

Our Ref: NAT/Jerome/001

Your Ref:

Date: 06/08/2021

Dear Sirs,

Contract Ref: NAT/Jerome/001

Contract Title: National Jerome Analyser

You are invited to quote for the above in accordance with the enclosed documents.

Instructions on what information we require you to provide is in Section 4 of the following Request for Quotation document.

Your response should be returned to the following email address by 10am on the 20/08/2021.

odourteam@environment-agency.gov.uk

Please confirm, by email, receipt of these documents and whether you intend to submit a quote.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

Mr Chris Lowe MCIWM ACMI

Senior Air Quality Advisor & National Odour Team Leader
Monitoring & Assessment, Radioactive Substance & Installations Regulation
Environment & Business Directorate.

Environment Agency

Red Kite House, Howberry Park, Crowmarsh Gifford, Wallingford, Oxfordshire. OX10 8BD

Team Email: odourteam@environment-agency.gov.uk

Web: www.gov.uk/government/organisations/environment-agency

External: 020 302 58993 | Mobile: 07767 61 52 46

Request for Quotation

Ref: NAT/Jerome/001

Title: National Jerome Analyser

Section 1

Who is the Environment Agency?

We are an Executive Non-departmental Public Body responsible to the Secretary of State for Environment, Food and Rural Affairs. Our principal aims are to protect and improve the environment, and to promote sustainable development.

Further information on our responsibilities, Corporate Plan and how we are structured can be found on our Website.

<https://www.gov.uk/government/organisations/environment-agency/about>

What do we spend our money on?

We are a major procurer of goods and services within the UK, spending circa £600M per annum, our major spend areas are:

- Flood and Coastal Risk Management (design, construction and maintenance)
- ICT and Telecommunications
- Vehicles and Plant
- Environmental Consultancy and Monitoring
- Temporary Staff and Contractors
- Facilities Management, Energy and Utilities
- Flood Management and Water Related Services

What do we need from our suppliers?

Suppliers are vital in supporting the delivery of our corporate plan. We aim to support the economy and society whilst delivering more environmental outcomes for every pound we spend. In many areas we are leading the way on environmental and technical developments. It is our role to ensure that suppliers clearly understand our corporate aims and objectives and know that we are committed to delivering the best value most sustainable solutions, taking into account the whole life cost of our procurement decisions. We promote diversity and equality and treat all of our suppliers fairly.

Our procurement strategy may be of interest to you as a potential supplier. It sets out our priorities and key commitments in a range of areas such as delivering our corporate plan, Government policy, supplier management and sustainable procurement:

<https://www.gov.uk/government/organisations/environment-agency/about/procurement#procurement-strategy>

Government changes and collaboration

Since 1 April 2013, the Environment Agency is no longer responsible for delivering the environmental priorities of Wales. This is now the remit of Natural Resources Wales (NRW). Further information can be found here:

<http://naturalresources.wales/splash?orig=/>

By bidding for this requirement, you may also be approached by other members of the Defra network, NRW or other government departments that are specifically named in the tender document.

Further information

For further information and to see our commitments to Diversity and Equality, please visit our website.

<https://www.gov.uk/government/organisations/environment-agency/about/procurement>
<https://www.gov.uk/government/organisations/environment-agency/about/equality-and-diversity>

Also, are you up to date on environmental legislation? See links below for further information.

Waste and Environmental Impact - <https://www.gov.uk/browse/business/waste-environment>
Environmental Regulations - <https://www.gov.uk/browse/business/waste-environment/environmental-regulations>

Section 2

The Customer

Summary

The Environment Agency is responsible for ensuring the industrial sites that it regulates does not cause pollution of the environment and harm to human health. To do this being able to reliably measure levels of hydrogen sulphide is a critical activity across a range of industrial sectors.

The National Odour Team is looking to purchase a Jerome J605 – gold film low level portable hydrogen sulphide analyser and supporting equipment. This includes data communications kit, hard transit case, soft carry case, 10:1 dilution module, car charger and maintenance kit.

We are looking for tenders that include a maintenance and support package as well to ensure operations up to a 5 year lifespan.

Contract Length

It is anticipated that this contract will be awarded to one supplier for a period of two months to end no later than 31/10/2021. Prices will remain fixed for the duration of the contract award period. We may at our sole discretion extend this contract to include related or further work. Any extension shall be agreed in advance of any work commencing and may be subject to further competition. Any amendment to contract prices for the extensions are to be by negotiation.

The Environment Agency Conditions of Contract for Goods (Appendix C) shall apply to this contract.

This contract shall be managed on behalf of the Agency by Chris Lowe. Please see above for contact details.

Contact Details and Timeline

Chris Lowe will be your contact for any questions linked to the content of the quote pack or the process. Please submit any questions by email and note that both the question and the response will be circulated to all tenderers.

Mr Chris Lowe, Senior Air Quality Advisor & National Odour Team Leader
Monitoring & Assessment, Radioactive Substance & Installations Regulation
Environment & Business Directorate.
Environment Agency
Red Kite House, Howberry Park, Crowmarsh Gifford, Wallingford, Oxfordshire. OX10 8BD
odourteam@environment-agency.gov.uk

Web: www.gov.uk/government/organisations/environment-agency

External: 020 302 58993 | Mobile: 07767 61 52 46

Key elements of the process have been reviewed. Anticipated dates for planned activities are below:

Activity	Due Date
Supplier responses for Request for Quote	20/08/2021
Evaluation of Request for Quote submissions	30/08/2021
Award of contract	31/08/2021
Project/Contract end date	31/10/2021

It should be noted that these timescales and activities may be subject to change.

