

Order No. P101919 For enquiries please contact: XXXXXXXX Tel: 0870 9000100

A. To Supplier

ENERGY ASSETS LIMITED
NO 6 ALMONDVALE BUSINESS PARK
ALMONDVALE WAY
LIVINGSTON

EH54 6GA

B. From Purchaser

Met Office
Procurement Branch
FitzRoy Road
Exeter
Devon EX1 3PB United Kingdom
Tel:0870 9000100

Please proceed with this order in accordance with the Terms and Conditions overleaf.

Signed: 

Date: 1st July 2016

C.

Item No.	Description of Goods/Services Required	Quantity each unless otherwise stated	Unit Price per each carriage paid £	Firm Price carriage paid £
1	The Met Office accepts your quotation dated 25/05/16 for gas connection at the Exeter Science Park complex, for the sum of £14930.38 net. New gas connection for ITH3	XXXXXXXX	XXXXXXXX	XXXXXXXX

For deliveries over 20kg please telephone the Met Office on +44 (0)1392 885994 Mon to Fri 9am to 5pm to arrange a delivery time.

Total Value (Ex VAT)	14930.38
Standard Rate VAT (If Applicable)	2986.07
Total Value of Order	17916.45

D. Deliver To:

XXXXXXXX
MET OFFICE EXETER
FITZROY ROAD
EXETER
DEVON
EX1 3PB

E. Invoice To: (Invoices must quote Order Number)

Please email invoices to:
accounts payable@metoffice.gov.uk
Met Office
Accounts Payable
FitzRoy Road
Exeter
Devon EX1 3PB United Kingdom
Tel: 

F. Delivery Date

31st August 2016

Consignee Reference

XXXXXXXX

Contract No

Vendor ID

V012566

Conditions of Contract for the Purchase of Works

1 Definitions

The following expressions shall bear the following meanings:

Act means the Housing Grants Construction and Regeneration Act 1996

Applicable Law means the laws of England and Wales and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of goods and / or services;

Business Day means a day (other than a Saturday, Sunday or public holiday in England);

CDM Regulations means the Construction (Design and Management) Regulations 2007

Central Government Body means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency.

Confidential Information means any information relating to the business of either the Met Office or the Contractor and which is made available to the other during the term of the Contract provided that it shall not include information which is:

- (i) at the time of disclosure, or thereafter becomes, publicly available otherwise than as a result of a breach of the Contract;
- (ii) demonstrably developed at any time by the receiving party without use of Confidential Information, or
- (iii) legitimately obtained at any time by the receiving party from a third party without restrictions in respect of disclosure or use;

Contract means the contract between the Met Office and the Contractor consisting of the Works Purchase Order and these Terms and Conditions;

Contract Sum means the sum payable by the Met Office to the Contractor for the Works as stated in the "Contract Sum" section of the Works Purchase Order;

Contractor means the Contractor detailed in the Quotation including all employees, staff, agents, sub-contractors and consultants (and their employees, staff and agents) of the Contractor engaged in connection with the carrying out of the Works;

Contractor's Invoice means a VAT invoice issued by the Contractor in accordance with clause 4 specifying the Works Purchase Order number and containing a breakdown of the Works carried out to which the Contractor's Invoice relates accompanied by all receipts, invoices and relevant information evidencing the Contractor's entitlement to payment of the amount of the Contractor's Invoice;

Data Controller shall bear the meaning ascribed to it in the Data Protection Act 1998;

Data Processor shall bear the meaning ascribed to it in the Data Protection Act 1998;

Data Protection Legislation means the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

Date for Commencement of the Works means the date stated in the "Date for Commencement of the Works" section of the Works Purchase Order and, if no such date is stated then the date upon which the Contractor commences the Works;

Date for Completion of the Works means the date stated in the "Date for Completion of the Works" section of the Works Purchase Order and, if no such date is stated then the Works shall be completed within a reasonable time;

Date of Practical Completion means the date upon which the Met Office confirms in writing to the Contractor that the Works have been completed to the satisfaction of the Met Office and in accordance with the Contract;

Defects Period means the period of 6 months immediately following the Date of Practical Completion during which and notwithstanding the Met Office's other rights and remedies, the Contractor is required to remedy as soon as reasonably practicable any defects notified in writing to him by the Met Office at no cost to the Met Office;

Designated Representative means the individuals specified as such in respect of each party in the Work Purchase Order;

Disclosure Legislation is defined in clause 12;

Environmental Information Regulations means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;

