



**UK Research
and Innovation**

Leader Construction
4 Pashley Court
St Neots
Cambridgeshire
PE19 2JS

Attn: **FOIA S40 Personal Information**

By email to: **FOIA S40 Personal Information**

Date: 9th December 2022

Our ref: UKRI-2076

Dear Sirs,

Award of Terms Service Contract to provide Minor Works for MRC Laboratory of Molecular Biology

Following your tender for the provision of Minor Works for MRC Laboratory of Molecular Biology, we are pleased to award this NEC4 Term Service Contract ("**Contract**") to you.

This letter ("**Award Letter**") and its Schedule(s) set out the terms of the Contract between:

- (1) **United Kingdom Research and Innovation**, a statutory corporation whose registered office is at Polaris House, North Star Avenue, Swindon, England, SN2 1FL ("**UKRI**"); and
- (2) **Leader Construction**, a business with its trading address at 4 Pashley Court, St Neots, Cambridgeshire PE19 2JS (the "**Contractor**")

(each a "**Party**" and together the "**Parties**").

Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the NEC4 Term Service Contract terms and conditions of contract and as set out in the Contract Data in Schedule 1 to this Award Letter (the "**Contract Data**"). Please do not attach any Contractor terms and conditions to this Award Letter as they will not be accepted by UKRI and may delay conclusion of the Contract.

The Term Service Contract is a framework under which UKRI may from time to time procure Goods and/or Services from the Contractor. When UKRI wishes to do so, the Parties shall use all reasonable endeavours to agree in good faith a Task Order ("**Task Order**") in relation to those Goods and/or Services within such timeframes as are

reasonable. Each Task Order may be documented by a further award letter, another form of contractual document, or (in the case of simpler Contracts) the issuance by UKRI and acceptance by the Contractor of a Purchase Order.

For the purposes of the Contract, UKRI and the Contractor agree as follows:

Term

- 1 Commencement Date: 1st January 2023
- 2 Expiry Date: 31st December 2025
- 3 UKRI may extend this Agreement for a period of up to 12 months by giving not less than 3 months' notice in writing to the Contractor prior to the Expiry Date. The terms and conditions of this Agreement shall apply throughout any such extended period.

Description of Goods and/or Services

- 4 The Specification of the Goods and/or Services to be delivered is as set out in: i) Schedule 1 Appendix A – UKRI-2076 Minor Works Specification; and/or ii) the relevant Task Order.

Charges & Payment

- 5 The Charges for the Goods and/or Services shall be as set out in: i) Schedule 1 Appendix C – Contractors Price Schedule; and/or ii) the relevant Task Order.
- 6 All invoices should be sent, quoting a valid purchase order number (PO Number) provided by UKRI, to: finance@uksbs.co.uk.
- 7 To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your UKRI contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to finance@uksbs.co.uk or by telephone 01793 867004 between 09:00-17:00 Monday to Friday.

Notices

- 8 The address for notices of the Parties are:

UKRI

Polaris House, North Star Avenue,
Swindon, England, SN2 1FL

Attention: Commercial Business
Partner MRC

Email: mrcprocurement@ukri.org

Leader Construction

4 Pashley Court, St Neots,
Cambridgeshire PE19 2JS

Attention: Construction Project
Manager

Email: **FOIA S40 Personal Information**

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful supply of the Goods and/or Services. Please confirm your acceptance of the award of this Agreement by signing and returning the enclosed copy of this letter to Procurement Manager LMB at the above

address. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

Signed for and on behalf of **United Kingdom Research and Innovation**

Signature:

FOIA S40 Personal Information

Name:

FOIA S40 Personal Information

Position:

Commercial Business Partner

Date:

13th December 2022

We accept the terms set out in this Award Letter and the Schedule(s), together forming the Term Service Contract:

Signed for and on behalf of **Lea**

Signature:

FOIA S40 Personal Information

Name:

Position:

Date:

12/12/22



Contract Data:

Term Service Contract

UKRI-2076 MRC LMB Minor Works
Schedule 1 Contract Data

Contract Data

PART ONE – DATA PROVIDED BY THE *CLIENT*

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

1 General

The *conditions of contract* are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Term Service Contract June 2017 (with amendments January 2019)

Main Options Option for resolving and avoiding disputes

Secondary Options

The *service* is

For the avoidance of doubt, this Term Service Contract constitutes a framework under which the Client may, at its discretion, issue Task Orders to the Contractor. The Client is under no obligation to issue a Task Order(s) but once issued and accepted in accordance with the terms of this TSC, each Task Order shall form a binding contract between the Client and the Contractor. Any and all works and Services to be performed by the Contractor shall be subject to a Task Order placed in accordance with, and subject to, the terms of this TSC.

The *Client* is

Name

Address for communications

Address for electronic communications

The *Service Manager* is

Name

Address for communications

Address for electronic communications

UKRI-2076 Schedule 1

The Affected Property is

MRC Laboratory of Molecular Biology
Francis Crick Avenue
Cambridge Biomedical Campus
Cambridge
CB2 0QH
MRC ARES Building,
Babraham Research Campus,
Babraham,
Cambridge
CB 22 3AT
Any other Affected Properties as may be specified
within the Scope or by the Service Manager

The Scope is in

Appendix A – UKRI-2076 Minor Works Specification

The *shared services* which
may be carried out outside
the Service Areas are

The *language of the contract* is

English

The *law of the contract* is the law of

England and Wales, subject to the
jurisdiction of the courts of England and
Wales

The *period for reply* is

TBC in each Task Order

except that

• The *period for reply* for

is

• The *period for reply* for

is

The following matters will be included in the Early Warning Register

- Resourcing, Sub-Contractors
- Project impacts, variances, price, specification, delays, hazards, access etc.
- Work done by others, defects, delays etc.
- Force Majeure

Early warning meetings are to be held at intervals no longer than

4 weeks

2 The Contractor's main responsibilities

If Option C or E is used

The *Contractor* prepares forecasts of the total Defined Cost
for the whole of the *service* at intervals no longer than

3 Time

The *starting date* is

1st January 2023

The *service period* is

Up to 4 years (3+1)

	The <i>Contractor</i> submits revised plans at intervals no longer than	5 weeks
	The period within which the <i>Contractor</i> is to submit a Task Order programme for acceptance is	5 days
If no plan is identified in part two of the Contract Data	The period after the Contract Date within which the <i>Contractor</i> is to submit a first plan for acceptance is	2 weeks

4 Quality management

The period after the Contract Date within which the <i>Contractor</i> is to submit a quality policy statement and quality plan is	2 weeks
---	---------

5 Payment

	The <i>currency of the contract</i> is the	Pound Sterling
	The <i>assessment interval</i> is	monthly
	The <i>interest rate</i> is	2 % per annum (not less than 2) above the
	base	rate of the Bank of England
If the period in which payments are made is not three weeks and Y(UK)2 is not used	The period within which is payments are made is	30 days
If the period for certifying a final assessment is not thirteen weeks	The period for certifying a final assessment is	13 weeks

If Option C is used The *Contractor's share percentages* and the *share ranges* are

<i>share range</i>		<i>Contractor's share percentage</i>
less than	%	%
from	% to %	%
from	% to %	%
greater than	%	%
The <i>Contractor's share</i> is assessed on (dates)		

UKRI-2076 Schedule 1

If Option C or E is used

The *exchange rates* are those published in
on (date)

6 Compensation events

If Option A is used

The *value engineering percentage* is 50%, unless another percentage
is stated here, in which case it is

%

If there are additional
compensation events

These are additional compensation events

8 Liabilities and insurance

If there are additional
Client's liabilities

These are additional *Client's* liabilities

- (1)
- (2)
- (3)

The minimum amount of cover for insurance against loss of or damage to property
(except Plant and Materials and Equipment) and liability for bodily injury to or death of a
person (not an employee of the *Contractor*) arising from or in connection with the
Contractor Providing the Service for any one event is

The minimum amount of cover for insurance against death of or bodily injury to
employees of the *Contractor* arising out of and in the course of their employment in
connection with the contract for any one event is

If the *Client* is to provide Plant
and Materials

The insurance against loss of or damage to Plant and Materials and Equipment is to
include cover for Plant and Materials provided by the *Client* for an amount of

The *Client* provides these insurances from the Insurance Table

If the *Client* is to provide
any of the insurances
stated in the Insurance
Table

- (1) Insurance against
- Minimum amount of cover is
- The deductibles are
- (2) Insurance against
- Minimum amount of cover is
- The deductibles are
- (3) Insurance against
- Minimum amount of cover is
- The deductibles are

UKRI-2076 Schedule 1

If additional insurances are to be provided The *Client* provides these additional insurances

(1) Insurance against

Minimum amount of cover is

The deductibles are

(2) Insurance against

Minimum amount of cover is

The deductibles are

(3) Insurance against

Minimum amount of cover is

The deductibles are

The *Contractor* provides these additional insurances

(1) Insurance against

Minimum amount of cover is

The deductibles are

(2) Insurance against

Minimum amount of cover is

The deductibles are

(3) Insurance against

Minimum amount of cover is

The deductibles are

Resolving and avoiding disputes

The *tribunal* is

The *arbitration procedure* is

The place where arbitration is to be held is

The Courts of England and Wales

The person or organisation who will choose an arbitrator if the Parties cannot agree a choice or if the *arbitration procedure* does not state who selects an arbitrator is

