**FURTHER-COMPETITION FOR THE PROVISION OF [XXX]**

|  |  |
| --- | --- |
| **Framework:** | **000976** |
| **Lot:** | **X** |

**REFERENCE NUMBER: [ICTFCX/XXX]**

TABLE OF CONTENTS

**Section 1 - Background**

**Section 2 – Overview of the Further-Competition and the Procurement Process**

**Section 3 - Specification**

**Section 4 - Mandatory Requirements**

**Section 5 - Award Criteria**

**Section 6 – Sign Off and Completion**

Section 1 – Background

1. YPO and Background

# YPO are conducting this further-competition on behalf of [.……] (“The Customer”)

* 1. This further competition is issued in relation to the 000976 Network Connectivity and Telecommunications Framework Agreement, procured by YPO in compliance with the Public Contracts Regulations 2015. This further competition will involve inviting tenders from all suppliers who were successfully awarded onto the relevant lot(s).
1. **Introduction**

# The Customer is looking to award a Call-Off Contract for the supply of [ ].

* 1. The Call-Off Contract will cover the period from [x to x] (subject to an [annual] review, incorporating price negotiations and KPI performance.)
	2. The Call-Off Contract has an estimated value of between [£X and £X] for the maximum life of the contract (X years). All references in these documents to values and/or volumes of business are for guidance only and there is no guarantee of any business.

# Use of Electronic Tendering Tool

* 1. YPO has implemented an electronic tendering tool to manage all procurements and communication with Tenderers. Accordingly, there will be no hard copy documents issued to Tenderers and no hard copy tender responses will be received by YPO. All communications with YPO or the Customer including the submission of tender responses will be conducted via –

<https://tendering.ypo.co.uk/procontract/ypo/supplier.nsf/frm_home?ReadForm>

**Section 2 – Overview of the Further-Competition and the Procurement Process**

1. **Introduction**
	1. YPO is managing this procurement process on behalf of The Customer in accordance with the Public Contracts Regulations 2015 (the “Regulations”).
	2. The Customer reserves the right to adandon, cancel or not conclude or award any Call-Off Contracts(s) as a result of this procurement exercise. YPO and/or The Customer will not be held liable for any costs as a result of taking the above action.

1. Timescales
	1. Table 2.2 below is the proposed procurement timetable for this further compeition. The timetable is intended as a guide and whilst YPO and The Customer do not intend to depart from the timetable, we reserves the right to do so at any stage.

|  |
| --- |
| * 1. **TABLE: PROPOSED TIMETABLE**
 |
| **DATE** | **STAGE** |
|  Date and time | Deadline for clarifications |
| Date and time | Deadline for response to clarifications |
| Date and time | Closing date and time for responses to the Further Competition |
| Date | Notification of proposed appointment to contract |
| Date | Contract Start Date |

1. **Mandatory and Award Criteria**
	1. Section 4 contains the Mandatory Requirements for this Further Competition. This sets out the Mandatory Technical and Commercial criteria that potential tenderers must pass in order to qualify for consideration in this further-competition process. This section is scored as Pass/Fail with all successful tenderers proceeding through to the next stage of the evaluation process. Any unsuccessful tenderers that fail this section will be disqualified from the process and their submission will not be evaluated further.
	2. Section 5 contains the Award Criteria for this Further Competition. This sets out the Technical and Commercial award criteria that will be scored against the criteria stated in table 4.2.4 below. This section will be scored using percentage weightings with the highest weighted tenderer(s) who offer the most economically advantageous tender (MEAT) being awarded the Call-Off Contract.
	3. Section 6 contains the Instructions to Tenderers and the conditions of this further competition.
2. **Further-Competition Evaluation Process**
	1. Introduction -

 The evaluation process will be conducted to ensure that Tenders are evaluated fairly to ascertain the most economically advantageous tender. Account will also be taken of any factors which may impact on the Tenderers suitability to fulfil this Call-Off Contract.