Event of Insolvency means, in relation to a party, that party suffering or being subject to any of the following events:

- (i) being unable to pay its debts within the meaning of Section 123(1) (b)-(e) or 123(2) of the Insolvency Act 1986;
- (ii) entering into liquidation;
- (iii) making an arrangement with its creditors;
- (iv) becoming subject to an administration order or a receiver or administrative receiver being appointed over all or any of its assets or taking or suffering to be taken any similar action in consequence of a debt;
- (v) ceasing or threatening to cease trading or being dissolved; or
- (vi) becoming subject to any procedure equivalent to any of the above in any jurisdiction;

FOIA means 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 means the exercise of the degree of skill and care which would be expected from a skilled and experienced contractor;

Government Site means any premises owned by the Crown or occupied by Crown servants including those owned or occupied by the Met Office;

Information means "information" as defined in section 84 of the FOIA or "environmental information" as defined in regulation 2(1) of the Environmental Information Regulations (as appropriate);

IPR means any patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, trade names and domain names, rights in get-up, rights to goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

Liquidated Damages means amount stated in the "Liquidated Damages" section of the Works Purchase Order

Location means the location stated in the Quotation;

Losses means any losses, damages, costs, expenses or other liabilities;

Materials means any and all materials used by or on behalf of the Contractor in carrying out the Works;

Met Office means the Met Office, whose address is at FitzRoy Road, Exeter, Devon, EX1 3PB, for and on behalf of the Department for Business, Innovation and Skills (BIS) and acting as part of the Crown;

Met Office Site Rules means the rules governing access by contractors to Government Sites as may be updated from time to time and as provided to the Contractor;

Personal Data shall bear the meaning ascribed to it in the Data Protection Act 1998;

Quotation means the request for and quotation provided by the Contractor to the Met Office on form LVW/Q01 in respect of the Works;

Request for Information means any request for information made to the Contractor by a third party pursuant to the Disclosure Legislation;

Scheme means the Scheme for Construction Contracts (England and Wales) Regulations 1998

Terms and Conditions means these terms and conditions as set out above and below;

Timber means all timber and wood-containing products, including, but not limited to joinery, fittings, furniture, veneers and non-returnable packaging;

Works Purchase Order means the works purchase order to which these Terms and Conditions are annexed;

Works means the works to be carried out by the Contractor for the Met Office as described in the "Works" section of the Works Purchase Order;

Works Variation means a change to the scope of the Works pursuant to a Works Variation Request;

Works Variation Request means a written notice issued by the Met Office to the Contractor requesting a variation to the scope of the Works;

2 Interpretation

2.1 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.

2.2 Reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

2.3 A reference to a party shall be to a party to this Contract and the expression parties shall be construed accordingly.

2.4 Words in the singular shall include the plural and vice versa.

2.5 A reference to one gender shall include a reference to the other genders.

2.6 A reference to a statute or statutory provision shall include and later re-enactments thereof and shall include any subordinate legislation made from time to time under that statute or statutory provision.

2.7 A reference to writing or written includes faxes and e-mail.

2.8 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2.9 If there is an inconsistency or conflict between any of the provisions of the Contract the Works Purchase Order shall prevail over the Terms and Conditions

2.6 Documents referred to and stated to apply to this Contract shall be deemed to be incorporated and set out herein.

3 The Works

3.1 The Contractor shall commence the Works upon the Works Commencement Date and shall proceed regularly and diligently to carry out the Works in order that the Works are completed by the Works Completion Date.

3.2 In consideration of the payment of the Contract Sum by the Met Office the Contractor shall carry out and complete the Works with all the reasonable skill and care to be expected of a contractor experienced in carrying out works of a similar scope, size complexity and value as the Works and in accordance with the Contract, all Applicable Laws and Good Industry Practice and so that the Works satisfy (if applicable) the Key Performance Indicators.

3.3 The Met Office shall be entitled, at any time, to issue a Works Variation Request to the Contractor in which case the Designated Representatives shall meet to discuss the scope of the Works Variation and the impact (if any) on the Contract Sum and Date for Completion of the Works.

3.4 The Works, the Contract Sum and the Date for the Completion of the Works shall be adjusted according to the Works Variation agreed between the Designated Representatives but not otherwise.

3.5 If the Contractor is delayed by the Met Office or for any reason beyond the Contractor's control, the Met Office shall fix a fair and reasonable revised date for completion of the Works. The Contractor shall constantly use all reasonable endeavours to prevent and/or minimise and delay in the progress of the Works.

