



Invitation to Tender (ITT)

ITT posted: 29/02/2016
Apply by: 11/03/2016
Start date: 16/03/2016
End date: 18/05/2016
Location: Pakistan

For: English Market Research

‘Private Schools English Language Requirements- Teachers’

1. Background Information

1.1 About the British Council

The British Council is the United Kingdom’s international organisation for cultural relations and educational opportunities. Its purpose is to build engagement and trust for the UK through the exchange of knowledge and ideas between people worldwide. It seeks to achieve its aims by working in education, science, governance, English and the arts. In 2012-13, its programmes reached a total audience of 550 million people worldwide and we engaged directly with 10.8 million.

The British Council was established in 1934 and incorporated by Royal Charter in 1940. It is registered as a charity in England and Wales (charity no. 209131) and Scotland (charity no. SC037733). It is also an executive non-departmental public body, with the Foreign and Commonwealth Office as its sponsoring department.

Its primary charitable objects are set out in the Charter and are stated to be:-

- Promote cultural relationships and the understanding of different cultures between people and peoples of the United Kingdom and other countries;
- Promote a wider knowledge of the United Kingdom;

- Develop a wider knowledge of the English language;
- Encourage cultural, scientific, technological and other educational co-operation between the United Kingdom and other countries;
- Otherwise promote the advancement of education.

In 2012 to 2013, the British Council had a total turnover of £781 million. Its income included a grant-aid of £171 million from the UK government, £490 million from fees and income from services such as English teaching, exams administration and the management of client-funded contracts, and funding from a wide range of public and private sector partners.

The British Council works in more than 110 countries around the world and employs over 7000 staff worldwide. It has its headquarters in the UK, with offices in London, Manchester, Belfast, Cardiff and Edinburgh.

The Research, Evaluation and Monitoring Unit (REMU) at the British Council Pakistan was created two years ago to elevate the British Council as a thought leader and to add depth, evidence, and thus credibility to the programme activities of our SBUs. REMU has published many successful research reports in line with the global trend of individual empowerment, including; 'Pakistan's Creative Industries', 'The Skill Disconnect in Sindh', and 'Mainstreaming Disability in Pakistan'.

Further information can be found at www.britishcouncil.org

1.2 Conditions and contractual requirements

The Contracting Authority is the British Council which includes any subsidiary companies and other organisations that control or are controlled by the British Council from time to time.

The appointed supplier may be expected to travel to British Council offices in Islamabad, Lahore or Karachi as required in the delivery of the services. Activity may also take place at other locations in Pakistan.

The contract awarded will be for a duration of 2 months.

The appointed supplier will only process personal data accessed in performance of the services in accordance with the British Council's instructions and will not use such data for any other purpose. The

contracted supplier will undertake to process any personal data on the British Council's behalf in accordance with the relevant provisions of the Data Protection Act 1998 and ensure appropriate and legislative consent is acquired where necessary.

The British Council is committed to equality and to positive action to promote this. It believes that an Equal Opportunities Policy helps to ensure that there is no unjustified discrimination in the recruitment, retention, training and development of staff on the basis of gender including transgender, marital status, sexual identity, region and belief, political opinion, race, work pattern, age, disability or HIV/AIDS status, socio-economic background, spent convictions, trade union activity or membership, on the basis of having or not having dependents, or any other relevant grounds. The appointed supplier must agree to operate in accordance with these principles while undertaking work at or on behalf of the British Council.

The British Council is committed to open government and to meeting its legal responsibilities under the Freedom of Information Act 2000 (the "Act"). Accordingly, all information submitted to a public authority may need to be disclosed by the public authority in response to a request under the Act. The British Council may also decide to include certain information in the publication scheme, which the British Council maintains under the Act.

If suppliers consider that any of the information included in their completed documentation is commercially sensitive, it should identify it and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity.

The suppliers should be aware that, even where they have indicated that information is commercially sensitive, the British Council might be required to disclose it under the Act if a request is received.

The suppliers should also note that the receipt of any material marked 'confidential' or equivalent by the British Council should not be taken to mean that the British Council accepts any duty of confidence by virtue of that marking.

The supplier will comply with all applicable legislation and codes of practice, including, where applicable, all legislation and statutory guidance relevant to the safeguarding and protection of children and vulnerable adults and with the British Council's Child Protection Policy; in addition the supplier will ensure that where it engages any other party to supply any of the services under this agreement that that party will also comply with the same requirements as if they were a party to this agreement.

All relevant policies that suppliers are expected to adhere to can be found on the British Council website –

<http://www.britishcouncil.org/about/policies>. The list of policies includes (but it is not limited to):

- Anti-Fraud and Corruption
- Child Protection Policy
- Equal Opportunities Policy
- Fair Trading
- Health and Safety Policy
- Environmental Policy
- Records Management
- Privacy

Mandatory due diligence and discretionary rejection information will form part of your response to this ITT. You are requested to complete *Annex 1 Mandatory Information* as part of your response.

The British Council's contracting and commercial approach in respect of the required services is set out at *Annex 3 Draft Contract* (the "Contract"). By submitting a tender, you are agreeing to be bound by the terms of this ITT and the Contract without further negotiation or amendment.

If the terms of the Contract render the proposals in your tender unworkable, you should submit a clarification in accordance with Section 11 Clarification Questions of this ITT by 08/01/2016 and the British Council will consider whether any amendment to the Contract is required. Any amendments shall be published prior to the deadline for the submission of bids and shall apply to all tenderers. Any amendments which are proposed but not approved by the British Council through this

process will not be acceptable and may be construed as a rejection of the terms leading to the disqualification of the tender.

This document does not constitute an offer to provide goods and/or services to the British Council.

You are responsible for obtaining all information necessary for preparation of the tender and for all costs and expenses incurred in preparation of your tender response. Subject to the final paragraph of this section, you accept by your participation in this procurement, including without limitation the submission of a tender, that you will not be entitled to claim from the British Council any costs, expenses or liabilities that you may incur in tendering for this procurement irrespective of whether or not your tender is successful.

By issuing this ITT, entering into the clarifications with tenderers or by having any other form of communication with tenderers, the British Council is not bound in any way to enter into any contractual or other arrangement with you or any other tenderer. It is intended that the remainder of this procurement will take place in accordance with the provisions of this ITT but the British Council reserves the right to terminate, amend or vary the process by notice to all tenderers in writing. Subject to the final paragraph of this *Section 3*, the British Council will have no liability for any losses, costs or expenses caused to you as a result of such termination, amendment or variation.

Nothing in this ITT or any other documentation issued by the British Council in connection with this procurement is intended to exclude or limit the liability of the British Council in relation to fraud or in other circumstances where the British Council's liability may not be limited under any applicable law.

The British Council reserves the right to request reference information.

1.3 Confidentiality requirement

All information contained within this document is confidential and is provided only to give suppliers an adequate understanding of the British

Council's requirements and under no circumstances should be disclosed to a third party without the British Council's consent.

The contents of this ITT are being made available by the British Council on condition that:

- Tenderers shall at all times treat the contents of the ITT and any related documents (together called the 'Information') as confidential, save in so far as they are already in the public domain;
- Tenderers shall not disclose, copy, reproduce, distribute or pass any of the Information to any other person at any time;
- 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
- Tenderers shall not undertake any publicity activity within any section of the media.

Tenderers may disclose, distribute or pass any of the Information to the Tenderer's advisers, sub-contractors or to another person provided that either:

- 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
- The Tenderer obtains the prior written consent of the British Council in relation to such disclosure, distribution or passing of Information; or
- The disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Framework Agreement arising from it; or
- The Tenderer is legally required to make such a disclosure.

In relation to the above the definition of 'person' includes but is not limited to any person, firm, body or association, corporate or incorporate.

The British Council may disclose detailed information relating to Tenders to its officers, employees, agents or advisers and the British Council may make any of the contractual documents available for private inspection by its officers, employees, agents or advisers. The British Council also

reserves 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).

1.4 Proposal Validity

Your response should remain open for acceptance for a period of 60 days. A response valid for a shorter period may be rejected.