* 1. Evaluation Process –

 The evaluation process will be as follows:

* + 1. **Stage 1** – Receipt and Opening

Further Competition submissions will have the seal formally removed and be verified on YPO’s e-tendering system after the deadline for submission has passed in accordance with YPO’s procurement procedures. Note should be taken of Section 6 paragraph 14 Late Tenders.

* + 1. **Stage 2** – Evaluation of Mandatory Technical and Commercial Requirements.

Tenderers will be expected to pass all elements of the Mandatory Criteria in order to proceed to the next phase of evaluation. If tenderers do not pass all elements of the Mandatory Criteria, their bid will be disqualified from the process and will not be evaluated further.

* + 1. **Stage 4** – Evaluation of the Award Criteria for Technical and Commercial Requirements.

Tenderers Response to the questions contained in this section along with pricing information will be evaluated against the criteria below:

|  |
| --- |
| * + 1. **FURTHER COMPETITION AWARD CRITERIA**
 |
| **CRITERION** | **PERCENTAGE WEIGHTINGS** |
| [Quality] – X% | The full X weighting will be re-opened  |
| [Cost] – X% | The full X weighting will be re-opened  |

1. **Methodology on Evaluation of the Tender Document**
	1. The methodology given in table 5.2 below will be used for the evaluation of the award criteria unless otherwise specified within the response requirement.

EXAMPLE:

|  |
| --- |
| **5.2 TABLE EVALUATION METHODOLOGY** |
| **QUESTION RESPONSES** | **MARKS** |
| **Good Response:** Shows a comprehensive understanding of the contract and ability to apply and deliver all the required elements to a high level exceeding the values offered as standard.  | 70% - 100% |
| **Standard Response:** Shows a basic – reasonable understanding of the contract and the ability to apply and deliver all the required elements to a basic level that illustrates the industry standard is provided as stated.  | 40% - 69% |
| **Poor Response:** Shows a less than basic understanding of the contract and only some of the required elemets could be applied and delivered.  | 0% - 39% |

EXAMPLE

|  |
| --- |
| **5.2 EVALUATION METHODOLOGY** |
| **QUESTION RESPONSES** | **MARKS** |
| Excellent Response with requirements being met and exceeded in some areas. Showing a comprehensive understanding and the ability to deliver to a high standard. Evidence relating to the proposed requirements shows high quality.  | 5 |
| Good Response with requirements being met with nothing other than a few minor exceptions which are acceptable to the evaluation team. Reasonable understanding and the ability to deliver to a high standard. Evidence in relation to the proposed requirements shows good quality. | 4 |
| Acceptable answer with requirements being met in part but not fully. A reasonable understanding to have the ability to deliver the requirements. Evidence to show that the requirements are suitable for the purpose but have not met the standard expected. | 3 |
| Poor Response where some requirements are being met but there are some large exceptions. Concerns that the requirements proposed would not be suitable for use.  | 2 |
| Target requirements only met on a few occasions. Low standard response. Major concerns that the requirements proposed would be suitable for use.  | 1 |
| Answer not met the requirements at all. No evidence that the requirements would be suitable.  | 0 |

* 1. Price evaluation will be conducted using the CIPFA % difference model. The submitted price is compared using a % price difference model and then scored against using the weighted criteria.

 The % price difference model allocates the lowest price submission the highest score and the highest price the lowest score. The price % difference is scored on the % difference between the lowest price and the price submitted. Where a submitted price exceeds the lowest price submission by more than 100%, this will result in the tenderer being awarded a 0 for price.