3.6 Access to the Location in order to carry out the Works shall be provided by the Met Office subject to the Contractor acknowledging that, to the extent permitted by law, the Met Office shall accept no liability whatsoever in relation thereto and the Contractor shall indemnify the Met Office in respect of any Losses incurred by the Met Office in connection with any damage or injury occurring in the course of carrying out the Works to the extent that such damage or injury is caused by any act or omission of the Contractor.

4 Contract Sum and Payment

4.1 Where the period for completion of the Works is 5 weeks or less the Contractor shall send a Contractor's Invoice to the Met Office upon completion of the Works.

4.2 Where the period for completion of the Works is in excess of 5 weeks the Contractor shall send a Contractor's Invoice to the Met Office each month starting one month from the Date of Commencement of the Works.

4.3 Payment of each Contractor's Invoice shall be made in accordance with sections 110 and 111 of the Act in respect of which:

4.3.1 The due date for payment shall be the date upon which the Met Office receives the Contractor's Invoice;

4.3.2 The final date for payment shall be 30 days after the due date for payment pursuant to clause 4.3.1 above.

5 Late Completion

5.1 Where the Contractor fails to complete the Works by the Date for Completion of the Works, without prejudice to any other rights which it may have, the Met Office shall issue a written notice of non-completion to the Contractor and may:

- 5.1.1 terminate the Contract in whole or in part in which case clause 17.3 shall apply;
- 5.1.2 subject to the election made in the Works Purchase Order deduct Liquidated Damages or claim general damages from the Contractor in respect of any Losses incurred by the Met Office which are in any way attributable to the Contractor's failure to complete the Works by the Works Completion Date.

6 Intellectual Property

6.1 The IPR in all drawings, specifications, schedules, bills of quantities, calculations and other information and documentation prepared by or on behalf of the Contractor in connection with the Works (the "Documents") shall remain vested in the Contractor, its sub-contractors or sub-consultants, as the case may be, but the Met Office shall have an irrevocable, perpetual, royalty-free, non-exclusive licence to copy, use, distribute, modify and adapt the Documents and to reproduce the designs and contents of them for any purpose related to the Works including without limitation the execution, reconstruction, completion, maintenance, sale, letting, promotion, advertisement, reinstatement and repair of the Works. The Contractor hereby undertakes to procure from its sub-consultants the grant of the necessary licences in favour of the Met Office to give effect to this clause 6. Such licence shall be capable of sub-licence and transfer by the Met Office provided that the Contractor shall not be responsible for any use of the Documents for any purpose other than that for which they were originally prepared and provided by the Contractor.

6.2 The Contractor agrees to provide the Met Office with a set of all Documents on the Date of Practical Completion and on request at any time to give the Met Office or any persons authorised by the Met Office access to the Documents and subject to the reimbursement by the Met Office of the Contractor's reasonable copying and delivery charges to provide copies of any of the Documents.

6.3 All royalties or other sums payable in respect of the supply and use of any patented articles, processes or inventions required in connection with the Works shall be paid by the Contractor and the Contractor shall indemnify the Met Office from and against all claims proceedings damages costs and expenses suffered or incurred by the Met Office by reason of the Contractor infringing or being held to infringe any intellectual property rights in the course of or in connection with the Contractor carrying out the Works.

6.4 The Contractor hereby unconditionally and for all purposes waives all moral rights to which it is entitled under Part One, Chapter IV of the Copyright Designs and Patents Act

