

**Contract No. 1.11.4.3641.**

To Be Quoted on All Correspondence



**CONTRACT**

**between**

**THE HEALTH AND SAFETY EXECUTIVE**

**and**

**CHEMENTECH LIMITED**

**for**

**ASSISTANCE CREATING CHAPTERS FOR THE HANDBOOK ON  
HYDROGEN SAFETY**

**Contract No. 1.11.4.3641.**

This Contract is made between:

The **HEALTH AND SAFETY EXECUTIVE** (acting as part of the Crown) of Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS (hereinafter called 'the HSE' of the one part) and

**CHEMENTECH LIMITED** (hereinafter 'the Contractor' of the other part) of South Holme, Main Road, Great Longstone, Bakewell, DE45 1TE, in accordance with the details, terms and conditions stated herein.

## **WHEREAS**

The Contractor was selected an independent expert, who will have the experience and knowledge to assist HSE Scientists.

## **1 GENERAL CONDITIONS**

1.1 The Clauses in this Contract will govern all Purchase Orders placed against it.

## **2 STATEMENT OF SERVICE REQUIREMENTS (SSR)**

2.1 The Contractor shall work with HSE experts to complete two chapters of the upcoming Hydrogen Safety Handbook that HSE has been asked to contribute to.

2.2 The Contractor will contribute 10 days of his time to assist in the completion of these two chapters, ensuring that the deadline of submission is met.

## **3 DURATION**

3.1 The Work shall be delivered between 4<sup>th</sup> May 2020 and 31<sup>st</sup> May 2020.

## **4 MANAGEMENT OF THE CONTRACT**

4.1 The HSE Contract Manager who will be responsible for liaison and certifying completion of the provision and overall management of the Services is identified at Annex 1.

4.2 The Services will be monitored by the Contract Manager who will also evaluate the provision on completion.

## **5 COSTS**

5.1 The maximum amount to be paid by the HSE to the Contractor under this Agreement shall not, without the prior written agreement of the HSE, exceed £4,800.00, excluding VAT.

5.2 This amount is inclusive of actual and reasonable travel and subsistence, payable upon receipted actuals and in line with HSE rates.

5.3 The above is based on a day rate of £480.00 per day with an anticipated 10 days effort being required.

## 6 INVOICING AND PAYMENTS

- 6.1 All invoices raised must include the relevant Purchase Order number which will be issued by HSE Procurement Unit. Failure to include the Purchase Order Number may delay payment.
- 6.2 Invoices should be submitted electronically in PDF format to  
[APinvoices-HAS-U@gov.sscl.com](mailto:APinvoices-HAS-U@gov.sscl.com).
- 6.3 Invoices should also include details of work satisfactorily carried out and any VAT properly chargeable.
- 6.4 Shared Services shall make payment of agreed costs, in arrears, within 30 days of the acceptance of the invoice.
- 6.5 The Contractor shall send a copy invoice along with details of any work satisfactory carried out to the HSE Contract Manager identified at Annex 1.

## 7 IR35 – INTERMEDIARIES LEGISLATION

- 7.1 HSE has undertaken an IR35 assessment of this engagement, and the HMRC online assessment tool determined that IR35 does not apply to this engagement.



Bruce Ewan IR35  
Check 29-04-20.pdf

## 8 TAX STATUS

- 8.1 Where the Contractor, or its staff, is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.
- 8.2 Where the Contractor, or its staff, is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 8.3 HSE may, at any time request that the Contractor provides information which demonstrates how it, or its staff, complies with Clauses 8.1 and 8.2 above or why those Clauses do not apply to it.
- 8.4 A request under Clause 8.3 above may specify the information which the Contractor, or its staff, must provide and the period within which that information must be provided.

**8.5 HSE may terminate this contract if**

- a) in the case of a request mentioned in Clause 8.3 above-
  - (i) The Contractor, or its staff, fails to provide information in response to the request within a reasonable time, or
  - (ii) The Contractor, or its staff, provides information which is inadequate to demonstrate either how it complies with Clauses 8.1 and 8.2 above or why those Clauses do not apply to it;
- (b) in the case of a request mentioned in Clause 8.4 above, The Contractor, or its staff, fails to provide the specified information within the specified period, or
- (c) it receives information which demonstrates that, at any time when Clauses 8.1 and 8.2 apply the Contractor, or its staff, is not complying with those Clauses.

8.6 HSE may supply any information which it receives under Clause 8.3 to the Commissioners of Her Majesty's Revenue and Customs for the purposes of the collection and management of revenue for which they are responsible.

**9 ACCESS TO HSE PREMISES**

9.1 It shall be the Contractor's responsibility to ensure that, where access to HSE Premises or HSE confidential information is necessary, personnel engaged in the performance of this Contract shall have undergone pre-employment checks covering identity, the last three years employment history, nationality and immigration status and criminal record for unspent convictions. Such checks shall meet the requirements of HMG Baseline Security Standard.

9.2 HSE reserves the right, at its sole discretion, to carry out audits and spot checks at any time during the Contract Period to satisfy itself that the checks have been carried out. Guidance on pre-employment checks may be found at <http://www.cabinetoffice.gov.uk/sites/default/files/resources/hmg-personnel-security-controls.pdf>

**10 CONFIDENTIALITY**

10.1 The Contractor shall not at any time divulge any information or material acquired during the performance of this Contract to any third party without prior permission in writing of the Executive, except where required in the course of any legal proceedings.

10.2 The Contractor shall keep documents and other materials produced or acquired in the course of the contract in accordance with The Criminal Procedure and Investigations Act 1996 (CPIA).

**10.3 HSE may disclose the Confidential Information of the Contractor:**

- (a) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body;
- (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause e 8.3(a) (including any benchmarking organisation) for any purpose relating to or connected with this Agreement;
- (e) on a confidential basis for the purpose of the exercise of its rights under this Agreement; or
- (f) on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Agreement,

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 Authority under this Clause.