* 1. Tenderers should always provide their best possible proposal and answers for each individual criterion.
	2. Tenderers should fully explain their answers and provide analytical information backed up by statistical data with reference to the question specifics. Tenderers should aim to give the evaluator confidence that they can deliver the proposed offer with features and benefits to The Customer. Unsubstantiated claims will not be given high marks. Under no circumstances include any marketing information, materials and/or handbooks with your bid unless specifically requested to do so.
1. **Award of Further-Competition**
	1. The Call-Off Contract will be awarded to the Tenderer who offers the most economically advantageous tender(s) having regard to the requirements and awarded criteria stated in table 4.2.4 above.
	2. YPO and The Customer will notify the successful Tenderer(s) of the intention to award the contract in writing.
	3. At the same time, all unsuccessful Tenderers will be provided with an “unsuccessful letter” in writing, notifying them of the outcome of the evaluation exercise. This will include details of:
* the award criteria;
* the score of the Tenderer;
* the name of the successful Tenderer(s);
* the score for the successful Tenderer(s);
* the reason for appointing the successful Tenderer(s) including the characteristics and relative advantages of the successful Tenderer(s).

# **Proposed Draft Call-Off Terms and Conditions**

* 1. The Customer shall actively manage the resulting Call-Off Contract, key activities including contract review meetings, overall performance of the contract and Key Performance Indicator (“KPI”) management.
	2. In the event that The Customer wishes to enter into a Call-Off Contract with the successful Tenderer, the contract terms will consist of the information submitted in the response to the further-competition. The information required to augment the Call-Off Contract will largely be drawn from any successful Provider’s response to the Mandatory and Award Requirements. In drafting responses to the Mandatory and Award Requirements, tenderers must be mindful of this, and should ensure that their responses are drafted in clear and concise terms which will provide a basis for translation into firm contractual commitments.
	3. **The Customer** **will consider proposed amendments to the Call-Off Terms and Conditions strictly on their merits and within the limits contained in the further-competition. The Customer shall only consider amendments to the Call-Off Terms and Conditions during the Clarification stage of the further-competition process. Any amendments received after this date will not be considered. Where a tenderer wishes to suggest an amendment, they should provide the clause reference, the part of the clause that they would like to amend and provide suggested wording. The Customer shall respond during the clarification question stage as to whether or not the suggested amendment is acceptable.**
	4. Where The Customer makes changes to the Call-Off Terms and Conditions as a result of the proposals received, it will circulate the amended Terms and Conditions to all Tenderers.
1. Execution of the Further-Competition
	1. The terms and prices of the Further Competition will be agreed between The Customer and the Provider.
	2. The Customer will sign up to a contract and agree a service plan. The Customer will then manage this contract to ensure that the required services are completed. Invoices and payments are dealt with directly between the Customer and the successful Provider(s).

**Section 3 – Specification**

# Introduction

The minimum specification(s) required under this Further-Competition are listed **below/within the Pricing Schedule**:

**Section 4 – Mandatory Requirements**

#

# Introduction

1.1 This section of the Further-Competition sets out the The Customers mandatory requirements (MR).

1. **Tenderers Response to Mandatory Requirements**

2.1 The questions within this section are scored as Pass or Fail. Failure by the Tenderer to meet any of the Mandatory Requirements and/or submit any information requested will usually mean failure to be awarded the Call-Off Contract and could mean that the tender is dismissed without the evaluation being completed.

3 Mandatory Requirements

3.1 The tables below set out The Customers Technical Mandatory Requirements (MR Tech) relating to this further-competition.

|  |
| --- |
| **TABLE 3.2:**  |
| **Ref** | **Requirement** | **Insert (x) into the appropriate box** |
| MR 1 | Please confirm that you can meet the specification stated in section 3/the pricing schedule. | YES (PASS) |  |
| NO(FAIL) |  |
| MR 2 | Delivery Timescales/Schedule…. | YES (PASS) |  |
| NO(FAIL) |  |
| MR 3 | Prices tendered must include all costs and there must be no additional charges either quoted or added to invoices. Please confirm your acceptance.  | YES (PASS) |  |
| NO(FAIL) |  |
| MR 4 | All charges/prices must be expressed in pounds sterling and should be exclusive of VAT. Please note that all pricing information will form the basis of any resultant Call-Off Contract. Please confirm your acceptance.  | YES (PASS) |  |
| NO(FAIL) |  |
| MR 5 | The Customer reserves the right to reject any submissions where prices are deemed unsustainable. Please confirm your acceptance. | YES (PASS) |  |
| NO(FAIL) |  |
| MR 6 | Tenderers are required to agree to the Call-Off Terms and Conditions included with the documentation. **PLEASE NOTE THAT THE CUSTOMER WILL NOT ACCEPT ANY AMENDMENTS TO THE CALL OFF TERMS AND CONDITIONS THAT HAVE NOT BEEN RAISED AS PART OF THE CLARIFICATION QUESTION STAGE IN ACCORDANCE WITH THE PROCESS.** **Any Tenderer raising queries outside of this period or submitting amendments with their tender submission will be deemed to have failed this mandatory criteria resulting in them being disqualified and their tender submission not being evaluated further.**Please confirm your acceptance.  |  |  |
|  |  |