- 1988 in all documents and other materials produced or to be produced by the Contractor pursuant to the Contract.
- 6.5 The provisions of this clause 6 shall survive the expiration or determination of the Contract.
- 7 Review**
- 7.1 Unless otherwise determined by the Met Office the Designated Representatives shall meet at least once every calendar month and more frequently if agreed (the "**Review Meetings**") to ensure the smooth operation of the Contract, and in particular to discuss the procedures used in carrying out the Works, (if applicable) the suitability of the Key Performance Indicators and the performance by each party of its obligations under the Contract.
- 8 Health and Safety and Access**
- 8.1 Whilst on site at the Location, the Contractor shall (and shall procure that its personnel shall) comply with any health and safety measures implemented by the Met Office and notified to the Contractor including, without limitation, any measures in respect of Met Office personnel and other persons working at the Location.
- 8.2 The Contractor shall promptly notify the Met Office of any health and safety hazards which may arise in relation to the carrying out of the Works and shall immediately notify the Met Office in the event of any incident occurring in the carrying out of the Works where that incident causes any personal injury or any property damage which could give rise to personal injury.
- 8.3 The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other Applicable Law relating to health and safety which may apply in relation to the carrying out of the Works including the CDM Regulations.
- 9 Materials**
- 9.1 To the extent that the Works contain Timber the Contractor shall ensure that all Timber used in connection with the Works:
- 9.1.1 shall derive from trees or other plants that have been harvested and exported in strict accordance with the applicable law or laws of the country in which the trees or other plants grew; and
- 9.1.2 where such Timber comprises any species of tree, trade in which is regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Contractor shall comply with the CITES requirements that permit trade in that species of tree; and
- 9.1.3 shall be lawfully obtained from forests and plantations which are managed to sustain their biodiversity, productivity and vitality, and to prevent harm to other ecosystems and any indigenous or forest-dependent people.
- 9.2 In respect of any such Timber used in connection with the Works:
- 9.2.1 the Contractor shall obtain and retain documentary evidence that such Timber has been procured in accordance with clause 9.1. Such documentary evidence shall include certification by properly accredited organisations to meet the standards set by the Forest Stewardship Council or equivalent body. The Contractor shall be responsible for demonstrating the authenticity of such certification; and
- 9.2.2 where the Timber to be used in connection with the Works is tropical hardwood, the Contractor shall obtain independent verification of the documentary evidence required under this clause 9.
- 9.3 The Met Office reserves the right at any time during the carrying out of the Works and for a period of 6 years from the Date of Practical Completion to require the Contractor to produce the documentary evidence, and independent verification where applicable, required by clause 9.2.1, for the Met Office's inspection within 14 days of the Met Office's written request.
- 9.4 The Contractor shall provide to the Met Office, using METFORM 691A, such data or information as the Met Office requires in respect of Timber used in connection with the Works. The Contractor shall send all completed METFORMs 691A, including "Nil Returns" where appropriate, to the Met Office's Commercial Branch the details of which shall be notified by the Met Office to the Contractor.
- 9.5 The Contractor shall provide all documentary evidence, independent verification, data and other information required by this clause 9 in a form acceptable to the Met Office, which may include electronic means.
- 9.6 The Met Office reserves the right to reject any Timber used in connection with the Works which does not comply with the provisions of clause 9.1, or for which the Contractor has not obtained such documentary evidence or independent verification of such evidence as required by clause 9.2. Where the Met Office exercises its right to reject any Timber, the Contractor shall supply and replace such timber with alternative Timber which complies with the provisions of clause 9.1 at no additional cost to the Met Office and within a period to be reasonably determined by the Met Office.
- 9.7 The obligations in this clause 9 do not extend to the use of reclaimed or recycled Timber, which may be used where it fully meets the Contract requirements.
- 9.8 The Contractor shall allow the Met Office or its duly authorised representatives to make any inspections or to carry out any test as it may reasonably require during the carrying out of the Works and the Contractor shall allow the Met Office or its duly authorised representatives access to the Contractor's premises free of charge for such purposes. No approval given during such inspections or tests shall be deemed to constitute acceptance by the Met Office of the Works. If following such inspections or tests the Met Office informs the Contractor that it is not satisfied that the Works comply in all respects with the Contract then the Contractor shall take such steps as are necessary to ensure compliance prior to completion of the Works without extra cost to the Met Office.
- 9.9 The Contractor shall ensure that all Materials shall:
- 9.9.1 be provided to the satisfaction of the Met Office;
- 9.9.2 be in accordance with the Contract;
- 9.9.3 be new and not used in any way;
- 9.9.4 be fit for the purpose for which they are ordinarily used or intended to be used;
- 9.9.5 be free from defects in design or workmanship;
- 9.9.6 conform in all respects to Applicable Law;
- 9.9.7 be in accordance with the guidelines contained in publication "Good Practice in Selection of Construction Materials" (1997: Ove Arup & Partners)
- 9.9.8 comply with British Standard specifications (or their European Union equivalent) and codes of practice and are not otherwise generally known at the time of specification or use to be deleterious to health and safety or to the durability of the Works in the particular circumstances in which they are used.
- 9.10 The Contractor shall ensure that all materials for use in connection with the Works for which the Met Office has paid become the property of the Met Office save that the Contractor shall remain responsible for any damage to such materials up to the Date of Practical Completion and where such materials are stored elsewhere than at the Location the Contractor shall ensure that they are protected, clearly separated and identifiable as belonging to the Met Office.
- 10 Dispute Resolution**
- 10.1 The parties have a right to refer any dispute under this Contract to adjudication in which case the adjudication provisions of the Scheme shall apply subject to the following:
- 10.1.1 the adjudicator shall be nominated by the referring party;
- 10.1.2 the adjudicator shall be required to give reasons for his decision; and
- 10.1.3 the adjudicator shall be entitled to determine which of the parties pays his fees and the costs incurred by the other party to the adjudication as a result of the adjudication and to what extent.
- 11 Confidentiality**
- 11.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:
- 11.1.1 not disclose Confidential Information of the other party to any third party unless it is required to do so by law (including without limitation pursuant to the provisions of clause 13);
- 11.1.2 not use the Confidential Information of the other party for any purposes other than performing its obligations under the Contract; and
- 11.1.3 keep Confidential Information of the other party secure.