The *Senior Representatives* of the *Client* are
Name (1)

FOIA S40 Personal Information

Address for communications

UKRI Procurement
Rutherford Appleton Laboratory
Harwell Oxford
OX11 0QX

Address for electronic communications

MRCProcurement@ukri.org

Name (2)

FOIA S40 Personal Information

Address for communications

UKRI Commercial
North Star Avenue
Swindon
SN2 1EU

Address for electronic communications

Commercial@ukri.org

The *Adjudicator* is

Name

Address for communications

Address for electronic communications

The *Adjudicator nominating body* is

The Royal Institution of Chartered Surveyors

X1: Price adjustment for inflation (used only with Options A and C)

If Option X1 is used

The proportions used to calculate the Price Adjustment Factor are

0.	<input type="text"/>	linked to the index for	<input type="text"/>
0.	<input type="text"/>		<input type="text"/>
0.	<input type="text"/>		<input type="text"/>
0.	<input type="text"/>		<input type="text"/>
0.	<input type="text"/>		<input type="text"/>
0.	<input type="text"/>		<input type="text"/>
0.	<input type="text"/>	non-adjustable	<input type="text" value="Non-adjustable"/>
1.00	<input type="text"/>		

The *base date* for indices is

The Start Date

The *inflation adjustment dates* are

In line with the anniversary of the Start Date
NSR

These indices are

X3: Multiple currencies (used only with Option A)

If Option X3 is used

The *Client* will pay for the items or activities listed below in the currencies stated

items and activities	other currency	total maximum payment in the currency

The *exchange rates* are those published in

--

on

--

 (date)

X8: Undertakings to the *Client* or Others

If Option X8 is used

The *undertakings to Others* are

provided to

TBC in each Task Order where applicable

The *Subcontractor undertakings to Others* are

works	provided to
The form of the subcontractor undertakings is set out in the Scope	

The *Subcontractor undertakings to the Client* are

works

The form of the subcontractor undertakings is set out in the Scope

X10: Information modelling

If Option X10 is used

If no *information execution plan* is identified in part two of the Contract Data

The period after the Contract Date within which the *Contractor* is to submit a first Information Execution Plan for acceptance is 2 weeks

The minimum amount of insurance cover for claims made against the *Contractor* arising out of its failure to use the skill and care normally used by professionals providing information similar to the Project Information is, in respect of each claim £6,000,000

The period following the end of the Service Period or earlier termination for which the *Contractor* maintains insurance for claims made against it arising out of its failure to use the skill and care is 12 years

X12: Multiparty collaboration (not used with Option X20)

If Option X12 is used

The *Promoter* is

The Schedule of Partners is in

The *Promoter's objective* is

The Partnering Information is in

X13: Performance bond (not used with Option X20)

If Option X13 is used The amount of the performance bond is

X17: Low service damages

If Option X17 is used The *service level table* is

As detailed in the Scope

X18: Limitation of liability

If Option X18 is used The *Contractor's* liability to the *Client* for indirect or consequential loss is limited to

£10,000,000

For any one event, the *Contractor's* liability to the *Client* for loss of or damage to the *Client's* property is limited to

£10,000,000

The *Contractor's* liability for Defects due to its design of an item of Equipment is limited to

£5,000,000

The *Contractor's* total liability to the *Client* for all matters arising under or in connection with the contract, other than excluded matters, is limited to

£15,000,000

The *end of liability date* is years after the end of the Service Period

X19: Termination by either Party (not used with Option X11)

If Option X19 is used The *minimum period of service* is years after the *starting date*

The *notice period* is

X20: Key Performance Indicators (not used with Option X12)

If Option X20 is used The *incentive schedule* for Key Performance Indicators is in

As detailed in the Scope.

A report of performance against each Key Performance Indicator is provided at intervals of

months

X23: Extending the Service Period

If Option X23 is used The *maximum service period* is years after the *starting date*

The *periods for extension* are

Order *period for extension* (months) *notice date*

First

UKRI-2076 Schedule 1

Second		
Third		
Fourth		

If there are *criteria*
for extension

The *criteria for extension* are

- (1) By mutual agreement and satisfactory performance
- (2)
- (3)

X24: The accounting periods

If Option X24 is used and Option C is not used	The accounting periods are
	<div></div>
	<div></div>
	<div></div>
	<div></div>

If Option X 24 is used with Option C	The accounting periods are the dates stated in the Contract Data of assessment of the Contractor's share
--------------------------------------	--

Y(UK)1: Project Bank Account

Charges made and interest paid by the project bank	The Contractor is/is not to pay any charges made and to be paid any interest paid by the project bank (Delete as applicable)
--	---

Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

If Y(UK)2 is used and the date on which a payment is due is not fourteen weeks after the end of the accounting period or Service Period	The period is <div></div> weeks
If Y(UK)2 is used and the final date for payment is not fourteen days after the date on which payment becomes due	The period for payment is <div></div> days after the date on which payment becomes due

Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

If Option Y(UK)3 is used	term	beneficiary
	<div></div>	<div></div>
	<div></div>	<div></div>
	<div></div>	<div></div>
	<div></div>	<div></div>

If Y(UK)3 is used with Y(UK)1 the following entry is added to the table for Y(UK)3	term	beneficiary
	<div>The provisions of Options Y(UK)1</div>	<div>Named Suppliers</div>

Z: Additional conditions of contract

If Option Z is used

The *additional conditions of contract* are

Please refer to Part 2 of the Contract Terms (Appendix B - UKRI-2076 Terms and Conditions - Minor Works Contract Data).

PART TWO – DATA PROVIDED BY THE CONTRACTOR

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

1 General

The *Contractor* is

Name	Leader Construction
Address for communications	4 Pashley Court St Neots Cambridgeshire PE19 2JS
Address for electronic communications	FOIA S40 Personal Information

The *fee percentage* is %

The *service areas* are

The *key persons* are

Name (1)	<input type="text"/>
Job	<input type="text"/>
Responsibilities	<input type="text"/>
Qualifications	<input type="text"/>
Experience	<input type="text"/>
Name (2)	<input type="text"/>
Job	<input type="text"/>
Responsibilities	<input type="text"/>
Qualifications	<input type="text"/>
Experience	<input type="text"/>

The following matters will be included in the Early Warning Register

2 The *Contractor*'s main responsibilities

If the <i>Contractor</i> is to provide Scope for its plan	The Scope provided by the <i>Contractor</i> for its plan is in	TBC in each Task Order where applicable
---	--	---

3 Time

If a plan is to be identified in the Contract Data	The plan identified in the Contract Data is	TBC in each Task Order where applicable
--	---	---

5 Payment

If Option A, C or E is used	The <i>price list</i> is	Appendix C – Contractors Price Schedule
If Option A or C is used	The tendered total of the Prices is	Up to a maximum value of £4,000,000 over the term of the agreement

Resolving and avoiding disputes

The *Senior Representatives* of the Contractor are

Name (1)	FOIA S40 Personal Information
Address for communications	4 Pashley Court St Neots Cambridgeshire PE19 2JS
Address for electronic communications	FOIA S40 Personal Information
Name (2)	
Address for communications	
Address for electronic communications	

X10: Information modelling

If Option X10 is used

If an <i>information execution plan</i> is to be identified in the Contract Data	The <i>information execution plan</i> identified in the Contract Data is	
--	--	--

Y(UK)1: Project Bank Account (NOT USED)

If Option Y(UK)1 is used	The <i>project bank</i> is	
	<i>named suppliers</i> are	

Data for the Schedule of Cost Components (used only with Options C or E)

The listed items of Equipment purchased for work on this contract, with an on cost charge, are

Equipment	time-related on cost charge	per time period

The rates for special Equipment are

Equipment	rate

The rates for Defined Cost of manufacture and fabrication outside the Service Areas by the Contractor are

category of person	rate

The rate for people providing *shared services* outside the Service Areas are

<i>shared service</i>	category of person	rate

Data for the Short Schedule of Cost Components (used only with Option A)

The *people* rates are contained within Appendix C – Price Schedule

category of person	unit	rate
<input type="text"/>	<input type="text"/>	NSR Rates
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

The published list of Equipment is the edition current at the Contract Date of the list published by

The percentage for adjustment for Equipment in the published list is % (state plus or minus)

The rates for other Equipment are within Appendix C – Price Schedule

Equipment	rate
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

The rates for Defined Cost of manufacture and fabrication outside the Service Areas by the *Contractor* are within Appendix C – Price Schedule

category of person	rate
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

The rate for people providing *shared services* outside the Service Areas are within Appendix C – Price Schedule

<i>shared service</i>	category of person	rate
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>



**UK Research
and Innovation**

Appendix A – UKRI-2076 Specification Document

Contract Reference Number: UKRI-2076

Subject: MRC Minor Works LMB & ARES (Minor Building, Mechanical and Electrical Works Not Exceeding £50,000.00 per project)

Term Service Contract

(3 years with optional 1-year extension)

1. Introduction

UK Research & Innovation (UKRI) – Medical Research Council (MRC) Laboratory of Molecular Biology (LMB), hereinafter referred to as “the Client” intend to award a Contract to provide Minor Works of up to £50,000 per package excluding VAT, in accordance with the terms and conditions specified.