1. **Management of the Call-Off Contract**
	1. The performance of the Call-Off Contract shall be managed by the The Customer and the successful Provider and regular appropriate review meetings held. During the first six months of the Call-Off Contract a meeting in alternate months may be required and the Provider will be expected to keep in contact with the customer by telephone and / or email each week.
	2. The information supplied shall form the Key Performance Indicators (KPI’s) of the Call-Off Contract.
	3. The KPI’s shall include:
		1. **Sales Management Information, including sales reports:**
* Quantity of each product (number of cases and splits) supplied to the customer during the preceding month including product codes, product description, unit of measure, distributor or end customer, sales unit:
* Current price and invoice value of each product for each month and year to date
	+ 1. **Delivery and Quality performance reports:**
* Total number of orders delivered in full i.e. all orders delivered 100% complete on the same day
* Total number of order lines delivered
* No of late deliveries outside agreed window i.e. time and day
* Number of orders with any rejection due to damage
* Number of orders with any rejection due to errors
* Number of orders with any rejection due to quality
* Quantity of each product rejected due to damage
* Total quantity of orders delivered
	+ 1. **Invoice, delivery and credit note accuracy and on time – to 98%:**
* Quantity of invoices sent to the customer.
* Quantity of invoices queried due to error (price/delivery discrepancies)
	+ 1. **Account Management:**
* A report outlining the activity of the account manager(s) that interact with this contract.
	+ 1. **Sustainability:**
* An annual report to give your annual improvements (from the award of the Call-Off Contract) regarding sustainability performance within your company. Details will be agreed at the award of the Call-Off Contract.
	+ 1. **Continuous Improvement:**
* Providers are able to suggest possible improvements in efficiency that can be achieved in the transactions (including order receipt, physical, financial) between the customer and the provider.
	1. These KPI’s shall apply to the full contract period unless modifications and appropriate timescales are agreed between both parties at the contract reviews.
	2. If any changes to the performance levels are agreed then these shall be documented, signed by both parties and a copy held by both parties.

**Section 5 – Award Criteria**

# Introduction

1.1 This section of the further-competition sets out The Customers Award Criteria requirements (AC) relating to this Call-Off Contract.

1.2 The Tenderers responses to each of the Award Criteria questions will be scored and weighted as shown below. These scores will determine the most economically advantageous tender(s) that will be Awarded the Call-Off Contract.

1.3 A statement that a particular requirement will be met is not in itself sufficient. S**uch responses, or responses that are ambiguous, may be taken as failing to meet the Requirement**. Detailed information regarding how, when and to what extent a Requirement can be met must be provided where appropriate. Furthermore, if any requirement or part of a requirement cannot be met, this must be stated explicitly along with the reason why. **Where a Tenderer has already provided information that addresses a specific requirement in another question, this information should be re-stated in their Tender, not simply referenced. Please note that any response simply making reference to handbooks, marketing material or accreditations and not describing how this will be applied to the Requirement will not be accepted.**

 **Please provide responses clearly and concisely in a question answer format.**

1. Award Criteria

2.1 The tables below set out The Customers Award requirements Criteria and weightings relating to the provision of the goods/services.