- 11.2 A party may disclose the other party's Confidential Information to those of its employees, officers, agents, subcontractors ("**Representatives**") who need to know such Confidential Information for the purpose of performing its obligations under the Contract, provided that:
- 11.2.1 it informs such Representatives of the confidential nature of the Confidential Information prior to disclosure; and
- 11.2.2 at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this clause.
- 11.3 If a party proposes to disclose Confidential Information of the other party pursuant to clause 11.1.1 it shall give the other party as much notice of such disclosure as possible and it shall take into account the reasonable requests of the other party in relation to the content of such disclosure.
- 11.4 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this clause 11 are granted to the other party, or to be implied from the Contract.
- 11.5 On termination of the Contract, each party shall:
- 11.5.1 return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;
- 11.5.2 erase all the other party's Confidential Information from its computer systems (to the extent possible); and
- 11.5.3 certify in writing to the other party that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.
- 11.6 Except as expressly stated in the Contract, no party makes any express or implied warranty or representation concerning its Confidential Information.
- 11.7 The provisions of this clause 11 shall continue to apply after termination or expiry of the Contract.
- 11.8 The Met Office may disclose the Confidential Information of the Contractor:
- 11.8.1 on a confidential basis to any Central Government Body for any proper purpose of the Met Office or of any relevant Central Government Body;
- 11.8.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- 11.8.3 to the extent that the Met Office (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- 11.8.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in clause 11.8.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
- 11.8.5 on a confidential basis for the purpose of the exercise of its rights under this Contract, including its right to audit pursuant to clause 18; or
- 11.8.6 on a confidential basis to a proposed successor body of the Met Office 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, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Met Office under this clause 11.
- 11.9 Nothing in this Contract shall prevent the Met Office from disclosing the Contractor's Confidential Information:
- 11.9.1 to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities 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 Authority;
- 11.9.2 in connection with the conduct of a Central Government Body review in respect of this Contract; or
- 11.9.3 for the purpose of the examination and certification of the Met Office's accounts (provided that the disclosure is made on a confidential basis) or any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Met Office has used its resources.
- 11.10 The Met Office shall use all reasonable endeavours to ensure that any government department, Contracting Met Office, employee, third party or Sub-Contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 11 is made aware of the Met Office's obligations of confidentiality.
- 11.10 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.
- 12 Freedom of Information**
- 12.1 The Contractor acknowledges that the Met Office is subject to the requirements of the FOIA and the Environmental Information Regulations (together the "**Disclosure Legislation**") and shall assist and cooperate with the Met Office to enable the Met Office to comply with these information disclosure requirements.
- 12.2 The Contractor shall and shall procure that its Sub-contractors shall:
- 12.2.1 transfer the Request for Information to the Met Office as soon as practicable after receipt and in any event within 2 (two) Business Days of receiving a Request for Information;
- 12.2.2 provide the Met Office with a copy of all information in its possession or power in the form that the Met Office requires ("**Information**") within 5 (five) Business Days (or such other period as the Met Office may specify) of the Met Office requesting that Information; and
- 12.2.3 provide all necessary assistance as reasonably requested by the Met Office to enable the Met Office to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations (as the case may be).
- The Met Office shall be responsible for determining at its absolute discretion and not withstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the Disclosure Legislation. In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Met Office.
- 12.3 The Contractor acknowledges that the Met Office may, acting in accordance with the FOIA (including codes of practice issued by the Information Commissioner or relevant Government Department regarding the FOIA), be obliged under the Disclosure Legislation to disclose Information:
- 12.3.2 In certain circumstances without consulting with the Contractor, or
- 12.3.3 following consultation with the Contractor and having taken its views into account. provided always that the Met Office shall, in accordance with any recommendations of the codes of practice, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 12.4 The Contractor shall ensure that all Information produced in relation to the provision of Services is retained for disclosure and shall permit the Met Office to inspect such records as requested from time to time.
- 13 Data Protection**
- 13.1 With respect to the parties' rights and obligations under this Contract, the parties agree that the Authority is the Data Controller and the Contractor is the Data Processor. In so far as the Contractor processes any Personal Data on behalf of the Met Office, the Contractor shall:
- 13.1.1 process the Personal Data only on behalf of the Met Office for the purposes of performing its obligations under the Contract and only in accordance with instructions received from the Met Office from time to time;

