

Short Contract

A contract between **DEFRA Estates**
and **Mitie FM Limited**
for **FMR Programme 2022/2023**

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Notes about this contract are printed in boxes like this one. They are not part of the contract.

Contract Data

The *Employer* is
Name THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS.

Address Noble House
17 Smith Square, Westminster, London , SW1P 3JR

The works are FMR Programme 2022/2023

Contact for all matters: [REDACTED]

The site is Weybridge, KT15 3NB

The *starting date* is 17/06/2022

The *completion date* is 31/03/2023

The *period for reply* is ASAP up to 3 days.

The *defects date* is 52 weeks

The *defect correction period* is 1 week

weeks after Completion

The *delay damages* are

weeks.

The *assessment day* is the Nil

per day.

The *retention* is 31

of each month.

0

%.

Does the United Kingdom Housing Grants, Construction and
Regeneration Act (1996) apply?

Yes

The *Adjudicator* is

Name The Royal Institution of Chartered Surveyors

The interest rate on late payment is 0.5% per complete week of delay.

The *conditions of contract* are the NEC3 Engineering and Construction Short Contract April 2013 and the following additional conditions:

Option X7: Delay damages

Delay damages for Completion of the whole of the works are Nil.

Option X15: Limitation of the Contractor's liability for his design to reasonable skill and care

Applies

Option X16: Retention

The retention free amount is 0%. The retention percentage is 0%

Option X18: Limitation of liability

X18.1 The Contractor's liability to the Employer for indirect or consequential loss is limited to Nil

X18.2 For any one event, the Contractor's liability to the Employer for loss of or damage to the Employer's property, loss of damage to the Works, Plan and Materials and Equipment or liability for bodily injury or death for a person (not an employee of the Contractor) is limited to £1,000,000

X18.3 The Contractor's liability for Defects due to his/her design which are not listed on the Defects Certificate is limited to £1,000,000

X18.4 The Contractor's {Subcontractors} total employer liability, other than excluded matters detailed in Schedule 16 - Insurance, is limited to £10,000,000 in respect of each claim.

X18.5 The end of liability date is 6 years after the Completion of the whole of the works.

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

The period for payment is 30 days from the date of valuation.

Option Z**Option Z: Additional conditions of the Contract**

The *additional conditions of contract* are described below. Each Option Z provision will apply as set out below.

Option Z1**Option Z1: Amending the Interpretation Provisions****Option Z1.1**

Delete existing clause 12.1 and replace with:

"In this contract, except where the context shows otherwise

- words in the singular also mean in the plural and the other way round,
- words in the masculine also mean in the feminine and neuter and the other way round,
- references to a document include any revision made to it in accordance with this contract,

	• references to a statute or statutory instrument include any amendment or re-enactment of it from time to time and any subordinate legislation or code of practice made under it and • references to a standard include any current relevant standard that replaces it.”
Option Z2	Option Z2: Confidentiality
Option Z2.1	For the purpose of this contract, Personal Data is information collected by the Contractor on behalf of the <i>Employer</i> in relation to this contract, which relates to living individuals who can be identified: • from that information • from that information combined with other details in (or likely to come into) the possession of the <i>Employer</i>.
Option Z2.2	The <i>Contractor</i> keeps (and ensures that its employees and Subcontractors keep) confidential and does not disclose to any person, including, without limitation, Others: • the terms of this contract and • any confidential or proprietary information (including Personal Data) provided to or acquired by the <i>Contractor</i> in the course of Providing the Works except that the <i>Contractor</i> may disclose information • to its legal or other professional advisers, • to its employees and Subcontractors as needed to enable the <i>Contractor</i> to Provide the Works, • where required to do so by law or by any professional or regulatory obligation or by order of any court or government agency, provided that (unless the <i>Contractor</i> is prohibited by law from doing so) prior to disclosure the <i>Contractor</i> consults the <i>Project Manager</i> and takes full account of the <i>Employer's</i> views about whether (and if so to what extent) the information should be disclosed, • which it receives from a third party who lawfully acquired it and who is under no obligation restricting its disclosure, • which is in the public domain at the time of disclosure other than due to the fault of the <i>Contractor</i> or with the consent of the <i>Project Manager</i>.
Option Z2.3	The <i>Contractor</i> does not (and ensures that its employees and Subcontractors do not) use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Works.