|  |
| --- |
| **TABLE 2.2: AWARD CRITERIATECHNICAL: COST(0%)** |
| **Ref** | **Requirement** | **Response Requirements** | **Award out of 100** |
|  | Quotes: Please see submit prices in the pricing schedule provided. | Please submit your prices within the document provided as part of your upload onto the YPO eProcurement system. Price evaluation will be conducted using the CIPFA % difference model.The submitted price is compared using a % price difference model and then scored against using the weighted criteria. The % price difference model allocates the lowest price submission the highest score and the highest price the lowest score. The price % difference is scored on the % difference between the lowest price and the price submitted. Where a submitted price exceeds the lowest price submission by more than 100%, this will result in the tenderer being awarded a 0 for price.  | 100 |

|  |
| --- |
| **TABLE 2.3: AWARD CRITERIATECHNICAL: QUALITY (0%)** |
| **Ref** | **Requirement** | **Response Requirements** | **Award out of 100** |
|  |  |  | 100 |

|  |
| --- |
| **TABLE 2.4: AWARD CRITERIATECHNICAL: DELIVERY & CUSTOMER SERVICE (0%)** |
| **Ref** | **Requirement** | **Response Requirements** | **Award out of 100** |
|  |  |  | 100 |

**Section 6** **– Sign Off and Completion**

## General

### These instructions are designed to ensure that all Tenderers are given equal and fair consideration. It is important therefore that you provide all the information asked for in the format and order specified. Please contact YPO’s or The Customer’s designated contact point as detailed in section 12, if you have any doubt as to what is required or will have difficulty in providing the information requested.

* 1. Tenderers should read these instructions carefully before completing the Tender documentation. Failure to comply with these requirements for completion and submission of the Tender Response may result in the rejection of the Tender. Tenderers are advised therefore to acquaint themselves fully with the extent and nature of the goods and contractual obligations. These instructions constitute the Conditions of Tender. Participation in the tender process automatically signals that the Tenderer accepts these Conditions of Tender.

1.3 All material issued in connection with this further-competition shall remain the property of YPO and/or The Customer and shall be used only for the purpose of this procurement exercise. All Due Diligence Information shall be either returned to YPO and/or The Customer or securely destroyed by the Tenderer (at YPO’s and/or The Customer’s option) at the conclusion of the procurement exercise.

1.4 The Tenderer shall ensure that each and every sub-contractor, consortium member and adviser abides by the terms of these instructions and the Conditions of Tender.

1.5 The Tenderer shall not make contact with any other employee, agent or consultant of YPO or the Customer who are in any way connected with this procurement exercise during the period of this procurement exercise, unless instructed otherwise by YPO.

1.6 YPO and/or The Customer shall not be committed to any course of action as a result of:

* + - * issuing this further-competition or any invitation to participate in this procurement exercise;
			* an invitation to submit any Response in respect of this procurement exercise;
			* communicating with a Tenderer or a Tenderers representatives or agents in respect of this procurement exercise; or
			* any other communication between its employees or YPO and/or The Customer (whether directly or by its agents or representatives) and any other party.
	1. Tenderers shall accept and acknowledge that by issuing this further-competition, YPO and/or The Customer shall not be bound to accept any Tender responses and reserves the right not to conclude a Call-Off Contract for some or all of the goods/services for which Tenders are invited.
	2. The Customer reserves the right to amend, add to or withdraw all, or any part of this further-competition at any time during the procurement exercise.