- 13.1.2 not otherwise modify, amend or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party unless specifically authorised in writing by the Met Office;
- 13.1.3 at all times comply with the provisions of the Seventh Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 and, in so doing, provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Met Office) and implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure;
- 13.1.4 take reasonable steps to ensure the reliability of any of the Contractor's personnel who have access to the Personal Data;
- 13.1.5 obtain prior written consent from the Met Office before transferring the Personal Data to any subcontractors in connection with the discharge of its obligations under the Contract;
- 13.1.6 ensure that only those of the Contractor's Personnel who need to have access to the Personal Data are granted access to such data and only for the purposes of the performance of the Contract and all of the Contractor's Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 13;
- 13.1.7 not publish, disclose or divulge any of the Personal Data to any third party (including for the avoidance of doubt the Data Subject itself) unless directed to do so in writing by the Met Office;
- 13.1.8 notify the Met Office (within five days) if it receives:
- 13.1.8.1 a request from a Data Subject to have access to that person's Personal Data; or
- 13.1.8.2 a complaint or request relating to the Met Office's obligations under the Data Protection Act 1998; or
- 13.1.8.3 any other communication relating directly or indirectly to the processing of any Personal Data in connection with the Contract;
- 13.1.9 provide the Met Office with full co-operation and assistance in relation to any complaint or request made, including by:
- 13.1.9.1 providing the Met Office with full details of the complaint or request;
- 13.1.9.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Met Office's instructions;
- 13.1.9.3 providing the Met Office with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Met Office) and
- 13.1.9.4 providing the Met Office with any information requested by the Met Office;
- 13.1.10 permit the Met Office to inspect and audit the Contractor's data processing activities and those of its agents, subsidiaries and sub-contractors and comply with all reasonable requests or directions by the Met Office to enable the Met Office to verify and procure that the Contractor is in full compliance with its obligations under this clause 13; and
- 13.1.11 not transfer Personal Data outside the European Economic Area without the prior written consent of the Met Office and, where the Met Office consents to such transfer, to comply with:
- 13.1.11.1 the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
- 13.1.11.2 any reasonable instructions notified to it by the Met Office.
- 13.2 The parties shall, and the Contractor shall procure that each of its subcontractors shall, comply at all times with the Data Protection Legislation and shall not perform their obligations under the Contract in such a way as to cause either party to breach any of its obligations under the Data Protection Legislation. The Contractor shall immediately notify the Met Office in the event that it becomes aware of any breach of the Data Protection Legislation by the Contractor or any of its subcontractors in connection with the Contract.
- 13.3 The Contractor shall, at all times during and after the Term, indemnify the Met Office and keep the Met Office indemnified against all Losses incurred by, awarded against or agreed to be paid by the Met Office arising from any breach of the Contractor's obligations under this clause 13 except and to the extent that such liabilities have resulted directly from the Met Office's written instructions.
- 14 Insurance**
- 14.1 The Contractor shall take out and maintain such policies of insurance as detailed within and in accordance with the "Insurances" section of the Works Purchase Order
- 14.2 The Contractor shall ensure that the Met Office's interest is noted on each insurance policy detailed above, or that a generic interest clause has been included. On the written request of the Met Office, the Contractor shall provide the Met Office with proof of the Contractors compliance with this clause 14.
- 14.3 The Contractor shall do nothing to invalidate, prejudice, alter or diminish the benefit of the above detailed insurance policies for the Met Office.
- 14.4 In the event of any damage to the Works or any materials prior to Practical Completion covered by the above mentioned insurance, following inspection by insurers and if instructed by the Met Office, the Contractor shall reinstate the damaged Works and the Met Office shall reimburse him accordingly but only up to the total amount of those monies.
- 15 Limitation of Liability**
- 15.1 Notwithstanding any other provision herein, the total aggregate liability of the Met Office under the Contract in respect of all claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with the Contract, but excluding any liability for death or personal injury shall in no event exceed the Contract Sum paid for the Works at the time at which the cause of action giving rise to the claim arises.
- 16 Bribery Act 2010**
- The Contractor shall comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery, anti-money laundering, anti-corruption and anti-terrorism including but not limited to the Bribery Act 2010 (and any amendments thereto or replacement legislation).
- 17 Termination**
- 17.1 Either party shall be entitled to terminate the Contract immediately by giving written notice to the other party if:
- 17.1.1 the other party commits a material breach of any material term of the Contract and, if such breach is remediable, fails to remedy that breach within a period of 14 days after being notified in writing to do so; or
- 17.1.2 the other party is subject to an Event of Insolvency
- in which case the terminating party shall be entitled to recover from the other the amount of any resultant loss, damage and/or expense incurred by the terminating party which he would not have incurred had the Contract been duly performed.
- 17.2 For the purposes of clause 17.1.1 above failure of the Works to satisfy any Key Performance Indicators shall constitute a material breach of the Contract by the Contractor.
- 17.3 The Met Office shall be entitled to terminate the Contract by giving the Contractor written notice to that effect, in which event the Met Office's sole liability shall be to pay to the Contractor the sums due to it for the Works carried out up to the date of termination and either, at the Met Office's option, the materials purchased and/or ordered by the Contractor for the Works or where the Met Office does not want such materials, the unavoidable cost to the Contractor of returning such materials and/or cancelling such orders, provided always that such payment shall not exceed the Contract Sum.
- 17.4 Termination of the Contract shall not affect any rights, remedies or obligations of the parties that have accrued or become due prior to termination nor shall it affect the continued operation of any of the provisions of the Contract which expressly or by implication are intended to come into or continue in effect following termination or expiry of the Contract.
- 17.5 If, following termination or expiry of the Contract, the Met Office intends to continue to have the Works carried out by an alternative contractor or by itself then the Contractor

