

UK Research and Innovation  
 Science & Technology Facilities Council  
 Rutherford Appleton Laboratory  
 Harwell Campus  
 Didcot  
 OX11 0QX

Thursday 24th November 2022

**UKRI-2253 CONTRACT FRONT SHEET**

**Contract Number:** UKRI-2253

**Contract Value (ex VAT):** £1,507,366.00

**Starting Date:** 14<sup>th</sup> December 2022  
**Completion Date:** 29<sup>th</sup> April 2024

**Project Name:** R80 Tower Decommissioning and Adiabatic Cooler Design and Build

**Contractor Name:** Vistech Cooling Systems Ltd

**Address:** Vistech Cooling Systems Ltd, 7 Bell Yard, London, WC2A 2JR

**Contractor Contact Name:** [Redacted] FOIA Section 40 Personal

**Client Contact Name:** [Redacted] FOIA Section 40 FOIA

**Email:** [Redacted]

**Procurement Contact Name:** [Redacted] FOIA Section 40 Personal Information

**Contract Pack – Contents**

- UKRI-2253 – Contract (NEC4 ECC Option A)
- Appendix A - UKRI-2253 – Specification and Supporting Documentation
- Appendix B - UKRI-2253 - Vistech Tender Response

Signed for and on behalf of the Contractor:  
 [Redacted] FOIA Section 40 Personal Information

Signed for and on behalf of the Client:

[Redacted] FOIA Section 40 Personal Information

Name: [Redacted] FOIA Section 40

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Position: DIRECTOR

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Date: 14/12/2022

Name: [Redacted] FOIA Section 40 Personal

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Position: Commercial Business Partner

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Date: 14th December 2022

# 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, the clauses for main Option A, the following Option for resolving and avoiding disputes and secondary Options of the NEC4 Engineering and Construction Contract June 2017 (with amendments January 2019)

Option for resolving and avoiding disputes

W2

Secondary Options

X2, X7, X11, X15, X16, X18, Y(UK)2, Z Clauses

The *works* are

UKRI-2253 R80 Tower Decommissioning and Adiabatic Cooler Design and Build Tender Specification

The *Client* is

Name

UK Research and Innovation – Science and Technology Facilities Council

Address for communications

Rutherford Appleton Laboratory, Harwell Campus, Didcot, OX11 0QX

Address for electronic communications

FOIA Section 40

The *Project Manager* is

Name

FOIA

Address for communications

Faithful+Gould, member of the SNC-Lavalin Group One St Aldates, St Aldates, Oxford, OX1 1DE

Address for electronic communications

FOIA Section 40

The *Supervisor* is

Name

FOIA Section

Address for communications

Vistech Cooling Systems Ltd, Unit 1 A, Church Lane Estate, Church Lane, Plummers Plain, Horsham, RH13 6LU

Address for electronic communications

FOIA Section 40 Personal

The Scope is in Please refer to the following appendices:  
 • Appendix A - UKRI-2253 – Specification and Supporting Documentation  
 • Appendix B - UKRI-2253 - Vistech Tender Response

The Site Information is in UKRI-2253 R80 Tower Decommissioning and Adiabatic Cooler Design and Build Tender Specification

The *boundaries of the site* are Cooling Tower Compound – Both sides and crane lifting area when lifting operations are in progress.

The *language of the contract* is English

The *law of the contract* is the law of England and Wales, Subject to the jurisdiction of England and Wales

The *period for reply* is 2 weeks except that

- The *period for reply* for N/A is N/A
- The *period for reply* for N/A is N/A

The following matters will be included in the Early Warning Register

Matters that impact on cost, programme and/or quality.