1.5 Payment and Invoicing

The Council will pay correctly addressed and undisputed invoices within 30 days.

The essential information on an invoice for the Council is:

- A description of the services supplied.
- The Council reference number/Purchase Order number.
- Addressed to Accounts Payable.
- The costs including VAT (if applicable) and any other charges

2. Summary of this Requirement

2.1 About the Project

The British Council wishes to commission an organisation to undertake market research to understand what private schools in Pakistan require in terms of abilities, skills and knowledge from their English Language Teachers and any teachers they employ teaching other subjects through the medium of English. The research will require data on current abilities, skills and knowledge, and an analysis of the gap, if there is one, between teachers' current capabilities and required abilities, skills and knowledge.

2.2 Suggested approach

The project would have two distinct aspects: the first phase should assess teacher's current capabilities, with the second phase looking at the private

school's requirements and the extent to which teachers are or are not able to fulfill these requirements with their current abilities, skills and knowledge. The analysis should consider how private schools requirements may differ based on location, type of school and different levels of school (eg in primary and secondary school). It should also consider what products, programmes or interventions private schools would be willing to invest in. This will allow the British Council to develop a clear idea of what it can bring to the market.

The study should consider both English teachers and teachers using the medium of English to teach other subjects.

Areas that the study should consider include:

- Formal qualifications- in English, as well as teaching qualifications
- English ability
- Subject specific knowledge
- Pedagogical awareness
- Potential products/programmes/interventions that private schools would be willing to invest in

2.3 Outputs

- Tools for research- including questionnaires and interview protocols if appropriate
- Raw data from field work- including survey or questionnaire data, audio recordings of interviews and transcriptions
- Preliminary report at the completion of phase 1
- Draft report of phase 1 and 2
- Final Report

2.4 Use of Outputs

The data, reports and presentations may be used as presentations at British Council Policy Dialogue events in the South Asia Region or in the United Kingdom.

3. Instructions for Responding

3.1 The Submission Process

Please complete Annex 1 (Mandatory Information) and Annex 2 (Supplier Response Form). Submit these documents to sophie.hollows@britishcouncil.org no later than 11/03/2016.

- Please ensure that you send your submission in good time to prevent issues with technology – late submissions may not be considered.
- Supporting evidence (PDF, JPG, PPT, Word and Excel formats only - other formats should not be used) can be provided to substantiate your response – please ensure that all attachments/supporting evidence is clearly labelled with the appropriate question number.
- Completion and submission of your response does not guarantee award of any BC contract

3.2 Clarification Questions

Any questions should be submitted via email to sophie.hollows@britishcouncil.org no later than 07/03/2016.

4. Evaluation Criteria

Supplier responses will be assessed using the following criteria and weightings. A score will be given for each part of the information submitted that is to be assessed. The qualitative aspects of your response will be evaluated entirely on your response submitted.

Criteria	Weighting
Knowledge and experience	25%
Methodology and approach	35%
Timetable and staffing	15%
Costing and value for money	25%

The responses under each sub category will be scored based on the following matrix:

Points	Interpretation
10	Excellent - A comprehensive and strong answer indicating the provider is fully capable and experienced to deliver the required outcomes. A detailed response that directly responds to all requirements with no ambiguity and relevant examples provided.
7	Good - There are slight concerns that the organisation will not be able to achieve all the outcomes required and response lacked details of relevant experience. A less detailed response that broadly responds to the requirement with some ambiguity and few relevant examples provided.
5	Adequate - There are concerns that the organisation will not be able to achieve the outcomes required and response significantly lacks details of relevant experience. A less detailed response that broadly responds to the requirement with some ambiguity and no/irrelevant examples provided.
3	Poor Response/Limited Evidence - There are serious indications that the organisation will not be able to achieve the outcomes required and has not provided appropriate evidence of experience to successfully deliver the outcomes required. A response that is not entirely relevant to the requirement, with ambiguity and lacking specific detail.
0	Unacceptable - The answer is non-compliant and/or no relevant information has been received to demonstrate the organisation can achieve the required outcomes. No response or a response that is entirely irrelevant.

All scores will be added together to provide an overall total score for each sub category/section which will then be calculated against the criteria weightings. Once all the criteria weightings have been calculated, they will all be added together to provide an overall total score.

The pricing evaluation will be based on the response with the lowest overall cost being assigned 25% and all other responses will be calculated pro-rata.

Please note that all your responses to the tender requirements and the pricing schedule will be incorporated into a contractual document.

5. Statement of Requirements

5.1 Expertise Required

The British Council is looking to appoint a reputable agency or individual with the following qualities:

- Strong market research portfolio, evidenced by previous projects.
- Experience working in Education, especially in Pakistan
- Strong dedicated team with suitable experience and qualifications
- Understanding of the British Council's objectives
- Experience of designing questionnaires used in published works

6. Timeline

The table below shows the key dates for the submission process.

Activity	Date
ITT issued	29/02/2016
Deadline of receipt of queries	07/03/2016
Deadline for submission of proposal	11/03/2016
Evaluation of proposals	11/03/2016- 15/03/2016
Decision made on successful agency	15/03/2016
Presentation of preliminary data presentation	20/04/2016
Project completion date	18/05/2016

7. Disclaimers

7.1 All information contained within this document is confidential and is provided only to give suppliers an adequate understanding of the British Council's requirements and under no circumstances should be disclosed to a third party without the British Council's consent.

7.2 The document does not constitute an offer to provide services to the British Council.

7.3 All costs incurred in the preparation of the proposal are the supplier's responsibility.

7.4 The British Council is not obliged to award a contract for this business

Annex 1 - Mandatory Information

Due Diligence and Discretionary Rejection

Important Notice:

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

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

Has your organisation or any directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?	Answer (Delete as applicable)
a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA;	YES/NO
(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906; where the offence relates to active corruption;	YES/NO
(c) the offence of bribery, where the offence relates to active corruption;	YES/NO
(ca) bribery within the meaning of section 1 or 6 of the Bribery Act 2010;	YES/NO
d) fraud, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities, within the meaning of:	YES/NO
(i) the offence of cheating the Revenue;	YES/NO
(ii) the offence of conspiracy to defraud;	YES/NO
(iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;	YES/NO
(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;	YES/NO
(v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;	YES/NO
(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (northern Ireland) 1969;	YES/NO
(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or	YES/NO

Annex 1 - Mandatory Information

(ix) making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of the Fraud Act 2006;	YES/NO
(e) money laundering within the meaning of section 340(11) of the Proceeds of Crime Act 2002;	YES/NO
(ea) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996; or	YES/NO
(eb) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or	YES/NO
(f) any other offence within the meaning of Article 45(1) of Directive 2004/18/EC as defined by the national law of any relevant State.	YES/NO

Discretionary Rejection

The British Council is entitled to exclude you from consideration if any of the following apply. If you cannot answer 'no' to every question it is possible that your response may not be accepted. In the event that any of the following do apply, please set out (in a separate Annex) full details of the relevant incident and any remedial action taken subsequently. The information provided will be taken into account by the British Council in considering whether or not you will be able to proceed any further in respect of this procurement exercise.

The British Council is also entitled to exclude you in the event you are guilty of serious misrepresentation in providing any information referred to within regulation 23, 24, 25, 26 or 27 of the Public Contracts Regulations 2006 or you fail to provide any such information requested by us.