shall provide reasonable assistance to the Met Office in facilitating that transition (including without limitation provision of all data, documents, manuals, working instructions reports and other information considered necessary by the Met Office) in order to ensure that the transition is undertaken with the minimum of disruption to the Met Office. The Met Office shall be entitled to recover from the Contractor or deduct from any sum due to the Contractor any expenditure reasonably incurred by the Met Office in procuring the carrying out of the Works by another contractor.

18 Audit

- 18.1 The Contractor shall keep and maintain during the carrying out of the Works and for a period of 6 years after the Date of Practical Completion records, to the satisfaction of the Met Office, of:

- 18.1.1 all payments made by the Met Office in relation to Works; and
- 18.1.2 the Works carried out pursuant to the Contract
- and the Contractor shall, on written request from the Met Office, afford the Met Office or its duly authorised representatives such access to those records as may be reasonably required by the Met Office in relation to the Contract.

19 Recovery of Sums due

- 19.1 Whenever, under the Contract, any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Met Office in respect of any breach of the Contract), the Met Office shall be entitled to deduct that sum from any sum due or which later becomes due to the Contractor under the Contract or under any other contract with the Met Office or with any other department, office, agency or authority of the Crown.
- 19.2 The Met Office shall give at least twenty-one days notice to the Contractor of its intention to exercise its rights under clause 19.1, giving particulars of the sum to be recovered and the contract under which the payment arises from which the deduction is to be made.
- 19.3 Any overpayment by the Met Office to the Contractor, under the Contract or of VAT shall be a sum of money recoverable by the Met Office from the Contractor.

20 Working at Government Sites

- 20.1 Where the Contract requires the Contractor to access a Government Site the following clauses shall apply:
- 20.1.1 The Contractor shall give at least the amount of notice stated in the "Notice Period" section of the Works Purchase Order to the representative of the Met Office before attempting to access the Government Site(s).
- 20.1.2 The Contractor shall comply with the Met Office Site Rules, a copy of which will be provided to the Contractor prior to such access being required.
- 20.1.3 If notified by the Met Office, the Contractor and all his personnel requiring access to Government Site(s) shall complete a security questionnaire and return it to the Met Office prior to accessing the Government Site(s). If the Met Office notifies the Contractor that a member of his personnel shall not be granted security clearance to access the Government Site(s) then the Contractor shall replace the applicable member of his personnel with a suitable alternative.