2 Confidentiality

2.1 The contents of this further-competition are being made available by YPO and the Customer on condition that:

2.1.1 Tenderers shall at all times treat the contents of the further-competition and any related documents (together called the ‘Information’) as confidential, save insofar as they are already in the public domain;

2.1.2 Tenderers shall not disclose, copy, reproduce, distribute or pass any of the Information to any other person at any time or allow any of these things to happen;

2.1.3 Tenderers shall not use any of the Information for any purpose other than for the purposes of submitting (or deciding whether to submit) a Tender; and

* + 1. Tenderers shall not undertake any publicity activity within any section of the media.
		2. Tenderers may disclose, distribute or pass any of the Information to the Tenderers advisers, sub-contractors or to another person provided that either:

2.1.5.1 This is done for the sole purpose of enabling a Tender to be submitted and the person receiving the Information undertakes in writing to keep the Information confidential on the same terms as if that person were the Tenderer; or

2.1.5.2 The Tenderer obtains the prior written consent of YPO **and** The Customer in relation to such disclosure, distribution or passing of Information; or

2.1.5.3 The disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Call-Off Contract arising from it; or

2.1.5.4 The Tenderer is legally required to make such a disclosure.

2.2 YPO and/or The Customer may disclose detailed information relating to Tenders to its officers, employees, agents or advisers and YPO and/or The Customer may make any of the further-competition documents available for private inspection by its officers, employees, agents or advisers. YPO and/or The Customer also reserve the right to disseminate information that is materially relevant to the procurement to all Tenderers, even if the information has only been requested by one Tenderer, subject to the duty to protect each Tenderer's commercial confidentiality in relation to its Tender (unless there is a requirement for disclosure under the Freedom of Information Act, as explained in paragraphs 3.1 to 3.4 below).

1. Freedom of Information

3.1 In accordance with the obligations and duties placed upon public authorities by the Freedom of Information Act 2000 (the ‘FoIA’), YPO and/or The Customer may, acting in accordance with the Ministry of Justice’s Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the said Act, or the Environmental Information Regulations (EIR) be required to disclose information submitted by the Tenderer to YPO and/or The Customer.

3.2 In respect of any information submitted by a Tenderer that it considers to be commercially sensitive the Tenderer should:

3.2.1 Clearly identify such information as commercially sensitive;

3.2.2 Explain the potential implications of disclosure of such information; and

3.2.3 Provide an estimate of the period of time during which the Tenderer believes that such information will remain commercially sensitive.

3.3 Where a Tenderer identifies information as commercially sensitive, the Parties will endeavour to maintain confidentiality. Tenderers should note, however, that, even where information is identified as commercially sensitive, YPO and/or The Customer may be required to disclose such information in accordance with the FoIA or the Environmental Information Regulations. In particular, YPO and/or The Customer is required to form an independent judgment concerning whether the information is exempt from disclosure under the FoIA or the EIR and whether the public interest favours disclosure or not. Accordingly, YPO and/or The Customer cannot guarantee that any information marked ‘confidential’ or “commercially sensitive” will not be disclosed.

3.4 Where a Tenderer receives a request for information under the FoIA or the EIR during the procurement process, this should be immediately passed on to YPO and The Customer and the Tenderer should not attempt to answer the request without first consulting with YPO and The Customer.

4 Tender Validity

4.1 Your Tender should remain open for acceptance for a period of 90 days. A Tender valid for a shorter period may be rejected.

5 Preparation of Tender

5.1 Tenderers must obtain for themselves at their own responsibility and expense all information necessary for the preparation of Tenders. Tenderers are solely responsible for the costs and expenses incurred in connection with the preparation and submission of their Tender and all other stages of the selection and evaluation process. Under no circumstances will YPO, The Customer, or any of their advisers, be liable for any costs or expenses borne by Tenderers, sub-contractors, suppliers or advisers in this process.

5.2 Tenderers are required to complete and provide all information required by the YPO and/or The Customer in accordance with the Conditions of Tender and the Invitation to Tender. Failure to comply with the Conditions and the further-competition may lead The Customer to reject a Tender Response.

5.3 YPO and/or The Customer relies on Tenderers' own analysis and review of information provided. Consequently, Tenderers are solely responsible for obtaining the information which they consider is necessary in order to make decisions regarding the content of their Tenders and to undertake any investigations they consider necessary in order to verify any information provided to them during the procurement process.

5.4 Tenderers should notify YPO and The Customer promptly of any perceived ambiguity, inconsistency or omission in this further-competition, any of its associated documents and/or any other information issued to them during the procurement process.