2. Background – The MRC Laboratory for Molecular Biology (LMB)

The MRC Laboratory of Molecular Biology (LMB) is a world-class research laboratory, dedicated to understanding important biological processes at the molecular level with the goal of using this knowledge to tackle major problems in human health and disease.

The LMB is one of the birthplaces of modern molecular biology. Many techniques were pioneered at the laboratory, including DNA sequencing, methods for determining the three-dimensional structure of proteins and the development of monoclonal antibodies.

Over the years, the work of LMB scientists has attracted twelve Nobel prizes, many Royal Society awards and numerous other scientific honours.

The LMB building is a state-of-the-art laboratory facility, which was completed in 2012, it has a floor area of 32,700m² (GIA) and accommodates over 800 staff. It has specialist research facilities with a highly complex engineering system to enable the ground-breaking science and allow flexibility to support future scientific developments.

To support the scientific requirement, the LMB building has a vast amount of plant room areas, located within the energy centre, plant towers and interstitial floors. Complexity of the design of the engineering systems was demonstrated during the commissioning of the building, which took over 18 months to completely balance the system adequately for use by the scientists. The systems are still undergoing post-occupancy evaluations to ensure that resilience and efficiency requirements are all appropriately in place.

The facility houses laboratories that require in-depth specialist knowledge of their critical requirements to ensure appropriate standards are maintained. Areas are subject to specific legislative regulations, such as the HSE requirements for Containment Level 2 and 3 Laboratories, the Home Office requirements for licensed areas [under the Animals (Scientific Procedures) Act] for animal holding and experimentation, and Environment Agency requirements for facilities employing the use of radioisotopes. In the case of the Animal facilities, if their environmental requirements cannot be maintained, the facilities would be closed by the Home Office.

These and other facilities, such as the laboratories containing the Krios electron microscopes, mass spectrometers and nuclear magnetic resonance equipment have very specific and stringent operational requirements including tightly controlled environmental conditions (temperature, humidity, pressure control, air change rates, lighting levels etc) whilst needing to be kept free from sources of vibration, noise and electro-magnetic interference.

Such specialist laboratory areas are highly sensitive to any deviation from the established norm for their environment and changes can not only have devastating consequences for the research carried out, but for the safety of staff working in the vicinity of these rooms.

The LMB manages a separate animal facility (**ARES**) 6,715m² which is located on the Babraham Institute facility just outside of Cambridge. The ARES building is a successful fully automated animal facility that provides genetically modified mice and other rodent species for research at the LMB.

The whole building is operated under strict Home Office guidelines and has maintained an excellent working relationship with the Home Office based on an exceptional record of maintaining control of the building environment.

The MRC have determined that the ARES building's control systems represents a business-critical facility due to the risk to life safety and scientific operations should the systems not be well maintained, and reactive repairs not be immediately addressed. It should be noted that the criticality of environmental controls at ARES is also governed by Home Office & HSE requirements and Government Legislation for both COSHH and the Animal (Scientific Protection) Act – ASPA.

LMB has highly trained technicians as part of the Estate's & Facilities (E&F) team who have an intrinsic and detailed understanding of the environmental / scientific requirements of the Institute and the complex engineering systems of the ARES and LMB facilities.

The LMB also has 3 domestic rental properties available for staff accommodation and a small off-site NMR (Nuclear Magnetic Resonance) facility, housed in the **MRS** building which are included as part of the LMB's estate.

3. Site Tour

Given the nature of this requirement and the sites upon which any successful Contractor would be working, we are highly recommending that any interested supplier takes up the opportunity to attend a site tour during the tender timescales.

If you wish to request a site tour, please ensure that this is done via the messaging function in the eSourcing Portal. Once the proposed date and time has been confirmed with the Client, we will confirm this back to you. Please note the supplier will be limited to a maximum of 3 people.

4. Scope of Services

The LMB require a Contractor to be responsible for the delivery of small works across the LMB's estate. The typical spend under this Contract is estimated between £800k - £1.1M per annum. This is dependent upon required repairs, maintenance and project pipeline. This is an estimated forecast spend only and no adjustments will be allowed from tendered rates in the event that the stated forecast spend is not as estimated.

It is expected that the scope of works within this bundle will be made up of approximately 70% project and 30% maintenance repair works. It is expected that no single work instruction will exceed £50,000 in value.

Mobilisation costs are paid by the Contractor. Mobilisation costs should include as a minimum any start-up costs, IT, project management software systems, contract training etc. These costs are not fees, and if not required or delivered, not charged at the Clients discretion. These costs will be evaluated within the commercial evaluation, and the management implementation will be evaluated in the quality evaluation.

The Contractor should note that other works at the Establishment might be executed concurrently with this Agreement. No undertaking is given that all construction, alterations or maintenance work will be allocated under this Agreement, and the Client reserves the right at all times to make other arrangements. In particular, the Medical Research Council intends to enter into a separate framework agreement for Sustainability Construction Works required to meet its Net Zero target. Such works such remain outside the scope of this agreement and is not included in this scope or estimated spend.

Nothing in this Agreement shall imply that the Client will make available during the term of the Agreement, a continuity of work for a particular trade or number of trades, but they will endeavour to arrange task orders to provide the maximum continuity of work commensurate with the operational requirements of the Establishment. The Contractor is responsible for fully considering, planning and delivering services with awareness of any other site activity including construction etc.

The works will be priced using agreed schedule of rates, negotiated price or through open book approach with the Contractor. The objective of the Agreement is to jointly achieve the best outcome in both price, quality and delivery.

When requested, the Contractor shall provide firm price quotations in the form of priced measured quantities outlining the full scope of work included within the quotations. Any costs associated with the preparation of the quotations shall be deemed included in the price.

5. General Description of Works

The small works will include day-to-day repair tasks for building fabric items (both internal and external) mechanical and electrical repairs, hard landscaping repair works and small works installation projects that may be in laboratory, office or domestic settings. There will also some limited servicing attendances required to ensure that items of building fabric and M&E systems remain in good working order. All works required to be carried out within the LMB & ARES laboratory facilities must adhere to the building specifications as set out in appendices A, B and C using the same materials as already employed to maintain the quality and fidelity of the installations.

Small works installations undertaken in the LMB's facilities can be very specialist in nature with regards to their technologies, plant, materials etc. It must also be understood that installation works need to take account of the sensitivity of the site and the science that the building is supporting. The small works Contractor is required to have a robust understanding of laboratory facilities and their environmental and other sensitivities. Great care needs to be taken to ensure that works do not adversely affect scientific operations and this can only be achieved by working closely with the LMB E&F team.

It should therefore be noted that depending on the specific circumstances of certain works requirements, they may not be covered under the specifications and would require separate design, project plans / programmes and out-of-hours working that would lead to pricing variations outside of those set-out in the tender returns / specification pricing.

All works undertaken within the LMB and Ares facilities must meet the manufacturer's and installer's recommendations (whilst taking account of any supplementary needs that arise from the as-built environment) and must ensure strict compliance with all statutory/legal and mandatory obligations.

Fitness for purpose: works on the laboratory and animal facilities are more expensive than in a general office/admin area or similar estates types. This tends to be influenced by the complex mechanical and electrical engineering involved and due to the difficulties to carry out works whilst maintaining full operation of the science, which is sensitive to noise, vibration, dust, etc. Value for money in this sense is the minimum disruption to research, which often requires a more specialist solution for the works.

5.1. Legal Requirements

Without prejudice to the generality of the foregoing the Contractor must observe, perform and comply with all the relevant provisions of the following together with any amendments thereto alongside all other statutory requirements that apply to building maintenance operations and the tasks required to be undertaken to fulfil the scope of service:

- Workplace (Health, Safety and Welfare) Regulations 1992 (WHSWR)
- Management of Health and Safety at Work Regulations 1999 (MHSWR)
- Health and Safety at Work Act 1974 (HASAWA)
- The Control of Asbestos Regulations 2012
- Personal Protective Equipment (PPE) Regulations 1992
- Provision and Use of Work Equipment Regulations (PUWER) 1998
- Manual Handling Operations Regulations 1992
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)
- The Control of Noise at Work Regulations 2005
- Electricity at Work Regulations 1989
- Requirements for Electrical Installations: BS 7671:2018 - Requirements for Electrical Installations, IET Wiring Regulations (New 18th Edition) 2018
- Control of Substances Hazardous to Health Regulations 2002 (COSHH)
- Construction (Design & Management) Regulations 2015
- The Gas Safety (Installation & Use) Regulations 1998
- Lifting Operations & Lifting Equipment Regulations 1998 (LOLER)
- The Environmental Protection Act 1990
- The Regulatory Reform (Fire Safety) Order 2005 (RRO)
- The Control of Legionella Bacteria in Water Systems ACOP & Guidance L8
- The Notifications of Cooling Towers and Evaporative Condensers Regulations 1992
- Pressure Systems Safety Regulations 2000 (PSSR)
- F-Gas Regulations 2015

5.2. Building specifications are as follows: T

Appendix C: The New LMB Building NBS specification

Appendix D: The New LMB Building Project Mechanical specification

Appendix E: The New LMB Building Project Electrical specification

5.3. Detailed quotations are required for:

Appendix B Minor Works Example Scenario - Minor Services shell fit out - 1S001 modifications

An example of the type of work required to be delivered under this minor works contract is captured in Appendix B. The bidder is required to undertake a pricing exercise for the delivery of these works in accordance with the building specifications as set-out in appendices C-E. The pricing exercise should set out the cost for the delivery of the scheme as set out in the BOQs and include percentage management fees and any overheads or additional charges that would apply.

