terms apply relating to how the Scheme is referenced and credited in Supplier sales and marketing material, including websites and other forms of electronic communication. These are set out in Schedule 4 – Scheme Marketing and Promotion Protocol.
- 9.14 Where Suppliers choose to offer discounts/free periods against standard monthly (recurring) charges to Beneficiaries, these must also be available to non-voucher customers and, in addition:
- 9.14.1 the Authority reserves the right to request evidence of discounts being offered to and availed of by a reasonable sample of non-voucher customers;
 - 9.14.2 Suppliers must also be able to demonstrate to the Authority's satisfaction that the revenue lost as a result of the discount offered is not being funded by the financial benefit of vouchers; and
 - 9.14.3 the Authority shall consider undiscounted revenues as part of the Commercial Evaluation Review Process.
- 9.15 Suppliers must ensure they have processes in place to communicate in media which allow all potential and actual Beneficiaries to participate within the Scheme. Suppliers shall inform the Authority if a Beneficiary requires a specific form of communication to enable the Beneficiary to participate in the Scheme.

10. Connectivity Requirements and Eligible Costs

10.1 Claims for funding under the Scheme must only be for:

10.1.1 Eligible Costs; and

10.1.2 Connections that comply with the Connectivity Requirements.

10.2 Any Eligible Costs claimed must be:

10.2.1 consistent with those charged to customers without the benefit of voucher support; and

10.1.1 where requested by the Authority, supported by evidence (to the level of detail required or approved by the Authority) that they have been legitimately incurred and are in fact Eligible Costs. Suppliers will be in breach of these Terms and Conditions if they make Claims for Eligible Costs which are greater than those which otherwise would have been charged to the relevant Beneficiary had a voucher not been in place.

11 Voucher Requests and Payment Claims

11.1 There is a three-step process in respect of the treatment of vouchers and their payment:

11.1.1 Step 1: Suppliers initially submit Requests for vouchers (based on the information provided in the relevant Project) prior to the delivery of the relevant Connections.

11.1.2 Step 2: The Authority Issues vouchers for the benefit of the relevant Beneficiaries.

11.1.3 Step 3: Suppliers submit payment Claims for the vouchers Issued under Step 2 once the relevant Connections have been delivered. Suppliers should note that the Approval of any Project is not a guarantee of funding support under the Scheme and that the Authority shall only make payments in respect of vouchers which are Issued by the Authority under Step 2, up to the Maximum Voucher Funding for a Project.

11.2 Suppliers must obtain the written consent of the relevant Beneficiary no more than 180 days prior to submitting requests for vouchers. Submitting requests for vouchers without the relevant consent will be regarded as a breach of these Terms and Conditions and will lead to the initiation of the Issue Escalation Procedure.

11.3 The Authority shall contact each Beneficiary before vouchers are Issued in order to confirm they have given their consent to Suppliers to Request a voucher on their behalf, verify their acceptance of the Beneficiary Terms and Conditions and to confirm their eligibility details. If the Authority does not receive verification from a Beneficiary for whom a voucher has been Requested within **28 days** of the date of Request, the Authority may at its absolute discretion cancel the voucher Requested. Suppliers must notify Beneficiaries of this step in the process.

- 11.4 Requests for vouchers and payment Claims submitted to the Authority must be related to the relevant Project. These Projects must be delivered using only the cost inputs, commercial terms, technology, equipment and network architecture set out in the relevant Project and any variation from those details not agreed in advance with the Authority shall constitute a breach of these Terms and Conditions and result in the initiation of the Issue Escalation Procedure.
- 11.5 Before a voucher payment can be made the relevant Beneficiary must verify that the Connection has been delivered. If the Authority does not receive this verification within 28 Working Days of the date on which a Connection has been reported, the Authority may, at its sole discretion, accept alternative evidence that the Connection has been delivered. Where a Beneficiary does not complete the validation and alternative evidence is not provided or approved the Authority may at its absolute discretion subsequently refuse to accept the relevant payment claim and cancel the voucher. Suppliers must notify Beneficiaries of this step in the process.
- 11.6 The Authority may at its discretion carry out (or appoint a third party to carry out on the Authority's behalf) a site audit visit before any voucher payment is made and in such cases the Authority shall arrange for the site visit to take place as soon as possible. The Authority shall aim to make voucher payments to Suppliers within 10 Working Days of the later of:
- 11.6.1 the receipt of the relevant Beneficiary's validation that the Connection has been delivered; or
 - 11.6.2 the successful completion of any applicable site audit visit pursuant to this clause 11.6.
- 11.7 Where the Authority, acting reasonably, concludes that a site audit has been failed for whatever reason, but that the failure is capable of remedy, the Supplier shall be given a period of time deemed appropriate by the Authority (acting reasonably) to make any adjustments or corrections necessary. These shall be carried out at the Supplier's own costs. Once the period for remedy has expired, the site audit shall be carried out again in the presence of an Authority representative.
- 11.8 The Supplier shall reimburse the Authority for all additional costs and expenses reasonably incurred as a result of failed, aborted or inconclusive site audits arising from the Supplier's non-conformance with these Terms and Conditions.
- 11.9 Payment for any voucher Issued for a Project may be suspended whilst awaiting successful completion of any site audit for any other voucher related to that Project.

12 Voucher Validity and Payment Claims Period

- 12.1 Vouchers may not be Requested for compliant Connections that have already been delivered, and doing so will be deemed to be a breach of these Terms and Conditions. Voucher funding is not available retrospectively.
- 12.2 All Connections must be delivered and voucher claims submitted for payment no later than 12 months from the Issue date of the relevant voucher(s). In the event of

delays or impediments beyond the Supplier control that would prevent them in meeting this requirement, the Authority shall consider the evidence provided by the Supplier in support of the delays and may at its sole discretion, agree in writing such an extension of time as may be appropriate provided that:

- 12.2.1 the Supplier is limited to submitting one extension request per Project and the request must be submitted at least 60 days before the expiry of the vouchers. Any further extensions will be at the sole discretion of the Authority; and
- 12.2.2 in the event that the Authority approves an extension, the Supplier shall promptly inform all Beneficiaries of the Project status.
- 12.3 Where vouchers are paid and the Beneficiary chooses to exercise their right under any cooling off period to exit the relevant Beneficiary Contract, the Supplier must notify the Authority within 30 days and return the full value of the voucher funding related to that Beneficiary. Any exit fees payable by the Beneficiary must not be excessive.
- 12.4 If Connections are not made and vouchers are not Claimed within the relevant period referenced in clause 12.2 then the Authority has the right to cancel these vouchers.
- 12.5 Vouchers cannot be amended in respect of the applicable Beneficiary or Premises once Issued by the Authority.
- 12.6 The sum of the vouchers Issued for a Project may be above the Maximum Voucher Funding for a Project. However, the Authority will only pay voucher Claims when the total sum of paid vouchers (plus the sum of the voucher Claims) does not exceed the Maximum Voucher Funding for the Project. Once the Maximum Voucher Funding for a Project has been Claimed and paid, no further Claims can be made, no further funding will be paid in respect of vouchers associated with that Project and all vouchers which have not been paid shall become null and void and will be cancelled by the Authority.

13. Data Reporting and Submissions Requirement

- 13.1 Suppliers shall provide the reporting information set out in Schedule 1 – Beneficiary Eligibility concerning sales, cancellations and Connections delivered utilising the relevant Project. Failure to do so with reasonable accuracy, and within the timescales set out in Schedule 1 – Beneficiary Eligibility, shall constitute non-compliance with these Terms and Conditions which will be managed in accordance with the Issue Escalation Procedure. The Authority reserves the right not to make payments in respect of vouchers where the relevant Supplier fails to complete and submit reports in accordance with these Terms and Conditions.
- 13.2 Suppliers may be required to provide additional information about the impact and benefit of the Scheme and shall use their reasonable endeavours to comply in a timely manner with all reasonable requests from the Authority to provide additional information during (and for 7 years after) the Scheme ends.