6 Submission of Tenders

6.1 The Tender must be submitted in the form specified in the Form of Tender instructions.

6.2 YPO and/or The Customer may at its own absolute discretion extend the closing date and the time for receipt of Tenders.

6.3 Any extension granted under paragraph 6.2 will apply to all Tenderers.

6.4 The Tender and any documents accompanying it must be in the English language.

6.5 Price and any financial data provided must be submitted in or converted into pounds sterling unless otherwise stated. Where official documents include financial data in a foreign currency, a sterling equivalent must be provided and all documents supplied in English.

6.6 Tenders must be received via the YPO e-procurement system, no hard copies will be accepted. It is advised that tenderers must allow enough time before the deadline in order to allow their submission to be uploaded on time.

6.7 YPO and/or The Customer does not accept responsibility for the premature opening or mishandling of Tender Samples (if requied) that are not submitted in accordance with these instructions.

**7 Canvassing**

7.1 Any Tenderer who directly or indirectly canvasses any officer, member, employee, or agent of YPO or The Customer concerning the establishment of the Call-Off Contract or who directly or indirectly obtains or attempts to obtain information from any such officer, member, employee or agent or concerning any other Tenderer, Tender or proposed Tender will be disqualified.

8 Disclaimers

8.1 Whilst the information in this further-competition, Due Diligence Information and supporting documents, has been prepared in good faith, it does not purport to be comprehensive nor has it been independently verified.

* 1. Neither YPO, The Customers nor their advisors, directors, officers, members, partners, employees, other staff or agents:
		1. makes representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the further-competition; or
		2. accepts any responsibility for the information contained in the further-competition or for their fairness, accuracy or completeness of that information nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication.

8.3 Any persons considering making a decision to enter into contractual relationships with The Customer following receipt of the further-competition should make their own investigations and their own independent assessment of The Customer and its requirements for the goods and should seek their own professional financial and legal advice.

8.4 Any Call-Off Contract concluded as a result of this further-competition shall be governed by English law.

9 Collusive Behaviour

9.1 Any Tenderer who:

1. fixes or adjusts the amount of its Tender by or in accordance with any agreement or arrangement with any other party; or
2. communicates to any party other than YPO, or The Customer the amount or approximate amount of its proposed Tender or information which would enable the amount or approximate amount to be calculated (except where such disclosure is made in confidence in order to obtain quotations necessary for the preparation of the Tender or insurance or any necessary security); or
3. enters into any agreement or arrangement with any other party that such other party shall refrain from submitting a Tender; or
4. enters into any agreement or arrangement with any other party as to the amount of any Tender submitted; or
5. offers or agrees to pay or give or does pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any party for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender, any act or omission,

shall (without prejudice to any other civil remedies available to The Customer and without prejudice to any criminal liability which such conduct by a Tenderer may attract) be disqualified.

10 No Inducement or Incentive

10.1 The further-competition is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a Tenderer to submit a Tender or enter into a Call-Off Contract or any other contractual agreement.

11 Acceptance and Admission to the Call-Off Contract

11.1 The Tenderer in submitting the Tender undertakes that in the event of the Tender being accepted by The Customer and YPO or The Customer confirming in writing such acceptance to the Tenderer, the Tenderer will within 30 days or such other time limit that may be notified to the Tenderer of being called upon to do so by The Customer execute the order form or Call-Off contract in such amended form as may subsequently be agreed.

11.2 The Customer shall be under no obligation to accept the lowest or any Tender.

12 Contacts/Queries Relating to the Tender

12.1 All requests for clarification about the requirements or the process of this procurement exercise should be raised through YPOs e-procurement system under the discussions tab. Alternatively tenderers may contact YPO’s Contracts Department on 01924 885929 or e-mail contracts@ypo.co.uk if you have any issues accessing YPOs e-procurement system. All communications should be clearly headed with the tender title and reference and include the name, contact details and position of the person making the communication.