Is any of the following true of your organisation?	Answer (Delete as applicable)
(a) being an individual is a person in respect of whom a debt relief order has been made or is bankrupt or has had a receiving order or administration order or bankruptcy restrictions order or a debt relief restrictions order made against him or has made any composition or arrangement with or for the benefit of his creditors or has made any conveyance or assignment for the benefit of his creditors or appears unable to pay, or to have no reasonable prospect of being able to pay, a debt within the meaning of section 268 of the Insolvency Act 1986, or article 242 of the Insolvency (Northern Ireland) Order 1989, or in Scotland has granted a trust deed for creditors or become otherwise apparently insolvent, or is the subject of a petition presented for sequestration of his estate, or is the subject of any similar procedure under the law of any other state; or	YES/NO
b) being a partnership constituted under Scots law, has granted a trust deed or become otherwise apparently insolvent, or is the subject of a petition	YES/NO

Annex 1 - Mandatory Information

presented for sequestration of its estate; or	
(c) being a company or any other entity within the meaning of section 255 of the Enterprise Act 2002 has passed a resolution or is the subject of an order by the court for the company's winding up otherwise than for the purpose of bona fide reconstruction or amalgamation, or had a receiver, manager or administrator on behalf of a creditor appointed in respect of the company's business or any part thereof or is the subject of similar procedures under the law of any other state?	YES/NO

Has your organisation?	
a) Been convicted of a criminal offence relating to the conduct of your business or profession?	YES/NO
b) Committed an act of grave misconduct in the course of your business or profession?	YES/NO
c) Failed to fulfil obligations relating to the payment of social security contributions under the law of any part of the United Kingdom or of the relevant State in which you are established?	YES/NO
d) Failed to fulfil obligations relating to the payment of taxes under the law of any part of the United Kingdom or of the relevant State in which you are established?	YES/NO

Annex 2- Supplier Response Template



Response to Invitation to Tender

For the supply of English Market Research to the British Council Pakistan

Company name: _____

Contact name: _____

Contact email address: _____

Contact Telephone number: _____

Instructions

1. Provide Company Name and Contact details above.
2. Complete Part 1 (Supplier Response) ensuring all answers are inserted in the space below each section of the British Council requirement / question. Note: Any alteration to a question will invalidate your response to that question and a mark of zero will be applied.
3. Complete Part 2 (Checklist) to acknowledge and ensure your submission includes all the mandatory requirements and documentation. Note: Failure to provide your acknowledgement and documentation may result in your submission being rejected.
4. Submit all mandatory documentation to sophie.hollows@britishcouncil.org by 25/01/2016.

Annex 2- Supplier Response Template

Part 1 – Supplier Response

Scoring Methodology

The following methodology for evaluating responses will be applied and weighted for all selection criteria below:

10 points (Excellent) - A comprehensive and strong answer indicating the provider is fully capable and experienced to deliver the required outcomes. A detailed response that directly responds to all requirements with no ambiguity and relevant examples provided.

7 points (Good) - There are slight concerns that the organisation will not be able to achieve all the outcomes required and response lacked details of relevant experience. A less detailed response that broadly responds to the requirement with some ambiguity and few relevant examples provided.

5 points (Adequate) - There are concerns that the organisation will not be able to achieve the outcomes required and response significantly lacks details of relevant experience. A less detailed response that broadly responds to the requirement with some ambiguity and no/irrelevant examples provided.

3 points (Poor Response/Limited Evidence) - There are serious indications that the organisation will not be able to achieve the outcomes required and has not provided appropriate evidence of experience to successfully deliver the outcomes required. A response that is not entirely relevant to the requirement, with ambiguity and lacking specific detail.

0 points (Unacceptable) - The answer is non-compliant and/or no relevant information has been received to demonstrate the organisation can achieve the required outcomes. No response or a response that is entirely irrelevant.

Section 1: Knowledge and Experience

Selection Criteria Weighting: 15%

- Please list at least two examples of market research projects
- Please provide the details of any consultancy or research projects that have involved any engagement with Pakistan or other South Asian countries
- Please provide details of any other projects recently undertaken that used similar methodology, and the outputs and effects of these projects.
- Please list the relevant qualifications and other experience of your team members

Supplier Response to Section 1:

Annex 2- Supplier Response Template

Section 2: Methodology and Approach **Selection Criteria Weighting: 40%**

- Please provide a brief description of the methodology you propose to use.
- Please ensure that any links between the different stages of research are clear.

Supplier Response to Section 2:

Section 3: Timetable and Staffing **Selection Criteria Weighting: 15%**

- What timetable do you foresee for the project? When will different aspects of the research and what type of preliminary results do you foresee you will be to share when?
- What will the responsibilities of your different staff members be? How do these responsibilities relate to tasks they have previously performed?

Annex 2- Supplier Response Template

Supplier Response to Section 3:

<p>Section 4: Costing Selection Criteria Weighting: 30%</p> <ul style="list-style-type: none">• Please provide a detailed breakdown of all costs associated to the project that you foresee.
<p>Supplier Response to Section 4:</p>

Annex 2- Supplier Response Template

Part 2 – Submission Checklist

Select Yes (Y) or No (N) to acknowledge and indicate that your submission includes all of the mandatory requirements for this tender.

Important Note: Failure to provide your acknowledgement and documentation may result in your submission being rejected

- | | |
|--|-------|
| 1. Annex 1 –Mandatory Information | Y / N |
| 2. Annex 2 – Supplier Response Template | Y / N |
| 3. Detailed Research Proposal (Optional) | Y / N |

AGREEMENT FOR THE PURCHASE OF PROFESSIONAL OR CONSULTANCY SERVICES

The British Council:	[THE BRITISH COUNCIL, incorporated by Royal Charter and registered as a charity (under number 209131 in England & Wales and number SC037733 in Scotland), with its principal office at 10 Spring Gardens, London, SW1A 2BN] OR <i>[insert name of appropriate local entity where relevant outside the UK] [where appropriate add the following wording] [operating through its local office at [insert office address and details]]</i>
The Consultant:	<i>[insert name and address details (and company number, if appropriate)]</i>
Date:	<i>[insert date when signed by the second party to sign (which should be the British Council)]</i>

This Agreement is made on the date set out above subject to the terms set out in the schedules listed below which both the British Council and the Consultant undertake to observe in the performance of this Agreement.

The Consultant shall supply to the British Council, and the British Council shall acquire and pay for, the consultancy services and the related goods (if any) described in 1 and/or 2 on the terms of this Agreement.

Schedules

Schedule 1	Special Terms
Schedule 2	Terms of Reference
Schedule 3	Charges
Schedule 4	Standard Terms

This Agreement shall only become binding on the British Council upon its signature by an authorised signatory of the British Council subsequent to signature by or on behalf of the Consultant.

IN WITNESS whereof the parties or their duly authorised representatives have entered into this Agreement on the date set out above.

Signed by the duly authorised representative of THE BRITISH COUNCIL

Name:	Signature:
Position:		

Signed by *[insert name of Consultant]*

Name:	Signature:
Position:		

Special Terms

Terms defined in this 1 shall have the same meanings when used throughout this Agreement.

In the event of any conflict between the terms set out in the various Schedules, the Schedules shall prevail in the order in which they appear in the Agreement.

For the purposes of the Project and the provision of the Services and any Goods, the terms of this Agreement shall prevail over any other terms and conditions issued by the British Council (whether on a purchase order or otherwise).

Commencement Date and Term

This Agreement shall come into force on *[insert date]* (the “Commencement Date”) and, subject to paragraph 0 below, shall continue in full force and effect until *[insert date]* OR *[until all Services have been completed and all Deliverables have been delivered to the British Council’s satisfaction as set out in 2 (Terms of Reference)]* (the “Term”).

Notwithstanding anything to the contrary elsewhere in this Agreement, the British Council shall be entitled to terminate this Agreement by serving not less than *[insert number of days]* days’ written notice on the Consultant.

End Client

[Not applicable] OR *[The Consultant acknowledges that it is acting as a sub-contractor for the provision of consultancy services to [insert name, for example, the European Commission, Department for International Development etc] (the “End Client”).]*

Locations

The Consultant will be required to provide its consultancy services in *[insert list of locations]* and such other locations as may be agreed between the parties in writing from time to time (the “Location(s)").

Equipment

[Not applicable] OR *[The British Council will provide the Consultant with the following equipment to be used by the Consultant in the provision of its consultancy services (the “British Council Equipment”): [insert list (e.g. laptops)].]*

Annex 3- Draft Contract

AND/OR [The Consultant will provide the following equipment which it will use in the provision of its consultancy services (the “Consultant’s Equipment) [insert list (e.g. laptops)].]

Key Personnel

The Consultant shall deploy the following persons in the provision of its consultancy services: *[insert list]* (the “Key Personnel”).