5.4. Site attendance:

The Contract or must provide sufficient multi-skilled resource ("Site Lead") on-site full time within the core hours of 8:00 to 16:00. The minimum skillsets required for the "Site Lead" are listed within the document Appendix F.

MRC envisages that would be one full-time multi-skilled resource to meet the "Site Lead" requirement but may agree an alternative delivery arrangement with the Contractor if it meets the needs of the Client.

The "Site Lead" shall also be the main point of liaison between MRC E&F management and the appointed Contractor.

The MRC reserve the right to request that this "Site Lead" should be replaced if performance is considered to be unsatisfactory.

5.5. Minor works attendances:

The "Site Lead" will be expected to deliver the following types of activities on a day-to-day basis, as required by the E&F management. This list includes, but is not limited to

- General building repairs
- Decorating
- Door repairs
- Sourcing/procurement of materials
- Laboratory shelf and bench installations
- Lock repairs
- Partitioning
- Glazing repairs or maintenance
- Vinyl floor repairs
- Sub-contractor management
- Using MRC job booking systems for work streams
- Client liaison and reporting
- Stock management
- Furniture repairs
- Tiling

In addition to this, the Site Lead will be responsible for coordinating the delivery of any mechanical, electrical or other specialist resource needed to fulfil the minor works contract requirements which may include:

- Lab gas installation

- Lab gas maintenance
- General M&E works
- Electrical testing

5.6. Resource:

The main supplier is required to ensure the availability of additional resource to ensure that works instructions and any routine maintenance requirements are not unreasonably delayed particularly when specialist project works are being undertaken. All resource must be available within a reasonable time to hit client target dates.

5.7. Mobilisation

During a period from three months before contract start date, by appointment, the site will be available to the Contractor for additional surveys to familiarise themselves and their teams with the equipment, assets and systems that they will be responsible for maintaining through the duration of the Contract.

All relevant site-specific risk assessments and method statements must be issued for review by the client during this mobilisation period

5.8. Operating hours

The LMB facility is operational 24/7 365, but service support staff are only available on site between the core hours of 8am and 4pm (Mon-Fri). Consequently, all visits must be undertaken within these core hours unless specific alternative arrangements have been agreed in advance with the Client. Service visits outside core hours would typically be acceptable to the Client if there was a business impact that could be reduced by maintenance activities being undertaken outside of these core periods.

The Ares facility is staffed from 8am to 3.45pm Mon-Fri only and all maintenance activities must be undertaken and completed within these periods.

Subcontractors attempting to gain access to the sites outside of these periods may be restricted from entering the sites by security personnel.

5.9. Site Access

All attendances for scheduled works or remedial works must be confirmed to the Client via email no later than 5 working days prior to the planned attendance on site.

Details must be provided of the members of sub-contracted staff who will be attending to undertake the work alongside any supplementary Risk Assessments or Method Statements that have not previously been issued (see point 9). This will allow Client checks to be completed in advance of the visit and to arrange clearance with LMB and Babraham Security teams.

Contractors must undergo a site-specific induction on their first visit to site and may be required to have periodic refresher inductions as deemed necessary by the Client.

For Ares, details will also need to be provided regarding whether contractors will require access to the main laboratory facility (the barrier) to undertake their duties as this will result in additional checks / clearances being required.

On the day of the visit itself, as well as reporting to LMB or Ares Security/ Reception to arrange for inductions/visitor passes etc to be completed, it is imperative that contractors report to one of the MRC's Service Coordinators prior to any work being initiated to discuss the work methodology, arrange any required permits and to arrange a member of the E&F Team as liaison for any supervision or assistance required to ensure the works are appropriately managed and have minimal impact on the facilities' operations.

Once works are completed for the day, contractors must not depart without having discussed the progress or outcome of their visit with one of the MRC's Service Coordinators. Reports must be signed by a Service Coordinator or an MRC nominated deputy to ensure that key information about the activities is transferred between contractor and Client at the earliest opportunity. As a consequence of this, it is reiterated that site supervision finishes at 4pm and good time must be allowed for service report sign off and discussions.

Reception and Security staff are not permitted to sign-off contractor service sheets on behalf of the MRC.

It should be noted that the MRC reserve the right to restrict unsupervised access to the facilities and undertake supplementary security screening checks if the MRC's security risk assessment deems it necessary.

The MRC will provide the "Site Lead" with a workspace where day to day works can be undertaken.

5.10. Visits and Reports

Installations / modifications must be completed within the agreed timescale.

5.11. H&S Requirements

As part of the Contract, the Contractor is required to introduce, implement and utilise all the necessary procedures, method statements, risk assessments and health and safety training to ensure that works are undertaken in a safe manner.

The Client will require the Contractor to provide evidence of such compliance as appropriate during the contract period. As previously stated, as part of the mobilisation, site surveys should be undertaken to ensure that site specific method statements and risk assessments are generated that take account of all relevant site conditions. Risk assessments and method statements associated with the works should be issued to the Client no later than 48 hours prior to the works being undertaken. Where risk assessments and method statements are not provided in accordance with the above, works will not be permitted.

The Contractor must be aware that within the LMB, Ares and MRS buildings certain designated laboratories use materials that present chemical, biological and ionising radiation hazards. Access to these areas is not permitted unless under the strict supervision of LMB staff and potentially only after specialist supplementary inductions have been completed.

Areas operating at ACDP Containment Level 2 / 3 or using ionising radiation are clearly signed on the outside of the laboratory.

5.12. Welfare Facilities

Contractors shall have full use of MRC welfare facilities in the building through the duration of their site visit. Accessible toilets are available throughout the facilities and a restaurant facility is available on Level 4 of the LMB Building. Both Addenbrooke's and Babraham sites also have dedicated restaurants that serve a variety of hot and cold food. It is important to ensure that these facilities are not abused by the Contractor in any way; any dirty overalls or work-boots are to be removed / cleaned before using the canteen.

5.13. Site Restrictions

Noise: Comply generally with BS 5228. Do not use pneumatic drills and other noisy appliances without consent of the MRC E&F Manager / Services Co-ordinator.

Do not use or permit employees to use radios or other electronic equipment at any time. General ISV's and plant spaces must be kept secure and locked on entry and locked on exit. Photography is not permitted other than for the specific requirements of fulfilling the contract duties.

Smoking is only permitted in designated external areas.

Contractors must wear appropriate visitor ID when on-site so that individuals can be identified by members of the Security team when working unsupervised in plant areas

5.14. Materials and Goods

All materials, consumables and goods used in the maintenance of the equipment/ assets must conform to any relevant BS: EN standards and must be of a quality standard no less than that currently used in the operation of the equipment, plant or system.

5.15. Workmanship

It is implicit that all works must be carried out in a professional workmanlike manner by appropriately trained, competent personnel. The Client reserves the right to reject work that is considered to be defective. Working areas must be kept tidy and in good order. Any rubbish, litter or waste generated by the works must be appropriately disposed of prior to leaving the site.

5.16. Minimising Business Disruption

The Contractor must take all the necessary precautions to avoid any disruption to the Client's business operations, including through noise control, whilst carrying out the works. Where activities require shut-down of plant, particularly where they have a greater impact on overall system control, in order for the items to be appropriately maintained, this must be arranged through liaison with the Client's on-site supervisor and notification of this disruption must be provided in good time and in advance of the visit

5.17. Energy Efficiency and Performance Optimisation

Contractors are expected to highlight to the Client where items of plant are operating in an energy inefficient manner or outside of optimal performance specifications and suggest methodologies that could be used to increase the efficiency of operation.

5.18. Innovation

MRC welcomes innovative ideas from its FM providers, MRC Estates & Facilities are always striving to make improvements to our systems, processes, methodologies and will listen to any suggestions made for possible improvements. The MRC Laboratory of Molecular Biology is a world-class research laboratory that continues to seek continuous improvement not only in Science but also in FM operational effectiveness.

5.19. Warranties

All contractors supplied new or replacement parts and remedial works should be warranted for 12 months from the period of installation.

5.20. Billing

Monthly as stated in tender documentation.

5.21. Contract Meetings

The Contractor should allow for quarterly contract review meetings by Senior management staff as part of their duties to the Client. These review meetings will allow a performance review to be undertaken taking into account performance against agreed KPIs and for any specific issues that arise as part of contract delivery to be discussed and resolved.

5.22. Equipment

Any equipment / tools / steps / lifting equipment etc., required by the Contractor to undertake the works, must be deemed "safe and appropriate for use" and comply with the relevant legal requirements.

5.23. Spares

Prior to contract start-on-site, the Contractor is required to provide the Client with a list of recommended "on-site" spares that should be held by the Client for the assets covered under the service contract. Further to this, the Contractor must then attend site and, in conjunction with the Client, review the available on-site spares to generate a spares inventory list, identifying any shortfall in suggested spares items. A quote should then be generated for any additional items that may be required so that these can be made available on site prior to contract start.

5.24. Environment and Sustainability

Where possible and where there is no detrimental effect on material performance Contractor's should use environmentally friendly products and consumables. Unless specifically agreed with the MRC, Contractors are responsible for the correct disposal of waste generated as part of the works / attendances. All waste should be appropriately disposed of in line with current waste legislation.