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

## 2 The Contractor’s main responsibilities

If the *Client* has identified work which is set to meet a stated *condition* by a *key date*

The *key dates and conditions* to be met are

	<i>condition</i> to be met	<i>key date</i>
(1)	Completion date	28/04/2024 (Liquidated Damages will not be considered until after initial agreed completion date of 16/6/2025 has expired)
(2)		
(3)		

## 3 Time

The *starting date* is 14/12/2022

The *access dates* are

	part of the Site	date
(1)	Site Access Date (whole site)	16/11/2022
(2)		
(3)		

The *Contractor* submits revised programmes at intervals no longer than

If the *Client* has decided The *completion date* for the whole of the *works* is

Taking over the *works* before the Completion Date The *Client* is willing to take over the *works* before the Completion Date (Delete as applicable)

If no programme is identified in part two of the Contract Data The period after the Contract Date within which the *Contractor* is to submit a first programme for acceptance is

#### 4 Quality management

The period after the Contract Date within which the *Contractor* is to submit a quality policy statement and quality plan is

The period between Completion of the whole of the *works* and the *defects date* is

The *defect correction period* is  except that

- The *defect correction period* for  is
- The *defect correction period* for  is

#### 5 Payment

The *currency of the contract* is the

The *assessment interval* is

The *interest rate* is  % per annum (not less than 2) above the  rate of the  bank

If the period in which payments are made is not three weeks and Y(UK)2 is The period within which payments are made is

not used

**6 Compensation events**

The place where weather is to be recorded is

The *weather measurements* to be recorded for each calendar month are

- the cumulative rainfall (mm)
- the number of days with rainfall more than 5 mm
- the number of days with minimum air temperature less than 0 degrees Celsius
- the number of days with snow lying at  hours GMT

and these measurements:

The *weather measurements* are supplied by

The *weather data* are the records of past *weather measurements* for each calendar month

which were recorded at

and which are available from

Where no recorded data are available

Assumed values for the ten year weather return *weather data* for each *weather measurement* for each calendar month are

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

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

The minimum amount of cover for insurance against loss of or damage to property (except the *works*, 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 Works 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 the *works*, Plant and Materials is to include cover for Plant and Materials provided by the *Client* for an amount of

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

The *Client* provides these insurances from the Insurance Table

	N/A – No insurances are provided by the Client
(1) Insurance against	
Minimum amount of cover is	<input type="text"/>
The deductibles are	<input type="text"/>
(2) Insurance against	
Minimum amount of cover is	<input type="text"/>
The deductibles are	<input type="text"/>
(3) Insurance against	
Minimum amount of cover is	<input type="text"/>
The deductibles are	<input type="text"/>

If additional insurances are to be provided

The *Client* provides these additional insurances

	N/A – No insurances are provided by the Client
(1) Insurance against	
Minimum amount of cover is	<input type="text"/>
The deductibles are	<input type="text"/>
(2) Insurance against	
Minimum amount of cover is	<input type="text"/>
The deductibles are	<input type="text"/>

(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

If the *tribunal* is arbitration | The *arbitration procedure* is

The place where arbitration is to be held is

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

If Option W1 or W2 is used The *Senior Representatives* of the *Client* are

Name (1)

Address for communications

Address for electronic communications

Name (2)

Address for communications

Address for electronic communications



The *Adjudicator* is

Name

Address for communications

Address for electronic communications

The *Adjudicator nominating body* is

If Option W3 is used

The number of members of the Dispute Avoidance Board is **one/three** (Delete as applicable)

The *Client's* nomination for the Dispute Avoidance Board is

Name

Address for communications

Address for electronic communications

The Dispute Avoidance Board visit the Site at intervals no longer than  months

The *Dispute Avoidance Board nominating body* is

**X1: Price adjustment for inflation – Not Used**

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"/>
1.00	<input type="text"/>		

The *base date* for indices is

These indices are

**X3: Multiple currencies – Not Used**

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

**X5: Sectional Completion – Not Used**

If Option X5 is used

The *completion date* for each *section* of the *works* is

<i>section</i>	<i>description</i>	<i>completion date</i>
(1)	<input type="text"/>	<input type="text"/>
(2)	<input type="text"/>	<input type="text"/>
(3)	<input type="text"/>	<input type="text"/>
(4)	<input type="text"/>	<input type="text"/>

**X6: Bonus for early Completion – Not Used**

If Option X6 is used without Option X5

The bonus for the whole of the *works* is  per day

If Option X6 is used with Option X5

The bonus for each *section* of the *works* is

<i>section</i>	<i>description</i>	<i>amount per day</i>
(1)	<input type="text"/>	<input type="text"/>
(2)	<input type="text"/>	<input type="text"/>
(3)	<input type="text"/>	<input type="text"/>
(4)	<input type="text"/>	<input type="text"/>
The bonus for the remainder of the <i>works</i> is		<input type="text"/>