Service of notices

For the purposes of clause 0 of 6, notices are to be sent to the following addresses:

To the British Council	To the Consultant
<i>[The British Council 10 Spring Gardens London SW1A 2BN]</i> <i>[Attention: insert name <u>and</u> job title]</i>	<i>[Insert address]</i> <i>[Attention: insert name <u>and</u> job title]</i>

Insurance Requirements

The Consultant shall take out and maintain during the Term with a reputable insurance company the following cover types with the following indemnity limits:

Insurance Cover	Indemnity Limit
[Employer’s liability]	£[10,000,000] per claim
[Public liability]	£[5,000,000] per claim
[Professional indemnity]	£[10,000,000] per claim
[Hostile environment]	£[]
[Medical and travel]	£[]

[NB: Delete those which are not applicable]

or such other insurance cover types and indemnity limits as may be agreed between the parties in writing from time to time.

Working Hours

For the purposes of this Agreement “Working Hours” and “Working Days” shall mean *[insert relevant working hours/working days, details for territory in which services are to be provided, premises at which*

Annex 3- Draft Contract

services are to be provided or for the relevant End Client [e.g. 9 a.m. to 5 p.m. local time Monday to Friday OR 10 a.m. to 6 p.m. local time Sunday to Thursday]].

Transferred Deliverables

[Not applicable] OR [For the purposes of this Agreement, the following shall be “Transferred Deliverables”: *[insert details, perhaps by reference to the relevant part of the Terms of Reference in Schedule 2, of those Deliverables intellectual property rights in which are to be transferred to the British Council]]*].

Senior Representative

The British Council’s “Senior Representative” for the purposes of this Agreement shall be *[insert name and job title]* or such other person as shall be notified to the Consultant in writing from time to time.

Consultant’s Liability

[Note: Only use this provision where the British Council has agreed that the Consultant should be allowed to limit its liability]

Subject to the limitation of liability provisions in the Standard Terms (Schedule 4), the total liability of the Consultant to the British Council whether in contract, tort, negligence, breach of statutory duty or otherwise for any direct loss or damage, costs or expenses arising under or in connection with this Agreement shall not exceed *[insert figure in numbers and words]* for each claim or instance of liability.

Annex 3- Draft Contract

3 Terms of Reference

[Insert here the Terms of Reference issued by the British Council and/or the End Client]

5 Charges

The Charges for the Services and/or Goods will be ***[insert details] [e.g. monthly charge/fixed sum paid against an agreed payment schedule/daily or hourly rates/unit charges/price list for a range of products. If the Agreement is for the provision of consultancy on a daily basis, state the maximum number of days].***

[The Charges set out above are an all-inclusive fee except for those additional expenses specifically referred to below, and covers all preparation, report writing and all other work, which is carried out in []. It is expected that the Consultant will meet all costs and expenses necessary to provide the Services under this Agreement, including, but not restricted to: the costs of salaries, bonuses, superannuation medical and travel insurance, insurance for personal possessions or of any fees payable to personnel employed, or engaged by the Consultant. The Charges are also deemed to cover the cost of personal equipment, non-Working Days and all other costs including but not limited to clothing, passports and vaccinations, travel to and from the airport, accommodation costs, overheads and expenses of whatsoever nature that may be incurred except those otherwise specifically provided for in this Agreement.

In addition to the Charges the British Council will reimburse the Consultant for the following expenses incurred as a direct consequence of the engagement, subject to such expenses being agreed with the British Council separately in advance:

Sums equivalent to a housing and subsistence allowance (to cover accommodation, meals, local travel etc) based on a rate of [] per month in [] for up to a maximum of [], not exceeding [].

Sums equivalent to a subsistence allowance (per diem) based on a rate of [] per night for each night (Note: EU contracts count nights spent, not 24 hour periods), spent away from the base of missions, assumed to be in []. Costs or per diems will not be paid for any time spent outside [], unless agreed separately in writing.

Sums equivalent to a travel allowance to cover excess baggage, medical insurance, visa, international flights, domestic travel between the Consultant's full time place of residence (or that of any applicable Relevant Person) and the airport up to a maximum of [], based on the rate of [] per return Economy flight for up to a maximum of [] flights, over the life of the project from the Consultant's full time place of

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residence (or that of any applicable Relevant Person) to []. All flights must be in economy class.

The Charges and allowances for the Consultant will be reimbursed by the British Council and are fixed for the duration of the Agreement].

1 Interpretation

In this Agreement:

“British Council’s Manager” means the British Council’s manager for the Services appointed in accordance with clause 0 of these Standard Terms;

“British Council Requirements” means the instructions, requirements, policies, codes of conduct, guidelines, forms and other documents notified to the Consultant in writing or set out on the British Council’s website at http://www.britishcouncil.org/new/about-us/jobs/folder_jobs/register-as-a-consultant/policies-for-consultants-and-associates/ or such other web address as may be notified to the Consultant from time to time (as such documents may be amended, updated or supplemented from time to time during the Term);

“Charges” means the charges, fees and any other sums payable by the British Council to the Consultant as set out in 4;

“Code” means the Department of Constitutional Affairs’ Code of Practice on the discharge of public authorities’ functions under Part 1 of the Freedom of Information Act 2000 (issued under section 45 of that Act) (November 2004) as may be updated or re-issued from time to time and any other relevant codes of practice published by the Department of Constitutional Affairs or its successor bodies;

“Confidential Information” means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, finances, properties, assets, trading practices, Goods/Services, developments, trade secrets, Intellectual Property Rights, In-put Material, know-how, personnel, and customers of the British Council or the Consultant (as the case may be) and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

“Consultant’s Equipment” means any equipment described as “Consultant’s Equipment” in Schedule 1 and any other equipment, including tools, systems (including laptops), cabling or facilities provided by the Consultant or its sub-contractors and used directly or indirectly in the supply of the Services or the Goods which are not the subject of a separate agreement between the parties under which title passes to the British Council;

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“Consultant’s Team” means the Consultant and, where applicable, any Relevant Person, and all other employees, consultants, agents and sub-contractors which the Consultant engages in any way in relation to the supply of the Services or the Goods;

“Control” means the ability to direct the affairs of another party whether by virtue of the ownership of shares, contract or otherwise (and **“Controlled”** shall be construed accordingly);

“Deliverables” means all Documents, products and materials developed or provided by the Consultant as part of providing the Services (including, without limitation, the Transferred Deliverables);

“Document” means (whether in hard copy or electronic format) any document, drawing, map, plan, diagram, design, picture or other image, tape, disk, or other device or record embodying information in any form including (without limitation) any web page, information portal, “blog”, online content or electronic file;

“End Client Agreement” means the agreement (if any) between the End Client (if any) and the British Council relating to the Project in connection with which the Consultant is providing its Services as a sub-contractor;

“End Client Requirements” means the specific requirements of the End Client (if any), including the terms of the End Client Agreement, as set out in the Special Terms (1), the Terms of Reference (2) or as otherwise notified to the Consultant in writing;

“Environmental Information Regulations” means the Environmental Information Regulations 2004;

“Equality Legislation” means any and all legislation, applicable guidance and statutory codes of practice relating to diversity, equality, non discrimination and human rights as may be in force from time to time in England and Wales or in any other territory in which, or in respect of which, the Consultant provides the Services;

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

“Goods” means the goods or products (if any) to be supplied by the Consultant under this Agreement as set out in the Special Terms (1) and/or the Terms of Reference (2);

“Information Disclosure Requirements” means the requirements to disclose information under:

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- (a) the Code;
- (b) the FOIA; and
- (c) the Environmental Information Regulations;

“In-put Material” means Documents, information and materials relating to the Services that the British Council has agreed to provide to the Consultant, including computer programs, data, reports and specifications;

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database, rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Premises” means, where applicable, the premises or location where the Services are to be provided, as notified by the British Council to the Consultant;

“Project” means the project in connection with which the Consultant provides its Services as further described in the Special Terms (1) and/or the Terms of Reference (2);

“Relevant Person” means any individual employed or engaged by the Consultant and involved in the provision of the Services, or any agent or contractor or sub-contractor of the Consultant who is involved in the provision of the Services and includes, without limitation, the Key Personnel (if any);

“Request for Information” means a request for information (as defined in the FOIA) relating to or connected with this Agreement or the British Council more generally or any apparent request for such information under the Information Disclosure Requirements;

“Services” means the consultancy and related services to be provided by the Consultant under this Agreement as set out in the Special Terms (1) and/or the Terms of Reference (2); and

“Transferred Deliverables” means (where applicable) the Deliverables which are described as **“Transferred Deliverables”** in the Special Terms (1) and/or the Terms of Reference (2) or in respect of which this

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Agreement otherwise provides that ownership of Intellectual Property Rights is to be assigned to the British Council.