Section 3

Evaluation Criteria

We will award this contract in line with the most economically advantageous tender (MEAT) as set out in the following award criteria:

- Price – 60%
- Anticipated delivery dates – 10%
- Duration of maintenance and support arrangements – 30%

The criteria listed above will be assessed on a 0 to 10 basis and will reflect the following judgements:

Rating of Response The tenderer provides a response which in the opinion of the evaluators is:	Score
Excellent: Addresses all of the requirements and provides a response with relevant supporting information which does not contain any weaknesses, giving the Agency complete confidence that the requirements will be met.	10
Very Good: Addresses all of the requirements and provides a response with relevant supporting information, which contains very minor weaknesses, giving the Agency high confidence that the requirements will be met.	8
Good: Addresses all of the requirements and provides a response with relevant supporting information, which contains minor weaknesses, giving the Agency reasonable confidence that the requirements will be met.	6
Satisfactory: Substantially addresses the requirements and provides a response with relevant supporting information which may contain moderate weaknesses, but gives the Agency some confidence that the requirements will be met.	4
Weak: Partially addresses the requirements, or provides supporting information that is of limited relevance or contains significant weaknesses, and therefore gives the Agency low confidence that the requirements will be met.	2
Nil: No response or provides a response that gives the Agency no confidence that the requirements will be met.	0

Section 4

Information to be returned

Please note, the following information requested must be provided. Incomplete tender submissions may be discounted.

Please complete and return the following information:

- completed Pricing Schedule (Appendix A);
- completed Prior Rights Schedule (Appendix B);
- confirmation that terms and conditions are accepted (Appendix C. Please note that the terms cannot be amended later).
- details of anticipated delivery date
- details of duration of maintenance, calibration and support arrangements

Section 5

Specification

1. Background to the Requirement

The ability to monitor for levels of Hydrogen sulphide from Environment Agency regulated sites is part of our statutory function to protect the environment and human health. Handheld portable H2S analysers work in partnership with larger static monitors which meet the national standards. This tender is to procure an AZI Jerome J605 hydrogen sulphide analyser.

A particular type of analyser has been specified in this tender so that is new training does not need to be delivered to staff that are already trained and interoperability between existing equipment can be maintained.

This opportunity does not link into any other contracts.

2. Specific Objectives/Deliverables

Delivery of a Jerome J605 H2S analyser by the contract completion date to a UK postal address (Wallingford in Oxfordshire) with an appropriate calibration, support and maintenance contract to ensure the lifespan of the analyser is 5 years or greater.

3. Timescales/Deadlines

Delivery of goods to the Environment Agency's Wallingford office by 31/10/2021

4. Skills of Personnel Required

Not required

Section 6

Contract Management

This contract shall be managed on behalf of the Agency by

Mr Chris Lowe
Senior Air Quality Advisor & National Odour Team Leader
Monitoring & Assessment, Radioactive Substance & Installations Regulation
Environment & Business Directorate.

Environment Agency
Red Kite House, Howberry Park, Crowmarsh Gifford, Wallingford, Oxfordshire. OX10
8BD
Email odourteam@environment-agency.gov.uk
Web: www.gov.uk/government/organisations/environment-agency
External: 020 302 58993

The supplier will be expected to provide regular updates on the anticipated delivery date on a fortnightly basis.

We will raise purchase orders to cover the cost of the services and will issue to the awarded supplier following contract award.

Suppliers can invoice the Environment Agency once.

Before the invoice is issued, a fee note must be emailed in advance to the contract manager for approval. All invoices must quote the purchase order number in order to be processed. A file copy invoice must be provided to the contract manager, on request. The timescale for payment of invoices will be up to 30 days after we have received a valid invoice.

Section 7

Sustainability Considerations

We are committed to continually improving our sustainability performance. The Environment Agency has set itself tough objectives as a clear commitment and contribution to sustainable development throughout England. The Agency recognises that this can only be achieved through commitment from all sectors of society and it is intent on raising awareness amongst industry and commerce.

Contractors must adopt a sound proactive environmental approach, designed to minimise harm to the environment.

Environmental criteria should be considered as part of your tender submission with credit given for innovation. Factors to be considered could include areas such as:

- Paper use: All documents and reports prepared by consultants and contractors are produced wherever possible on recycled paper containing at least 100% post consumer waste and printed double sided.
- Travel: use of public transport, reduce face to face meetings by using email and videoconferencing. Meetings to be held in locations to minimise travel and close to public transport links.
- Packaging: should be kept to a minimum. Re-use and disposal issues must be considered.
- Efficient Energy and Water Use.
- Disposal of Waste: Whilst on site the contractor is responsible for the disposal of their own waste and can only use client facilities with express permission from the on site facilities officer.
- Whilst on site, contractors should comply with the local environmental policy statement which will be made available to you in advance or on arrival.

Diversity and Equal Opportunities

We are committed to promoting equality and diversity in all we do and valuing the diversity of our workforce, customers and communities. As a public body, we publish regular information about what our equality objectives are and how we're meeting them.

<https://www.gov.uk/government/organisations/environment-agency/about/equality-and-diversity>

Health and Safety

Contractors will be responsible for making sure all required health and safety aspects including risk assessments are undertaken and required management measures are in place to protect worker exposure. This includes management of all partners, consortium members and subcontractors.