Option Z3	Option Z3: Security
Option Z3.1	Without limiting this clause Z3, the <i>Contractor</i> fully complies with all security requirements stated in the Works Information.
Option Z3.1	Site admittance The <i>Contractor</i> submits to the <i>Project Manager</i> details of people who are to be employed by it and its Subcontractors in connection with the <i>works</i>. The details include a list of names and addresses, the capacities in which they are employed, and other information required by the <i>Project Manager</i>.
Option Z3.2	The <i>Project Manager</i> may instruct the <i>Contractor</i> to take measures to prevent unauthorised persons being admitted on to the Site. The instruction is a compensation event if the measures are additional to those required by the Works Information.
Option Z3.3	Passes Employees of the <i>Contractor</i> and its Subcontractors are to carry an <i>Employer's</i> pass whilst they are on the parts of the Site stated in the Contract Data.
Option Z3.4	The <i>Contractor</i> submits to the <i>Project Manager</i> for acceptance a list of the names of the people for whom passes are required.
Option Z3.5	Photographs The <i>Contractor</i> does not take photographs of the Site or the works or any part of them unless he has obtained the acceptance of the <i>Project Manager</i>.
Option Z3.6	The <i>Contractor</i> takes the measures needed to prevent its Subcontractors' people taking, publishing or otherwise circulating such photographs.
Option Z4	Option Z4: Data Protection
Option Z4.1	The Data Protection Acts are the Data Protection Act 2018- GDPR and any other laws or regulations relating to privacy or personal data.
Option Z4.2	For the purposes of this contract and the Data Protection Acts the <i>Employer</i> is the Data Controller and

Option Z4.4	the <i>Contractor</i> is the Data Processor. The <i>Contractor</i> processes the Personal Data in accordance with (and so as not to put the <i>Employer</i> in breach of) the Data Protection Acts and only to the extent necessary for the purpose of performing its obligations under this contract.
Option Z4.5	The <i>Contractor</i> has in place and maintains until the <i>defects date</i> - appropriate technical and organisational measures (having regard to the nature of the Personal Data) to protect the Personal Data against accidental, unauthorised or unlawful processing, destruction, loss, damage, alteration or disclosure and - adequate security programmes and procedures to ensure that unauthorised persons do not have access to the Personal Data or to any equipment used to process Personal Data.
Option Z4.6	The <i>Contractor</i> immediately notifies the <i>Project Manager</i> if it receives - a request from any person whose Personal Data it holds to access his Personal Data or - a complaint or request relating to the <i>Employer's</i> obligations under the Data Protection Acts.
Option Z4.7	The <i>Contractor</i> assists and co-operates with the <i>Project Manager</i> in relation to any complaint or request received, including - providing full details of the complaint or request, - complying with the request within the time limits set out in the Data Protection Acts and in accordance with the instructions of the <i>Project Manager</i> and - promptly providing the <i>Project Manager</i> with any Personal Data and other information requested by him.
Option Z4.8	The <i>Contractor</i> allows the <i>Employer</i> to conduct periodic audits of the <i>Contractor's</i> compliance with the Data Protection Acts. The <i>Contractor</i> complies with the instructions of the <i>Project Manager</i> to enable such audits to be carried out.
Option Z4.9	The <i>Contractor</i> complies with the requirements of the <i>Employer</i> in relation to the storage, dispatch and disposal of the Personal Data in any form or medium.
Option Z4.10	

Option Z4.11	The <i>Contractor</i> immediately notifies the <i>Project Manager</i> on becoming aware of any breach of this clause or of the Data Protection Acts by the <i>Contractor</i> or any Subcontractor. The <i>Contractor</i> does not process the Personal Data outside the European Economic Area without the agreement of the <i>Project Manager</i>. Where the <i>Project Manager</i> agrees, the <i>Contractor</i> complies with the instructions of the <i>Project Manager</i> and provides an adequate level of protection to any Personal Data in accordance with the eighth data protection principle set out in Schedule 1 to the Data Protection Act 1998.
Option Z5	Option Z5: Disclosure of Information
Option Z5.1	A Disclosure Request is a request for information relating to this contract received by the <i>Employer</i> pursuant to the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or otherwise.
Option Z5.2	The <i>Contractor</i> acknowledges that the <i>Employer</i> may receive Disclosure Requests and that the <i>Employer</i> may be obliged (subject to the application of any relevant exemption and, where applicable, the public interest test) to disclose information (including commercially sensitive information) pursuant to a Disclosure Request. Where practicable, the <i>Employer</i> consults with the <i>Contractor</i> before doing so in accordance with the relevant Code of Practice. The <i>Contractor</i> uses its best endeavours to respond to any such consultation promptly and within any deadline set by the <i>Project Manager</i> and acknowledges that it is for the <i>Employer</i> to determine whether or not such information should be disclosed.
Option Z5.3	When requested to do so by the <i>Project Manager</i>, the <i>Contractor</i> promptly provides information in its possession relating to this contract and assists and co-operates with the <i>Project Manager</i> to enable the <i>Employer</i> to respond to a Disclosure Request within the time limit set out in the relevant legislation.
Option Z5.4	The <i>Contractor</i> promptly passes any Disclosure Request which it receives to the <i>Project Manager</i>. The <i>Contractor</i> does not respond directly to a Disclosure Request unless instructed to do so by the <i>Project Manager</i>.
Option Z6	Option Z6: Copyright