Any headings in this Agreement shall not affect the interpretation of this Agreement.

A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

References to “**Working Days**” and “**Working Hours**” are, subject to any provisions to the contrary in the Special Terms (Schedule 1), references to normal business days and normal business hours in the territory in which the Consultant is providing the Services.

Consultant’s Responsibilities

The Consultant shall provide the Services and the Goods, and deliver the Deliverables to the British Council, with reasonable skill, care and ability in accordance with the terms of this Agreement (and, in particular, the Special Terms (1) and the Terms of Reference (2)), and shall allocate sufficient resources to the Services to enable it to comply with this obligation.

To the extent the Consultant is required to deliver any Goods under this Agreement, those Goods shall be of satisfactory quality, fit for purpose and shall comply with any applicable specification set out in this Agreement.

The Consultant shall meet any dates related to the performance of the Services under this Agreement and time shall be of the essence in respect of such dates.

The Consultant shall comply with, and complete and return any forms or reports from time to time required by, the British Council Requirements.

The Consultant shall comply with the End Client Requirements (if any) and shall do nothing to put the British Council in breach of the End Client Requirements (if any).

Where applicable, the Consultant shall, subject to the prior written approval of the British Council, appoint or, at the written request of the British Council, replace without delay any member of the Consultant's Team, each such member to be suitably skilled, experienced and qualified to carry out the Services. The Consultant shall not, without the British Council’s prior written consent (not to be unreasonably withheld or delayed), replace any of the Key Personnel. The British Council acknowledges that the

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Consultant will have to replace a member of the Key Personnel where such person leaves the employment of the Consultant, in which case the British Council shall have a right of approval over the proposed replacement (such approval not to be unreasonably withheld or delayed).

The Consultant shall:

observe, and ensure that, where applicable, the Consultant's Team observes, the British Council's Acceptable Usage Policy, Roam User Policy (where access to the relevant information technology systems has been granted), Information Security Policy and any applicable security policy or health and safety policy notified to the Consultant (including, without limitation, such policies as may be applicable at the Premises) and any reasonable verbal or written instructions or policies issued to the Consultant at any time and shall comply with the legal requirements of any country in which the Services are being provided and, if the Consultant fails to do so, the British Council reserves the right to refuse the Consultant's Team access to the Premises and/or to suspend the provision of the Services until such time as the Consultant (and, where applicable, the Consultant's Team) is compliant with such policies, instructions for requirements and the British Council shall not be required to pay the Charges in respect of the period of such suspension; and

before the date on which the Services are to start, obtain and at all times maintain and comply with all licences and consents required to enable the Consultant to provide the Services (including, without limitation, in relation to the installation of the Consultant's Equipment) and the Goods in accordance with this Agreement.

The Consultant shall not at any time during the Term do or say anything which damages or which could reasonably be expected to damage the interests or reputation of the British Council or the End Client (if any) or their respective officers, employees, agents or contractors.

If the Consultant is unable to provide the Services due to its own illness or injury or the illness or injury of any Relevant Person, the Consultant shall advise the British Council of that fact as soon as reasonably practicable and shall provide such evidence of any Relevant Person's or its own (as the case may be) illness or injury as the British Council may reasonably require. For the avoidance of doubt, no Charges shall be payable to the Consultant in respect of any period during which the Services are not provided.

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The Consultant shall use all reasonable endeavours to ensure that it is available at all times on reasonable notice to provide such assistance or information as the British Council may require.

The Consultant may use another person, firm, company or organisation to perform any administrative, clerical or secretarial functions which are reasonably incidental to the provision of the Services provided that the British Council will not be liable to bear the cost of such functions.

Where the Consultant is not an individual, it shall provide one or more Relevant Person(s) to provide the Services and shall procure that such Relevant Person(s) comply with the terms of this Agreement to the extent that such terms are applicable to such Relevant Person(s). Notwithstanding the deployment of any such Relevant Person(s), the Consultant shall remain wholly liable to the British Council and shall be responsible for all acts and omissions (howsoever arising) in the performance of the Services. The British Council may, in its discretion, require the Relevant Person(s) to enter into direct undertakings with the British Council including, without limitation, with regard to confidentiality and intellectual property.

Nothing in this Agreement shall prevent the Consultant from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during the Term provided that such activity does not cause a breach of any of the Consultant's obligations under this Agreement.

The Consultant shall use its reasonable endeavours to ensure that it does not become involved in any conflict of interests between the interests of the British Council and/or the End Client and the interests of the Consultant itself or any client of the Consultant. The Consultant shall notify the British Council in writing as soon as is practically possible of any potential conflict of interests and shall follow the British Council's reasonable instructions to avoid, or bring to an end, any conflict of interests. In the event that a conflict of interests does arise, the British Council shall be entitled to terminate this Agreement on immediate written notice.

The Consultant warrants that the Consultant's Equipment shall be of satisfactory quality and fit for the purpose of providing the Services in accordance with this Agreement.

The British Council's Obligations

The British Council shall:

co-operate with the Consultant in all matters relating to the Services and the Goods and appoint the British Council's Manager in relation to the Services, who shall have the authority to represent the

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British Council on day-to-day matters relating to this Agreement;
and

inform the Consultant of all health and safety rules and regulations and any other reasonable security requirements, policies and British Council instructions that apply at the Premises and/or in the country in which the Services are being provided from time to time during the Term.

The Consultant acknowledges and agrees that if it considers that the British Council is not or may not be complying with any of the British Council's obligations, it shall only be entitled to rely on this as relieving the Consultant's performance under this Agreement:

to the extent that it restricts or precludes performance of the Services or the provision of the Goods by the Consultant; and

if the Consultant, promptly after the actual or potential non-compliance has come to its attention, has notified details to the British Council in writing.

Status

The relationship of the Consultant to the British Council will be that of independent contractor and nothing in this Agreement shall render the Consultant or any Relevant Person an employee, worker, agent or partner of the British Council and the Consultant shall not hold itself out as such.

This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for and shall indemnify the British Council for and in respect of payment of the following within the prescribed time limits:

any income tax, national insurance and social security contributions and any other employment related liability, deduction, contribution, assessment or claim in any applicable jurisdiction arising from or made in connection with either the performance of the Services, or any payment or benefit received by the Consultant (or, where applicable, any Relevant Person) in respect of the Services, where such recovery is not prohibited by law and the Consultant shall further indemnify the British Council against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the British Council in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the British Council's negligence or wilful default; and

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any liability for any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Consultant (or, where applicable, any Relevant Person) against the British Council arising out of or in connection with the provision of the Services, except where such claim is as a result of any act or omission of the British Council.

The British Council may at its option satisfy the indemnities set out in clause 0 above (in whole or in part) by way of deduction from any outstanding Charges or other payments due to the Consultant.

Where applicable, the Consultant:

acknowledges and agrees that it is intended that all employees of the Consultant (if any) shall remain employees of the Consultant and that termination of this Agreement (or any part of it) shall not operate to transfer the contracts of employment of any employees to the British Council or any third party; and

shall use all reasonable endeavours to ensure that no member of its staff is deployed in the delivery of the Services to such an extent that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (or any applicable equivalent legislation in any relevant jurisdiction, including (without limitation) in the European Union the Acquired Rights Directive (Council Directive 77/187 as amended) and any national legislation enacting to such Directive) may operate to transfer the employment of such member of staff to the British Council or any successor service provider upon termination of this Agreement.