5.25. KPI's

The Contractor warrants that the specification as described above shall be met through the delivery of the contract. In order to assist in the monitoring of Contractor performance against the contract specification, the following “key performance indicators” (KPIs) will be objectively measured by the Client to provide an ongoing assessment of contract delivery.

In addition to the regular Contract Management meetings, the Client will initiate a contract review meeting if they have concerns about KPI's not being met. Failure to meet these KPI's could potentially lead to the termination of the contract.

- a. Visits to be confirmed with the Client 7 days in advance before engineers attend.
- b. RAM's to be sent 24 hours before site visit (unless previously supplied RAM's are applicable).
- c. It is the Contractor's responsibility to ensure that engineers that are sent to the MRC sites (after the initial site familiarisation has been undertaken) are familiar with the sites, so there needs to be a handover if staff is leaving etc.
- d. The site (area where has been undertaken) to be left clean and tidy.
- e. Contractors to report to Estates & Facilities Services Coordinator before leaving site.
- f. 12-month warranty/guarantee of work carried out and parts.
- g. All project timescales are to be agreed and met by the Contractor, unless the client agrees that reasonable notice is given for any delay
- h. Project plans are to be provided to the client for approval for any works exceeding a duration of 2 weeks
- i. All equipment or access equipment to be provided by the Contractor
- j. Alongside any monthly invoicing, the main Contractor must provide a transparent cost breakdown of all subcontracted services, including separate project breakdown (as required by the client).



**UK Research
and Innovation**

SCHEDULE OF AMENDMENTS TO NEC4 TERM SERVICE CONTRACT

UKRI-2076 Minor Works



Option Z1 - Identified and defined terms

Insert new clause 11.3 additional defined terms.

11.3 (1) Client Confidential Information is all Personal Data and any information; however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and contractors of the *Client*, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential.

11.3 (2) Client Data is the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and

- which are supplied to the *Contractor* by or on behalf of the *Client*,
- which the *Contractor* is required to generate, process, store or transmit pursuant to this contract or
- which are any Personal Data for which the *Client* is the Data Controller to the extent that such Personal Data is held or processed by the Contractor.

11 (3) Commercially Sensitive Information is the information agreed between the Parties (if any) comprising the information of a commercially sensitive nature relating to the *Contractor*, the charges for the works, its IPR or its business or which the *Contractor* has indicated to the *Client* that, if disclosed by the *Client*, would cause the *Contractor* significant commercial disadvantage or material financial loss.

11.3 (4) Confidential Information is the Client's Confidential Information and/or the Contractor's Confidential Information.

11.3 (5) Contracting Body is any Contracting Body as defined in Regulation 5(2) of the Public Contracts (Services, Service and Supply) (Amendment) Regulations 2000 other than the Client.

11.3 (6) Contractor's Confidential Information is any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and contractors of the *Contractor*, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including the Commercially Sensitive Information.

11.3 (7) Crown Body is any department, office or agency of the Crown.

11.3 (8) Data Controller has the meaning given to it in the Data Protection Act 2018.

11.3 (9) DOTAS is the Disclosure of Tax avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

11.3 (10) Environmental Information Regulations is the Environmental Information Regulations 2004, or if applicable, the Environmental Information Regulations (Scotland) (2004), and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.

11.3(11) FOIA is the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

11.3 (12) General Anti-Abuse Rule is

- the legislation in Part 5 of the Finance Act 2013 and
- any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements and to avoid national insurance contributions.

11.3 (13) Halifax Abuse Principle is the principle explained in the CJEU Case C-255/02 Halifax and others.

11.3 (14) Intellectual Property Rights or "IPRs" is

- copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information,
- applications for registration, and the right to apply for registration, for any of the rights listed in the first bullet point that are capable of being registered in any country or jurisdiction,
- all other rights having equivalent or similar effect in any country or jurisdiction and
- all or any goodwill relating or attached thereto.

11.3 (15) Law is any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972 and section 4 of the European Union (Withdrawal Act 2018), regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the *Contractor* is bound to comply under the *law of*

the contract.

11.3(16) An Occasion of Tax Non-Compliance is

- where any tax return of the *Contractor* submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of
- a Relevant Tax Authority successfully challenging the *Contractor* under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle or
- the failure of an avoidance scheme which the *Contractor* was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime and

where any tax return of the *Contractor* submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Contract Date or to a civil penalty for fraud or evasion.

11.3(17) Personal Data has the meaning given to it in the Data Protection Act 2018.

11.3 (18) Prohibited Act is

- to directly or indirectly offer, promise or give any person working for or engaged by the *Client* or other Contracting Body or any other public body a financial or other advantage to
 - induce that person to perform improperly a relevant function or activity or
 - reward that person for improper performance of a relevant function or activity,
- to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this contract,
- committing any offence
 - under the Bribery Act 2010 (or any legislation repealed or revoked by such Act),
 - under legislation or common law concerning fraudulent acts or
 - defrauding, attempting to defraud or conspiring to defraud the *Client* or
- any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.

11.3 (19) Request for Information is a request for information or an apparent request under the Code of Practice on Access to government Information, FOIA or the Environmental Information Regulations.



11.3 (20) Relevant Requirements are all applicable Laws relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

11.3 (21) Relevant Tax Authority is HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the *Contractor* is established.

11.3 (22) Security Policy means the *Client's* security policy attached as Appendix 1 to Contract Schedule A (Security Provisions) as may be updated from time to time.

Option Z2 - Admittance to site

Insert new clause 19A:

19A.1 The *Contractor* submits to the *Service Manager* details of people who are to be employed by it and its Subcontractors in Providing the Services. The details include a list of names and addresses, the capabilities in which they are employed, and other information required by the *Service Manager*.

19A.2 The *Service Manager* may instruct the *Contractor* to take measures to prevent unauthorised persons being admitted to the Affected Property.

19A.3 Employees of the *Contractor* and its Subcontractors are to carry a *Client's* pass and comply with all conduct requirements from the *Client* whilst they are on the parts of the Affected Property identified in the Scope.

19A.4 The *Contractor* submits to the *Service Manager* for acceptance a list of the names of the people for whom passes are required. On acceptance, the *Service Manager* issues the passes to the *Contractor*. Each pass is returned to the *Service Manager* when the person no longer requires access to that part of the Affected Property or after the *Service Manager* has given notice that the person is not to be admitted to the Affected Property.

19A.5 The *Contractor* does not take photographs of the Affected Property or of work carried out in connection with the *works* unless it has obtained the acceptance of the *Service Manager*.

19A.6 The *Contractor* takes the measures needed to prevent its and its Subcontractors' people taking, publishing or otherwise circulating such photographs.

Option Z3 - Prevention of fraud and bribery

Insert new clauses:

18.4.1 The *Contractor* represents and warrants that neither it, nor to the best of its knowledge any of its people, have at any time prior to the Contract Date

- committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act or
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

18.4.2 During the carrying out of the *works* the *Contractor* does not

- commit a Prohibited Act and
- do or suffer anything to be done which would cause the *Client* or any of the *Client's*

employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

18.4.3 In Providing the Services the *Contractor*

- establishes, maintains and enforces, and requires that its Subcontractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act,
- keeps appropriate records of its compliance with this contract and make such records available to the *Client* on request and
- provides and maintains and where appropriate enforces an anti-bribery policy (which shall be disclosed to the *Client* on request) to prevent it and any *Contractor's* people or any person acting on the *Contractor's* behalf from committing a Prohibited Act.

18.4.4 The *Contractor* immediately notifies the *Client* in writing if it becomes aware of any breach of clause 18.4.1, or has reason to believe that it has or any of its people or Subcontractors have

- been subject to an investigation or prosecution which relates to an alleged Prohibited Act,
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act or
- received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this contract or otherwise suspects that any person or party directly or indirectly connected with this contract has committed or attempted to commit a Prohibited Act.

18.4.5 If the *Contractor* makes a notification to the *Client* pursuant to clause 18.4.4, the *Contractor* responds promptly to the *Client's* enquiries, co-operates with any investigation, and allows the *Client* to audit any books, records and/or any other relevant documentation in accordance with this contract.

18.4.6 If the *Contractor* breaches Clause 18.4.3, the *Client* may by notice require the *Contractor* to remove from carrying out the *works* any person whose acts or omissions have caused the *Contractor's* breach.

Option Z4 - Legislation

Insert new clauses:

20.5 The *Contractor* complies with all Law as updated in the carrying out of the *works*.

Option Z5 - Freedom of information

Insert new clauses:

29.3 The *Contractor* acknowledges that unless the *Service Manager* has notified the *Contractor* that the *Client* is exempt from the provisions of the FOIA, the *Client* is subject to the requirements of the Code of Practice on Government Information, the FOIA and the Environmental Information Regulations. The *Contractor* cooperates with and assists the *Client* so as to enable the *Client* to comply with its information disclosure obligations.

29.4 The *Contractor*

- transfers to the *Service Manager* all Requests for Information that it receives as soon as practicable and in any event within two working days of receiving a Request for Information,
- provides the *Service Manager* with a copy of all information in its possession, or power in the form that the *Service Manager* requires within five working days (or such other period as the *Service Manager* may specify) of the *Service Manager's* request,
- provides all necessary assistance as reasonably requested by the *Service Manager* to enable the *Client* to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations and
- procures that its Subcontractors do likewise.