Contract Data

Option Z6.1	Material means all materials prepared by or on behalf of the <i>Contractor</i> for the <i>works</i> and all updates, additions and revisions to them and any designs or inventions incorporated in them.
Option Z6.2	Permitted Uses means the design, construction, completion, reconstruction, modification, extension, refurbishment, maintenance, funding, disposal, letting, fitting-out, advertisement, demolition, reinstatement, building information, modelling and repair of the <i>works</i> .
Option Z6.3	The <i>Contractor</i> grants to the <i>Employer</i> , with immediate effect, an irrevocable, non-exclusive, royalty-free licence to copy and make full use of the Material for any purpose, including without limitation any of the Permitted Uses.
Option Z6.4	The <i>Employer's</i> licence carries the right to grant sub-licences and is transferable to third parties without the consent of the <i>Contractor</i> and survives termination (for any reason) of the <i>Contractor's</i> employment under this contract.
Option Z6.5	The <i>Contractor</i> is not liable for use of the Material for any purpose other than that for which it was prepared or provided.
Option Z7	Option Z7: Discrimination
Option Z7.1	The <i>Contractor</i> does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Acts 1995 and 2005 or the Equality Act 2010 (the " Discrimination Acts ").
Option Z7.2	Where possible in Providing the Works, the <i>Contractor</i> co-operates with and assists the <i>Employer</i> to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.
Option Z7.3	Where an employee or Subcontractor employed by the <i>Contractor</i> is required to carry out any activity alongside the <i>Employer's</i> employees in any premises, the <i>Contractor</i> ensures that each such employee or Subcontractor complies with the <i>Employer's</i> employment policies and codes of practice relating to discrimination and equal opportunities.

Option Z7.4	The <i>Contractor</i> notifies the <i>Project Manager</i> in writing as soon as he becomes aware of any investigation or proceedings brought against the <i>Contractor</i> under the Discrimination Acts in connection with this contract and • provides any information requested by the investigating body, court or tribunal in the timescale allotted, • attends (and permits a representative from the <i>Employer</i> to attend) any associated meetings, • promptly allows access to any relevant documents and information and • co-operates fully and promptly with the investigatory body, court or tribunal.
Option Z7.5	The <i>Contractor</i> indemnifies the <i>Employer</i> against all costs, charges, expenses (including legal and administrative expenses) and payments made by the <i>Employer</i> arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the <i>Contractor</i>.
Option Z7.6	The <i>Contractor</i> includes in the conditions of contract for each Subcontractor obligations substantially similar to those set out above.
Option Z8	Option Z8: Quality Management and Audit
Option Z8.1	The <i>Contractor</i> operates a quality management system for Providing the Works which • complies with the relevant parts of ISO 9001:2008 and ISO 9001:2008/Cor 1:2009, • incorporates an environmental management system consistent with ISO 14001:2004, • includes processes for delivering continual improvement following the guidance in ISO 9004:2009, • has third party certification from a UKAS approved accreditation body (or its equivalent) or is operating in preparation for accreditation within 12 months of the Contract Date • complies with good industry practice and • otherwise fully complies, and is consistent with the requirements set out in the Works Information.
Option Z8.2	