12.2 In order to ensure equality of treatment of Tenderers, YPO and/or The Customer intends to publish the questions and clarifications raised by Tenderers together with YPO’s and/or The Customer’s responses to all participants.

12.3 Tenderers should indicate if a query is of a commercially sensitive nature – where disclosure of such query and the answer would or would be likely to prejudice its commercial interests. However, if YPO and/or The Customer at its sole discretion does not either; consider the query to be of a commercially confidential nature or one which all Tenderers would potentially benefit from seeing both the query and YPO’s and/or The Customer’s response, they will:

12.3.1 invite the Tenderer submitting the query to either declassify the query and allow the query along with YPO’s and/or The Customer’s response to be circulated to all Tenderers; or

12.3.2 request the Tenderer, if it still considers the query to be of a commercially confidential nature, to withdraw the query.

12.4 YPO and/or The Customer reserves the right not to respond to a request for clarification or to circulate such a request where it considers that the answer to that request would or would be likely to prejudice its commercial interests.

13 Amendments to Tender Documents

13.1 At any time prior to the deadline for the receipt of Tenders, YPO and/or the Customer may modify the further-competition by amendment. Any such amendment will be numbered and dated and issued by YPO and/or The Customer to all prospective Tenderers allowing reasonable time for the change to be taken into account. This may require an extension to the Deadline for receipt of Tenders, please refer to section 6.2.

14 Late Tenders

14.1 Any Tender received after the date and time stated in Section 2, paragraph 3.2 “Timescales” may be rejected unless the Tenderer can provide irrefutable evidence that the Tender was capable of being received by the due date and time.

15 Proposed Amendments to the Call-Off Contract by the Tenderer

15.1 The Customer will consider proposed amendments strictly on their merits and within the limits imposed in the further-competition. **The Customer shall only consider amendments to the call-off Terms and Conditions during the Clarification Question stage of the tender process. Any provider raising queries outside of this period or submitting amendments with their tender submission will be deemed to have failed this mandatory criteria resulting in them being disqualified and their tender submission not being evaluated further. Where a tenderer wishes to suggest an amendment they should provide the clause reference, the part of the clause that they would like to amend and provide suggested wording.**

15.2 The Customer does not bind themselves to accepting any amendments, however, the Customer will consider any suggested amendments and will notify tenderers as to whether or not the suggested amendments are accepted or not. Where YPO makes changes to the terms and conditions as a result of the proposals received it will circulate the amended terms and conditions to all Tenderers.

16 Modification and Withdrawal

16.1 Tenderers may modify their Tender prior to the deadline date and time via the e-tendering system. No Tender may be modified after the deadline date and time for submission of tenders has passed.

16.2 Tenderers may withdraw their Tender at any time prior to the Deadline for submission or any other time prior to accepting the offer of a contract via the e-tendering system.

17 Right to Reject/Disqualify

17.1 YPO and/or The Customer reserves the right to reject or disqualify a Tenderer where:

1. the Tenderer fails to comply fully with the requirements of this Invitation to Tender or is guilty of a serious misrepresentation in supplying any information required in this document; or expression of interest; and/or
2. the Tenderer is guilty of serious misrepresentation in relation to its Tender; expression of interest; and/or the Tender process; and/or
3. there is a change in identity, control, financial standing or other factor impacting on the selection and/or evaluation process affecting the Tenderer; and/or

(d) the Tenderer fails to demonstrate their ability to satisfy the selection criteria (Section 3); and/or

(e) the Tenderer fails to demonstrate their ability to satisfy the mandatory technical and commercial requirements (Section 5)

18 Right to Cancel, Clarify or Vary the Process

18.1 YPO and/or The Customer reserves the right to, without any liability to the Tenderer:

1. amend the terms and conditions of the Invitation to Tender process,
2. cancel the evaluation process at any stage; and/or
3. require the Tenderer to clarify its Tender in writing and/or provide additional information. (Failure to respond adequately may result in the Tenderer not being accepted)