29.5 The *Client* is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

29.6 The *Contractor* does not respond directly to a Request for Information unless authorised to do so by the *Service Manager*.

29.7 The *Contractor* acknowledges that the *Client* may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of information Act 2000, be obliged to disclose information without consulting or obtaining consent from the *Contractor* or despite the *Contractor* having expressed negative views when consulted.

29.8 The *Contractor* ensures that all information is retained for disclosure throughout the *period for retention* and permits the *Service Manager* to inspect such records as and when reasonably requested from time to time.

Option Z6 - Confidentiality and Information Sharing

Insert a new clause

29.9 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this contract, each Party shall

- treat the other Party's Confidential Information as confidential and safeguard it accordingly,
- not disclose the other Party's Confidential Information to any other person without prior written consent,
- immediately notify the other Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information and
- notify the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

29.10 The clause above shall not apply to the extent that

- such disclosure is a requirement of the Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause Z5 (Freedom of Information),
- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner,
- such information was obtained from a third party without obligation of confidentiality,
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this contract or
- it is independently developed without access to the other party's Confidential Information.

29.11 The *Contractor* may only disclose the *Client's* Confidential Information to the people who are directly involved in Providing the Services and who need to know the information and shall ensure that such people are aware of and shall comply with these obligations as to confidentiality.

The *Contractor* shall not, and shall procure that the *Contractor's* people do not, use any of the Client Confidential Information received otherwise than for the purposes of this contract.

29.12 The *Contractor* may only disclose the Client Confidential Information to *Contractor's* people who need to know the information, and shall ensure that such people are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality. In the event that any default, act or omission of any *Contractor's* people causes or contributes (or could cause or contribute) to the *Contractor* breaching its obligations as to confidentiality under or in connection with this contract, the *Contractor* shall take such action as may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any *Contractor's* people, the *Contractor* shall provide such evidence to the *Client* as the *Client* may reasonably require (though not so as to risk compromising or prejudicing the case) to demonstrate that the *Contractor* is taking appropriate steps to comply with this clause, including copies of any written communications to and/or from *Contractor's* people, and any minutes of meetings and any other records which provide an audit trail of any discussions or exchanges with *Contractor's* people in connection with obligations as to confidentiality.

29.13 At the written request of the *Client*, the *Contractor* shall procure that those members of the *Contractor's* people identified in the *Client's* request signs a confidentiality undertaking prior to commencing any work in accordance with this contract.

29.14 Nothing in this contract shall prevent the *Client* from disclosing the *Contractor's* Confidential Information

- to any Crown Body or any other Contracting Bodies. All Crown Bodies or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Body,
- to a professional adviser, contractor, consultant, supplier or other person engaged by the *Client* or any Crown Body (including any benchmarking organisation) for any purpose connected with this contract, or any person conducting an Office of Government Commerce Gateway Review,
- for the purpose of the examination and certification of the *Client's* accounts,
- for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Client* has used its resources,
- for the purpose of the exercise of its rights under this contract or
- to a proposed successor body of the *Client* in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this contract,

and for the purposes of the foregoing, disclosure of the *Contractor's* Confidential Information shall



be on a confidential basis and subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the *Client* under this clause 29.14.

29.15 The *Client* shall use all reasonable endeavours to ensure that any government department, Contracting Body, people, third party or subcontractor to whom the *Contractor's* Confidential Information is disclosed pursuant to the above clause is made aware of the *Client's* obligations of confidentiality.

29.16 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

29.17 The *Client* may disclose the Confidential Information of the *Contractor*

- to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement,
- to the extent that the *Client* (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions,

Option Z7 - Security Requirements

The *Contractor* complies, and procures the compliance of the *Contractor's* people, with any Security Policy and arrangements made known by the Contracting Authority, and the Security Management Plan produced by the *Contractor* and the *Contractor* shall ensure that the Security Management Plan fully complies with the Security Policy and Contract Schedule A.

Option Z8 – Key Performance Indicators

Delete clause X20.4 and insert:

X20.4 The reference to incentive schedule and Key Performance Schedule are for the purposes of interpretation in the documents forming part of this contract the same.

X20.4(a). The Contractor is paid the price for services provided to date less the sum calculated for deduction by the KPI schedule in the Scope. The sum for deduction is assessed at the next assessment date following the Contractors reporting of the performance criteria. A sum deducted in error is included in the amount due at the next assessment date after it is agreed that the deduction was in error.

X20.4(b) If the Contractor fails to provide the key performance data required for the Service Managers assessment, the Service Manager assesses a deduction from the amount due for that assessment as the greater of:

- The deduction from the last assessment, or
- The Service Managers assessment of the deduction for the period, as notified to the Contractor



with supporting calculations.

Option Z9 - Tax Compliance

Insert new clauses:

29.18 The *Contractor* represents and warrants that at the Contract Date, it has notified the *Client* in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.

29.19 If, at any point prior to the *defects date*, an Occasion of Tax Non-Compliance occurs, the *Contractor* shall

- notify the *Client* in writing of such fact within 5 days of its occurrence and
- promptly provide to the *Client*
 - details of the steps which the *Contractor* is taking to address the Occasions of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant and
 - such other information in relation to the Occasion of Tax Non-Compliance as the *Client* may reasonably require.

29.20 The relationship between Client and the Contractor shall be that of “independent contractor” which means that the Contractor is not a Client employee, worker, agent or partner, and the Contractor shall not give the impression that they are. As this is not an employment Contract, the Contractor shall be fully responsible for all their own tax, including any national insurance contributions arising from carrying out the Services.

Option Z10 - Fair payment

Insert a new clause:

57.1 The *Contractor* assesses the amount due to a Subcontractor without taking into account the amount certified by the *Service Manager*.

57.2 The *Contractor* includes in the contract with each Subcontractor

- a period for payment of the amount due to the Subcontractor not greater than 5 days after the final date for payment in this contract. The amount due includes, but is not limited to, payment for work which the Subcontractor has completed from the previous assessment date up to the current assessment date in this contract,
- a provision requiring the Subcontractor to include in each subsubcontract the same requirement (including this requirement to flow down, except that the period for payment is to be not greater than 9 days after the final date for payment in this contract and
- a provision requiring the Subcontractor to assess the amount due to a subsubcontractor



without taking into account the amount paid by the *Contractor*.

Option Z11 - The Housing Grants, Construction and Regeneration Act 1996

Add an additional clause Y2.6

Y2.6

If Option Y(UK)2 is said to apply then notwithstanding that this contract relates to the carrying out of construction operations other than in England or Wales or Scotland, the Act is deemed to apply to this contract.

Option Z12 - Intellectual Property Rights

Delete clause 22 and insert the following clause

In this clause 22 only:

“Document” means all designs, drawings, specifications, software, electronic data, photographs, plans, surveys, reports, and all other documents and/or information prepared by or on behalf of the *Contractor* in relation to this contract.

22.1 The Intellectual Property Rights in all Documents prepared by or on behalf of the *Contractor* in relation to this contract and the work executed from them remains the property of the *Contractor*. The *Contractor* hereby grants to the *Client* an irrevocable, royalty free, non-exclusive licence to use and reproduce the Documents for any and all purposes connected with the construction, use, alterations or demolition of the *works*. Such licence entitles the *Client* to grant sub-licences to third parties in the same terms as this licence provided always that the *Contractor* shall not be liable to any licensee for any use of the Documents or the Intellectual Property Rights in the Documents for purposes other than those for which the same were originally prepared by or on behalf of the *Contractor*.

22.2 The *Client* may assign novate or otherwise transfer its rights and obligations under the licence granted pursuant to 22.1 to a Crown Body or to anybody (including any private sector body) which performs or carries on any functions and/or activities that previously had been performed and/or carried on by the *Client*.

22.3 In the event that the *Contractor* does not own the copyright or any Intellectual Property Rights in any Document the *Contractor* uses all reasonable endeavours to procure the right to grant such rights to the *Client* to use any such copyright or Intellectual Property Rights from any third party owner of the copyright or Intellectual Property Rights. In the event that the *Contractor* is unable to procure the right to grant to the *Client* in accordance with the foregoing the *Contractor* procures that the third party grants a direct licence to the *Client* on industry acceptable terms.

22.4 The *Contractor* waives any moral right to be identified as author of the Documents in accordance with section 77, Copyright Designs and Patents Acts 1988 and any right not to have the



Documents subjected to derogatory treatment in accordance with section 8 of that Act as against the *Client* or any licensee or assignee of the *Client*.

22.5 In the event that any act unauthorised by the *Client* infringes a moral right of the *Contractor* in relation to the Documents the *Contractor* undertakes, if the *Client* so requests and at the *Client's* expense, to institute proceedings for infringement of the moral rights.

22.6 The *Contractor* warrants to the *Client* that it has not granted and shall not (unless authorised by the *Client*) grant any rights to any third party to use or otherwise exploit the Documents.

22.7 The *Contractor* supplies copies of the Documents to the *Service Manager* and to the *Client's* other contractors and consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related works.

22.8 After the termination or conclusion of the *Contractor's* employment hereunder, the *Contractor* supplies the *Service Manager* with copies and/or computer discs of such of the Documents as the *Service Manager* may from time to time request and the *Client* pays the *Contractor's* reasonable costs for producing such copies or discs.