IEM2020:

1.1 Sustainability Objectives

As the Environment Agency, our overarching aim is to protect and improve the environment for people and wildlife. Over the last 10 years we have achieved significant reductions in our environmental impacts that occur through our everyday operations. This included a 40% reduction in our carbon emissions and a 37% reduction in the number of miles we travel. This year we have launched our new Internal Environmental Management strategy to take us through to 2020, building on these successes and widening our ambition.

Supply chain

Our 2020 approach will have a very strong emphasis on the indirect impacts of our supply chain.

Our supply chain accounts for over 70% of our total environmental impacts.

Working with our supply chain we want to be world class in the area of environmental management. The environmental impacts of our work and that delivered by and through our supply chain must be reduced; environmental risks must be effectively managed and opportunities for enhancements investigated.

As an organisation, our environmental management system (EMS) is accredited to ISO14001 and EMAS standards. Our procurement activities form part of this system; driving environmental performance improvements across the value chain.

Section 8

Additional Information

Copyright and confidentiality

Unless otherwise indicated, the copyright in all of the documentation belongs to the Environment Agency, and the documentation is to be returned to us with your tender. The contents of the documentation must be held in confidence by you and not disclosed to any third party other than is strictly necessary for the purposes of submitting your quote. You must also ensure that a similar obligation of confidentiality is placed upon any third party to whom you may need to disclose any of the documentation for the purposes of the tender.

Accuracy of documentation

You should check all documentation; should any part be found to be missing or unclear you should immediately contact us at the address given in the covering letter. No liability will be accepted by the Environment Agency for any omission or errors in the documentation which could have been identified by you.

Amendments to documentation

Prior to the date for return of tenders, we may clarify, amend or add to the documentation. A copy of each instruction will be issued to every Tenderer and shall form part of the documentation. No amendment shall be made to the documentation unless it is the subject of an instruction. The Tenderer shall promptly acknowledge receipt of such instructions.

Alternative Offers

Alternative offers may be considered if they constitute a fully priced alternative and are submitted in addition to a quotation complying with the requirements of the Invitation to Quote Documents. If, for any reason you wish to submit an alternative offer without a fully compliant tender please contact us in accordance with the details in the covering letter.

Continuity of personnel

The Contractor shall employ sufficient staff to ensure that the Services are provided at all times and in all respects to the Project Standard. It shall be the duty of the Contractor to ensure that a sufficient reserve of staff is available to ensure project delivery in the event of staff holidays, sickness or voluntary absence

The Environment Agency will be notified immediately of any changes to personnel associated with the project. The Contractor will ensure that every effort is made to replace outgoing staff with personnel of equal calibre and expertise. All new members of staff undertaking work for the Project will need to be agreed by the Environment Agency prior to commencement.

At all times, the Contractor shall only employ in the execution and superintendence of the Contract persons who are suitable and appropriately skilled and experienced.

Intellectual property rights

All results, including material and tools produced, developed or paid for under this contract shall be the property of the Environment Agency.

References

The Environment Agency may request recent and relevant references prior to the award of the project.

Contract award

This Request for Quote is issued in good faith but we reserve the right not to award any or all of this work.

DATA PROTECTION ACT ADDENDUM TO SPECIFICATION

Protection of personal data

In order to comply with the Data Protection Act 1998 the Contractor must agree to the following:

- You must only process the personal data in strict accordance with instructions from the Environment Agency.
- You must ensure that all the personal data that we disclose to you or you collect on our behalf under this agreement are kept confidential.
- You must take reasonable steps to ensure the reliability of employees who have access to personal data.
- Only employees who may be required to assist in meeting the obligations under this agreement may have access to the personal data.
- Any disclosure of personal data must be made in confidence and extend only so far as that which is specifically necessary for the purposes of this agreement.
- You must ensure that there are appropriate security measures in place to safeguard against any unauthorised access or unlawful processing or accidental loss, destruction or damage or disclosure of the personal data.
- On termination of this agreement, for whatever reason, the personal data must be returned to us promptly and safely, together with all copies in your possession or control.

APPENDIX A - PRICING SCHEDULE

ALL COSTS QUOTED MUST BE EXCLUSIVE OF VAT

All costs must be quoted on this schedule. Any costs not detailed will not be paid.

<u>Description</u>	Amount £
J605 AZI Jerome Hydrogen Sulphide Analyser c/w Jerome Accessory Kit Comms AZI 990-0217 Jerome Hard Transit Case AZI Jerome Soft Carry Case AZI 990-0225 Jerome J605 Dilution Module, 10:1 AZI Y605-0903 Jerome J605 Maintenance Kit AZI 200-0170 Jerome Car Charger	
Maintenance, calibrations and technical support packages	
Delivery costs	
Total	

Discounts, rebates and reductions

Please detail below any discounts, rebates and other reductions you are prepared to offer and the basis of those incentives

<u>DESCRIPTION</u>	AMOUNT £
<u>TOTAL</u>	

Total Overall Cost

Please detail the total fixed cost for the project

<u>ITEM</u>	TOTAL AMOUNT £
<u>Equipment Costs</u>	
<u>Discounts/reductions</u>	
<u>TOTAL Overall Cost</u>	

The following limits will be applicable to all claims for travel and subsistence under this contract:

- Travel by rail: standard class should be used at all times
- Travel by car: 45 pence/mile

Hotel bookings should be made through the Environment Agency's corporate travel contract. Details of this contract are available from the Corporate Contracting Team.