- 13.3 Where Beneficiary consent is not reported to the Authority within 180 days of the date of consent or Connections are not reported to the Authority within 30 days of the date of the relevant Connection, the Authority reserves the right not to Issue a voucher to the relevant Beneficiary or to make payment for the Connection (whichever is applicable).
- 13.4 Failure to report the withdrawal of consent or cancellation of any Beneficiary Contract for which a voucher has been Issued (within 30 Working Days) may be regarded as a breach of these Terms and Conditions and result in the initiation of the Issue Escalation Procedure.
- 13.5 The Supplier shall provide to the Authority Representative quarterly the most up to date high level delivery plan, showing the estimated start and end dates for planning, build, Ready for Service (RFS), installation/Connection, testing and sign-off activities for each Project.
- 13.6 The Supplier shall provide to the Authority quarterly on request an accurate list, in the format requested by the Authority, showing the UPRNs built, the date on which the Ready for Service (RFS) status was achieved, the unique project code and whether customer Connection has been made. The submitted list shall be supported by a narrative report providing an overview of the work progress. The narrative report should also highlight any matters such as labour resource, plant, health and safety incidents, strikes, including any matters outside the Supplier's control that could impact or delay the completion of the Project.
- 13.7 Failure to respond to the Authority's request made in accordance with clause 13.6 within the specified timeframe shall constitute non-compliance with these Terms and Conditions which will be managed in accordance with the Issue Escalation Procedure. The Authority reserves the right not to make payments in respect of vouchers where the relevant Supplier fails to complete and submit reports in accordance with these Terms and Conditions.

14. **Commercial Assurance and Audit**

- 14.1 As part of the Commercial Evaluation Review Process, the Authority shall conduct commercial assurance assessments in relation to each proposed Project submitted for Approval, in order to assess value for money and compliance with the relevant provisions of these Terms and Conditions. Suppliers are required to submit a Commercial Evaluation Review Template (CERT) unless stated otherwise by the Authority and to provide evidence that costs against which voucher funding will be Claimed will be legitimately incurred and be Eligible Costs. The Authority may reduce the amount of funding available for a Project as part of the Commercial Evaluation Review Process to ensure value for money.
- 14.2 Suppliers may be asked to provide additional information and reasonable assistance in respect of the Commercial Evaluation Review Process. Suppliers shall respond as soon as is practicable and in any event within 20 Working Days. Failure to respond to the Authority within this timeframe may lead to the relevant proposed Project not being Approved and therefore not being eligible for funding under the Scheme.

- 14.3 The Authority shall review the costs provided within the CERT as part of Projects against internal benchmark costs and wider market rates to validate costs to ensure value for money for the taxpayer and may request further evidence (which the Suppliers shall provide within the period specified in clause 14.2). The Authority reserves the right to cap any costs at its discretion.
- 14.4 The Authority shall provide Suppliers with the value of the Maximum Voucher Funding for each proposed Project as part of the Approval of that Project. This does not guarantee funding for a Project but provides Suppliers with the maximum funding which the sum of paid vouchers for the Project cannot exceed. This may be less than the total Eligible Costs.
- 14.5 The Authority reserves the right to not Approve any proposed Project if the Authority considers the Project to not be value for money.
- 14.6 The Authority shall conduct sample Project cost audits once Connections have been delivered and voucher payments made as part of a Project. Suppliers must retain evidence of all costs claimed in a format which can be used as evidence for actual costs and can easily be compared to costs provided as part of proposed Projects. These audits will review Projects against actual costs to ensure the costs submitted have been incurred and that the Project remains value for money.
- 14.7 The Supplier, if requested by the Authority, is required to respond to the initial cost audit request by the Authority and provide all relevant evidence within 15 Working Days to enable the Authority to be satisfied as to the correctness of the actual costs claimed. Any subsequent clarifying questions and requests for information and evidence relating to the same cost audit shall be responded to by the Supplier within 5 Working Days. Should Suppliers fail to respond to requests within the timescales stated above, this will lead to the initiation of the Issue Escalation Procedure.
- 14.8 Where Project cost audits find that Projects have changed to an extent greater than the thresholds set out in clause 15 and such changes have not been approved by the Authority in accordance with clause 15 then the Authority reserves the right to follow the Issue Escalation Procedure.
- 14.9 In addition, any services provided under Beneficiary Contracts may be subject to further clarification or inspection for audit purposes. Where further clarification or inspection is required by the Authority (or its appointed agents, local authorities and/or devolved authorities), Suppliers shall provide relevant information (to a level of detail determined or approved by the Authority). This information shall be provided by Suppliers as soon as is practicable and in any event within 20 Working Days of any request by the Authority. Where appropriate, the Authority shall follow the Issue Escalation Procedure.
- 14.10 Where the Authority and/or relevant local authorities (or devolved administrations) suspect or identify fraud, malpractice and/or Supplier error and have carried out the applicable steps described in the Issue Escalation Procedure, the Authority reserves the right to withdraw or recover voucher funds from the relevant Supplier and/or remove the Supplier from the Scheme at its absolute discretion.

- 14.11 Where suspected fraud or malpractice by Suppliers has led to the Issue Escalation Procedure being followed and fraud/malpractice is discovered then the Authority reserves the right to recover costs incurred as a result of the investigation and other losses arising from the fraud/malpractice.
- 14.12 On a sampled basis, the Authority and/or its agents shall conduct pre and/or post-installation checks with Beneficiaries. These checks are in addition to the standard Beneficiary confirmation required for all vouchers.
- 14.13 Suppliers may be required to provide photographs, invoices, timesheets or other evidence of relevant installations.
- 14.14 In the case of Supplier error (e.g. where a Project has erroneously been supplied to an ineligible Beneficiary on the basis of information provided by that Beneficiary), the Authority may elect to carry out the steps described in the Issue Escalation Procedure and the Authority reserves the right to recover voucher funds from the relevant Supplier (or retain funding).
- 14.15 Where post-installation checks have identified that a Beneficiary has provided incorrect information to a Supplier and the Authority takes action to recover voucher funding, then the relevant Supplier shall provide reasonable assistance to the Authority to facilitate recovery of grant funding from the Beneficiary.

15. Change Request Process

- 15.1 Where Suppliers wish to propose changes to Projects (or are made) which exceed one or more of the thresholds set out in clause 15.2, Suppliers shall notify the Authority via the Change Request Process on the Funding Platform without delay to allow the relevant changes to be assessed for compliance with these Terms and Conditions and value for money and other commercial assurance considerations in accordance with the Commercial Evaluation Review Process. Any changes that do not exceed the thresholds in the table below do not need to be notified and the voucher funding that has been Approved will not be impacted.
- 15.2 The relevant changes and thresholds are as follows:

Change Type	Threshold for Notification
Project cost	<p>Where the total project cost is below £100,000, a >10% change in total project cost</p> <p>Where the total project cost is greater than £100,000, a >5% change in total project cost</p> <p>(These costs can be eligible or ineligible as per Schedule 3 – Eligible Costs)</p>
Number of Beneficiaries	>10% increase in the number of Beneficiaries for a Project

Change Type	Threshold for Notification
	This could be as a result of Project scope change or a change in the expected take up
Expected take up	>10% change in take up percentage, where there is no Project scope change
Number of Premises Passed	>5% change in the number of Premises Passed
Equipment change	where any equipment provided as part of the Project submission is changed and will impact the speeds that Beneficiaries will receive
Project milestones	where any milestone date provided as part of the Project submission changes by >3 months
Product pricing	where any product's monthly charge is changed by >20%; or where a Supplier introduces a new product to be connected using vouchers Issued in connection with a Project

- 15.3 Suppliers shall clearly show the variance between the Project in the form that was Approved and the revised Project when submitting Change Requests, including updated network diagrams, UPRNs and unit costs, where appropriate. Failure to provide this information may lead to the Authority withholding approval of the Change Request.
- 15.4 The Authority shall assess the Change Requests (including any additional information submitted by Suppliers where requested by the Authority) and inform the relevant Supplier in writing if (at the Authority's sole discretion and regardless of whether the relevant changes are proposed or have been made):
- 15.4.6 the Change Request is approved and there is no change to the Maximum Voucher Funding;
 - 15.4.7 the Change Request is approved and there is a change to the Maximum Voucher Funding or voucher values;
 - 15.4.8 the Change Request is rejected; and/or
 - 15.4.9 further information is required to assess the Change Request.
- 15.5 If a Change Request is rejected under clause 15.4.3, the relevant Project will only be eligible for funding under the Scheme if the relevant changes are not made to, or are removed from, the Project.

16. Scheme Variation and Cessation

16.1 The Authority may:

16.1.6 amend these Terms and Conditions and the associated Scheme processes from time to time. Suppliers will be notified in writing in advance with details of any proposed changes and will be given the option to accept the proposed changes by written confirmation or de-register from the Scheme;

16.1.7 suspend (for any period) or cease the Scheme (or any part) at any time upon notice to the Supplier Contacts, in which case the Authority shall:

- (a) not accept Requests for vouchers for the period of the suspension or after the date and time of the cessation;
- (b) not accept new Project submissions for the period of the suspension or after the date and time of the cessation;
- (c) have the right to not Issue any Requested vouchers;
- (d) make payments for voucher payment Claims submitted (including during the period of suspension or after the date and time of the cessation) in respect of vouchers that have been Issued by the Authority prior to the date and time of the suspension or cessation, subject to and in accordance with these Terms and Conditions and provided that voucher funding remains available;

16.1.8 de-register, suspend or amend Projects at any time during the Scheme and carry out reviews of Projects at its absolute discretion. If Projects are amended by the Authority, this shall be notified to relevant Suppliers in writing at least 2 Working Days prior to the effective date of such amendments (and only the amended Project will be eligible for funding under the Scheme) and;

16.1.9 cease or amend Top-Up Funding arrangements with immediate effect.