21 Environmental

- 21.1 The Contractor shall:
- 21.1.1 When working on Met Office premises, perform this Contract in accordance with the Met Office environmental policy, which is committed to the prevention of pollution, reduction of our CO2 emissions, minimise the environmental impacts associated with all activities, products and services of the business; and
- 21.1.2 Comply with all applicable environmental legislation and other requirements as appropriate to our business, which may apply in the performance of this Contract.

22 Assignment and Subcontracting

- 22.1 The Contractor shall not, without the prior written consent of the Met Office, assign, transfer or deal in any other manner with this Contract or any of its rights and obligations under or arising out of the Contract, or purport to do any of the same.
- 22.2 The Met Office may assign the benefit of any of its rights under this Contract on no more than 2 occasions such assignment becoming effective upon written notice of the same being given to the Contractor.
- 22.3 Unless expressly provided for in the Purchase Order the Contractor shall not sub-contract or delegate in any manner any or all of its obligations under the Contract to any third party without the prior written consent of the Met Office (such consent not to be unreasonably withheld or delayed) and in the event of any such subcontracting the Contractor shall be and remain responsible for the acts or omissions of its subcontractors as if such acts or omissions were its own.
- 22.4 Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a period not exceeding thirty (30) days from receipt of a valid invoice.
- 22.5 A change in the legal status of the Met Office shall not affect the validity of this Contract and this Contract shall be binding on any successor body to the Met Office.

23 Relationship of the Parties

- 23.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

24 Notices

- 24.1 Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier or by fax or by email, to each party required to receive the notice or communication at its address as set out above or as otherwise specified in the Quotation or by the relevant party by notice to each other party.
- 24.2 Any notice or other communication shall be deemed to have been duly received:
- 24.3 if delivered personally, when left at the address and for the contact referred to in this clause 24; or
- 24.4 if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; or
- 24.5 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 24.6 if sent by fax, at the time of transmission; or
- 24.7 if sent by email, at the time the sender receives electronic confirmation of successful transmission of the email.
- 24.8 if deemed receipt under this clause is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), the notice or other communication shall be deemed to have been received when business next starts in the place of receipt.
- 24.9 The provisions of this clause 23 shall not apply to the service of any proceedings or other documents in any legal action.

25 Rights of Third Parties

- 25.1 A person who is not a party to the Contract shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

26 Waiver

- 26.1 No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

27 Severance

- 27.1 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract,

and the validity and enforceability of the other provisions of the Contract shall not be affected.

28 Publicity

- 28.1 The Contractor shall not make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the Met Office except as required by law or any governmental or regulatory authority or by any court or other authority of competent jurisdiction.

29 Further Assurance

- 29.1 At its own expense each party shall and shall use all reasonable endeavours to procure that any necessary third party shall promptly execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to the Contract.

30 Entire Agreement

- 30.1 The Contract constitutes the whole agreement between the Met Office and the Contractor and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of the Contract and shall apply to the exclusion of all other terms and conditions.
- 30.2 Each party warrants to the other that, in entering into the Contract, it does not rely on any statement, representation, assurance or warranty of any person (whether a party to the Contract or not) other than as expressly set out in the Contract save that nothing in this clause 30 shall limit or exclude any liability for fraud.

31 Law and Jurisdiction

- 31.1 The Contract shall be governed by and construed in accordance with the laws of England and Wales.
- 31.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter.

32 Publishing of the Contract and Payments under the Contract

- 32.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract (including the identity of the Contractor and the payments made to the Contractor under this Contract) is not confidential information. The Met Office shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 32.3 Notwithstanding any other term of the Contract, the Contractor hereby gives his consent for the Met Office to publish the Contract in its entirety, including from time to time agreed changes to the Contract and/or payments made to the Contractor under the Contract, to the general public.
- 32.3 The Met Office may consult with the Contractor to inform its decision regarding any redactions but the Met Office shall have the final decision in its absolute discretion.
- 32.4 The Contractor shall assist and cooperate with the Met Office to enable the Met Office to publish this Contract and payments made under it.#

33 Equality and Diversity

The Contractor shall comply with any and all applicable anti-discrimination legislation and with the Met Office's then current equality and diversity policy, as may be amended from time to time, which will be provided by the Met Office on the Contractor's written request and which is and/or has been available at: <http://www.metoffice.gov.uk/about-us/jobs/diversity-and-equality>.