22.9 In carrying out the *works* the *Contractor* does not infringe any Intellectual Property Rights of any third party. The *Contractor* indemnifies the *Client* against claims, proceedings,



compensation and costs arising from an infringement or alleged infringement of the Intellectual Property Rights of any third party.

Option Z13 - Small and Medium Sized Enterprises (SMEs)

Insert new clause:

26.5

The *Contractor* is required to take all reasonable steps to engage SMEs as Subcontractors and to seek to ensure that no less than the SME percentage of Subcontractors stated in the Contract Data are SMEs or that a similar proportion of the Defined Cost is undertaken by SMEs.

The *Contractor* is required to report to the *Client* in its regular contract management monthly reporting cycle the numbers of SMEs engaged as Subcontractors and the value of the Defined Cost that has been undertaken by SMEs.

Where available, the *Contractor* is required to tender its Subcontracts using the same online electronic portal as was provided by the *Client* for the purposes of tendering this contract.

The *Contractor* is to ensure that the terms and conditions used to engage Subcontractors are no less favourable than those of this contract. A reason for the *Service Manager* not accepting subcontract documents proposed by the *Contractor* is that they are unduly disadvantageous to the Subcontractor.

Option Z14 - Apprenticeships

Insert new clause:

26.6

The *Contractor* takes all reasonable steps to employ apprentices, and reports to the *Client* the numbers of apprentices employed and the wider skills training provided, during the delivery of the *service*.

The *Contractor* takes all reasonable steps to ensure that no less than a percentage of its people (agreed between the Parties) are on formal apprenticeship programmes or that a similar proportion of hours worked in Providing the Services, (which may include support staff and Subcontractors) are provided by people on formal apprenticeship programmes.

The *Contractor* makes available to its people and Subcontractors working on the contract, information about the Government's Apprenticeship programme and wider skills opportunities.

The *Contractor* provides any further skills training opportunities that are appropriate for its people engaged in Providing the Services.

The *Contractor* provides a report detailing the following measures in its regular contract management monthly reporting cycle and is prepared to discuss apprenticeships at its regular meetings with the *Service Manager*

- the number of people during the reporting period employed on the contract, including support staff and Subcontractors,
- the number of apprentices and number of new starts on apprenticeships directly initiated through this contract,
- the percentage of all people taking part in an apprenticeship programme,
- if applicable, an explanation from the *Contractor* as to why it is not managing to meet the specified percentage target,
- actions being taken to improve the take up of apprenticeships and
- other training/skills development being undertaken by people in relation to this contract, including:
 - (a) work experience placements for 14 to 16 year olds,
 - (b) work experience /work trial placements for other ages,
 - (c) student sandwich/gap year placements,
 - (d) graduate placements,
 - (e) vocational training,
 - (f) basic skills training and
 - (g) on site training provision/ facilities.

SCHEDULE A

1. CONTRACT SCHEDULE A - SECURITY PROVISIONS

1.1 Definitions

For the purposes of this schedule the following terms shall have the meanings given below:

"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
"Breach of Security"	in accordance with the Security Requirements and the Security Policy, the occurrence of: <ul style="list-style-type: none"> (a) any unauthorised access to or use of the works the Client Premises, the Affected Properties, the Contractor System and/or any ICT, information or data (including the Confidential Information and the Client Data) used by the <i>Client</i> and/or the <i>Contractor</i> in connection with this contract; and/or (b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Client Data), including any copies of such information or data, used by the <i>Client</i> and/or the <i>Contractor</i> in connection with this contract.
"Clearance"	means national security clearance and employment checks undertaken by and/or obtained from the Defence Vetting Agency;
"Contractor Equipment"	the hardware, computer and telecoms devices and equipment supplied by the <i>Contractor</i> or its Subcontractors (but not hired, leased or loaned from the <i>Client</i>) for the carrying out of the <i>works</i> ;
"Contractor Software"	software which is proprietary to the <i>Contractor</i> , including software which is or will be used by the <i>Contractor</i> for the purposes of carrying out of the <i>works</i> ;
"Contractor System"	the information and communications technology system used by the <i>Contractor</i> in carrying out of the <i>works</i> including the Software, the <i>Contractor</i> Equipment and related cabling (but excluding the Client System);
"Control"	means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management

	and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and "Controls" and "Controlled" shall be interpreted accordingly;
"Default"	any breach of the obligations of the relevant party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant party, its employees, servants, agents or Sub contractors in connection with or in relation to the subject-matter of this contract and in respect of which such party is liable to the other;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in this contract (if any) or as agreed between the parties;
"Client Premises"	means premises owned, controlled or occupied by the <i>Client</i> or its Affiliates which are made available for use by the <i>Contractor</i> or its Subcontractors for carrying out of the <i>works</i> (or any of them) on the terms set out in this contract or any separate agreement or licence;
"Client System"	the <i>Client's</i> computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the <i>Client</i> or the <i>Contractor</i> in connection with this contract which is owned by or licensed to the <i>Client</i> by a third party and which interfaces with the <i>Contractor</i> System or which is necessary for the <i>Client</i> to receive the <i>works</i> ;
"Environmental Information Regulations"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;
"Good Industry Practice"	the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector;
"ICT"	information and communications technology;
"ICT Environment"	the Client System and the <i>Contractor</i> System;
"Impact Assessment"	an assessment of a Compensation Event;

"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Information Assets Register"	the register of information assets to be created and maintained by the <i>Contractor</i> throughout the carrying out of the <i>works</i> as described in the contract (if any) or as otherwise agreed between the parties;
"ISMS"	the Information Security Management System as defined by ISO/IEC 27001. The scope of the ISMS will be as agreed by the parties and will directly reflect the scope of the <i>works</i> ;
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the <i>works</i> but excluding know how already in the <i>Contractor's</i> or the <i>Client's</i> possession before this contract;
"List x"	means, in relation to a Subcontractor, one who has been placed on List x in accordance with Ministry of Defence guidelines and procedures, due to that Sub contractor undertaking work on its premises marked as CONFIDENTIAL or above;
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
"Process"	has the meaning given to it under the Data Protection Legislation but, for the purposes of this contract, it shall include both manual and automatic processing;
"Protectively Marked"	shall have the meaning as set out in the Security Policy Framework.
"Regulatory Bodies"	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this contract or any other affairs of the <i>Client</i> and "Regulatory Body" shall be construed accordingly;
"Request for Information"	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;

"Security Management Plan"	the <i>Contractor's</i> security plan prepared pursuant to paragraph 1.5.3 of schedule J (Security Management Plan) an outline of which is set out in Appendix 1 of schedule J (Security Management Plan);
"Security Policy Framework"	means the Cabinet Office Security Policy Framework (available from the Cabinet Office Security Policy Division);
"Security Requirements"	means the requirements in the contract relating to security of the carrying out of the <i>works</i> (if any) or such other requirements as the <i>Client</i> may notify to the <i>Contractor</i> from time to time
"Security Tests"	shall have the meaning set out in Appendix 2 (Security Management Plan) [Guidance: define "Security Tests" in Security Management Plan]
"Software"	Specially Written Software, <i>Contractor</i> Software and Third Party Software;
"Specially Written Software"	any software created by the <i>Contractor</i> (or by a third party on behalf of the <i>Contractor</i>) specifically for the purposes of this contract;
"Staff Vetting Procedures"	the <i>Client's</i> procedures and departmental policies for the vetting of personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures, including, but not limited to, the provisions of the Official Secrets Act 1911 to 1989;
"Statement of Applicability"	shall have the meaning set out in ISO/IEC 27001 and as agreed by the parties during the procurement phase;
"Standards"	the British or international standards, <i>Client's</i> internal policies and procedures, Government codes of practice and guidance together with any other specified policies or procedures referred to in this contract (if any) or as otherwise agreed by the parties;
"Third Party Software"	software which is proprietary to any third party other than an Affiliate of the <i>Contractor</i> which is or will be used by the <i>Contractor</i> for the purposes of carrying out of the <i>works</i> ; and

1.2 Introduction

1.2.1 This schedule covers:

- 1.2.1.1 principles of protective security to be applied in carrying out of the *works*;
- 1.2.1.2 wider aspects of security relating to carrying out of the *works*;
- 1.2.1.3 the development, implementation, operation, maintenance and continual improvement of an ISMS;
- 1.2.1.4 the creation and maintenance of the Security Management Plan;
- 1.2.1.5 audit and testing of ISMS compliance with the Security Requirements;
- 1.2.1.6 conformance to ISO/IEC 27001 (Information Security Requirements Specification) and ISO/IEC27002 (Information Security Code of Practice) and;
- 1.2.1.7 obligations in the event of actual, potential or attempted breaches of security.