If the Authority requires the use of Projects under the Scheme to cease, then no new Beneficiary consent may be obtained as part of the Project after the period of 2 Working Days following formal notification from the Authority. In these circumstances the Authority shall not fund voucher payments for Projects which have received Beneficiary consent after this 2 Working Day period.

17. Information Sharing

17.1 Information provided to the Authority in connection with the Scheme may be made available to local authorities (or devolved administrations), Authority agents, Ofcom, law enforcement and the UK Government for purposes connected with Project Gigabit and/or the RGC Programme but will not otherwise be disclosed to third parties without express permission, except where required by law (including under the Freedom of Information Act 2000 or equivalent legislation).

- 17.2 If Suppliers receive any information request under the Freedom of Information Act 2000 (or equivalent legislation) that concerns the Scheme and/or the Authority the Suppliers shall provide such request to the Authority within 5 Working Days.
- 17.3 Information provided by Suppliers to Beneficiaries (including quotes and invoicing data) under the Scheme may be shared with the Authority or its agents for the purposes of monitoring and fraud prevention.
- 17.4 Information submitted to the Authority by Suppliers (including Beneficiary contact details) may be shared with other associated organisations for the purposes of promoting the Scheme, processing the voucher Claims, evaluation of delivery of Project Gigabit and all related schemes and making payment. Suppliers are required to comply with all applicable Data Protection Laws in force at the relevant time in respect of such information.

18. **Personal Data**

- 18.1 The Authority and the Suppliers shall in relation to the Scheme comply with their respective obligations under the Data Protection Laws, in each case to the extent necessary under those laws.
- 18.2 The Authority and the Suppliers acknowledge that:
- 18.2.1 the Suppliers shall provide contact data of relevant Supplier personnel for use by the Authority in its administration, management, and operation of the Scheme (including for determining eligibility for the Scheme and (where applicable) for the purposes of monitoring, assurance, and fraud prevention) ("**Supplier Contact Data**");
- 18.2.2 the Authority shall provide contact data of relevant personnel for use by the Suppliers in their administration of, and participation in, the Scheme (including for the purpose of receiving vouchers) ("**Authority Contact Data**"); and
- 18.2.3 the Suppliers shall provide other Personal Data (including contact data of referee organisations and Beneficiaries) for use by the Authority in its administration, management, and operation of the Scheme (including for determining Supplier eligibility for the Scheme) ("**Other Supplier Data**"). This data shall include but not be limited to: Beneficiary contact name, installation address, email address, company number where relevant, date of agreement, current and planned broadband connection speed, date of order, date of installation.
- 18.3 For the purpose of the Scheme the Authority and the Suppliers agree that:
- 18.3.1 the Suppliers shall be the Controller of:
- 18.3.1.1 the Supplier Contact Data and the Other Supplier Data for its own internal business purposes; and

18.3.1.2 the Authority Contact Data where it is Processed by the Supplier in accordance with clause 18.2.2; and

18.3.2 the Authority shall be the Controller of:

18.3.2.1.1 the Authority Contact Data for its own internal business purposes;

18.3.2.1.2 the Supplier Contact Data where it is processed by the Authority in accordance with clause 18.2.1; and

18.3.2.1.3 the Other Supplier Data for: (i) its own internal business purposes; and (ii) the purpose of its administration, management, and operation of the Scheme.

18.4 The Authority and the Suppliers shall Process the other party's Contact Data for the purposes set out above in accordance with that party's relevant privacy policy. Each party may be required to share the other party's Contact Data referred to above with its affiliates and other relevant parties, within or outside the country of origin, in order to carry out the activities specified above, but in doing so, each party will ensure that the sharing and use of the Contact Data complies with the Data Protection Laws.

18.5 Where acting as the Controller for the purposes of the Contact Data, the Authority and the Suppliers shall make available to the other a copy of their applicable privacy policy and the receiving party shall ensure that this policy is provided to the applicable persons whose Personal Data has been shared with the other party for the purposes set out in these terms.

18.6 Where acting as the Controller for the purposes of the Other Supplier Data, the Suppliers shall ensure that all fair processing notices have been given (and/or, as applicable, consents obtained) and are sufficient in scope to allow the supplier to disclose the Other Supplier Data to the Authority in accordance with the Data Protection Laws for its use as anticipated in these terms.

18.7 The Authority and the Suppliers warrant, represent and undertakes to the other that they are not subject to any prohibition or restriction which would prevent or restrict them from disclosing or transferring their Contact Data or (in the case of the Suppliers) the Other Supplier Data in accordance with these Terms and Conditions.

18.8 Each Supplier shall indemnify on demand and keep indemnified the Authority against any losses incurred by, awarded against or agreed to be paid by the Authority to the extent arising from the relevant Supplier's failure to comply with the Data Protection Laws.

19 Intellectual Property

19.1 All rights, title and interest in or to any Intellectual Property Rights owned by (or licensed by a third party to) the Authority or the Supplier prior to the Supplier's registration to the Scheme, or developed by the Authority or the Supplier during the

period that the Supplier is registered to the Scheme, shall remain the property of the Authority or the Supplier or the relevant third party licensor as applicable.

- 19.2 The Supplier grants to the Authority an irrevocable, royalty-free, perpetual licence to use (and to sub-license the use of) its (or its licensors') Intellectual Property Rights in any information or materials provided or made available to the Authority for any purpose connected with the Scheme.
- 19.3 The Authority permits the Supplier to use Authority or UK Government branding or logos subject to the relevant provisions set out in Schedule 4 – Scheme Marketing and Promotion Protocol.
- 19.4 The Supplier shall ensure that the Authority's use of any information, material and/or Intellectual Property Rights provided or made available by the Supplier does not infringe the rights of any third party.

20 Liability and Insurance

- 20.1 Each Supplier shall indemnify and keep indemnified the Authority against any loss, damages, costs, awards or other liabilities suffered or incurred by the Authority arising out of the breach of these Terms and Conditions (or any negligent act or omission) by the Supplier or its subcontractors or their respective personnel.
- 20.2 The Supplier (and not the Authority) shall be responsible and liable for any harm, injury or death or any other loss or liability (including damage to property) arising from the Supplier's delivery of its Projects, whether suffered by Beneficiaries, the Supplier's personnel, members of the public, business owners or otherwise.
- 20.3 The Supplier, while participating in the Scheme, shall maintain, with a reputable insurance company, adequate insurance to cover all liabilities that may arise under or in connection with these Terms and Conditions, and shall at the Authority's request produce insurance certificates giving details of insurance cover. Notwithstanding the foregoing, the Supplier shall affect and maintain the following minimum limits of insurance cover while participating under the Scheme:
- 20.3.1 employer's liability insurance (where required by law) of £5,000,000 (five million pounds sterling);
- 20.3.2 public liability insurance of £5,000,000 (five million pounds sterling); and
- 20.3.3 professional indemnity insurance of £5,000,000 (five million pounds sterling).

21 Issue Escalation Procedure and Removal of Supplier from Scheme

- 21.1 Subject to clause 21.2, the Issue Escalation Procedure set out in Schedule 5 – Issue Escalation Procedure shall be followed (i) where the relevant clauses of these Terms and Conditions expressly state that it shall be followed; and (ii) otherwise at the discretion of the Authority, and in each case may result in the Supplier being removed from the Scheme.

- 21.2 The Authority may upon notice remove the Supplier from the Scheme with immediate effect and without following the Issue Escalation Procedure if:
- 21.2.1 the Supplier suffers an Insolvency Event or, in the Authority's reasonable opinion, an event that indicates a high probability of an Insolvency Event which would adversely impact on the Supplier's ability to comply with these Terms and Conditions;
 - 21.2.2 the Supplier or any of its subcontractors or their respective personnel commits a Prohibited Act; or
 - 21.2.3 the Supplier breaches these Terms and Conditions and the Authority reasonably considers that following the Issue Escalation Procedure is not required.
- 21.3 If the Supplier is removed from the Scheme in accordance with clause 21.2, without prejudice to its other rights under these Terms and Conditions or at law the Authority reserves the right to:
- 21.3.1 not Issue any Requested vouchers;
 - 21.3.2 not make payments for voucher payment Claims submitted; and/or
 - 21.3.3 recover any funding from the Supplier that has been obtained unlawfully or in breach of these Terms and Conditions.
- 21.4 Except with respect to any liability that cannot be excluded by law, the Authority shall not be liable for any losses, costs, expenses or liability of any kind that may be suffered or incurred by any Supplier or their subcontractors (including the relevant Supplier's or subcontractor's directors and other personnel) in connection with:
- 21.4.1 the removal of the Supplier from the Scheme in accordance with clause 21.2 or relevant other provision of these Terms and Conditions;
 - 21.4.2 any suspension, cessation or de-registration in accordance with clause 16; and
 - 21.4.3 the initiation and operation of (or as a consequence of any decision made by the Authority under) the Issue Escalation Procedure.
- 21.5 Terms which expressly or impliedly are intended to have effect notwithstanding expiry or termination of these Terms and Conditions shall remain in force following expiry or termination of these Terms and Conditions.