## **11 GDPR DATA PROTECTION**

11.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor.

11.2 The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.

11.3 The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:

- a) a systematic description of the envisaged processing operations and the purpose of the processing;
- b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- c) an assessment of the risks to the rights and freedoms of Data Subjects; and

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- d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

11.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

- a) process that Personal Data only in accordance with Schedule A, unless the Contractor is required to do otherwise by Law. If it is so required, the Contractor shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
- b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from Data Loss Event;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- c) ensure that:
  - (i) the Contractor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule A);
  - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
    - (A) are aware of and comply with the Contractor's duties under this clause;
    - (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
    - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement; and
    - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
  - (i) the Customer or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;

- (ii) the Data Subject has enforceable rights and effective legal remedies;

the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and

- (iii) the Contractor complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Agreement unless the Contractor is required by Law to retain the Personal Data.

11.5 Subject to clause 9.6, the Contractor shall notify the Customer immediately if it:

- a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- b) receives a request to rectify, block or erase any Personal Data;
- c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- f) becomes aware of a Data Loss Event.

11.6 The Contractor's obligation to notify under clause 9.5 shall include the provision of further information to the Customer in phases, as details become available.

11.7 Taking into account the nature of the processing, the Contractor shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 9.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:

- a) the Customer with full details and copies of the complaint, communication or request;
- b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

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- c) the Customer, at its request with any Personal Data it holds in relation to a Data Subject;
- d) assistance as requested by the Customer following any Data Loss Event;
- e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.

11.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

- a) the Customer determines that the processing is not occasional;
- b) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

11.9 The Contractor shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.

11.10 The Contractor shall designate a data protection officer if required by the Data Protection Legislation.

11.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:

- a) notify the Customer in writing of the intended Sub-processor and processing;
- b) obtain the written consent of the Customer;
- c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause 9.11 such that they apply to the Sub-processor; and
- d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.

11.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.

11.13 The Customer may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).



- 11.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **12 INTELLECTUAL PROPERTY**

- 12.1 Your attention is drawn to clauses E8 within Schedule B of the attached standard terms and conditions.

## **13 PUBLICATION**

- 13.1 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 is not Confidential Information. HSE 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.
- 13.2 Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for HSE to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.
- 13.3 HSE may consult with the Contractor to inform its decision regarding any redactions but HSE shall have the final decision in its absolute discretion.
- 13.4 The Contractor shall assist and co-operate with HSE to enable HSE to publish this Contract.

## **14 TRANSPARENCY**

- 14.1 The Government has set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments relating to public expenditure, intended to help achieve better value for money. HSE is obliged to publish documents for contracts with a value over £10,000.
- 14.2 In addition, you should be aware that if you are awarded a new contract with a value of over £10,000, the resulting contract comprising of Specification, Terms and Conditions and Associated Schedules (including the winning bid) will be published.
- 14.3 By exception, requests for redaction will be subject to the public interest test and redaction will only be agreed where the public interest in withholding the information outweighs the public interest in disclosure. You must identify / reference the relevant text, show clear justification for redaction and detail the appropriate section of the Freedom of Information Act 2000 (for example, Sections 40, 41, 43) on which the redaction request is sought.

## **15 VARIATION TO CONTRACT**

- 15.1 Except where expressly stated in this contract, no change, amendment or modification shall be effective unless in writing and signed by the duly authorised representatives of both parties.
- 15.2 Any agreed changes to the Contract or Schedule A (SSR) will be in the form of a Contract Change Note (CCN), which will be raised and issued by the HSE Procurement Unit.

## **16 GOVERNING LAW**

- 16.1 This Contract shall be governed by and interpreted in accordance with English law and the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

## **17 TERMINATION**

- 17.1 This contract may be terminated by either party by giving one week's written notice. In the event of termination by HSE, the contractor shall provided with any re-imbursement of costs, actually and reasonably incurred, up to the date of termination, subject to the limit specified in Clause 5 above.

As Witnessed at the Hands of the Parties

IN WITNESS WHEREOF THIS AGREEMENT HAS BEEN AGREED:

Signature .....

Name in Capitals .....

Position .....

Date .....

Duly authorised to sign on behalf of

**CHEMENTECH LIMITED**

South Holme, Main Road, Great Longstone, Bakewell, DE45 1TE

Signature .....

Name in Capitals .....

Position PROCUREMENT MANAGER .....

Date .....

Duly authorised to sign on behalf of the

**HEALTH AND SAFETY EXECUTIVE**

Procurement Unit, Building 2.3, Redgrave Court, Merton Road, Bootle, Merseyside  
L20 7HS

**Schedule A**

**STATEMENT OF SERVICE REQUIREMENTS**

The Contractor shall undertake the following Statement of Services:

To contribute towards the Hysafe publication, Handbook of Hydrogen Safety, specifically, the chapter Hazard Consequences.

The chapter is required to be approximately 60 pages in length, and is to be completed in collaboration with HSE member of staff Keith Moodie.

The level of effort expected to complete this work will be 10 days.

The written output will be subject to HSE's review process and comments, editorial and technical will need to be addressed.

Work on the book chapter is to be completed by the 31<sup>st</sup> of May 2020.

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**Schedule B**

**HSE'S TERMS AND CONDITIONS FOR SERVICES**

This contract will be subject to HSE's Terms and Conditions for Services. Please find these below: -



Schedule B - Terms  
and Conditions of C

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**Annex 1**

## **CONTACT LIST**

<b>HSE Contacts</b>	<b>Contractor Contacts</b>
<b>Contractual Queries</b>	
<b>Contract Managers / Technical Queries</b>	