Price and Payment

Unless stated otherwise, the Charges are exclusive of value added tax (VAT) or any equivalent sales tax in any applicable jurisdiction, which, if properly chargeable, the British Council shall pay at the prevailing rate subject to receipt from the Consultant of a valid and accurate tax invoice. In the event that the British Council is required by the laws or regulations of any applicable jurisdiction to deduct any withholding tax or similar taxes from the Charges, the British Council shall deduct and account for such taxes before paying the remainder of the Charges to the Consultant and shall notify the Consultant in writing of all such sums properly deducted.

Under current UK legislation it is the responsibility of a supplier to assess its VAT liability for the supply of services. Where UK VAT is applicable, the Consultant's invoice should show all the necessary entries thereon to make it a valid tax invoice for VAT purposes; and in particular it must

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show the amount of VAT charged separately. However, the British Council may be of the opinion that the Services being supplied under this Agreement may not be subject to UK VAT, due to the place of supply not being the UK (for example, by falling within Schedule 5 of VATA 1994), and the charging of UK VAT would therefore be inappropriate. The British Council reserves the right to dispute payment of the UK VAT charged by the Consultant until the issue has been resolved by a ruling in writing obtained from HM Revenue & Customs by the Consultant, and that ruling shown to the British Council.

The Consultant shall indemnify and keep indemnified the British Council from and against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the British Council at any time in respect of the Consultant's failure to account for or to pay any VAT relating to payments made to the Consultant under this Agreement. Any amounts due under this clause 5.3 shall be paid in cleared funds by the Consultant to the British Council not less than five working days before the date on which the tax or other liability is payable by the British Council. The British Council may grant the Consultant further time to pay where this is deemed appropriate by the British Council taking account of the relevant circumstances.

Unless stated otherwise, the Consultant shall invoice for the Charges monthly in arrears and all such invoices shall be accompanied by a statement setting out the Services and/or Goods supplied in the relevant month in sufficient detail to justify the Charges charged (including, without limitation, any timesheets or other information required by, and to be provided in the format set out in, the British Council Requirements).

Subject to clauses 0 to 0 below, the British Council shall, unless agreed otherwise by the parties in writing, pay each of the Consultant's valid and accurate invoices by automated transfer into the Consultant's nominated bank account no later than 30 days after the invoice is received.

Provided that it notifies the Consultant in writing in advance, and works in good faith to resolve any issues or disputes, the British Council shall be entitled to withhold payment of any sums in respect of any Services or Deliverables which have not been provided by the Consultant to the British Council's satisfaction and in accordance with the terms of this Agreement.

In the event that the British Council makes any overpayment in connection with this Agreement (or any other agreement between the parties), the British Council may, upon written notice to the Consultant, deduct the amount of such overpayment from any future invoice or require repayment of such

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sum within 30 days after the date on which it serves written notice on the Consultant.

Where there is an End Client, the British Council shall not be obliged to pay any invoice to the extent that it has not received payment relating to that invoice from the End Client.

If the British Council fails to pay any sum properly due and payable (other than any sum disputed in good faith) by the due date for payment, the Consultant may charge interest on the amount of any such late payment at the rate of 1% per annum above the base rate from time to time of HSBC Plc, such interest to accrue from the date on which payment was due to the date on which payment is actually made. The parties hereby acknowledge and agree that such rate of interest is a substantial remedy for any late payment of any sum properly due and payable.

Quality and Performance

Any person authorised by the British Council and/or the End Client shall be entitled, subject to reasonable notice, to inspect work being undertaken in relation to the Services and the Goods at all reasonable times at the Consultant's premises or at the premises of any sub-contractor or agent of the Consultant.

The British Council reserves the right to reject any Goods and/or reject or require re-performance (at no additional cost to the British Council) of any Services which are defective or which are otherwise not in accordance with the requirements of this Agreement. Rejected Goods may be returned at the Consultant's risk and expense and the Consultant will refund any monies paid by the British Council in relation to such rejected Goods (or the British Council shall be entitled to deduct the amount of such monies from any future invoice payable by the British Council).

If at any time within 12 months following the date of provision of any Services or delivery of any Goods, any such Services or Goods (or any part thereof) are found to be defective or otherwise not in accordance with the requirements of this Agreement, the Consultant shall promptly on request and without charge, remedy the deficiency by re-performing the Services, or repairing, or supplying replacements for, the Goods.

Risk in Goods shall pass when the Goods are delivered as specified in this Agreement. Unless otherwise specified, the Consultant shall be responsible for all carriage, insurance and other costs incurred in delivering the Goods to the delivery location and, where requested, unloading Goods at that location.

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Ownership of Goods shall pass to the British Council on delivery, payment or part payment, whichever is the first to occur.

Change Control

If either party wishes to change the scope or provision of the Services, it shall submit details of the requested change to the other in writing and such change shall only be implemented if agreed in accordance with the remainder of this clause.

If the British Council requests a change to the scope or provision of the Services:

the Consultant shall, within a reasonable time (and in any event not more than ten (10) Working Days after receipt of the British Council's request), provide a written estimate to the British Council of:

the likely time required to implement the change;

any reasonable variations to the Charges arising directly as a result of the proposed change; and

any other impact of the change on the terms of this Agreement.

if, following receipt of the Consultant's written estimate submitted in accordance with clause 0, the British Council does not wish to proceed, there shall be no change to this Agreement; and

if the British Council wishes the Consultant to proceed with the change, the Consultant shall do so after agreement on the necessary variations to the Charges, the Services and any other relevant terms of this Agreement to take account of the change following which this Agreement shall be varied by the parties setting out in writing, and signing, the agreed changes in accordance with clause 0.

If the Consultant requests a change to the scope or provision of the Services, it shall send such request to the British Council in writing, accompanied by a written statement of the matters referred to in clause 0, and the British Council shall withhold or give its consent to such change in its sole discretion. If the British Council wishes the Consultant to proceed with the change, the Consultant shall do so, following a variation of this Agreement in writing in accordance with clause 0.

Premises

Subject to clause 0, the Consultant shall be entitled to use such parts of the Premises as the British Council may from time to time designate as are necessary for the performance of the Services provided that use of the Premises is to be solely for the purposes of providing the Services and the

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Consultant shall neither have nor acquire any right to exclusive possession of part or all of the Premises nor any separate right to occupy or possess part or all of the Premises and nothing in this Agreement shall create a lease or other greater interest in any premises.

The British Council may refuse to admit to, or order the removal from, the Premises any member of the Consultant's Team or person otherwise acting on behalf of the Consultant who, in the opinion of the British Council, is not behaving in accordance with the requirements of this Agreement or whose behaviour, conduct or dress, whether at the time the person is seeking admittance to, or at any time the person is present on, the Premises or otherwise, renders that person unfit to be on the Premises or is inappropriate in the context of the country in which the Premises are located. Costs associated with any such refusal of admittance or removal and with the provision of a suitable replacement shall be met by the Consultant and the British Council shall not be required to pay the Charges in respect of any period during which the Consultant is refused admittance to, or removed from, the Premises as a result of this clause.

The Equipment

The British Council Equipment shall remain the property of the British Council and shall be used by the Consultant in the performance of the Services and for no other purposes.

The British Council shall be responsible for the repair or replacement of the British Council Equipment unless the need for repair or replacement is caused by the Consultant's failure to comply with clause 0 or by the negligence or default of the Consultant.

The Consultant shall maintain all of the British Council Equipment in good and serviceable condition (fair wear and tear excepted) and shall only use the British Council Equipment in accordance with the British Council Equipment manufacturers' recommendations.

The Consultant shall be liable for any loss of or damage to any of the British Council Equipment caused by the negligence or default of the Consultant.

The Consultant shall not in any circumstances have any right to refuse to return to the British Council any of the British Council Equipment and shall take steps necessary to ensure that the title of the British Council and the British Council's right to repossess the British Council Equipment are effectively brought to the attention of any third party dealing with any of the British Council Equipment.