22 Anti-Competitive Behaviour

Suppliers acknowledge that the Scheme operates within the requirements of UK competition law and as such recognise that any anti-competitive behaviour (e.g. collusion) can be prosecuted by the competition authorities. Where breaches of competition law are found, the competition authorities have the power to levy fines

against the company and bring criminal actions against individuals (in addition to director disqualification orders).

23 Waiver

The rights and remedies of the Authority under or in connection with these Terms and Conditions may be waived only by notice by the Authority and in a manner that expressly states that a waiver is intended.

24 Severance

- 24.1 If any provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed without affecting the remaining provisions.

25 Dispute Management

- 25.1 If any dispute arises during the delivery of the scheme (a "**Dispute**"), an authorised Supplier representative and the Authority's representative shall, within 14 Working Days of the dispute being notified by either party to the other in writing, meet in good faith to resolve the Dispute.
- 25.2 If the representatives are for any reason unable to resolve the Dispute within 14 Working Days of the Dispute first being notified, the Dispute shall be referred by either party to the Authority's Head of Commercial for Vouchers who shall attempt in good faith to resolve it with the Supplier's representative within a period of 14 Working Days of the referral.
- 25.3 If the Authority's Head of Commercial for Vouchers is unable to resolve the Dispute within 14 Working Days of the Dispute being referred to them, either party shall immediately refer the dispute to the Authority's Director for Commercial who shall seek to reach an agreement with the Supplier representative within 30 Working Days of referral.
- 25.4 For the avoidance of doubt, this dispute management process shall only apply in circumstances where the Issue Escalation Procedure has not already been instigated by the Authority.

26 Governing Law

These Terms and Conditions shall be subject to and construed in accordance with English law and subject to the exclusive jurisdiction of the courts of England and Wales.

Schedule 1 – Beneficiary Eligibility

1. General

- 1.1 To be eligible for a voucher via the Scheme, a Premises must:
- 1.1.1 be "Rural" according to the Office for National Statistics (ONS) or equivalent:
 - (a) ONS definitions D1 – F2 (England & Wales);
 - (b) NISRA definitions E – H (Northern Ireland);
 - (c) NRS definitions 3 - 8 (Scotland);
 - 1.1.2 Be Designated as "Urban - Eligible" by the Authority
 - 1.1.3 Not be vacant / unoccupied / derelict
 - 1.1.4 Not have speeds of more than 100Mbps¹
 - 1.1.5 Not be part of a planned or ongoing other UK Government subsidy initiative or programme to deliver Gigabit Capable Networks, as determined by the Authority; and
 - 1.1.6 Not be assessed by BDUK as likely to receive Gigabit Capable Networks without public subsidy
- 1.2 The Authority shall only Issue one voucher per Premises, identified by UPRNs.
- 1.3 Where a Beneficiary has more than one Premises, the Authority reserves the right to limit the number of vouchers a Beneficiary can have.
- 1.4 The Authority will publish and maintain a "Go List" identifying premises which the Authority has assessed meet these criteria.

2. SME Beneficiaries

- 2.1 Organisations may be SME Beneficiaries only if Suppliers provide the Authority with the information set out in paragraph 5 of this Schedule and establish that:
- 2.1.1 the relevant organisation is no larger than a medium-sized company under sections 465 to 467 of the Companies Act 2006 which can be summarised as:
 - (a) up to 249 employees and annual turnover no greater than £36 million; and/or

¹ Currently under review by the authority

- (b) an annual balance sheet total not exceeding £18 million.
- 2.1.2 SME Beneficiaries must operate or trade from the voucher Premise. Suppliers must provide evidence of this upon request from the Authority to demonstrate eligibility.
 - 2.1.3 SME Beneficiaries may benefit from multiple Connections supported by the Scheme at different locations, but no SME Premises may benefit by more than £4,500 in total;
 - 2.1.4 as a result of the voucher contribution included within the relevant package, the organisation will have received less than £315,000 in minimum financial assistance in public grants over any period of three fiscal years including the current year, from date of contracting for the relevant Project;
 - 2.1.5 the organisation will receive the requisite step-change in service (as described in the Connectivity Requirements) as a result of contracting for the relevant Project; and
 - 2.1.6 the organisation is **not**:
 - (a) owned, linked through ownership or controlled by any Supplier;
 - (b) a school funded by the Department for Education;
 - (c) a public sector organisation;
 - (d) a privately funded school operating between the ages of 3-18; and/or
 - (e) an organisation solely involved in offering provision under the requirement for young people to remain in education or training until their 18th birthday.
- 2.2 Where multiple organisations operate from the same shared location, the Authority reserves the right to limit the number of SME Beneficiaries in the location.
 - 2.3 SME Beneficiaries in designated OFCOM defined markets - Central London Area and High Network Reach Area, will only be able to claim a voucher if they can establish the following:
 - 2.3.1 the relevant organisation is no larger than a micro-sized company under sections 384A to 384B the Companies Act 2006 which can be summarised as:
 - (a) Not more than 10 employees and annual turnover no greater than £632,000; and/or
 - (b) an annual balance sheet total not exceeding £316,000.

3. Residential Beneficiaries

- 3.1 Residential Beneficiaries may only benefit from the Scheme if Suppliers provide the Authority with the information set out in paragraph 5 of this Schedule and establish that:
- 3.1.1 the relevant Residential Beneficiary's Premises has not already received (and/or will not receive) voucher funding under the Scheme which exceeds the Scheme's maximum applicable voucher value;
 - 3.1.2 the relevant Residential Beneficiary will receive the requisite step-change in service (as described in the Connectivity Requirements) as a result of contracting for the relevant Project; and
 - 3.1.3 the relevant Residential Beneficiary resides at or occupies the Premise. Suppliers must provide evidence of proof of address upon request from the Authority to demonstrate eligibility.

4. Beneficiary confirmation

- 4.1 Suppliers must obtain written consent from each Beneficiary before Requesting vouchers for that Beneficiary following Approval of a Project.
- 4.2 Suppliers shall ensure that Beneficiaries confirm their eligibility details and acceptance of the Beneficiary Terms and Conditions through the Funding Platform. Vouchers will not be Issued by the Authority until this confirmation has been received. **Suppliers should note that a Beneficiary's voucher funding will only be confirmed as available after this step has taken place and the voucher is Issued and whilst the Maximum Voucher Funding for a Project has not been paid.**

5. Supplier reporting

- 5.1 Suppliers must report the following information to the Authority within 180 days of receiving consent to Request a voucher for each Beneficiary and within 30 days of the date of each of the relevant Beneficiary's Connection:
- 5.1.1 company name (where applicable);
 - 5.1.2 Beneficiary contact name;
 - 5.1.3 Supplier's unique customer reference number for the Beneficiary Contract;
 - 5.1.4 voucher number – provided via the Funding Platform;
 - 5.1.5 installation address;
 - 5.1.6 installation postcode;
 - 5.1.7 installation UPRN;
 - 5.1.8 Beneficiary email address;

- 5.1.9 Beneficiary contact number;
- 5.1.10 Project reference;
- 5.1.11 value of voucher Claimed (residential or SME voucher as confirmed at Approval of a Project);
- 5.1.12 existing connection speed (upload/download);
- 5.1.13 nature of previous connection (contended/uncontended);
- 5.1.14 new connection speed (when not fixed for the relevant Project);
- 5.1.15 date Beneficiary Contract signed (date of sale); and
- 5.1.16 Connection date (when completed).

6. Subsidy notification

The Authority shall issue a subsidy notification to relevant Beneficiaries when installations have been completed and payment has been made to the relevant Supplier which outlines the nature and value of the subsidy they have received.