	The <i>Contractor</i> provides to the <i>Project Manager</i>, within one week of the Contract Date, a quality policy statement and a quality plan for acceptance. The quality policy statement and quality plan comply with the requirements stated in the Works Information and are sufficiently detailed to demonstrate how the <i>Contractor</i> will Provide the Works in accordance with this contract.
Option Z8.3	The <i>Contractor</i> keeps a controlled copy of the quality plan available for inspection by the <i>Project Manager</i> at all times.
Option Z8.4	The <i>Contractor</i> complies with an instruction from the <i>Project Manager</i> to • change the quality plan so that it complies with the requirements of this contract or • correct a failure of the <i>Contractor</i> to comply with the quality plan.
Option Z8.5	The <i>Project Manager</i> and other persons authorised by him may carry out periodic audits of the <i>Contractor's</i> quality management system as specified in the Works Information. The <i>Contractor</i> allows access to the Working Areas and other premises used by the <i>Contractor</i> to Provide the Works and provides all facilities and assistance necessary to enable such audits to be carried out.
Option Z9	Option Z9: Compliance with Legislation
Option Z9.1	The <i>Contractor</i> Provides the <i>works</i>: • in a proper and workmanlike manner, and • in compliance with ○ all statutes, statutory instruments, regulations, rules and orders made under any statute or directive having the force of law which affect the <i>works</i> or performance of any obligations under this contract, and ○ any regulation, bye-law, permission or approval of any local authority or statutory undertaker having jurisdiction in relation to the <i>works</i> or with whose systems the <i>works</i> are, or are to be, connected.
Option Z9.2	The project that comprises or includes the <i>works</i> is not notifiable for the purposes of the Construction (Design and Management) Regulations 2015 (the "CDM

	Regulations"). The <i>Contractor</i> is the principal contractor under the CDM Regulations in respect of the <i>works</i> and performs all the functions and obligations required to be performed by the principal contractor under the CDM Regulations.
Option Z10	Option Z10: Fair Payment
Option Z10.1	The <i>Contractor</i> assesses the amount due to a Subcontractor without taking into account the amount certified by the <i>Project Manager</i>.
Option Z10.2	The <i>Contractor</i> includes in the contract with each Subcontractor • a period for payment of the amount due to the Subcontractor not greater than 19 days after the due date 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, except that the period for payment is to be not greater than 23 days after the due date 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 <i>Contractor</i>.
Option Z10.3	The due date in this contract is the date on which the <i>Project Manager</i> certifies payment.
Option Z10.4	The <i>Contractor</i> notifies non-compliance with the timescales for payment through the Efficiency and Reform Group Supplier Feedback Service. The <i>Contractor</i> includes this provision in each subcontract, and requires Subcontractors to include the same provision in each subsubcontract.
Option Z11	Option Z11: Assignment
Option Z11.1	The <i>Contractor</i> does not assign its interest in or any rights arising under this contract without the consent of the <i>Employer</i>.

Option Z11.2	The <i>Employer</i> may assign, charge or transfer its interest in this contract or any rights arising under it at any time without the consent of the <i>Contractor</i> . The <i>Employer</i> notifies the <i>Contractor</i> of any such assignment, charge or transfer.
Option Z11.3	The <i>Contractor</i> does not (and ensures that its employees and Subcontractors do not) use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Works.
Option Z12	Option Z12: Contractor's Design Submission Procedure
Option Z12.1	Insert a new definition in clause 11.2: "<i>Contractor's Design Documents</i> are drawings, design details and specifications of work, Plant and Materials prepared by the <i>Contractor</i> for the <i>works</i>".
Option Z12.2	Delete clauses 21.2 and 21.3 and replace with the following: "21.2 The <i>Contractor</i> submits the <i>Contractor's Documents</i> to the <i>Supervisor</i> for acceptance at the times and in the manner and format stated in the Works Information. 21.3 The <i>Supervisor</i> returns each <i>Contractor's Document</i> to the <i>Contractor</i> marked either 'A' (accepted), 'B' (accepted with comments) or 'C' (rejected). If the <i>Supervisor</i> marks a <i>Contractor's Document</i> 'B' or 'C', he will state his reasons. A reason for not accepting a <i>Contractor's Document</i> is that it does not comply with: • the Works Information, • any previous <i>Contractor's Document</i> which: - the <i>Supervisor</i> has returned marked 'A', or - the <i>Supervisor</i> has returned marked 'B' and the <i>Contractor</i> has amended to incorporate the <i>Supervisor's</i> comments, • the applicable law or • any other provision of this contract. 21.4 If the <i>Supervisor</i> does not return a <i>Contractor's Document</i> within the <i>period for reply</i>, it is treated as having been returned marked 'A'. 21.5 Where a <i>Contractor's Document</i> is returned marked 'A', the <i>Contractor</i> proceeds with the relevant work in accordance with the <i>Contractor's Design Document</i>. 21.6 Where a <i>Contractor's Document</i> is returned marked 'B', the <i>Contractor</i>