When making reservations you should state that you are a contractor working on Environment Agency business.

Hotel charges must not exceed a maximum limit per night bed and breakfast (VAT included) of: £140 in London; £100 in Bristol; £90 in Warrington; £85 in Reading; £75 in Aberdeen, Birmingham, Belfast, Cardiff, Coventry, Edinburgh, Glasgow, Harlow, Leeds, Manchester,

Middlesbrough, Newcastle, Oxford, Portsmouth, Sheffield and York; and £70 in all other destinations. Please note that these hotel ceiling rates are subject to change throughout the life of the contract.

Expenditure on dinner during an overnight stay must not exceed a maximum limit of £25, including a drink.

Receipts for all rail travel, hotel and food expenses will be required as proof of expenditure and will be reimbursed at cost. No profit or additional cost shall be applied by the contractor to such personal expenses.

APPENDIX B - PRIOR RIGHTS SCHEDULE

Details of Prior Rights held by the Parties (To be updated as Rights are introduced during the period of the Contract)

Prior Rights owned or lawfully used by a Party, whether under licence or otherwise, which It introduces to the Project for the purposes of fulfilling its obligations under the Contract

Held by the Environment Agency

Name and description of Prior Rights	Extent of proposed use in the Project	Proprietary owner of the Prior Rights

Held by the Contractor

Name and description of Prior Rights	Extent of proposed use in the Project	Proprietary owner of the Prior Rights

Explanation of Contractor's Prior Rights

All Intellectual Property Rights owned by or lawfully used by the Contractor, whether under licence or otherwise before the date of this Contract. It can also mean any invention and know how or other intellectual property (whether or not patentable) owned by one of the parties prior to the commencement of the Project, or devised or discovered by one of them only in the course of other projects during the Project period and not arising directly from the Project.

APPENDIX C – ACCEPTANCE OF TERMS AND CONDITIONS

I/We accept in full the terms and conditions named in Section 2 and appended to this Request for Quote document.

Company Name _____

Signature _____

Print Name _____

Position _____

Date _____

Section 9 Appendix to Conditions Goods

Ref: NAT/Jerome/001

Title: National Jerome Analyser

		Condition
1	Contract Supervisor	3
	Mr Chris Lowe MCIWM ACMI Senior Air Quality Advisor & National Odour Team Leader Monitoring & Assessment, Radioactive Substance & Installations Regulation Environment & Business Directorate.	
	Environment Agency Red Kite House, Howberry Park, Crowmarsh Gifford, Wallingford, Oxfordshire. OX10 8BD odourteam@environment-agency.gov.uk Web: www.gov.uk/government/organisations/environment-agency External: 020 302 58993 Mobile: 07767 61 52 46	
2	Contractor	
	Name - TBC	
	Address – TBC	
3	Completion	6
	Contract Start Date - 31/08/2021	
	Contract End Date - 31/10/2021	
4	Delivery	11
	Address:- As above	
5	Insurance	18
	Professional Indemnity Min. Cover £5 million	
	Third Party Minimum Cover £5 million	
	Public Liability Min. Cover £5 million	
6	Limit on Liability	17
	Limit on Contractors Liability £5 million	

Conditions of Contract - Goods

Ref: NAT/Jerome/001

Title: National Jerome Analyser

1. Definitions.....
2. Precedence.....
3. Contract Supervisor.....
4. Goods.....
5. Assignment.....
6. Contract Period.....
7. Materials.....
8. Security.....
9. Variations.....
10. Extensions of Time.....
11. Property and Risk.....
12. Rejection of Goods.....
13. Default.....
14. Termination.....
15. Determination.....
16. Indemnity.....
17. Limitation on Contractor's Liability.....
18. Insurance.....
19. Prevention of Fraud or Corruption.....
20. Contract Price.....
21. Invoicing & Payment.....
22. Intellectual Property Rights.....
23. Warranty.....
24. Guarantees.....
25. Statutory Requirements.....
26. Environment, Sustainability and Diversity.....
27. Publicity.....
28. Law.....
29. Waiver.....
30. Enforceability and Survivorship.....

31. Dispute Resolution.....	
32. General.....	
33. Freedom of Information Act.....	
34. Data Protection.....	

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1. DEFINITIONS

1.1 In the Contract, unless the context otherwise requires the following words and expressions shall have the following meanings assigned to them.

1.1.1 The Agency

The Environment Agency, its successors and assigns.

1.1.2 The Appendix

The Appendix to these Conditions.

1.1.3 The Contract

These Conditions including the Appendix, any Special Conditions, the Specification, Pricing Schedule, Contractor's tender, acceptance letter and any relevant documents agreeing modifications exchanged before the Contract is awarded, and any subsequent amendments or variations agreed in writing.

1.1.4 The Contractor

The person, firm company or body who undertakes to supply the Goods to the Agency.

1.1.5 Contract

The time period stated in the Appendix or otherwise Period provided in the Contract, for the delivery of the Goods.

1.1.6 Contract Price

The price exclusive of VAT set out in the Contract for which the Contractor has agreed to supply the Goods.

1.1.7 Contract Supervisor

Any duly authorised representative of the Agency notified in writing to the Contractor for all purposes connected with the Contract. Any Notice or other written communication given by or made to the Contract Supervisor, shall be taken as given by or made to the Agency.