7. Multiple connection scenarios

The following limitations apply in respect of the following multiple connection scenarios:

	Beneficiary type	Number of premises for which vouchers may be used	Maximum aggregate voucher value
1	SME (including sole trader) (single user of premises)	As many premises as it operates from	Maximum SME permitted value (including any top-up funding available in area) for the SME beneficiary per premises up to the MFA threshold ³
2	SME (including sole trader) (in shared premises)	Vouchers are available per premises only and the number of users of a premises does not increase available funding	Maximum SME permitted value (including any top-up funding available in area) for the SME beneficiary up to the MFA threshold ³

3	Resident	As many premises as the resident resides at	Maximum residential permitted value (including any top-up funding in area) for the residential beneficiary per premises
4	SME (including sole trader) operating from a residential premises	As many eligible residential premises as the SME is registered at	Maximum SME permitted value (including any top-up funding available in area) for the SME beneficiary up to the MFA threshold ³
5	Landlords with more than 1 premises in different locations	As many eligible properties as the landlord owns	Up to the MFA threshold (as described in these Terms and Conditions and the Subsidy Control Act 2022) ³

³ From 4 January 2023 vouchers issued from this date are treated as "minimal financial assistance" and the MFA threshold of £315,000 per enterprise applies across any three financial year period.

8. Multiple Dwelling Units (MDUs)

- 8.1 Individual units within MDUs must align with the definition of Premises as set out in clause 1 of these Terms and Conditions.
- 8.2 In accordance with clause 9.7, Beneficiaries must receive the full financial benefit of the voucher funding for the eligible Premises which it is Issued.
- 8.3 Each Beneficiary must have:
- (a) a minimum 12 month contract in writing;
 - (b) its own private connection; and
 - (c) its own monthly bills.
- 8.4 The Authority reserves the right to limit the amount of voucher funding for any MDU.

9. Residential Rental and Holiday Premises

- 9.1 Vouchers for holiday homes which are let must be requested for the Premises owner.
- 9.2 Vouchers for holiday homes which are let are considered as business vouchers if the property owner does not reside in the Premises.

- 9.3 Vouchers for holiday homes which are not let and where the owner resides (i.e. a second home) are considered as residential vouchers.
- 9.4 Vouchers for holiday homes where the owner resides must be classified as occupied by the local authority.
- 9.5 Residential vouchers can be requested for rental Premises if the expectation is for the tenant to reside at the property for a minimum of 12 months from date of installation. Vouchers must be requested in the name of the tenant and not the landlord.
- 9.6 Vouchers requested for rental Premises where the tenant is not expected to reside for 12 months should be requested in the name of the landlord/ property owner and would be considered as a business voucher.

Schedule 2 – Connectivity Requirements

1. All Connections supported by vouchers under the Scheme must fulfil **ALL** of the following characteristics:
 - 1.1 be Gigabit Capable Network compliant at the time of delivery of the Connection without the need for future hardware upgrades or modification (excluding Customer Premises Equipment (CPE) – it is not mandatory to deploy Gigabit Capable Network CPE from the outset if this is not required to deliver service, unless the CPE is embedded into the Network Terminating Equipment (NTE) which must be Gigabit Capable Network compliant);
 - 1.2 deliver a minimum of 30Mbps to the Beneficiary's Premises; and
 - 1.3 the upgraded broadband service must deliver a "step change" in service which is at least a doubling of speeds compared to the service currently being consumed (either upload or download) or speeds of at least 100Mbps, whichever is lower.
2. Connections which use wireless or satellite technology to meet the Connectivity Requirements are permitted where legal frequencies and technologies are used.
3. Suppliers must make available gigabit speed packages to voucher Beneficiaries for a fair market price.

Schedule 3 - Eligible Costs

1. Introduction

1.1 For the purpose of the Scheme:

1.1.1 **"Eligible Capex Costs"** means the full, or the significant part of, the directly attributable incremental costs (that are capable of being capitalised under generally accepted accounting practices in the UK) of connecting Beneficiaries to commercially deployed access infrastructure to enable Beneficiaries to obtain the high-speed/high-grade service capability they require; and

1.1.2 **"Attributable Opex Costs"** means the operational expenditures and overheads (Opex) which are directly incremental costs associated with the build, connection and maintenance of the network associated with the Project,

which in each case meet the Connectivity Requirements (where applicable) and as such costs are further described in this Schedule.

1.2 In accordance with these Terms and Conditions, Suppliers are responsible for ensuring that all Claims submitted for voucher funding relate to Eligible Costs only, and should seek further guidance from the Authority if necessary, before submitting Projects for Approval and then Claims for payment if approved.

1.3 All costs should be submitted exclusive of VAT

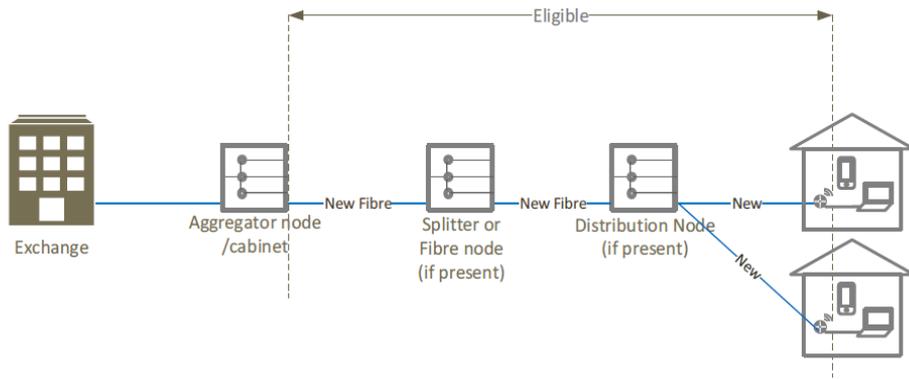
1.4 Broadly, the lines of demarcation in the network that qualify for subsidy are:

1.4.1 **Network side:** The downstream port of the nearest point of significant aggregation to a customer's Network Terminating Equipment (NTE); and

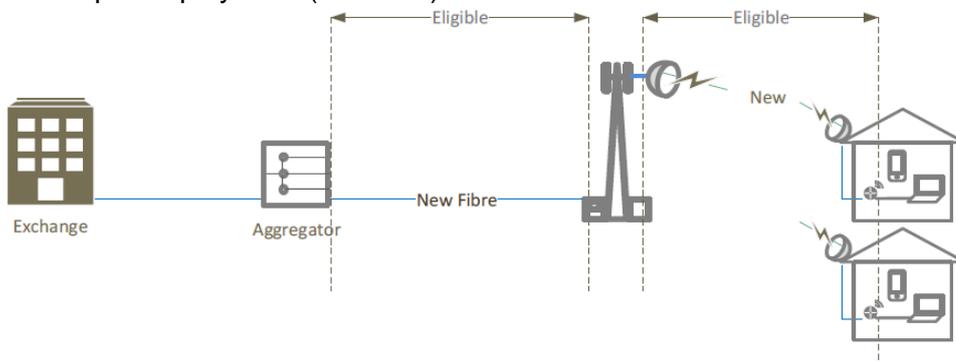
1.4.2 **Customer side:** the customer-side ports of the CPE.

1.5 This is further illustrated by reference to the diagrams below, which apply these demarcation principles to various types of network deployment:

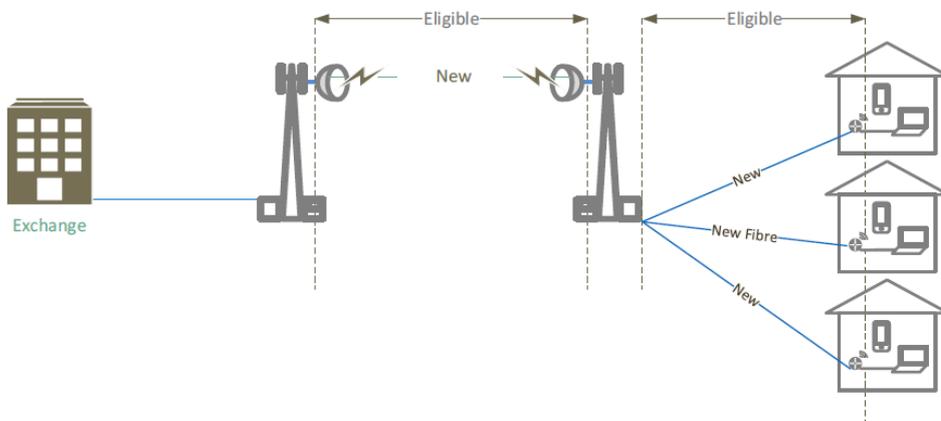
1. Typical Deployment (Fibre)