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Intellectual Property Rights

Where any Intellectual Property Rights owned or licensed by the British Council are required to be used in connection with the provision of the Services or Goods, the Consultant acknowledges that it shall have no right to use the same except to the extent necessary for the provision of the Services or Goods and subject to such consents and restrictions as may be specified by the British Council.

The Consultant hereby assigns (with full title guarantee) to the British Council ownership of any Intellectual Property Rights in the Transferred Deliverables and shall procure the waiver in favour of the British Council of all moral rights relating to the Transferred Deliverables. The Consultant undertakes at the British Council's request and expense to execute all deeds and documents which may reasonably be required to vest such rights in the British Council and to give effect to this clause 0.

The Consultant hereby grants to the British Council an irrevocable, royalty-free non-exclusive licence of any Intellectual Property Rights in the Deliverables (excluding the Transferred Deliverables) for the purposes of receiving and using, and to the extent necessary to receive and use, the Services and the Goods in accordance with this Agreement.

The Consultant warrants that it has in place contractual arrangements with all members of the Consultant's Team assigning to the Consultant their Intellectual Property Rights and waiving their moral rights (if any) in the Deliverables such that the Consultant can enter into the assignments, licences and waivers set out in this clause 0.

The Consultant warrants that the provision of the Services or Goods does not and will not infringe any third party's Intellectual Property Rights.

Nothing in this Agreement shall prevent the Consultant from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business, to the extent that it does not result in a disclosure of the British Council's Confidential Information or an infringement of Intellectual Property Rights.

Limitation of Liability

Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.

Subject to clauses 0 and 0, neither party shall be liable to the other whether in contract, tort, negligence, breach of statutory duty or otherwise for any

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indirect loss or damage, costs or expenses whatsoever or howsoever arising out of or in connection with this Agreement.

Nothing in this Agreement shall exclude or restrict the liability of the Consultant to the British Council for any breach by the Consultant of clause 0 (Confidentiality) or for any breach by the Consultant of the Data Protection Act 1998 (or any applicable equivalent legislation in any relevant jurisdiction).

The Consultant shall take out and maintain adequate insurance cover at least to the level described in the Special Terms (1). The Consultant shall provide to the British Council forthwith upon request copies of the relevant certificates and details of any of the insurance cover that it is obliged to have under this clause 0.

Subject to clauses 0 and 0, the British Council's sole liability under this Agreement shall be to pay to the Consultant the Charges as and when they become payable (plus any late payment interest properly chargeable under the terms of this Agreement).

The Consultant shall indemnify the British Council from and against all loss or liability in connection with physical damage to property, death or personal injury caused by or arising out of the negligence of, or breach of this Agreement by, the Consultant or any member of the Consultant's Team.

The provisions of this clause 0 shall survive the termination of this Agreement, however arising.

Confidentiality

For the purposes of this clause 0:

the “**Disclosing Party**” is the party which discloses Confidential Information to, or in respect of which Confidential Information comes to the knowledge of, the other party; and

the “**Receiving Party**” is the party which receives Confidential Information relating to the other party.

The Receiving Party shall take all necessary precautions to ensure that all Confidential Information it receives under or in connection with this Agreement:

is given only to such of its staff (or, in the case of the Consultant, the Consultant's Team) and professional advisors or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the performance of this Agreement and

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only to the extent necessary for the performance of this Agreement; and

is treated as confidential and not disclosed (without the prior written consent of the Disclosing Party) or used by the Receiving Party or any member of its staff (or, in the case of the Consultant, the Consultant's Team) or its professional advisors or consultants otherwise than for the purposes of this Agreement.

The Consultant shall ensure that all members of the Consultant's Team or professional advisors or consultants are aware of the Consultant's confidentiality obligations under this Agreement.

The provisions of clauses 0 and 0 shall not apply to any Confidential Information which:

is or becomes public knowledge (otherwise than by breach of this clause 0);

was in the possession of the Receiving Party, without restriction as to its disclosure, before receiving it from the Disclosing Party;

is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

is independently developed without access to the Confidential Information; or

must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Receiving Party.

In the event that the Consultant fails to comply with this clause 0, the British Council reserves the right to terminate this Agreement by notice in writing with immediate effect.

The provisions under this clause 0 are without prejudice to the application of the Official Secrets Act 1911 to 1989 to any Confidential Information.

The Consultant acknowledges that the British Council is subject to the Information Disclosure Requirements and shall assist and co-operate with the British Council to enable the British Council to comply with those requirements.

Where the Consultant or any of its sub-contractors receives a Request for Information, the Consultant shall:

as soon as reasonably practicable after receipt and in any event within five Working Days of receipt, forward the Request for Information to the British Council; and

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provide all necessary assistance as reasonably requested by the British Council to enable the British Council to respond to the Request for Information within the time for compliance set out in section 10 FOIA or regulation 5 Environmental Information Regulations, as applicable.

The Consultant acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the British Council may nevertheless be obliged to disclose Confidential Information in accordance with the Information Disclosure Requirements or where such Confidential Information has entered the public domain or been treated by the Consultant as non-confidential since the date when it was disclosed to the British Council.

Force Majeure

Neither party shall be in breach of this Agreement if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control including (insofar as beyond such control but without prejudice to the generality of the foregoing expression), without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, volcanic ash, earthquake, explosion, terrorist act, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of consultants or sub-contractors (save that the Consultant shall be liable for, and shall not be excused non-performance of this Agreement due to, any breach by its sub-contractors).

Termination

Without prejudice to any other rights or remedies which the British Council may have, the British Council may terminate this Agreement without liability to the Consultant immediately on giving notice to the Consultant if:

the performance of the Services is delayed, hindered or prevented by circumstances of force majeure (as described in clause 0) for a period in excess of 28 days;

where the Consultant is a company, there is a change of Control of the Consultant; or

the Consultant or any Relevant Person:

is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of five (5) Working Days in any two (2) week consecutive period;

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is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed); or

is in the reasonable opinion of the British Council or the End Client (if any) negligent and incompetent in the performance of the Services.

Either party may give notice in writing to the other terminating this Agreement with immediate effect if:

the other party commits any material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the Agreement with immediate effect);

an order is made or a resolution is passed for the winding-up of the other party or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the other party or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the other party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/ or manage or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action (in any jurisdiction) in consequence of debt; or

the other party ceases, or threatens to cease, to carry on business.

The British Council shall be entitled to terminate this Agreement at any time by serving written notice on the Consultant if the End Client Agreement terminates or if the funding for the Project is otherwise withdrawn or ceases.

The British Council may at any time by notice in writing terminate this Agreement with immediate effect if the Consultant is in persistent breach of any of its obligations under this Agreement, whether or not such breach is capable of remedy. For the purposes of this clause 0, three or more non-material breaches of the terms of this Agreement may together constitute a persistent breach.

In any circumstances where the British Council has the right to terminate this Agreement it may instead, by serving written notice on the Consultant, opt

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to suspend the provision of the Services for a reasonable period and the British Council shall not be required to pay any Charges in respect of such period of suspension.

On termination of this Agreement for any reason the Consultant shall immediately deliver to the British Council:

all In-put Material and all copies of information and data provided by the British Council to the Consultant for the purposes of this Agreement and the Consultant shall certify to the British Council that it has not retained any copies of In-put Material or other information or data, except for one copy which the Consultant may use for audit purposes only and subject to the confidentiality obligations in clause 0; and

all specifications, programs (including source codes) and other documentation comprised in the Transferred Deliverables and existing at the date of such termination, whether or not then complete and all Intellectual Property Rights in such materials shall automatically pass to the British Council (to the extent that they have not already done so by virtue of clause 0).

If the Consultant fails to fulfil its obligations under clause 0, the British Council may enter the Consultant's premises and take possession of any items which should have been returned under it. Until they have been returned or repossessed, the Consultant shall be solely responsible for their safe keeping.

During the period between service of a notice of termination and the effective date of termination, the Consultant shall provide the British Council with all reasonable assistance and information to enable an efficient handover to a new service provider (or to the British Council).