1.3 Principles of Security

- 1.3.1 The *Contractor* acknowledges that the *Client* places great emphasis on the confidentiality, integrity and availability of information and consequently on the security provided by the ISMS.
- 1.3.2 The *Contractor* shall be responsible for the effective performance of the ISMS and shall at all times provide a level of security which:
 - 1.3.2.1 is in accordance with Good Industry Practice, the *law of the contract* and this contract;
 - 1.3.2.2 complies with the Security Policy;
 - 1.3.2.3 complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4) available from the Cabinet Office Security Policy Division (COSPD);
 - 1.3.2.4 meets any specific security threats to the ISMS; and
 - 1.3.2.5 complies with ISO/IEC27001 and ISO/IEC27002 in accordance with paragraph 1.3.2 of this schedule;
 - 1.3.2.6 complies with the Security Requirements; and
 - 1.3.2.7 complies with the *Client's* ICT standards.
- 1.3.3 The references to standards, guidance and policies set out in paragraph 1.3.2.2 shall be deemed to be references to such items as developed and

updated and to any successor to or replacement for such standards, guidance and policies, from time to time.

- 1.3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the *Contractor* gives an early warning to the *Service Manager* of such inconsistency immediately upon becoming aware of the same, and the *Service Manager* shall, as soon as practicable, advise the *Contractor* which provision the *Contractor* shall be required to comply with.

1.4 ISMS and Security Management Plan

1.4.1 Introduction:

- (i) The *Contractor* shall develop, implement, operate, maintain and continuously improve and maintain an ISMS which will, without prejudice to paragraph 1.3.2, be accepted, by the *Service Manager*, tested in accordance with the provisions relating to testing as set out in the contract (if any) or as otherwise agreed between the Parties, periodically updated and audited in accordance with ISO/IEC 27001.

1.4.1.1 The *Contractor* shall develop and maintain a Security Management Plan in accordance with this Schedule to apply during the carrying out of the *works*.

1.4.1.2 The *Contractor* shall comply with its obligations set out in the Security Management Plan.

1.4.1.3 Both the ISMS and the Security Management Plan shall, unless otherwise specified by the *Client*, aim to protect all aspects of the *works* and all processes associated with carrying out of the *works*, including the construction, use, alterations or demolition of the *works*, the *Contractor* System and any ICT, information and data (including the Client Confidential Information and the Client Data) to the extent used by the *Client* or the *Contractor* in connection with this contract.

1.4.2 Development of the Security Management Plan:

1.4.2.1 Within 20 Working Days after the Contract Date and in accordance with paragraph 1.4.4 (Amendment and Revision), the *Contractor* will prepare and deliver to the *Service Manager* for acceptance a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan set out in Appendix 2 of this Part 2 of this Contract Schedule J.

1.4.2.2 If the Security Management Plan, or any subsequent revision to it in accordance with paragraph 1.4.4 (Amendment and Revision), is accepted by the *Service Manager* it will be adopted immediately and will replace the previous version of the Security Management Plan at Appendix 2 of this Part 2 of this Contract Schedule J. If the Security Management Plan is not accepted by the *Service Manager* the *Contractor* shall amend it within 10 Working Days or such other period as the parties may agree in writing of a notice of non-acceptance from the *Service Manager* and re-submit to the *Service Manager* for accepted. The parties will use all reasonable endeavours to ensure that the acceptance process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the parties may agree in writing) from the date of its first submission to the *Service Manager*. If the *Service Manager* does not accept the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure. No acceptance to be given by the *Service Manager* pursuant to this paragraph 1.4.2.2 of this schedule may be unreasonably withheld or delayed. However any failure to accept the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 1.4.3.4 shall be deemed to be reasonable.

1.4.3 Content of the Security Management Plan:

1.4.3.1 The Security Management Plan will set out the security measures to be implemented and maintained by the *Contractor* in relation to all aspects of the *works* and all processes associated with carrying out of the *works* and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the *works* comply with the provisions of this schedule (including the principles set out in paragraph 1.3);

1.4.3.2 The Security Management Plan (including the draft version) should also set out the plans for transiting all security arrangements and responsibilities from those in place at the Contract Date to those incorporated in the *Contractor's* ISMS at the date notified by the *Service Manager* to the *Contractor* for the *Contractor* to meet the full obligations of the Security Requirements.

1.4.3.3 The Security Management Plan will be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other schedules of this contract which cover specific areas included within that standard.

1.4.3.4 The Security Management Plan shall be written in plain English in language which is readily comprehensible to the staff of the *Contractor* and the *Client* engaged in the *works* and shall only

reference documents which are in the possession of the *Client* or whose location is otherwise specified in this schedule.

- 1.4.4 Amendment and Revision of the ISMS and Security Management Plan:
 - 1.4.4.1 The ISMS and Security Management Plan will be fully reviewed and updated by the *Contractor* annually or from time to time to reflect:
 - (a) emerging changes in Good Industry Practice;
 - (b) any change or proposed change to the Contractor System, the *works* and/or associated processes;
 - (c) any new perceived or changed security threats; and
 - (d) any reasonable request by the *Service Manager*.
 - 1.4.4.2 The *Contractor* will provide the *Service Manager* with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management Plan at no additional cost to the *Client*. The results of the review should include, without limitation:
 - (a) suggested improvements to the effectiveness of the ISMS;
 - (b) updates to the risk assessments;
 - (c) proposed modifications to the procedures and controls that effect information security to respond to events that may impact on the ISMS; and
 - (d) suggested improvements in measuring the effectiveness of controls.
 - 1.4.4.3 On receipt of the results of such reviews, the *Service Manager* will accept any amendments or revisions to the ISMS or Security Management Plan in accordance with the process set out at paragraph 1.4.2.2.
 - 1.4.4.4 Any change or amendment which the *Contractor* proposes to make to the ISMS or Security Management Plan (as a result of a *Service Manager's* request or change to the *works* or otherwise) shall be subject to the early warning procedure and shall not be implemented until accepted in writing by the *Service Manager*.
- 1.4.5 Testing

- 1.4.5.1 The *Contractor* shall conduct Security Tests of the ISMS on an annual basis or as otherwise agreed by the parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the *Service Manager*.
- 1.4.5.2 The *Service Manager* shall be entitled to witness the conduct of the Security Tests. The *Contractor* shall provide the *Service Manager* with the results of such tests (in a form accepted by the *Client* in advance) as soon as practicable after completion of each Security Test.
- 1.4.5.3 Without prejudice to any other right of audit or access granted to the *Client* pursuant to this contract, the *Service Manager* and/or its authorised representatives shall be entitled, at any time and without giving notice to the *Contractor*, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the *Contractor's* compliance with the ISMS and the Security Management Plan. The *Service Manager* may notify the *Contractor* of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the carrying out of the *works*. If such tests adversely affect the *Contractor's* ability to carry out the *works* in accordance with the Scope, the *Contractor* shall be granted relief against any resultant under-performance for the period of the tests.
- 1.4.5.4 Where any Security Test carried out pursuant to paragraphs 1.4.5.2 or 1.4.5.3 above reveals any actual or potential Breach of Security, the *Contractor* shall promptly notify the *Service Manager* of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the *Contractor* proposes to make in order to correct such failure or weakness. Subject to the *Service Manager's* acceptance in accordance with paragraph (i), the *Contractor* shall implement such changes to the ISMS and the Security Management Plan in accordance with the timetable agreed with the *Service Manager* or, otherwise, as soon as reasonably possible. Where the change to the ISMS or Security Management Plan is made to address a non-compliance with the Security Policy or Security Requirements, the change to the ISMS or Security Management Plan is Disallowed Cost.

1.5 Compliance with ISO/IEC 27001

- 1.5.1 Unless otherwise agreed by the parties, the *Contractor* shall obtain independent certification of the ISMS to ISO/IEC 27001 within 12 months of the Contract Date and shall maintain such certification until the Defects Certificate or a termination certificate has been issued.
- 1.5.2 In the event that paragraph 1.5.1 above applies, if certain parts of the ISMS do not conform to Good Industry Practice, or controls as described in

ISO/IEC 27002 are not consistent with the Security Policy, and, as a result, the *Contractor* reasonably believes that it is not compliant with ISO/IEC 27001, the *Contractor* shall promptly notify the *Service Manager* of this and the *Client* in its absolute discretion may waive the requirement for certification in respect of the relevant parts.

- 1.5.3 The *Service Manager* shall be entitled to carry out such regular security audits as may be required and in accordance with Good Industry Practice, in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001.
- 1.5.4 If, on the basis of evidence provided by such audits, it is the *Service Manager's* reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 is not being achieved by the *Contractor*, then the *Service Manager* shall notify the *Contractor* of the same and give the *Contractor* a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to become compliant with the principles and practices of ISO/IEC 27001. If the *Contractor* does not become compliant within the required time then the *Service Manager* has the right to obtain an independent audit against these standards in whole or in part.
- 1.5.5 If, as a result of any such independent audit as described in paragraph 1.5.4 the *Contractor* is found to be non-compliant with the principles and practices of ISO/IEC 27001 then the *Contractor* shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the *Client* in obtaining such audit.

1.6 Breach of Security

- 1.6.1 Either party shall give an early warning to the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 1.6.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 1.6.1, the *Contractor* shall:
 - 1.6.2.1 immediately take all reasonable steps necessary to:
 - (a) remedy such breach or protect the integrity of the ISMS against any such potential or attempted breach or threat; and
 - (b) prevent an equivalent breach in the future.

such steps shall include any action or changes reasonably required by the *Service Manager*; and



- 1.6.2.2 as soon as reasonably practicable provide to the *Service Manager* full details (using such reporting mechanism as defined by the ISMS) of the Breach of Security or the potential or attempted Breach of Security.

Appendix 1 – Contractor’s Security Management Plan