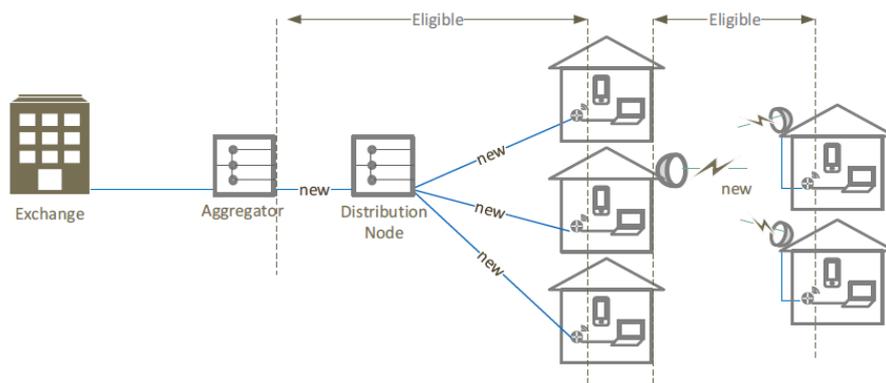
2a Example Deployment (Wireless)



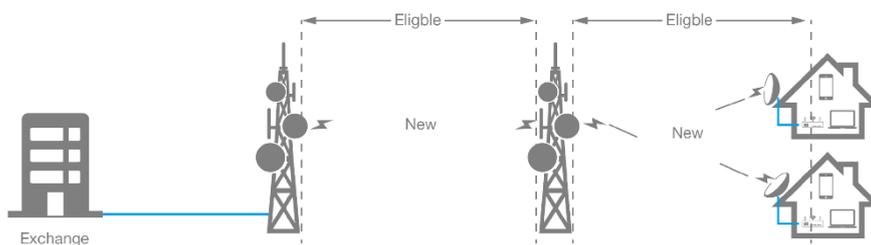
2b Example Deployment (Wireless)



2c Example Deployment (Wireless)



2d Example Deployment (Wireless)



- 1.6 Customer Premises Equipment (CPE) or NTE devices which provide a general computing function beyond supporting a network data service **do not qualify** for subsidy, including most NCE devices, firewalls, telephones, tablets, laptops and PCs. By contrast CPE devices that **only** provide a networking function, including modems, qualify. Only one wireless access point as part of the CPE may qualify.
- 1.7 While the precise categories of Eligible Costs will be dependent on the solutions offered to the Beneficiaries, subject to paragraph 1.8 the categories of Eligible Costs provided in paragraph 2 below are intended to provide Suppliers with an indication of the **likely** qualifying items.
- 1.8 The Authority reserves the right at its sole discretion to determine that costs submitted with proposed Projects for Approval are not Eligible Costs.
- 1.9 Where a Supplier provides aggregate costs as part of a proposed Project, the Supplier must be able to show the breakdown of these costs when requested by the Authority.
- 1.10 The Authority reserves the right to ask the Supplier to provide information about any existing assets or equipment being used as part of the Project in connection with the Authority's commercial assessment process.
- 1.11 The Authority reserves the right to take into account any reduction in costs the Supplier will receive as a result of the Project, such as savings from changing equipment.

- 1.12 The Authority reserves the right to remove any costs related to contingency or clearing blockages where third party assets are used where a Network Adjustment (or similar) process can be used to reclaim costs.

2. Eligible Capex Costs

- 2.1 The costs set out below are non-exhaustive examples of Eligible Capex Costs:

- adapters/converters to ensure that all the pre-existing communications functionality is effectively maintained (e.g. adapters/converters for analogue telephones, dialup modems, alarm diallers or other devices that may contain embedded modems such as medical alarms);
- civils and cabling costs;
- CPE (e.g. Optical Network Terminal (ONT) or fibre modem), backup battery, patch panel and residential gateway and associated intermediate power and fibre communications cables);
- External wireless repeaters if necessary, for coverage;
- fibre optic cables, sheaths, connectors, joints, splitters and enclosures;
- materials costs;
- microwave feeders, jumpers, connectors, antenna radomes and enclosures, lightning protection devices, and electrical earthing systems;
- necessary supporting structures including poles and other mountings, brackets, fixings, and associated civil works (including craneage);
- passive and powered splitters/combiners, amplifiers, repeaters and regenerators which do not provide a switching/routing function that are within these lines of demarcation qualify for subsidy;
- planning, project management, survey, acquisition, site preparation, installation, and commissioning fees;
- power supplies equipment to support network electronics and optics, including power company connection costs, uninterruptible power supplies (UPS) and generators but excluding any CPE power supplies beyond an existing 240V AC socket;
- provision of building entry points and (including breaking/drilling charges for entry through external and internal walls), trunking and tray work (within end-user's curtilage) and fibre cable and jointing;
- provision of building location points (including all associated mounting costs);
- provision of new verge, footway and carriageway boxes, poles and duct infrastructure;
- Radio Frequency (RF) connectors, splitters, combiners, duplexers, diplexers, filters;

- traffic management costs;
- tree surgery costs.

3. Excluded Capex Costs

3.1 The following costs are non-exhaustive examples of costs that do not qualify as being Eligible Capex Costs;

- 4G dongles, or internal 4G modules for laptops
- additional charges for expedited connection e.g. time related charges (TRCs);
- any of the network elements that may require upgrading to support the final connection e.g. 'middle' mile/trunk and core upgrades that are required to support the final connection;
- bonded VDSL connections;
- cabling on the customer side of the CPE to support (e.g. in-Premise installation of cat5e and RG6 coax cable or more than one wireless access point) inter-site connectivity;
- cancellation fees for any pre-existing connection or contract;
- contingency costs;
- costs associated with IP addresses;
- costs related to the purchase of wayleaves or other easement rights (see Note 1 below);
- historic capital costs associated with network deployment (excepting where these have been demonstrably deployed at risk by the CP in anticipation of Beneficiaries using vouchers to access the network since the launch of the Scheme);
- masts;
- unless explicitly approved otherwise by the Authority in writing, any margin applied by Suppliers or any related party to goods and/or services provided by any related party (see Note 2 below).

4. Attributable (Opex) Costs

4.1 The Authority shall take into account the capital and incremental operating costs associated with deploying the network as a result of the relevant Project. Suppliers shall provide direct, incremental operating costs as part of Projects submitted for Approval as these are considered for the purposes of determining the proposed voucher amounts for Projects.

4.2 Operating expenditures and overheads (Opex) which are not direct incremental and one-off costs associated with the build, connection and maintenance of the network

are not considered for the purposes of determining the proposed voucher amounts and should not be included.

4.3 Non-considered Attributable Opex Costs

4.3.1 The following costs are non-exhaustive examples of costs that are not considered by the Authority when determining Maximum Voucher Funding and proposed voucher amounts for Projects;

- general corporate or unabsorbed overheads; and
- interest and financing charges;
- operating lease rentals.

Explanatory Notes:

Note 1: Wayleave and easement rights being payments made to landowners for the legal right to access that land in order to install and maintain communications cabling and piping.

For example, see Openreach charges for connection at: <https://bit.ly/1Ly71hV>

Note 2: The definition of "related party" is based on the definition of same in International Accounting Standard (IAS) 24 which for the purpose of these Terms and Conditions means (i) a person or a close member of that person's family who has control, joint control, or significant influence over the Supplier or is a member of the Supplier's key management personnel; (ii) a parent, subsidiary, fellow subsidiary, associate, or joint venture of the Supplier; or (iii) an entity that is controlled, jointly controlled, or significantly influenced or managed by a person who is a related party.

Schedule 4 – Scheme Marketing and Promotion Protocol

1. Introduction

This protocol aims to ensure there is clear understanding of how Suppliers are required to present their involvement in the Scheme, how media enquiries should be handled, Suppliers' use of UK Government brand assets, and when announcements need to be flagged to all parties involved.

2. Media Enquiries

Suppliers shall respond to all local and regional specific enquiries as they are best placed to provide this information. General questions about nationwide government programmes should be directed to the Authority by contacting comms@bduk.gov.uk

Suppliers may respond to questions relating to the specific work they are undertaking and general broadband enquiries. When responding to queries or promoting the Scheme, Suppliers must state the contribution being made by the Authority. Suppliers will also ensure the Authority is given ample opportunity proposed media statements or background information before they are issued

3. Social Media

The Authority's press team are keen to support announcements through social media and ministers may be happy to re-post where appropriate. If space permits and where appropriate, we would encourage the Authority funding to be referenced in social media content, linking to Authority social media accounts. To help us join up, we suggest Suppliers follow us on the Department's (DSIT) social media accounts so we can look out for posts and content to share.

Suppliers are required not to speculate publicly (including through social media channels) about the closure of, or material changes to, the Scheme in the absence of any official announcement by us through our usual channels of communication with Suppliers.