Termination of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

The British Council shall pay the Charges up to the effective date of termination. In addition, if the Agreement is terminated by the British Council pursuant to paragraph 1.2 of the Special Terms (1) or by the Consultant pursuant to clause 0 above, the British Council shall reimburse the Consultant for the reasonable costs or expenses that the Consultant can demonstrate that it has properly incurred specifically for the purposes of the Project and which it cannot recover or which it cannot utilise in connection with another British Council project provided that the Consultant shall use its reasonable endeavours to mitigate the level of such costs and expenses.

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Assignment and Sub-Contracting

The Consultant shall not, without the prior written consent of the British Council, assign, transfer, charge, create a trust in, or deal in any other manner with all or any of its rights or obligations under this Agreement.

The British Council may assign or novate this Agreement to: (i) any separate entity Controlled by the British Council; (ii) any body or department which succeeds to those functions of the British Council to which this Agreement relates; or (iii) any provider of outsourcing or third party services that is employed under a service contract to provide services to the British Council. The Consultant warrants and represents that it will (at the British Council's reasonable expense) execute all such documents and carry out all such acts, as reasonably required to give effect to this clause 0.

The Consultant may not sub-contract the provision of any material part of the Services without the prior written consent of the British Council, such consent not to be unreasonably withheld or delayed.

Notwithstanding any sub-contracting permitted under clause 0, the Consultant shall remain wholly liable and responsible for all acts and omissions (howsoever arising) of its sub-contractors in the performance of the Services and the supply of the Goods.

The Consultant shall pay any valid invoice received from any of its sub-contractors within 30 days following receipt of the invoice.

The British Council reserves the right to request the replacement of any approved sub-contractor on reasonable grounds.

Corruption and Collusion

The Consultant undertakes and warrants that neither it nor the Consultant's staff, employees or sub-contractors have offered, given or agreed to give, nor shall offer or give or agree to give to any person, company or firm any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do anything in relation to the obtaining of this Agreement or the execution of the Consultant's obligations under this Agreement or for showing or forbearing to show favour or disfavour to any person, company or firm in relation to this Agreement.

The Consultant warrants that it has in place, and undertakes that it will comply with, policies and procedures to avoid the risk of bribery (as set out in the Bribery Act 2010) and fraud within its organisation and in connection with its dealings with third parties.

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The Consultant warrants that it has not colluded, and undertakes that it will not at any time collude, with any third party relating to its pricing under this Agreement and further warrants and undertakes that it has complied, and will at all times comply, with the provisions of the Competition Act 1998 (or equivalent anti-trust legislation or regulations applicable in the countries in which the Consultant operates or is to provide the Services) in connection with this Agreement and the provision of the Services and/or Goods. Nothing under this clause 0 is intended to prevent the Consultant from discussing the terms of this Agreement and the Consultant's pricing with the Consultant's professional advisors.

Data Protection

For the purposes of this clause 0, where terms and expressions used are not defined in this Agreement, they shall have the meaning assigned to them in the Data Protection Act 1998.

The Consultant shall, in performing its obligations under this Agreement, comply in all respects with the Data Protection Act 1998 (or any equivalent legislation in any applicable jurisdiction) and with the requirements of this clause 0.

Where the Consultant acts as data processor under this Agreement it shall:

- take appropriate technical and organisational measures against the unauthorised or unlawful processing of the personal data and against actual loss or destruction of, or damage to, the personal data, having regard to the state of technological development and the cost of implementing any measures, and the measures must ensure a level of security appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the personal data;

- process the personal data only in accordance with this Agreement, the British Council's instructions and having regard to the provisions of the Data Protection Act 1998 (or any equivalent legislation in any applicable jurisdiction), or as is required by law or any relevant regulatory body;

- refrain from disclosing the personal data to any third party or transferring the personal data outside the EEA except in accordance with the instructions of the British Council;

- notify the British Council in the event that it receives a request or notice from a data subject exercising its rights under the Data

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Protection Act 1998 and comply with the British Council's instructions with respect to the request or notice; and

not disclose the personal data to a third party to process on its behalf unless and until it has entered into a written agreement with such third party containing provisions equivalent to this clause 0.

Third Party Rights

This Agreement does not create any rights or benefits enforceable by any person not a party to it (within the meaning of The Contracts (Rights of Third Parties) Act 1999) except that a person who under clause 0 is a permitted successor or assignee of the rights or benefits of a party may enforce such rights or benefits.

The parties agree that no consent from the persons referred to in this clause is required for the parties to vary or rescind this Agreement (whether or not in a way that varies or extinguishes rights or benefits in favour of such third parties).

Audit

The Consultant will fully co-operate with and assist the British Council in meeting its audit and regulatory requirements by providing access for the British Council, the End Client, their internal auditors (which shall include, for the purposes of this Agreement the British Council's internal audit, security and operational risk functions), their external auditors or any agents appointed by the British Council and/or the End Client or their regulators (or any person appointed by such body) to conduct appropriate reviews and inspections of the activities and records of the Consultant (and to take copies of records and documents and interview members of the Consultant's Team) relating to the performance of the Services and to the accuracy of the Charges. The Consultant shall maintain all records relating to this Agreement (including, without limitation, the provision of the Services and the payment of all Charges and expenses) for a period of seven (7) years following the year in which the provision of the Services and/or Goods under this Agreement is completed or such longer period as the British Council may notify to the Consultant in writing from time to time.

The Consultant shall bear its own cost in relation to any reasonable number of audits carried out by the British Council and/or the End Client. Where any audit reveals any breach or non-compliance by the Consultant, the Consultant shall also bear the costs of the British Council and/or the End Client carrying out such audit.

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Governing Law and Dispute Resolution Procedure

This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales.

Subject to the remainder of this clause 0, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement or its subject matter.

In the event that any claim or dispute arises out of or in connection with this Agreement, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 10 Working Days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim in accordance with this clause 0, either party may commence proceedings in accordance with clause 0.

Nothing in this clause 0 shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this Agreement or infringement, or threatened infringement, of the applicant's Intellectual Property Rights.

Equal Opportunities and Diversity

The Consultant shall ensure that it does not, whether as employer or provider of the Services or Goods under this Agreement, discriminate within the meaning of the Equality Legislation.

The Consultant shall comply with any equal opportunities or diversity policies or guidelines included in the British Council Requirements and any such policies or guidelines included in the End Client Requirements.

Publicity

The Consultant shall not publicise the terms of this Agreement or use the name of the British Council or any trade name or trade mark used by the British Council or refer to the British Council in any other way in any press release, promotional literature, publications or advertising material, including without limitation any website, "blogs", social media or other online services, without the prior written consent of the British Council.

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Health and Safety

The Consultant shall promptly notify the British Council of any health and safety hazards which may arise in connection with the performance of this Agreement, take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by the performance of the Services and notify the British Council of any incident occurring on the Premises or otherwise in connection with the provision of the Services which causes or could give rise to personal injury.

The Consultant shall take all necessary measures to comply with the requirements of the Health & Safety at Work Etc Act 1974 (or any equivalent legislation in any applicable jurisdiction) and any other acts, orders, regulations and codes of practice (including, without limitation, any approved codes of practice) relating to health and safety, which may apply to the performance of this Agreement.

Employees

The Consultant agrees that it will not, without the prior written consent of the British Council, whether directly or indirectly, and whether alone or in conjunction with, or on behalf of, any other person during the Term or for a period of 6 (six) months following termination, solicit or entice, or endeavour to solicit or entice away from the British Council any person employed by the British Council and involved directly in the receipt or use of the Services.

General

Subject to clause 0, no variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

Notice given under this Agreement shall be in writing, sent for the attention of the person, and to the address, given in the Special Terms (1) (or such

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other address or person as the relevant party may notify to the other party) and shall be delivered either:

personally;

by courier;

by pre-paid, first-class post; or

by recorded delivery.

A notice is deemed to have been received: if delivered personally, at the time of delivery; in the case of pre-paid first class post, recorded delivery or courier, 48 hours from the date of posting. If deemed receipt under this clause 0 is not within Working Hours the notice will be deemed to be received at the commencement of normal Working Hours on the first Working Day following delivery. To prove service of notice, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.