**X7: Delay damages**

If Option X7 is used without Option X5

Delay damages for Completion of the whole of the *works* are  £1000 per day

If Option X7 is used with Option X5

Delay damages for each *section* of the *works* are

<i>section</i>	<i>description</i>	<i>amount per day</i>
(1)	<input type="text"/>	<input type="text"/>
(2)	<input type="text"/>	<input type="text"/>
(3)	<input type="text"/>	<input type="text"/>
(4)	<input type="text"/>	<input type="text"/>

The delay damages for the remainder of the *works* are



The Schedule of Partners is in

The *Promoter's objective* is

The Partnering Information is in

**X13: Performance bond– Not Used**

If Option X13 is used	The amount of the performance bond is	<input style="width: 90%;" type="text"/>
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**X14: Advanced payment to the *Contractor* – Not Used**

If Option X14 is used	The amount of the advanced payment is	<input style="width: 90%;" type="text"/>
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The period after the Contract Date from which the <i>Contractor</i> repays the instalments in assessments is	<input style="width: 90%;" type="text"/>
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The instalments are (either an amount or a percentage of the payment otherwise due)	<input style="width: 90%;" type="text"/>
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Advanced payment bond	An advanced payment bond <b>is/is not</b> required (Delete as applicable)
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The <i>end of liability date</i> is	6 years	years after the Completion of the whole of the works
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**X20: Key Performance Indicators (not used with Option X12) – Not Used**

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

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

**Y(UK)1: Project Bank Account– Not Used**

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 Option 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  days after the date on which payment becomes due

**Y(UK)3: The Contracts (Rights of Third Parties) Act 1999 – Not Used**

If Option Y(UK)3 is used	term	beneficiary
	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>

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

**Z: Additional conditions of contract**

If Option Z is used                      The *additional conditions of contract* are

If Option Z is used                      The *additional conditions of contract* are:

**Option Z2 - 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 J (Security Provisions) as may be updated from time to time.

#### **Option Z4 - 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 Z5 - 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 Z7 - Legislation and Official secrets

Insert new clauses:

20.5 The *Contractor* complies with Law in the carrying out of the *works*

### Option Z10 - 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 Z13 - 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 Z10 (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 Z14 - Security Requirements**

The *Contractor* complies with, and procures the compliance of the *Contractor's* people, with the Security Policy 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 J.

#### **Option Z16 - 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.

#### **Option Z22 - 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 Z42 - 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 Z44 - 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 Z47 - 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.



**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

Address for communications

Address for electronic communications

The fee percentage is  %

The working areas are

The key persons are

Name (1)

Job

Responsibilities

Qualifications

Experience

Name (2)

Job

Responsibilities

Qualifications

Experience

The following matters will be included in the Early Warning Register

## 2 The Contractor's main responsibilities

If the Contractor is to provide Scope for its design      The Scope provided by the Contractor for its design is in      As per the Appendices

## 3 Time

If a programme is to be identified in the Contract Data      The programme identified in the Contract Data is      Provided within Appendix B

If the Contractor is to decide the completion date for the whole of the works      The completion date for the whole of the works     

## 5 Payment

The activity schedule is      Provided within Appendix B

The tendered total of the Prices is      £1,507,366.00

## Resolving and avoiding disputes

If Option W1 or W2 is used      The Senior Representatives of the Contractor are

Name(1)      FOIA Section

Address for communications      Vistech Cooling Systems Ltd, Unit 1 A, Church Lane Estate, Church Lane, Plummers Plain, Horsham, RH13 6LU

Address for electronic communications      FOIA Section 40 Personal

Name(2)     

Address for communications     

Address for electronic communications     

If Option W3 is used and the number of members of the Dispute Avoidance Board is three      The Contractor's nomination for the Dispute Avoidance Board is

Name

Address for communications

Address for electronic communications




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

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 rates for Defined Cost of design outside the Working Areas are

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 categories of design people whose travelling expenses to and from the Working Areas are included in Defined Cost are