4. Press Releases

- 4.1 All parties (the Authority, relevant Suppliers, and local authorities and devolved administrations if applicable) need to approve, and be offered an opportunity to provide a quote for inclusion in, any press release relating to the following:
- 4.1.1 Supplier registration;
 - 4.1.2 projects and connections commenced or delivered; and
 - 4.1.3 any other significant milestones being reached.

All press releases or public announcements should be approved by BDUK – please email copies to comms@bduk.gov.uk. Please ensure you allow at least two weeks' notice for feedback/approval from BDUK.

5. Use of Logos/Brands and References to the Scheme

- 5.1 The 'Funded by UK Government' logo is for use by third party organisations in receipt of UK government funds. These brand guidelines detail how the Funded by UK logo should be used consistently to provide effective and efficient communications.
- 5.2 The Funded by UK Government logo and brand guidelines are available on the Funding Platform.
- 5.3 The following guidelines must be followed when using these logos or references to the Scheme:
 - 5.3.1 The use of the logo must not imply any endorsement of a Supplier or of one Supplier over another.
 - 5.3.2 Suppliers must NOT present themselves as an "approved supplier" nor infer that Authority agreement to a Project implies any sole supplier rights for the relevant location.
 - 5.3.3 The logos may not be used following the end of the Scheme and/or Project Gigabit, or the cessation of the relevant Supplier's involvement in it.
 - 5.3.4 Placement of the logos must not imply any other accreditation or support of the Supplier or its products other than the agreed Project.
 - 5.3.5 The Authority reserves the right to have a quote included in any press release associated with the Scheme and/or Project Gigabit.

Suppliers must not do, nor cause or authorise to be done: (i) anything which shall impair, damage or be detrimental to the reputation or goodwill associated with the Authority, the Scheme, Project Gigabit and/or the logos; or (ii) anything which may adversely affect the value of the logos or their registration. The logos shall not be altered in any way without prior written consent from the Authority and the Suppliers shall ensure that any reproduction under these terms shall be a true and exact replica of the relevant logos.

Schedule 5 – Issue Escalation Procedure

1. Issues

- 1.1 Subject to Clause 21.1 above, the Issue Escalation Procedure described in this Schedule will be followed if the Authority considers that there is a relevant issue arising with any Supplier in respect of the Scheme. Such issues include but are not limited to:
- 1.1.1 failure to respond to requests by the Authority within the specified timeframes;
 - 1.1.2 failure to provide sufficient evidence to demonstrate that funding meets eligibility requirements.
 - 1.1.3 provision of Project proposals, quotes or invoices which have been identified as suspicious by the Authority's anti-fraud procedures;
 - 1.1.4 provision of quotes or invoices which seek to secure voucher funding for costs which have not been genuinely incurred or are not Eligible Costs;
 - 1.1.5 provision of invoices for costs which are not consistent with commercial rates for comparable installations;
 - 1.1.6 instances of suspected or actual collusion between Suppliers;
 - 1.1.7 instances of Supplier involvement with directors or suppliers who have (where applicable):
 - (a) previously been de-registered from the Scheme for non-compliance reasons;
 - (b) been de-registered from other schemes (as set out in paragraph 3 below) for non-compliance reasons;
 - (c) been de-registered from a relevant trade body (or other similar body) for non-compliance reasons; and/or
 - (d) been disqualified from acting as a director in accordance with the Company Directors Disqualification Act 1986 (or equivalent legislation);
 - 1.1.8 any Supplier behaviour which the Authority considers to be inappropriate within the context of the Scheme and/or these Terms and Conditions;
 - 1.1.9 any failure to comply with Schedule 4 – Marketing and Promotion Protocol; and/or
 - 1.1.10 any other suspected or actual breach of these Terms and Conditions.

Issues (referencing the paragraph numbers in paragraph 1.1 above) which may arise with any Supplier in respect of the Scheme shall be determined by the Authority.

- 1.2 The instigation and operation of the procedures described in this Schedule shall be without prejudice to any rights or remedies under these Terms and Conditions or in law.
- 1.3 Suppliers must provide, when requested, any information that is reasonably likely to assist in an investigation under the Issue Escalation Procedure. The information must be relevant to the matter under investigation.
- 1.4 Failure to respond within the specified timeframe, will constitute a material breach of these Terms and Conditions and may result in the Authority proceeding with the investigation without response.

2. Procedures

Initial Investigation

- 2.1 Following a report of information, the Authority will commence initial enquiries into the issue. One of the following courses of action will be following in respect of initial investigation:
 - 2.1.1 Do nothing – the Authority's assessment determines that no further action is required.
 - 2.1.2 Monitor – the Authority's assessment determines that the Supplier(s) in question are to be monitored for an agreed period of time before determining if action is required.
 - 2.1.3 Investigate – the Authority's assessment determines that further investigation of the issue is required.
- 2.2 If further investigations are considered to be necessary, the relevant Supplier(s) will be notified in writing.

Formal Investigation Procedure

- 2.3 Following an initial investigation by the Authority, further information will be gathered. This information will be gathered from various sources, including but not limited to; beneficiaries, internal system data, open source information, and the Supplier directly.
- 2.4 Suppliers should note that, should the Authority reasonably believe that public funding may be at risk or Suppliers fail to provide requested information, then the Authority reserves the right to immediately (or within such other period reasonably determined by the Authority):
 - 2.4.1 suspend relevant Suppliers from the Scheme (and cease further payments to those Suppliers); or

2.4.2 partially suspend relevant Suppliers from the Scheme (which may, by way of example, result in Funding Platform access remaining but voucher applications, requests and/or claims being suspended),

in each case pending further investigations.

- 2.5 If further investigations are considered to be necessary, the relevant Supplier(s) will be contacted in writing by the Authority and asked to provide clarification of the issue within 10 Working Days of receipt of the Authority's notification.
- 2.6 Following completion of investigations (which may involve further correspondence with the Supplier and the provision of further information by the Supplier) a written report will be prepared by the Authority (which at the Authority's discretion may include interim and final report versions).
- 2.7 The written report will be reviewed by senior members of BDUK at an internal investigations oversight meeting where a determination will be made on the investigation findings and appropriate actions.
- 2.8 Suppliers can make relevant written representations throughout the investigation which will be presented at the investigations oversight meeting.
- 2.9 Depending on the specific nature of the issue, the course of action that the Authority may take at its discretion may include any one or more of:
- 2.9.1 No action required – case closed.
 - 2.9.2 The Authority issues updated guidance to all relevant local authorities (or devolved administrations).
 - 2.9.3 The Authority issues updated guidance to the Supplier(s) concerned.
 - 2.9.4 The Authority issues updated guidance to all Suppliers.
 - 2.9.5 The Authority amends the design of the Scheme, or these Terms and Conditions are amended in accordance with clause 16.1.1.
 - 2.9.6 The Authority places the Supplier(s) in question on probation following an investigation.
 - 2.9.7 The Authority determines special measures for the Supplier(s) in question such as an increased frequency of audits.
 - 2.9.8 The Authority removes or suspends the Supplier(s) from participation in the Scheme.
 - 2.9.9 The Authority recovers funds from the Supplier(s) concerned or administers other sanctions on the Supplier(s) as the Authority considers to be appropriate (such as referring the Supplier(s) to the relevant authorities or using an external debt recovery agency).

2.9.10 The Authority directs the Supplier(s) concerned to make the relevant connections compliant with the Scheme.

2.10 The Supplier under investigation will have a right of appeal to a BDUK Chief Officer, if required. All appeals must be made in writing within 20 Working Days of BDUK issuing a decision on an issue. Suppliers must state the basis on which they are appealing and provide relevant evidence that supports their position. Grounds for appeal are:

2.10.1 new evidence which may affect BDUK's decision; and/or

2.10.2 BDUK's representation of the case in its written report(s) was not factually accurate.

Otherwise, any decision made by the Authority under this Issue Escalation Procedure shall be final.

3. Issues relating to other schemes

In the event that there are issues arising with any Supplier in respect of any other existing or closed Authority programme or scheme (including without limit the LFFN Programme, the RGC Programme, the Superfast programme and Project Gigabit), including issues analogous to the issues described in this Issue Escalation Procedure, such that the Authority reasonably believes that public funding may be at risk, then the Authority reserves the right at its discretion to (having completed an investigation) suspend the Supplier from the Scheme, remove the supplier from the Scheme, apply special measures to the Supplier (such as an increased frequency of audits) in respect of the Scheme and/or recover voucher funds from the Supplier paid under the Scheme. The Authority may exercise such rights whether or not there are issues arising with the Supplier in respect of the Scheme and such rights shall be without prejudice to, and unaffected by, any rights the Authority may have under or in connection with those other programmes or schemes.