1.1.8 Contracting Authority

Means any contracting authorities (other than the Environment Agency) as defined in regulation 2 of the Public Contract Regulations 2015 (SI

2015/102) (as amended).

1.1.9

Contractor Personnel

Means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor engaged in the performance of its obligations under this Contract.

1.1.10

Data Protection Legislation

Means: (i) the General Data Protection Regulation (Regulation (EU) 2016/679) or GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) ("LED") and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 1998 ("DPA 1998") and/or the Data Protection Act 2018 ("DPA 2018") to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.

1.1.11

Data Protection Schedule

The Schedule attached to this Contract describing how the Parties will comply with the Data Protection Legislation.

1.1.12

Goods

All Goods detailed in the Specification including any additions or substitutions as may be requested by the Contract Supervisor Where the Contract is for the provision of Goods *and* Services, the words "the Goods" shall mean, where the context allows, to include the Services the Contractor has agreed to provide.

1.1.13

Intellectual Property Rights

All Intellectual Property Rights including without limitation, patents, patent applications, design rights, registered designs, utility models, trade and service marks and applications for same, copyright know-how, rights in semi-conductor chip topography, and in each case whether protectable at law or not, and if protectable, whether an application has been made for such protection or not, and all similar industrial, commercial, monopoly or other intellectual property rights whether present or future, vested or contingent wherever protected.

1.1.14

Law

Means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act

1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply.

1.1.15 Notice

Any written instruction or notice given to the Contractor by the Contract Supervisor, delivered by:

- i. fax, or hand delivery to the Contractor's registered office or other address notified for the purposes of the Contract and deemed to have been served at the date and time of delivery.
- ii. First class post to the Contractor's registered office. Such Notices are deemed to have been served 48 hours after posting.

1.1.16 Permission

Express permission given in writing before the act being permitted.

1.1.17 Regulations

means the Public Contract Regulations 2015 (SI 2015/102) as amended.

- 1.2 Except as set out above and in the Data Protection Schedule, the Contract shall be interpreted in accordance with the Interpretation Act 1988.
- 1.3 All headings in these Conditions are for ease of reference only, and shall not affect the construction of the Contract.
- 1.4 Any reference in these Conditions to a statutory provision will include all subsequent modifications.
- 1.5 All undefined words and expressions are to be given their normal English meaning within the context of this Contract. Any dispute as to the interpretation of such undefined words and expressions shall be settled by reference to the definition in the Shorter Oxford English Dictionary.

2. PRECEDENCE

To the extent that the following documents form the Contract, in the case of conflict of content, they shall have the following order of precedence:

- Conditions of Contract including Appendix, Data Protection Schedule and any Special Conditions;

- Specification;
- Pricing Schedule;
- Drawings, maps or other diagrams.

If these Conditions are used in the production of an order under pre-existing arrangements, then the Conditions of Contract of the pre-existing arrangements shall prevail.

3. CONTRACT SUPERVISOR

The Contractor shall strictly comply with any instruction given by the Contract Supervisor concerning or about the Contract provided such instructions are reasonable and consistent with the nature, scope and value of the Contract. All such instructions shall be in writing. The Contractor is not obliged to comply with any verbal instruction from the Contract Supervisor that is not confirmed in writing within 7 working days.

4. GOODS

The Contractor shall provide all staff, equipment, materials and any other requirements necessary for the performance of the Contract to the standard in the Specification, within the time period specified in the Appendix, using reasonable skill, care and diligence, and to the reasonable satisfaction of the Contract Supervisor.

5. ASSIGNMENT

- 5.1 The Contractor shall not assign, transfer or sub-contract the Contract, or any part of it, without the Permission of the Contract Supervisor.
- 5.2 Any assignment, transfer or sub-contract entered into, shall not relieve the Contractor of any of his obligations or duties under the Contract.
- 5.3 Nothing in this Contract confers or purports to confer on any third party any benefit or any right to enforce any term of the Contract.

6. CONTRACT PERIOD

The Contractor shall deliver the Goods within the time stated, subject to any changes arising from Condition 9 (Variations), and/or Condition 10 (Extensions of time).

7. MATERIALS

- 7.1 The Contractor shall be responsible for establishing his own sources of supply for any goods and materials needed in connection with the performance of the Contract.
- 7.2 The Contractor shall not place, or cause to be placed, any orders with suppliers or otherwise incur liabilities in the name of the Agency or any representative of the Agency.

8. SECURITY

- 8.1 The Contractor shall be responsible for the security of all goods and equipment belonging to the Agency and used by the Contractor in the supply of the Goods, or belonging to the Contractor, or the Contractor's staff, or sub-contractors whilst on Agency premises.
- 8.2 This Condition shall not prejudice the Agency's rights under Condition 16.