Option Z14	• amends the <i>Contractor's</i> Document to incorporate the <i>Supervisor's</i> comments, • submits the <i>Contractor's</i> Document as so amended to the <i>Supervisor</i> and • proceeds with the relevant work in accordance the <i>Contractor's</i> Document as so amended. 21.7 Where a <i>Contractor's</i> Design Document is returned marked 'C', the <i>Contractor</i> • amends the <i>Contractor's</i> Document to incorporate the <i>Supervisor's</i> comments, • re-submits it to the <i>Supervisor</i> for acceptance and • does not proceed with the relevant work until the <i>Supervisor</i> has returned it marked 'A' or 'B' and, where it is marked 'B', it has complied with clause 21.6 21.8 If the <i>Contractor</i> disagrees with the comment of the <i>Supervisor</i> on a <i>Contractor's</i> Document marked 'B' or 'C', he notifies the <i>Supervisor</i> within one week of receipt stating his reasons and that in his opinion compliance with the comment will give rise to a change in the Works Information. The <i>Supervisor</i> replies within one week of receipt of the <i>Contractor's</i> notice either confirming or withdrawing his comment. A confirmation or withdrawal by the <i>Supervisor</i> is not an acceptance of the <i>Contractor's</i> opinion. 21.9 If the <i>Contractor</i> does not notify the <i>Supervisor</i> within one week that he disagrees with a comment of the <i>Supervisor</i>, compliance with the comment does not give rise to a change in the Works Information." Option Z14: New Clause 60.1 (20) 60.1 (20) Provisional Sums referered to in the Activity Schedule will be dealt with as a Compensation Event.
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The Contractor's Offer

The Contractor is
Name Mitie (Facilities Management) Ltd
Address The Shard, Level 12
32 London Bridge Street
Southwark
London
SE1 9SG

The percentage for overheads and profit added to the Defined Cost for people will be as per pre-agreed framework rates (as per the ECC fees referenced in Schedule 31B of the Defra/Mitie Contract).

The percentage for overheads and profit added to other Defined Cost will be as per pre-agreed framework rates.

The Contractor offers to Provide the Works in accordance with the *conditions of contract* for an amount to be determined in accordance with the *conditions of contract*.

The Contractor offers to deliver Works in accordance with the Weybridge FMR Programme and relevant Weybridge BCP's.

The Defined Cost for each of the Works, in accordance with the agreed FMR Programme, shall be determined & agreed via relevant Weybridge BCP's, and shall be a fixed rate.

Execution of this Contract is carried out in accordance with the 1999 EU Directive 99/93(Communication Framework for Electronic Signatures) and the UK Electronic Communications Act 2000. **This Contract is formed on the date on which both the Authority and the Contractor have communicated acceptance of its terms on the Authority's e-tendering system ('Bravo').**

The Employer's Acceptance

Execution of this Contract is carried out in accordance with the 1999 EU Directive 99/93(Communication Framework for Electronic Signatures) and the UK Electronic Communications Act 2000. **This Contract is formed on the date on which both the Authority and the Contractor have communicated acceptance of its terms on the Authority's e-tendering system ('Bravo').**

Price List

Entries in the first four columns in this Price List are made either by the *Employer* or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price column only; the Unit, Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

Each work package BCP will state in detail all associated costs to deliver that element of the FMR Programme.

ITEM

COST

Works Information

The Works Information should be a complete and precise statement of the *Employer's* requirements. If it is incomplete or imprecise there is a risk that the *Contractor* will interpret it differently from the *Employer's* intention. Information provided by the *Contractor* should be listed in the Works Information only if the *Employer* is satisfied that it is required, is part of a complete statement of the *Employer's* requirements and is consistent with the other parts of the Works Information.

1 Description of the works

Give a detailed description of what the *Contractor* is required to do and of any work the *Contractor* is to design.

The Forward Maintenance Register (FMR) relates to the Building Fabric Services and all Assets which are integral to building fabric. The FMR shall contain cost estimates for each item of work, updated annually to identify works to be carried out by the Service Provider and recommended for expenditure by the Authority. Any work to be provided pursuant to the Forward Maintenance Register shall be undertaken through the BCP process. For the avoidance of doubt, the Repair and Replacement Threshold shall not apply to works undertaken in accordance with the FMR programme.

The list of works expected to be covered by this contact are as follows. This list is subject to change and will be confirmed via BCP's.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

All works as per the FMR Programme 2022/2023 and as agreed between [REDACTED] and [REDACTED]

Each work package requirement will be managed as a separate BCP to be called-off against this contract. Both parties will maintain a register of each work package.

2 Drawings

List the drawings that apply to this contract.

Drawing number	Revision	Title
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All drawings required under each work package BCP

Works Information

Title	Date or revision	Tick if publicly available
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4 Constraints on how the Contractor Provides the Works

State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the *Employer*.

As per Mitie site rules

Contract Data

As per Mitie site arrangements with DEFRA