Schedule 6 - Funding Platform Acceptable Use Policy

Each Supplier's access to and use of the Funding Platform is subject to the requirements set out in this Acceptable Use Policy (the "**AUP**"). BDUK may on notice revise this AUP from time to time to add or modify restrictions. Violating this AUP may result in suspension or termination of access to the Funding Platform. By logging into the Funding Platform the Supplier agrees to comply (and to ensure its personnel complies) with this AUP and to not use or misuse the Funding Platform so as to compromise the confidentiality, integrity or availability of any computer, network, software application, communications systems or network device (including the Funding Platform) (each a "**System**").

UNLAWFUL AND OTHER USES WHICH ARE NOT PERMITTED: the Supplier shall not use the Funding Platform for any illegal, harmful, fraudulent, infringing or offensive use, or to display or to store or transmit content or data that is illegal, harmful, fraudulent, infringing or offensive use, or to display, store, or transmit content or data that is invasive of privacy, infringing, obscene, libellous, or that is otherwise unlawful or tortious, or to carry out infringing or unlawful activities. Activities which are prohibited include but are not limited to the following:

- **Unauthorised Access:** accessing or using a System without permission including attempts to breach or otherwise circumvent any security or authentication measures. Also accessing or searching the Funding Platform by any means other than our publicly supported interfaces (for example, "scraping");
- **Interception:** monitoring of data or traffic on a System without permission;
- **Falsification of Origin:** forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. The legitimate use of aliases and anonymous remailers is not prohibited by this provision;
- **Tampering:** access, tamper with, or use non-public areas or parts of the Funding Platform, or shared areas of the services where the Supplier is not authorised;
- **Network Abuse:** maliciously interfering with, degrading the performance of, or disrupting any user, host, or network. Network abuse activities which are forbidden include but are not limited to: Denial of Service ("DOS"); or other activity with the intent to overload, flood, or spam any part of the Funding Platform;
- **Harmful Content:** supplying content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots, or intentionally sending malware;
- **Monitoring or Crawling:** monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled;
- **Intentional Interference:** interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques;

- Operation of Certain Network Funding Platform: operating network services like open proxies, open mail relays, or open recursive domain name servers;
- Avoiding System Restrictions: using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions;
- Unauthorised Communications: sending, distributing, publishing or facilitating the sending of unsolicited or unauthorised communications, promotions or advertisements, or spam;
- Spoofing and Phishing: sending altered, deceptive or false source-identifying information, including "spoofing" or "phishing";
- Collection of Messages from another service provider: collecting replies to messages sent from another service provider if those messages violate this AUP or the acceptable use policy of that provider;
- Copy/Interface service: violating copyrights or other legal rights by copying service or interface to Funding Platform or permitting other individuals or entities to copy services;
- Abuse of the Funding Platform: abusing the services in any manner that circumvents their intended use;
- Selling services or services account information via unauthorised channels including, but not limited to, providing unauthorised access to or use of activation instructions;
- Use of Automated Means: using automated or other means to access the Funding Platform other than by using our official interface and/or APIs;
- Infringing Content: supplying content that infringes or misappropriates the intellectual property or proprietary rights of others;
- Illegal, Harmful or Fraudulent Activities: engaging in any activities that are illegal, that violate the rights of others, or that may be harmful to others, our operations or reputation, including disseminating, promoting or facilitating child pornography, offering or disseminating fraudulent goods, services, schemes, or promotions, make-money-fast schemes, Ponzi and pyramid schemes, phishing, or pharming;
- Offensive Content: supplying content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.

If BDUK reasonably suspects any violation of this AUP, it has the right to immediately suspend access to the Funding Platform and investigate suspected violations. In addition, BDUK has the right to report suspected violations of this AUP to applicable law-enforcement authorities or other relevant third parties, and to cooperate with any investigation of illegal activities associated with use of the Funding Platform, the systems or networks, or any violation of this AUP.

Vulnerability Testing

Subject to the following paragraphs, BDUK allows reasonable application-tier vulnerability scanning when Suppliers need to assess and report on the security of their cloud-delivered applications, Supplier-directed development, and related services for the purposes of internal audit or compliance programs.

Any Supplier wishing to conduct activities of this nature must first contact BDUK outlining their requirements in writing. BDUK will then liaise with the Supplier who has made this request to ensure that any requested activities can be carried out safely and in such a way as to not hinder day to day operations for BDUK or the Suppliers.

Pre-Production Testing

BDUK permits Suppliers to conduct reasonable application vulnerability tests on their account in a pre-production (large sandbox) environment. Suppliers are not permitted to conduct application vulnerability tests on any trial or production environments.

Security Testing

Suppliers must abide by and agree to the following terms before being authorised to conduct any security assessment or penetration testing.

1. The Supplier must submit a service request to notify BDUK of the vulnerability testing. They must give sufficient notice to allow access to be provisioned to the Pre-Production environment.
2. Testing is limited to the services, network bandwidth, requests per minute, instance-type, and duration outlined in this AUP.
3. The Supplier is only permitted to test their account. The Supplier is not permitted to attempt to penetrate beyond their accounts, or to attempt to breach the cloud infrastructure or supporting services.
4. The Supplier shall be responsible for any losses incurred by BDUK, the Authority, the Supplier and/or any other party as a result of the Supplier's penetration testing activities.
5. If the Supplier discovers any vulnerabilities or other security issues which are rated "very high" or "critical" in the course of their security assessment, they must report this issue directly to BDUK within 1 hour of discovery. The Supplier may continue their tests, but is not permitted to further exploit or test against any suspected critical or high vulnerability or other security issue.
6. Upon completion of their testing, the Supplier must submit an executive summary report (at minimum) to BDUK and request a review of the findings. Sending a full report is recommended.
7. Distribution of the report beyond BDUK and the Supplier is subject to mutual written agreement.

8. To extend or modify the agreed upon testing period, the Supplier must submit a new request.

Permitted Funding Platform: Using Security Assessment Tools and Funding Platform

Suppliers have many public, private, commercial, and/or open-source tools and services to choose from for performing a security assessment. The term "security assessment" refers to all activity engaged in for the purposes of determining the efficacy or existence of security controls, such as:

- port-scanning
- vulnerability scanning/checks
- penetration testing
- web application scanning
- using an EICAR anti-virus test file to validate the presence of anti-malware scanning for file upload vectors.

The Supplier is not limited in their selection of tools or services to perform a security assessment. However, the Supplier is prohibited from utilising any tools or services in a manner that perform Denial-of-Service (DoS) attacks or simulations. For a list of prohibited activities, see the next section.

A security tool that solely performs a remote query of your environment to determine a software name and version, such as "banner grabbing," for the purpose of comparison to a list of versions known to be vulnerable to DoS, is not in violation of this AUP.

Additionally, a security tool or service that solely crashes a running process on the environment, temporary or otherwise, as necessary for remote or local exploitation as part of the security assessment, is not in violation of this AUP. However, this tool cannot engage in protocol flooding or resource request flooding, as mentioned in the Prohibited Activities section below.

A security tool or service that creates, determines the existence of, or demonstrates a DoS condition in any other manner, actual or simulated, is expressly forbidden.

Some tools or services include actual DoS capabilities as described, either silently/inherently if used inappropriately or as an explicit test/check or feature of the tool or service. Any security tool or service that has such a DoS capability, must have the explicit ability to disable, disarm, or otherwise render harmless, that DoS capability. Otherwise, that tool or service cannot be employed for any facet of the security assessment.

It is the sole responsibility of the Supplier to: (1) ensure the tools and services employed for performing a security assessment are properly configured and successfully operate in a manner that does not perform DoS attacks or simulations of such, and (2) independently validate that the tool or service employed does not perform DoS attacks, or simulations of

such, prior to conducting the security assessment. This Supplier responsibility includes ensuring that contracted third parties perform security assessments in a manner that does not violate this AUP.

Furthermore, the Supplier is responsible for any damages to BDUK environments or other BDUK suppliers that are caused by the Supplier's testing or security assessment activities.

Prohibited Activities

Some penetration-testing activities could trigger security events or affect resources for other suppliers. Therefore, activities that can damage resources or cause harm to any supplier environments are prohibited, including but not limited to the following activities:

- DNS zone walking
- Denial of Service (DoS), Distributed Denial of Service (DDoS), Simulated DoS, Simulated DDoS or other activity with the intent to overload, flood, or spam any part of the services
- Port flooding
- Protocol flooding (for example, SYN flooding, ICMP flooding, UDP flooding)
- Request flooding (login request flooding, HTTP request flooding, API request flooding)
- Testing of environments, domains, or URLs not specifically contracted by the Supplier
- Intentionally sending, injecting, or uploading a virus or a corrupt file, Trojan horse, or worm