9. VARIATIONS

- 9.1 The Contract Supervisor may vary the Contract by adding to, deleting or otherwise modifying the Goods to be supplied, by written order to the Contractor provided such variations are reasonable and consistent with the nature, scope and value of the Contract.
- 9.2 The value of any such variation, other than any variation arising out of Condition 9.3, shall be determined by reference to the rates contained in the Pricing Schedule. Where the Goods so ordered are not covered in the Pricing Schedule, they shall be valued at a fair and reasonable rate agreed between the Contract Supervisor and the Contractor.
- 9.3 Where a variation is the result of some default or breach of the Contract by the Contractor or for some other cause for which he is solely responsible, any additional cost attributable to the variation shall be borne by the Contractor.
- 9.4 The Contractor may also propose a variation to the Goods to be supplied but no such variation shall take effect unless agreed and confirmed in writing by the Contract Supervisor.
- 9.5 No variation shall have the effect of invalidating the Contract, or placing the Contract at large, if that variation is reasonably consistent with the nature, scope and value of the Contract.
- 9.6 The Agency may vary the Contract to comply with a change in English Law. Such a change will be effected by the Contract Supervisor notifying the Contractor in writing.
- 9.7 The Agency may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
 - 9.7.1 any Contracting Authority; or
 - 9.7.2 any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Agency; or
 - 9.7.3 any private sector body which substantially performs the functions of the Agency, provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.
- 9.8 Any change in the legal status of the Agency such that it ceases to be a Contracting Authority shall not affect the validity of the Contract.

In such circumstances the Contract shall bind and inure to the benefit of any successor body to the Agency.

10. EXTENSIONS OF TIME

10.1 Should the performance of the Contract be directly delayed by any cause beyond the reasonable control of the Contractor, and provided that the Contractor shall first have given the Contract Supervisor written notice within five working days after becoming aware that such delay was likely to occur, then the Contract Supervisor, if satisfied that this Condition applies:

10.1.1 in the case of any delay of which the Agency is not the cause, may grant the Contractor such extension of time, as in his opinion is reasonable, having regard, without limitation, to any other delays or extensions of time that may have occurred or been granted under the Contract. The Contract Price shall not increase as a result of such an extension of time.

10.1.2 in the case of any delay of which the Agency is the cause, shall grant the Contractor a reasonable extension of time to take account of the delay.

10.1.3 No extension of time shall be granted where in the opinion of the Agency the Contractor has failed to use reasonable endeavours to avoid or reduce the cause and/or effects of the delay.

10.1.4 Any extension of time granted under this Condition shall not affect the Agency's rights to terminate or determine the Contract under Conditions 12 and 13.

11. PROPERTY AND RISK

The property and risk in the Goods shall pass to the Agency when the Goods have been delivered to the Agency's nominated address or addresses as stated in the Appendix and unloaded

12. REJECTION OF GOODS

12.1 Without prejudice to the operation of Condition 12.5 the Goods shall be inspected on behalf of the Agency within a reasonable period of time after delivery and may be rejected if the Goods:

12.1.1 are found to be defective, inferior in quality to or differing in form or material from the requirements of the Contract, or

- 12.1.2 do not comply with any term (express or implied) of the Contract.
- 12.2 Without prejudice to the operation of Condition 12.5, the Agency shall notify the Contractor of the discovery of any defect within fourteen days and shall give the Contractor all reasonable opportunities to investigate such defect.
- 12.3 The whole of any consignment may be rejected if a reasonable random sample of the Goods taken from the consignment is found not to conform in every respect with the requirements of the Contract.
- 12.4 Goods so rejected after delivery shall be removed by the Contractor within 14 days of receipt of the Agency's notification of rejection. If the Contractor fails to remove the rejected Goods within this time period, the Agency may return the rejected Goods at the Contractors risk and expense.
- 12.5 The Agency's right of rejection shall continue irrespective of whether the Agency has accepted the Goods. In particular, taking delivery, inspection, use or payment for the Goods, or part of them shall not constitute acceptance, waiver or approval and shall be without prejudice to any right or remedy the Agency may have against the Contractor.

13. DEFAULT

- 13.1 The Contractor shall be in default if he:
 - 13.1.1 fails to perform the Contract with due skill, care diligence and timeliness;
 - 13.1.2 refuses or neglects to comply with any reasonable written instruction given by the Contract Supervisor;
 - 13.1.3 is in breach of the Contract.
- 13.2 Where in the opinion of the Contract Supervisor, the Contractor is in default, the Contract Supervisor may serve a Notice giving at least five working days in which to remedy the default.
- 13.3 If the Contractor fails to comply with such a Notice the Contract Supervisor may, without prejudice to any other rights or remedies under the Contract, purchase other goods of the same or equivalent description. Any extra costs arising from this action, will be paid by the Contractor or deducted from any monies owing to him.

14. TERMINATION

- 14.1 The Agency may immediately, without prejudice to any other rights and remedies under the Contract, terminate all or any part of the Contract by Notice in writing to the Contractor,

Receiver, Liquidator or to any other person in whom the Contract may become vested, if the Contractor:

14.1.1 fails in the opinion of the Contract Supervisor to comply with (or take reasonable steps to comply with) a Notice under Condition 13.2.

14.1.2 becomes bankrupt or insolvent, or has a receiving order made against him, or makes an arrangement with his creditors or (being a corporation) commences to be wound up, not being a voluntary winding up for the purpose of reconstruction or amalgamation, or has a receiver, administrator, or administrative receiver appointed by a Court.

14.2 Termination under the Regulations'

14.3 The Agency may terminate the Contract on written Notice to the Contractor if:

(a) the contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;

(b) the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract; or

(c) the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

15. DETERMINATION

15.1 Without prejudice to any other rights or remedies under the Contract, the Agency reserves the right to determine the Contract at any time by giving not less than one month's Notice, (or such other time period as may be appropriate).

15.2 The Agency shall pay the Contractor such amounts as may be necessary to cover his reasonable costs and outstanding and unavoidable commitments necessarily and solely incurred in properly performing the Contract prior to determination.

15.3 The Agency will not pay for any costs or commitments that the Contractor is able to mitigate and shall only pay those costs that the Agency has validated to its satisfaction. The Agency's

total liability under this Condition shall not in any circumstances exceed the Contract Price that would have been payable for the Services if the Contract had not been determined.

16. INDEMNITY

16.1 Without prejudice to the Agency's remedies for breach of Contract, the Contractor shall fully indemnify the Agency and its staff against any legally enforceable and reasonably mitigated liability, loss, costs, expenses, claims or proceedings in respect of:

- 16.1.1 death or injury to any person;
- 16.1.2 loss or damage to any property excluding indirect and consequential loss;
- 16.1.3 infringement of third party Intellectual Property Rights

which might arise as a direct consequence of the actions or negligence of the Contractor, his staff or agents in the execution of the Contract.

16.2 This Condition shall not apply where the damage, injury or death is a direct result of the actions, or negligence of the Agency or its staff.

17. LIMIT OF CONTRACTOR'S LIABILITY

17.1 The limit of the Contractor's liability for each and every claim by the Agency, other than for death or personal injury, whether by way of indemnity or by reason of breach of contract, or statutory duty, or by reason of any tort shall be:

- 17.1.1 the sum stated in the Appendix
- 17.1.2 if no sum is stated, the Contract Price or five million pounds whichever is the greater.

18. INSURANCE

18.1 The Contractor shall insure and maintain insurance against liabilities under Condition 16 (Indemnity) in the manner and to the values listed in the Appendix. If no sum is stated, the value insured shall be five million pounds.

18.2 If specifically required by the Agency, nominated insurances shall be in the joint names of the Contractor and the Agency.

18.3 The Contractor shall, upon request, produce to the Contract Supervisor documentary evidence that the insurances required are fully paid up and valid for the duration of the Contract.

19. PREVENTION OF FRAUD AND CORRUPTION

19.1 The Contractor shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining

from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or for showing or refraining from showing favour or disfavour to any person in relation to the Contract.

19.2 The Contractor shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Contractor's staff and the Contractor (including its shareholders, members and directors) in connection with the Contract and shall notify the Agency immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

19.3 If the Contractor or the Contractor's staff engages in conduct prohibited by this clause 19 or commits fraud in relation to the Contract or any other contract with the Crown (including the Agency) the Agency may:

19.3.1 terminate the Contract and recover from the Contractor the amount of any loss suffered by the Agency resulting from the termination, including the cost reasonably incurred by the Agency of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Agency throughout the remainder of the Contract; or

19.3.2 recover in full from the Contractor any other loss sustained by the Agency in consequence of any breach of this clause.

19.4 The Contractor shall not, directly or indirectly through intermediaries commit any offence under the Bribery Act 2010 (as amended), in any of its dealings with the Agency.

20. CONTRACT PRICE

20.1 The Contract Price will be paid by the Agency to the Contractor as amended by any Variations ordered under Condition 9 (Variations).

20.2 In addition to the Contract Price, the Agency will pay to the Contractor such Value Added Tax (if any) as may properly be chargeable at rates ruling at the time of invoice.

21. INVOICING AND PAYMENT

21.1 Invoices shall only be submitted for those Goods already delivered accompanied by such information as the Contract Supervisor may reasonably require to verify the Contractor's entitlement to payment. Such invoices will be paid in 30 days from receipt by the Agency.

21.2 If any sum is payable under the Contract by the Contractor to the Agency, whether by deduction from the Contract or otherwise, it will be deducted from the next available invoice.

- 21.3 If the Contractor enters into a sub-contract with a supplier for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in the sub-contract which requires payment to be made of all sums due from it to the sub-contractor within 30 days from the receipt of a valid invoice.

22. INTELLECTUAL PROPERTY RIGHTS

- 22.1 The Contractor warrants to the Agency that the Goods, shall not in any way infringe any Intellectual Property Rights belonging to any third party and shall fully indemnify the Agency against all actions, claims, costs, charges, expenses and liabilities of whatsoever nature arising from or incurred by reason of any infringement, or alleged infringement.
- 22.2 The Contractor shall not be liable under this Condition if such infringement arises from the use of any design, technique or method of working provided by or specified by the Agency.
- 22.3 If the Contractor is prevented from carrying out his obligations under the Contract due to any infringement or alleged infringement of any Intellectual Property Rights, the Agency may without prejudice to any other rights and remedies under the Contract, exercise the powers and remedies available to it under Conditions 14 and 15.

23. WARRANTY

The Contractor warrants that the Goods supplied by him are of a satisfactory quality and are supplied with reasonable skill, care and diligence and fit for the Agency's intended purpose so far as this has been communicated to him, or which he would reasonably be expected to know.

24. GUARANTEES

The Contractor shall promptly remedy all defects in the Goods arising from faulty design, materials or workmanship and, without prejudice to the Agency's statutory rights, either repair or replace the Goods (as the Agency shall elect) at no cost to the Agency, for a period of 12 months from putting the Goods into intended service, or 18 months from delivery, whichever is the less, or as otherwise agreed in writing.

25. STATUTORY REQUIREMENTS

The Contractor shall fully comply with all relevant statutory requirements in the performance of the Contract, including, but not limited to the giving of all necessary notices and the paying of all fees.

26. ENVIRONMENT, SUSTAINABILITY AND DIVERSITY

- 26.1 The Contractor in the performance of this Contract should adopt a sound proactive environmental approach, designed to minimise harm to the environment, to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of single-use plastic, ozone depleting substances and

minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and/or the environment, and be able to provide proof of so doing to the Agency on demand.

26.2 The Agency is committed to ensuring that workers employed within its supply chains are treated fairly, humanely and equitably. The Agency expects the Contractor to share this commitment and to understand any areas of risk associated with this and work to ensure they are meeting International Labour Standards. The Contractor ensures that it and its sub-contractors and its supply chain:

26.2.1 comply with the provisions of the Modern Slavery Act 2015;

26.2.2 pay staff fair wages (and pays its staff in the UK not less than the Foundation Living Wage Rate); and

26.2.3 implement fair shift arrangements, providing sufficient gaps between shifts, adequate rest breaks and reasonable shift length, and other best practices for staff welfare and performance.

26.3 The Contractor should support the Agency to achieve its Public Sector Equality Duty by complying with the Agency's policies (as amended from time to time) on Equality, Diversity and Inclusion (EDI). This includes ensuring that the Contractor (and their sub-contractors) in the delivery of its obligations under this Contract:

26.3.1 eliminates discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

26.3.2 advances equality of opportunity between people who share a protected characteristic and those who do not; and

26.3.3 fosters good relations between people who share a protected characteristic and those who do not.

27. PUBLICITY

The Contractor shall not advertise or publicly announce that he is supplying Goods or undertaking work for the Agency without the Permission of the Contract Supervisor.

28. LAW

This Contract shall be governed and construed in accordance with the Law, and subject to the jurisdiction of the courts of England.

29. WAIVER

- 29.1 No delay, neglect or forbearance by the Agency in enforcing any provision of the Contract shall be deemed to be a waiver, or in any other way prejudice the rights of the Agency under the Contract.
- 29.2 No waiver by the Agency shall be effective unless made in writing.
- 29.3 No waiver by the Agency of a breach of the Contract shall constitute a waiver of any subsequent breach.

30. ENFORCEABILITY AND SURVIVORSHIP

- 30.1 If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid or legally unenforceable, that part will be severed from the remainder of the Contract which will continue to be valid and enforceable to the fullest extent permitted by law
- 30.2 The following clauses shall survive termination of the Contract, howsoever caused: 14, 15, 16, 22, 23, 25, 28, 30, 31, 32, 33 and 34.

31. DISPUTE RESOLUTION

- 31.1 All disputes under or in connection with this agreement shall be referred first to negotiators nominated at a suitable and appropriate working level by the Agency and the Contractor.
- 31.2 If the parties' negotiators are unable to resolve the dispute within a period of forty five days from its being referred to them, the dispute shall be referred at the instance of either party to the parties' respective senior managers or directors (supported as necessary by their advisers).
- 31.3 If the parties' respective senior managers or directors are unable to resolve the dispute within forty five days the dispute shall be referred to the Centre for Dispute Resolution who shall appoint a mediator and the parties shall then submit to the mediator's supervision of the resolution of the dispute.
- 31.4 Recourse to this dispute resolution procedure shall be binding on the parties as to submission to the mediation but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until forty five days after the appointment of the mediator.
- 31.5 If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be put in writing and, once signed by a duly authorised representative of each of the parties, shall remain binding on the parties.

- 31.6 The parties shall bear their own legal costs of this dispute resolution procedure, but the costs and expenses of mediation shall be borne by the parties equally.
- 31.7 Any of the time limits in Condition 31 may be extended by mutual agreement. Such agreed extension shall not prejudice the right of either party to proceed to the next stage of resolution.

32. GENERAL

- 32.1 Neither party to the Contract will be liable to the other for any delay in performing or failing to perform its obligations (other than a payment obligation) under the Contract because of any cause outside its reasonable control. Such delay or failure will not constitute a breach of the Contract and the time for performance of the affected obligation will be extended by a reasonable period.
- 32.2 The Contract contains the whole agreement between the parties and supersedes all previous communications, representations and arrangements, written or oral. It is accepted that the Contract has not been entered into on the basis of any representations that are not expressly contained in the Contract.

33. FREEDOM OF INFORMATION ACT

- 33.1 The Agency is committed to open government and to meeting its responsibilities under the Freedom of Information Act 2000 (as amended) ('Act') and the Environmental Information Regulations 2004 (as amended) (Regulations').
- 33.2 The Contractor agrees that:
- 33.2.1 All information submitted to the Agency may need to be disclosed by the Agency in response to a request under the Act or the Regulations; and
 - 33.2.2 The Agency may include information submitted (in whole or in part) in the publication scheme which it maintains under the Act or publish the Contract, including from time to time agreed changes to the Contract, to the public.
- 33.3 If the Contractor considers that any of the information included in its tender, or that it has submitted to the Agency or that is otherwise contained in the Contract, is commercially sensitive, it shall identify and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. The Contractor acknowledges that if it has indicated that information is commercially sensitive, such information may still be required to be disclosed by the Agency under the Act or the Regulations.

The receipt of any material stated to be or marked 'confidential' or equivalent by the Agency shall not be deemed to infer that the Agency agrees any duty of confidentiality by virtue of that marking.

34. DATA PROTECTION

- 34.1 In the event that the Contract requires data to be processed within the meaning of the Data Protection Legislation the Data Protection Schedule shall be completed by the Parties and provisions and definitions therein shall apply and bind the Parties as part of this Contract